

REPORT SUMMARY

REFERENCE NO - 15/504300/OUT		
APPLICATION PROPOSAL Outline application for two storey detached house with access, layout, scale and appearance to be considered.		
ADDRESS Land North Of 61 Knaves Acre Headcorn Kent TN27 9TJ		
RECOMMENDATION - APPROVE		
SUMMARY OF REASONS FOR RECOMMENDATION The proposed development is not in accordance with Development Plan policy. However, the proposal would not cause unacceptable visual harm; the living conditions of existing and future residents will be acceptable; it is considered to be sustainable development; and there is no objection in terms of highway safety, arboricultural issues and biodiversity. In the absence of any harm and the significant weight afforded to emerging policy H1(40), this is considered grounds to depart from the adopted Local Plan.		
REASON FOR REFERRAL TO COMMITTEE - It is a departure from Development Plan - It is contrary to views expressed by Headcorn Parish Council		
WARD Headcorn	PARISH COUNCIL Headcorn	APPLICANT Mr Bailey
DECISION DUE DATE 07/04/17	PUBLICITY EXPIRY DATE 05/01/17	OFFICER SITE VISIT DATE 08/11/16
RELEVANT PLANNING HISTORY:		

- MA/80/1119 - Outline application for erection of dwelling – Refused

MAIN REPORT

1.0 Site description - SEE ATTACHED REPORT

2.0 Proposal - SEE ATTACHED REPORT

3.0 Policies/guidance - SEE ATTACHED REPORT

4.0 Consultee responses - SEE ATTACHED REPORT AND MAIN BODY OF THIS REPORT

5.0 Neighbour representations – SEE ATTACHED REPORT FOR PREVIOUS COMMENTS MADE. 2 FURTHER REPRESENTATIONS HAVE BEEN MADE FROM THE OCCUPIERS OF 60 AND 61 KNAVES ACRE WHO SET OUT THAT THEY HAVE SHARED OWNERSHIP OF THE ACCESS TO THIS PROPERTY

6.0 Policy background - SEE ATTACHED REPORT

7.0 Background information

7.01 This application was reported to Planning Committee on 2nd February 2017 and subsequently deferred for the following reason:

- *TO INVESTIGATE POSSIBILITY OF PUBLIC RIGHT OF WAY THROUGH THE SITE LINKING TO DIVERTED PROW OUTSIDE SITE (TO NORTH-EAST); AND TO ASSESS IMPLICATIONS OF THIS ON ECOLOGY/WILDLIFE CORRIDOR AND PROTECTED SPECIES.*

7.02 In terms of connectivity, reference has also been made to draft policy HNP15 of the Headcorn Neighbourhood Plan (2011-2031) which states:

This policy covers Small Village Developments and Larger Village Developments (as defined under policy HNP6). New development in Headcorn village, in accordance with the Neighbourhood Plan, will be permitted where it:

- *Creates safe and well connected housing areas within the village, promoting and enhancing links both to Headcorn High Street and to the countryside that can be easily accessed by foot and cycle;*
- *Creates a self-contained development, to avoid creating large estates by default;*
- *Is accessed in a way that avoids creating harmful rat runs;*
- *Is accessed in a way that avoids creating the appearance of ribbon development along the existing road network (for example with direct vehicular access to all the houses in the development to an existing road);*
- *Avoids where possible choosing access routes that will exacerbate key pinch points for traffic flows within the village;*
- *Takes advantage of opportunities to enhance road safety, for example by enhancing existing junctions that will be key for the access of the development in a way that is appropriate for Headcorn's rural setting; and*
- *Makes best use of pre-existing site access (for example to facilitate the retention of hedgerows) unless reasons such as road safety require alternative access routes onto the existing road network to be provided.*

7.03 This policy covers small village developments and larger village developments, which are defined under draft policy HNP6 as developments of more than 2 dwellings and more than 9 dwellings respectively. This proposal is for 1 dwelling and as such, does not fall within the threshold requirements of draft policy HNP15 of the Headcorn Neighbourhood Plan.

7.04 It should also be noted that the Inspector's examination on the Headcorn Neighbourhood Plan was held in October 2016 and the Inspector's 'Report to Maidstone Borough Council of the Examination into the Headcorn Neighbourhood Plan' was released on 19th March 2017. The Inspector's recommendation is that this neighbourhood plan does not meet the Basic Conditions in terms of: having appropriate regard to national planning policy; contributing to the achievement of sustainable development; being in general conformity with the strategic policies in the adopted development plan for the local area; and compatibility with human rights requirements has not been demonstrated in the preparation of the Plan. The Inspector therefore concludes that the Plan should not proceed to a referendum.

8.0 Applicant response

8.01 The applicant is not prepared to undertake the works to provide a public footpath as part of this application for the following reasons (summarised):

- *There is no policy basis for request in that site is allocated for housing in submitted version of Local Plan and there is no reference to the need for a public footpath through the land. There is only reference to KH606 being retained, which it is, and this application does not impact upon the existing footway which is to be diverted.*
- *With regard to draft Headcorn Neighbourhood Plan, the examiner has failed this document and it cannot go forward for referendum. This document should therefore be given limited weight.*
- *There is no planning document or evidence to suggest that a PROW should be imposed onto this housing plot.*
- *Driveway is not in applicant's ownership (they have right of way over it) and it is therefore probable that owners will also find the imposition of a PROW unacceptable as it brings about a reduction on their amenity and privacy.*
- *It is not desirable to have footpath in terms of privacy and tranquillity for future occupants.*
- *If public footpath were to be installed, it would lead to further intensification of parking in Knaves Acre because new footpath would provide a short pedestrian link to surgery area*

where car park is constantly full, with parking spilling over into Grigg Lane and The Hardwicks.

9.0 Biodiversity implications

9.01 After further consultation, the Biodiversity Officer is concerned with a public footpath here due to the fragmentation of the Great Crested Newt receptor site to the east which is part of the neighbouring development. Indeed, if the path was hardsurfaced and measured 1.5m wide (as recommended by the KCC Public Rights of Way Officer) it is likely to prevent amphibian/reptile movements and render the proposed mitigation measures void.

10.0 Other considerations - SEE ATTACHED REPORT

11.0 Conclusion

11.01 Having investigated the reason for deferral further, the KCC Public Rights of Way Officer considers a new footpath here to be both acceptable and feasible. However, the applicant is not prepared to, and is unable to commit to providing a public footpath on this site (given shared ownership issue); and the Biodiversity Officer has also raised concerns in terms of its potential impact upon protected species. Furthermore, there is no requirement for this site to provide a connecting footpath under emerging policy H1(40) of the new Local Plan; and notwithstanding that this proposal does not fall within the threshold of policy HNP15, the draft Headcorn Neighbourhood Plan is not considered to carry sufficient enough weight to refuse this planning application. Even if the applicant was agreeable to a new footpath as part of this development, it is considered that securing such a matter by way of condition would not meet the 6 tests. Indeed it is not considered to be relevant or required, in order to make the development acceptable; and the pre-existing problem of lack of connectivity has not been created by this proposed development. The absence of the connecting footpath would therefore not be grounds to refuse this planning application.

11.02 The reason for deferral has been suitably investigated and for the reasons set out, it is not considered reasonable to pursue this issue any further. I remain of the view that this proposal would not cause unacceptable visual harm; the living conditions of existing and future residents will be acceptable; it is considered to be sustainable development; and there is no objection in terms of highway safety, arboricultural issues and biodiversity. In the absence of any harm and the significant weight afforded to emerging policy H1(40), this is considered grounds to depart from the adopted Local Plan. I therefore recommend approval subject to the appropriate conditions.

12.0 RECOMMENDATION – APPROVE with conditions:

CONDITIONS to include

(1) The development shall not commence until approval of the following reserved matters has been obtained in writing from the Local Planning Authority:-

a. Landscaping

Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.

- (2) The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the reserved matters to be approved;

Reason: No such details have been submitted and in accordance with the provisions of Section 92 of the Town and Country Planning Act 1990.

- (3) Pursuant to condition 1 details of landscaping (to include measures for tree protection) shall be designed using the principles established in the Councils adopted Landscape Character Assessment and Landscape Guidelines and shall include:

- a) Retention of all boundary trees as shown on drawing 005 Rev C;
- b) Additional tree planting along southern boundary of site as shown on drawing 005 Rev C;
- c) Details of post and rail fencing and new native hedge planted to divide the garden with the ecological mitigation area as shown on drawing 005 Rev C.

Reason: To safeguard future of existing trees, ensure a satisfactory appearance to the development and in the interests of biodiversity.

- (4) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation;

Reason: To ensure a satisfactory external appearance to the development.

- (5) Prior to the commencement of any works/development on site, an Arboricultural Method Statement in accordance with BS5837:2012, which includes details of no dig construction for the driveway and tree protection details, shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details unless otherwise agreed in writing by the local planning authority.

Reason: To safeguard the future of the trees.

- (6) In accordance with the submitted Preliminary Ecological Appraisal Report and prior to commencement of works/development above DPC level, an ecological method statement which details what enhancements are going to be implemented and where and how, shall be submitted to and approved in writing by the local planning authority, and shall include the following;

- i) Provision of bird boxes within the site, including integral bird bricks/boxes on northern elevation of building;
- ii) Provision of bat roosting spaces within eaves of building(s) and/or installation of ready-made bat boxes.

The development shall be built in accordance with the approved ecological mitigation strategy and all features shall be retained in that manner thereafter;

Reason: In the interests of biodiversity enhancement.

- (7) The development shall be carried out in accordance with the mitigation proposals set out in section 5.3 of the submitted Great Crested Newt Survey, including the ecological mitigation area with hibernaculum and log piles, as shown on drawing 005 Rev C received 15/12/16. Prior to the commencement of works/development above DPC level, details of a long-term management plan for the ecological mitigation area shall be submitted to and approved in writing by the Local Planning Authority and the development shall be carried out in accordance with these approved details unless otherwise agreed in writing by the local planning authority;

Reason: To ensure appropriate mitigation and protection of species.

- (8) Prior to commencement of works/development above damp-proof course (DPC) level, written details and samples of the materials to be used in the construction of the external surfaces (to include white weatherboarding at first floor level) of the building and hardsurfacing shall be submitted to and approved in writing by the Local Planning Authority. The development shall be constructed using the approved materials and maintained thereafter unless otherwise agreed in writing by the local planning authority;

Reason: To ensure a satisfactory appearance to the development.

- (9) The approved details of the parking/turning areas shall be completed before the commencement of the use of the land or buildings hereby permitted and shall thereafter be kept available for such use. No development, whether permitted by the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2015 (or any order revoking and re-enacting that Order, with or without modification) or not, shall be carried out on the areas indicated or in such a position as to preclude vehicular access to them;

Reason: Development without adequate parking/turning provision is likely to lead to parking inconvenient to other road users and in the interests of road safety.

- (10) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no extension to the property shall be carried out without the permission of the Local Planning Authority;

Reason: To safeguard the character and appearance of the development and the enjoyment of their properties by existing and prospective occupiers.

- (11) The development hereby permitted shall be carried out in accordance with the following approved plans: 006 and 007 received 16/06/16 and 003 Rev C and 004 Rev C received 15/12/16;

Reason: To ensure a satisfactory appearance to the development and to safeguard the enjoyment of their properties by existing and prospective occupiers.

INFORMATIVES

- (1) It is the responsibility of the applicant to ensure, before the development hereby approved is commenced, that all necessary highway approvals and consents where required are obtained and that the limits of highway boundary are clearly established in order to avoid any enforcement action being taken by the Highway Authority. The applicant must also ensure that the details shown on the approved plans agree in every aspect with those approved under such legislation and common law. It is

therefore important for the applicant to contact KCC Highways and Transportation to progress this aspect of the works prior to commencement on site.

- (2) The applicant is advised to carry out any work to vegetation that may provide suitable bird nesting habitats outside of the bird breeding season (bird breeding season is March to August) to avoid destroying or damaging bird nests in use or being built. If vegetation needs to be removed during the breeding season then mitigation measures should be implemented during construction in order to protect breeding birds. This includes examination by an experienced ecologist prior to starting work and if any nesting birds are found during work, development must cease until after the juveniles have fledged.
- (3) Attention is drawn to Sections 60 & 61 of the COPA 1974 and to the Associated British Standard COP BS 5228: 2009 for noise control on construction sites. Statutory requirements are laid down for control of noise during works of construction and demolition and you are advised to contact the Environmental Health Team regarding noise control requirements.
- (4) Clearance and burning of existing woodland or rubbish must be carried without nuisance from smoke etc. to nearby residential properties.
- (5) Plant and machinery used for demolition and construction shall only be operated within the application site between 0800 hours and 1900 hours on Mondays to Fridays and between 0800 hours and 1300 hours on Saturdays and at no time on Sunday and Bank Holidays.
- (6) Vehicles may only arrive, depart, be loaded or unloaded within the general site between the hours of 0800 hours and 1900 Mondays to Fridays and 0800 to 1300 hours on Saturdays and at no time on Sundays and Bank Holidays.
- (7) Adequate and suitable provision in the form of water sprays should be used to reduce dust from the site.

Case Officer: Kathryn Altieri

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