

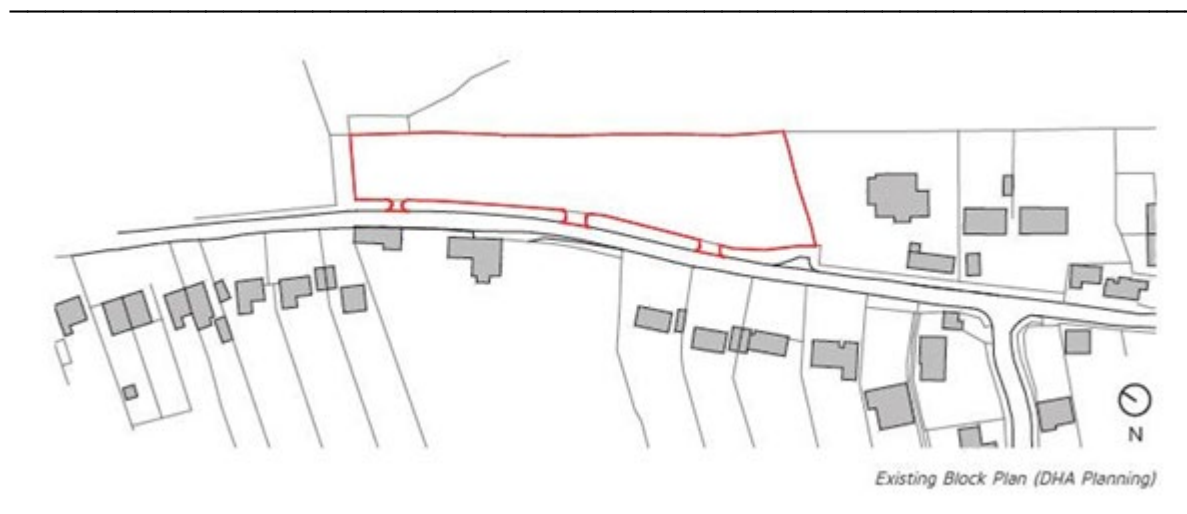
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| Application Number | 21/01173/AS |
| Location | Land north of Stumble Holme, Kingsford Street, Mersham, Kent |
| Grid Reference | 605029/140109 |
| Parish Council | Mersham |
| Ward | Mersham, Sevington South with Finberry |
| Application Description | Erection of 5 no residential dwellings with associated access, parking, landscaping and amenity space. |
| Applicant | Mr Jonathan Mayes |
| Agent | DHA Planning Ltd |
| Site Area | 0.33 ha |

Introduction

1. This application is reported to the Planning Committee at the request of the Ward Member, Councillor Bartlett.

Site and Surroundings

2. The application site is a vacant piece of grazing land on the northern side of Kingsford Street and adjacent to the defined village confines of Mersham. The site is bounded to the east by a recently completed with agricultural land to the north-east and north-west. The site lies outside the Mersham settlement confines. The site lies within countryside defined under the Mersham Farmland Landscape Character Area (LCA)
3. The site boundaries are well-defined by a mixture of post and wire fencing and established hedgerow. Two points of access currently exist into the site, via the south-east and north-western boundaries.



The Proposal

4. Full planning permission is sought for the erection of 5 detached residential dwellings (2 x 3 beds and 3 x 4 beds) with associated access, parking, landscaping and amenity space.
5. An existing access is to be replaced with 3 new accesses. Plot 1 will benefit from a private access, whilst plots 2-5 will share dual access points. The new accesses will require the removal of 17m of hedgerow to the frontage of the site. This loss will be compensated for with the filling in of 2no. existing access points and proposed hedgerow planting along plot and site boundaries.
6. On-site parking is provided with 3no. parking spaces for all dwellings. Plots 1,3, 4 and 5 have 3no. independently accessible spaces whilst Plot 2 has a mix of tandem and independently accessible spaces.
7. The proposed dwellings vary in form (all including a feature gable element) and height, increasing from 1.5 storey to 2 storey north-south with a catslide roof form on plot 1 furthest to the east of the site to reflect the transition to the countryside. The maximum ridgeline height being 7.660m.
8. In terms of design there is a mix of full, half-hipped and catslide roofs as well as dormer windows in the eaves and feature gable frontages, indicative of Kentish vernacular design.
9. There is a palette of materials reflecting the local area, comprising orange/red brick, stone weatherboarding, vertical hanging tiles and clay roof tiles.
10. All existing mature trees on the site are to be retained, together with additional tree planting along the eastern boundary and infilling of gaps to strengthen the

boundary screening and to assist with assimilating the development into the landscape. 4no. new trees are proposed to the site frontage.





Planning History

11. None.

Consultations

Ward Member: Cllr Bartlett has not provided any comments on the proposal.

Mersham Parish Council: Object making the following comments:

This application pertains to land that lies outside of that area designated as an integral part of the village as required by the Government's National Planning Policy Framework. Mersham PC does however recognise that one side of the development does abut to the edge of the village confines (as agreed by Ashford Borough Council) albeit the shortest side of the development and has for this reason approached the application on the basis that it could be considered under the terms of HOU3a. Mersham Parish Council would however urge Ashford Borough Council to separately consider exactly how much of the perimeter of a proposed developments needs to be adjacent to the designated area of a village to allow it to be considered as within that area.

That issue aside our objections to the proposed development follow:

1) *Under HOU3a the application fails to meet the following criteria:*

a) the layout, design and appearance are neither appropriate to nor compatible with the character and density of properties in the surrounding area;

b) it would have a substantial and significant impact on the amenities currently enjoyed by those currently residing in the area of the proposed development;

g) There is currently no safe lighting or pedestrian access on the street scene at present. Adding lighting would negatively impact the neighbours.

2) This application does not meet the requirements for certain facilities to be within 800 metres of the proposed development. The village shop, public house and primary school are outside of this “sustainable” catchment.

3) For the village and this area of Kingsford Street in particular any development is a sensitive issue as recent developments including the SIBF, J10A, the Hinxhill residential development and the M20 have had significant and detrimental impacts, some temporary and some ongoing.

4) Further development in this area also serves to undermine the potential mitigation of those developments identified at 3) above by the ongoing initiative to develop a green buffer on the Highfield site.

5) Parking in the village and in particular in Kingsford Street is already problematic and this development which offers only limited parking given that most family homes have at least two cars will only serve to exacerbate this issue.

6) The plan is considered to be an excessive level of development for a site of this size particularly in terms of property depth compared to properties opposite.

Finally, although not something that forms part of the planning consideration process, there is an extant covenant on this land intended, we would suggest, to protect the amenities enjoyed by existing properties in the area by prohibiting any development on the plot of land under consideration.

KCC Heritage: Raise no objection subject to the imposition of a condition relating to safeguarding archaeological interest.

KCC Biodiversity and Ecology: Raise no objection and express satisfaction that biodiversity net-gain can be achieved. This can be controlled by way of the imposition of an informative and condition.

Neighbours: 16 neighbours notified and **22 objections** received raising the following concerns and 1 letter of support.

- The proposal is in conflict with the adopted Local Plan;
- Undesirable impact on the amenity of neighbours;
- Detrimental to the character and appearance of the area;
- Impact on drainage;
- Loss of wildlife habitat;
- There are covenant issues in respect of this land;
- There are no affordable housing units in the proposal;
- The proposal would set an unwelcome precedent;
- The proposal would worsen road conditions;
- The proposed development is outside the village confines;
- This narrow country road cannot accommodate additional traffic;
- Undesirable impact on Stodmarsh Designated site;
- Inappropriate development detrimental to the visual amenity of the countryside;
- Inaccuracies in the accompanying documents;
- Inconsistent with the NPPF provisions.

Planning Policy

12. The Development Plan for Ashford Borough comprises the Ashford Local Plan 2030 (adopted February 2019), the Chilmington Green AAP (2013), the Wye Neighbourhood Plan (2016), the Pluckley Neighbourhood Plan (2017), the Rolvenden Neighbourhood Plan (2019) and the Kent Minerals and Waste Local Plan (2016) as well as the Kent Minerals and Waste Early Partial Review (2020).

13. The relevant policies from the Development Plan relating to the application are as follows:-
 - SP1 – Strategic Objectives

 - SP2 – The Strategic Approach to Housing Delivery

 - SP6 – Promoting High Quality Design

 - HOU5 – Residential Windfall Development in the Countryside

 - HOU12- Residential Space Standards Internal

 - HOU15 - Private External Open Space

 - TRA3a - Parking Standards for Residential Development

TRA6 - Provision for Cycling

TRA7 – The road network and development

EMP6 – Promotion of Fibre to the Premises

ENV1 - Biodiversity

ENV3a – Landscape Character and Design

ENV4 – Light Pollution and Promoting Dark Skies

ENV5 – Protecting important rural features

ENV7 – Water efficiency

ENV8 – Water Quality, Supply and Treatment

ENV9 – Sustainable Drainage

14. The following are also material considerations to the determination of this application.

Supplementary Planning Guidance/Documents

Sustainable Drainage SPD 2010

Residential Parking & Design SPD 2010

Residential Space & Layout (External space standards) 2011

Landscape Character Assessment SPD 2011

Dark Skies SPD 2014 Fibre to the Premises SPD

Informal Design Guidance

Informal Design Guidance Note 1 (2014): Residential layouts & wheeled bins

Informal Design Guidance Note 2 (2014): Screening containers at home

Informal Design Guidance Note 3 (2014): Moving wheeled-bins through covered parking facilities to the collection point

Government Advice

National Planning Policy Framework (NPPF)

15. Members should note that the determination must be made in accordance with the Development Plan unless material considerations indicate otherwise. A significant material consideration is the NPPF. The NPPF states that less weight should be given to the policies above if they are in conflict with the NPPF. The following sections of the NPPF are relevant to this application:
- 2. Achieving sustainable development
 - 4. Decision-making
 - 5. Delivering a sufficient supply of homes
 - 11. Making effective use of land
 - 12. Achieving well-designed places
 - 15. Conserving and enhancing the natural environment

National Planning Practice Guidance (NPPG)

16. In March 2014 the Department for Communities and Local Government (DCLG) launched its planning practice guidance web-based resource. This was accompanied by a Written Ministerial Statement which includes a list of the previous planning policy guidance documents cancelled when the NPPF was launched. PPG contains a range of subject areas, with each area containing several subtopics. Those of particular relevance to the determination of this planning application comprise:
- Design
 - Determining a planning application

Assessment

17. The main issues for consideration are:
- a) Principle of Development
 - b) Layout, Design, Character and Appearance
 - c) Residential Amenity and Standards
 - d) Access Arrangement, Parking Provision and Highway Safety
 - e) Foul Water Disposal, Biodiversity & Habitat Regulations

f) Other Matters

18. Principle of Development

Policy HOU5 of the Local Plan relates to residential windfall development in the countryside. The policy states that proposals for residential development adjoining or close to the existing built up confines of villages including Mersham will be acceptable providing the following criteria are met:

a) The scale of development proposed is proportionate to the size of the settlement and the level, type and quality of day to day service provision currently available and commensurate with the ability of those services to absorb the level of development in combination with any planned allocations in this Local Plan and committed development in liaison with service providers;

b) The site is within easy walking distance of basic day to day services in the nearest settlement, and/or has access to sustainable methods of transport to access a range of services;

c) The development is able to be safely accessed from the local road network and the traffic generated can be accommodated on the local and wider road network without adversely affecting the character of the surrounding area;

d) The development is located where it is possible to maximise the use of public transport, cycling and walking to access services;

e) The development must conserve and enhance the natural environment and preserve or enhance any heritage assets in the locality; and,

f) The development (and any associated infrastructure) is of a high quality design and meets the following requirements:-

- i) it sits sympathetically within the wider landscape,*
- ii) it preserves or enhances the setting of the nearest settlement,*
- iii) it includes an appropriately sized and designed landscape buffer to the open countryside,*
- iv) it is consistent with local character and built form, including scale, bulk and the materials used,*

See visual amenity section

- v) it does not adversely impact on the neighbouring uses or a good standard of amenity for nearby residents,*

See residential amenity section

- vi) *it would conserve biodiversity interests on the site and / or adjoining area and not adversely affect the integrity of international and national protected sites in line with Policy ENV1.*

See ecology section

19. The application site is located to the north of Kingsford Street and adjacent to the defined village confines of Mersham, which contains a post office and store, two pubs village hall, sports club, a church, and a primary school. In response to criteria a), b) and d) the site is close to the built up confines of Mersham and consequently, it is within proximity of services/facilities. Criteria c), e) and f) are addressed below.

20. **Layout, Design, Character and Appearance**

Local Plan policies SP1 and SP6 also require good design and state that all development should seek to create a distinct character, with a strong sense of place and identity. These policies are broadly consistent with the NPPF which attaches great importance to the design of the built environment and seeks to safeguard heritage assets.

21. Criterion f(iv) under policy HOU5 is particularly relevant to the proposal. Having regard to the site shape, size and configuration of the proposed 5 plots, especially in relation to the surrounding pattern of development, it is considered that the proposed development, of the size and scale proposed, can be erected on the site without harming the character and appearance of the area. The pattern of the surrounding development, particularly the site coverage and scale of the existing dwellings within the confines of their respective plots, implies that proposed 5 dwellings would sit comfortably within their respective plots.
22. In relation to design, there is no noticeable or coherent pattern in the appearance of the surrounding buildings. The proposed development is considered as a continuation of the existing context of Kingsford Street, in a linear pattern. The plot sizes and design have also been considered in the context of the area, which largely consists of a mix of one or two storey dwellings with detached garages and outbuildings, as such the proposed dwellings comprise a mix of 1.5 storey to 2 storey.
23. The appearance of the proposed dwellings responds to the architecture of the immediate setting, through the use of materials used locally. Notwithstanding, the imposition of a condition requiring the submission of full details of the external facing materials for approval is recommended.

24. The development includes the retention of existing mature planting as well as the reinforcement of existing planting particularly in the form of a new native hedgerow and tree planting to the rear boundary to assist with assimilating the development into the landscape.
25. The Council's Tree Officer confirms that in arboriculture terms, the layout meets the recommendations within BS5837:2012 in allowance for future growth and respecting the quality of the key tree on the site – the sycamore and that there are no further arboricultural conflicts on the site.
26. On balance no significant or unacceptable harm to the street scene or the surrounding area would be caused and the proposal complies with the relevant Local Plan policies in respect of visual impact and would not harm the character and appearance of the designated landscape. Subject to being acceptable on all other matters which are assessed below, the proposal is acceptable in this respect.

Residential Amenity and Standards

27. Section 12 of the NPPF refers to design and the standard of amenity. Paragraph 127 states among other things that planning policies and decisions should ensure that developments:

Create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users."
28. Policy HOU5 reinforces the emphasis on the protection of amenity. It seeks to ensure that new residential development do not harm the living conditions of neighbouring occupiers.
29. In consideration of the siting of the proposed dwellings relative to the surrounding buildings and the disposition of the windows and other openings, the proposal would not harm the living conditions of the neighbouring occupiers. The nearest neighbouring property to the proposed development is approximately 30m to the south of the site and is screened by existing mature trees. This amenity safeguard will be further reinforced through new landscaping, particularly the boundary hedgerow planting. The dwellings have been oriented in a manner that would prevent mutual overlooking between the existing and proposed dwellings. The scheme would therefore comply with both national and local planning policies.
30. In accordance with policy HOU12 and the provisions in the national guidance, the internal layout and floorspace disposition for the 5 dwellings meet the set standards. The external amenity spaces are also satisfactory and in accordance with policy HOU15. On balance, there would be no significant or unacceptable harm to the living conditions of the adjacent neighbouring dwellings and the future occupiers of the proposed development.

Access Arrangement, Parking Provision and Highway Safety

31. Access to the site is from Kingsford Street. The current access points would be removed as part of the proposal and replaced with 3 new access points to serve the new dwellings. Plot 1 would benefit from a private access, whilst plots 2-5 will share dual access points. As the road isn't a classified road then it does not fall within the remit of Kent Highways to make comments. The development relates to 5 dwellings and it isn't considered that the development would generate such an amount of traffic that couldn't be accommodated on the local road network.
32. Policy TRA3a states that dwellings of three bedrooms should be provided with 2 off road parking spaces and 3 spaces for 4 bedroom dwellings. The 5 plots could each accommodate at least 3 off-street car spaces and there would be sufficient turning spaces provided to allow vehicles to enter and exit in forward gear. The development is therefore acceptable in terms of highway safety and parking provision.
33. **Foul Water Disposal, Biodiversity & Habitat Regulations**

An Ecological Assessment (EA) was submitted in support of the application. The EA was undertaken on site to classify the habitats present, determine the potential for protected species to occur within the site, identify key ecological constraints to minimise ecological effects through the design of the scheme, and suggest any further surveys or suggest ways to maintain, enhance or mitigating measures for biodiversity.
34. The EA confirms several potential habitats for protected species, which are proposed to be retained. These include the hedgerow on the south-west boundary of the site is classified as 'Important' under the ecology criteria of the Hedgerows Regulations 1997.
35. The EA also considers that the site is capable of supporting "Low" quality bat habitat, however, a further ecological assessment found 1 tree on the site which showed evidence of a potential bat roosting features. The tree would be retained within the development proposal and therefore no further surveys for bats would be required.
36. Following receipt of further information KCC Biodiversity and Ecology is satisfied that biodiversity net gain can be achieved. This can be secured by way of planning conditions. There would therefore be no harm to protected species.
37. Surface water is to be disposed of by way of a soakaway and this can be dealt with by way of a condition.
38. The site falls within the 'Stour Lower' Operational Catchment Area. The Council has received Standing advice from Natural England (NE) regarding the water quality at the nationally and internationally designated wildlife habitat at Stodmarsh Lakes, east of Canterbury, which in particular includes a

Special Area of Conservation (SAC), a Special Protection Area for Birds (SPA) and a Ramsar Site.

39. The effect of the advice implies that this proposal must prima facie now be considered to have a potentially significant adverse impact on the integrity of the Stodmarsh Lakes, and therefore an Appropriate Assessment (AA) under the Habitats Regulations would need to be undertaken and suitable mitigation identified to achieve 'nutrient neutrality' as explained in NE's advice, in order for the Council to be able lawfully to grant planning permission.
40. Under the Council's Constitution, the Head of Planning and Development already has delegated authority to exercise all functions of the Council under the Habitats Regulations. This includes preparing or considering a draft AA, consulting NE upon it, and amending and/or adopting it after taking into account NE's views.
41. As such, the applicant is required to carry out a Habitats Regulations Assessment (HRA), which generally includes an Appropriate Assessment (AA) carried out by the competent authority, in this case the LPA (NB: the second, more detailed stage of an HRA). The findings of the HRA need to be referred to Natural England and there is a duty to consider their response.
42. As matters stand, it is likely that an off-site package of mitigation measures could be required in order for this proposal to achieve 'nutrient neutral' status and in the absence of such measures (or any others) having been identified and demonstrated to be deliverable, it is not possible to conclude that the scheme would be acceptable in respect of this issue now.
43. However, work commissioned by the Council is expected to commence shortly on identifying a package of strategic mitigation measures that it is hoped would enable relevant developments within the Borough's River Stour catchment (where the NE advice applies) to come forward on a 'nutrient neutral' basis, subject to appropriate obligations and conditions to secure the funding and delivery of the mitigation before occupancy of the development.
44. Therefore, aside from the issue highlighted above, on the basis that this proposal is considered to be otherwise acceptable in planning terms (subject to conditions), it is recommended that a resolution to grant planning permission should be subject to the adoption by the Head of Planning and Development, having consulted NE, of a suitable Appropriate Assessment to address the Habitats Regulations, to the effect that the proposed development would not adversely affect the integrity of the SAC, SPA and Ramsar Site, and to any necessary obligation(s) and/or conditions in order to reach that assessment. This approach is included as part of my Recommendation further below in this report.

Other Matters

45. Many of the issues raised by the neighbours have been dealt with and addressed in this report. However, in many of the responses, references were made to covenants in respect of this site, but this is not a material planning consideration.

5 Year Housing Supply

46. The Council can currently demonstrate a 4.8 year supply of housing land.
47. Given that a five year supply of housing land cannot be demonstrated, Paragraph 11 part d of the NPPF (2021) is engaged. This states that for decision taking, planning permission should be granted unless: “any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.”
48. The proposal accords with the policies contained within the adopted Local Plan and the NPPF and as this report shows the proposal would not result in significant or demonstrable harm. I have weighed the scale of the Borough’s housing supply deficit in the balance and in my view, as the development would not result in any demonstrable harm it adds extra weight in favour of this development by making an acceptable contribution to the supply of housing in the Borough.

Human Rights Issues

49. 44. Human rights issues relevant to this application were taken into account in the assessment of this proposal. The “Assessment” section above and the Recommendation below represent an appropriate balance between the interests and rights of the applicant (to enjoy their land subject only to reasonable and proportionate controls by a public authority) and the interests and rights of those potentially affected by the proposal (to respect for private life and the home and peaceful enjoyment of their properties).

Working with the applicant

50. In accordance with paragraphs 38 of the NPPF, Ashford Borough Council (ABC) takes a positive and creative approach to development proposals focused on solutions. ABC works with applicants/agents in a positive and creative manner as explained in the note to the applicant included in the recommendation below.

Conclusion

51. In conclusion, the Development Plan supports residential development at the edge of rural settlements subject to compliance with policy HOU5 criteria, other relevant policies and adopted standards. This site lies on the edge of Mersham and it is considered that the proposed development, by virtue of its scale, design and layout would be in keeping with the character and the spatial pattern of the surrounding development.
52. No harm to residential amenity is envisaged and the proposed development is acceptable in terms of its visual impact and impact upon the highway.
53. Currently, insufficient information has been provided to allow the Council to assess the impact of the proposal on the Stodmarsh Special Area of Conservation (SAC) Special Protection Area (SPA), and Ramsar Site under the Habitats Regulations. Therefore, the recommendation to grant planning permission is subject to the adoption, under delegated powers, of an Appropriate Assessment to the effect that the development would not adversely affect the integrity of the SAC, SPA and Ramsar Site, and to any necessary obligation(s) and/or conditions deemed necessary to achieve that end.
54. Overall, for the reasons set out above, the proposed development is considered to comply with the requirements of the development plan and it is therefore recommended that planning permission is granted.

Recommendation

Permit

- (A) Subject to the applicant submitting information to enable an Appropriate Assessment under the Habitats Regulations to be adopted by the Head of Planning and Development which identifies suitable mitigation proposals such that, in their view, having consulted the Solicitor to the Council & Monitoring Officer and Natural England, the proposal would not have a significant adverse effect on the integrity of the Stodmarsh SAC, SPA and Ramsar Site; and with delegated authority to the Development Management Manager or the Strategic Development and Delivery Manager to add, amend or remove planning obligations and/or planning conditions as they see fit to secure the required mitigation;**
- (B) Resolve to Permit subject to planning conditions and notes, including those dealing with the subject matters identified below (but not limited to that list) and those necessary to take forward stakeholder representations, with wordings and triggers revised as appropriate and**

with any 'pre-commencement' based planning conditions to have been the subject of the agreement process provisions effective 01/10/2018

Conditions

1. Standard Time Condition
2. Compliance with The Approved Plans
3. Landscaping Scheme to include new hedgerow and tree planting
4. Planting plans required to accompany the landscaping scheme
5. Landscape management plan
6. Retention of existing hedgerows
7. Tree protection measures
8. Tree protection measures for new trees
9. Materials to be Approved
10. Provision and Retention of Vehicle Parking space
11. Provision and retention of bicycle storage
12. Enforcement Condition
13. Occupation as a single dwelling house only
14. Construction Management Plan/Hours of Working
15. Provision and maintenance of visibility splays?
16. Electric Vehicles Charging Points
17. Archaeological Field Evaluation
18. Biodiversity Enhancement
19. Sustainable surface water drainage scheme
20. FTTP

1. Working with the Applicant

In accordance with paragraph 38 of the NPPF Ashford Borough Council (ABC) takes a positive and proactive approach to development proposals focused on solutions. ABC works with applicants/agents in a positive and proactive manner by;

- offering a pre-application advice service,
- as appropriate updating applicants/agents of any issues that may arise in the processing of their application
- where possible suggesting solutions to secure a successful outcome,

In this instance:

- the applicant/agent was updated of any issues after the initial site visit,
- was provided with pre-application advice,

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

The applicant is reminded that, under the Wildlife and Countryside Act 1981, as amended (section 1), it is an offence to remove, damage or destroy the nest of any wild bird while that nest is in use or being built. Planning consent for a development does not provide a defence against prosecution under this Act. Breeding bird habitat is present on the application site and assumed to contain nesting birds between 1st

March and 31st August, unless a recent survey has been undertaken by a competent ecologist and has shown that nesting birds are not present.

Background Papers

All papers referred to in this report are currently published on the Ashford Borough Council web site (www.ashford.gov.uk). Those papers relating specifically to this application may be found on the [View applications on line](#) pages under planning application reference 21/01173/AS)

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