



## **APPROVED WITH CONDITIONS**

### **Planning Policy**

The Development Plan for Ashford borough comprises:

- i. the Ashford Local Plan 2030 (adopted February 2019),
- ii. the Chilmington Green AAP (adopted July 2013),
- iii. the Wye Neighbourhood Plan (adopted March 2016),
- iv. the Rolvenden Neighbourhood Plan (adopted December 2019),
- v. the Boughton Aluph & Eastwell Neighbourhood Plan (adopted October 2021)
- vi. the Egerton Neighbourhood Plan (adopted March 2022)
- vii. the Charing Neighbourhood Plan (adopted July 2023)
- viii. the Pluckley Neighbourhood Plan Review 2023 (adopted July 2024)
- ix. the Aldington & Bonnington Neighbourhood Plan (adopted October 2024)
- x. the Tenterden Neighbourhood Plan (adopted October 2024)
- xi. the Kent Minerals and Waste Local Plan (2016) & the Kent Minerals and Waste Early Partial Review (2020).

Although not yet part of the Development Plan, the following emerging Neighbourhood Plans are a material consideration:

None at present.

The relevant policies from the Development Plan relating to this application are as follows:

### **Ashford Local Plan 2030**

- SP1 - Strategic objectives
- SP2 - The strategic approach to housing delivery
- SP6 - Promoting high quality design
- HOU3a - Residential windfall development within settlements (
- HOU10 - Development of residential gardens
- HOU12- Residential space standards
- HOU15 - Private external open space
- TRA3a - Parking standards for residential development
- TRA6 - Provision for cycling
- ENV1 - Biodiversity
- ENV4 - Light pollution and promoting dark skies
- ENV7 - Water Efficiency
- ENV9 - Sustainable drainage

### **Tenterden Neighbourhood Plan 2013–2030**

- TEN NP3 - Conserve and Enhance Biodiversity
- TEN NP4 - Design of New Development and Conservation

### **Supplementary Planning Documents**

Residential Parking SPD 2010  
Sustainable Drainage (SuDs) SPD 2010  
Residential Space & Layout SPD 2011  
Dark Skies SPD 2014

### **Supplementary Planning Guidance**

N/A

### **Informal Design Guidance Notes**

Climate Change Guidance for Development Management 2022  
Design Guidance Note 1: Residential layouts & wheeled-bins  
Design Guidance Note 2: Screening containers at homes

### **Conservation & Listed Buildings**

N/A

### **Village/Parish Design Statements**

N/A

### **Government Guidance**

National Planning Policy Framework 2024  
Planning Practice Guidance  
National Design Guide 2021  
Technical Housing Standards - nationally described standards.

### **Consultations/Representations**

**Tenterden Town Council:** Support

**Environmental Protection:** Request conditions re reporting of unexpected contamination

**Neighbours:** 16 consulted 0 letters of support received

### **Assessment**

#### **Principle**

The starting point for decision making, in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004 and Section 70(2) of the Town and Country Planning Act 1990, is the adopted development plan. Decisions should be taken in accordance with the policies in such plans, unless material considerations indicate otherwise.

The application site lies within the built-up confines of St Michaels Tenterden and therefore falls to be considered under policy HOU3a of the Local Plan 2030. The NPPF is also a significant material consideration. At the heart of the NPPF is a presumption in favour of sustainable development. The mechanism for applying the presumption is set out in paragraph 11 of the NPPF.

It states that where the policies which are most important for determining the application are out of date (including where the LPA cannot demonstrate a five-year housing land supply or where the LPA has 'failed' the Housing Delivery Test), permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF taken as a whole (known as the 'tilted balance') or where specific policies in the NPPF indicate that development should be restricted.

### Five Year Housing Land supply

The Council's latest Housing Land supply position 'Five Year Housing Land Supply Update July 2021' was published in November 2021 and covered the period from 2021 to 2026[1]. The statement concludes that the Council can demonstrate 4.39 years' supply of land for housing. With this being the case the Council accepts that it is unable to demonstrate a five year supply of housing land in the Borough and so paragraph 11(d) of the NPPF is engaged. Paragraph 11(d) of the NPPF states:

"where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:

- the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
- 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."

The lack of 5 year housing supply means that the local plan policies are out of date, and as it is not considered that the proposal would detrimentally impact any designated heritage assets or designated countryside so as to warrant a refusal of the application (as detailed later in the report), it is considered that the tilted balance remains engaged and that there remains a presumption in favour of approving sustainable development.

Policy HOU3a relates to residential development within settlements and states that residential development and infilling of a scale that can be satisfactorily integrated into the existing settlement will be acceptable provide the following requirements are met.

***a) It is of a layout, design and appearance that is appropriate to and is compatible with the character and density of the surrounding area;***

Policy SP6 states that all development proposals must be of high-quality design and demonstrate a careful consideration of and a positive response to character,

distinctiveness and sense of place Development proposals should show how they have responded positively to the design policy and guidance, including national and local design guidance. This approach is consistent with the NPPF which seeks development which adds to the overall quality of the area as a result of good architecture, layout and appropriate and effective landscaping.

Development proposals involving the complete or partial redevelopment of residential garden land are permitted under Policy HOU10 of the Local Development Plan provided the proposal complies with Policy HOU3a which, amongst other things, states that residential development and infilling with the existing settlement will be acceptable provided it is of a layout, design and appearance that is appropriate to and is compatible with the character and density of the surrounding area.

Policy HOU10 expands this further, stating proposals will be permitted provided the development

*a) Does not result in significant harm to the character of the area including the surrounding grain and built pattern of development, the prevailing building density, line, frontage width, building distance from the road, existing plot sizes and visual separation between dwellings; and,*

*b) Does not result in significant harm to wildlife corridors and biodiversity habitats.*

The application site lies within an area characterised by a wide variety of different property sizes and styles. Having regard to the context of the site, the submitted proposal is consistent with the existing and surrounding pattern and grain of development. The proposed layout ensures the element of space provided by the former garden is maintained, with space between the proposed and existing dwellings. The proposed scale and density of development is comparable to that of the local area and that the surrounding built form It would not appear unduly prominent or intrusive.

The proposed design is acceptable utilising materials which are similar to that of the existing and surrounding built form and accordingly, the new dwelling would assimilate well with its surroundings. Proportionate to the size of the plot the proposed dwelling would sit comfortably within the site and would not result in overdevelopment. Criterion a) of policy HOU3a is considered to have been met.

***b) It would not create a significant adverse impact on the amenity of existing residents;***

Having regard to the proposed layout and design, I do not consider the proposal would have a significant adverse impact on the amenity of existing residents.

***c) It would not result in significant harm to or the loss of, public or private land that contributes positively to the local character of the area (including residential gardens);***

For the reasons set out above, I consider that in this instance the proposed development would not result in significant harm to or the loss of, public or private land that contributes positively to the local character of the area.

***d) It would not result in significant harm to the landscape, heritage assets or biodiversity interests;***

The proposal would not result in harm to the overall landscape or heritage assets. Criterion d) of policy HOU3a is complied with.

***e) It 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;***

Policy TRA7 states that development that would generate significant traffic movements must be well related to the primary and secondary road network, and this should have adequate capacity to accommodate the development. It states that new accesses onto the road network will not be permitted if a materially increased risk in accidents or traffic delays would be likely to result. The NPPF also states that development should ensure that a safe and suitable access can be achieved for all people.

The proposal is for a single dwelling. Suitable visibility is available from the proposed site access onto Grange Road. The number of vehicle movements associated with the development would not result in a significant intensification in the use of the existing access which would be detrimental to highway safety. Overall, the proposal would not result in a development which is detrimental to highway safety and criteria e) of policy HOU3a is met.

***f) It does not need substantial infrastructure or other facilities to support it, or otherwise proposes measures to improve or upgrade such infrastructure;***

The scale of development would not require substantial infrastructure or other facilities to support it or otherwise proposes measures to improve or upgrade such infrastructure.

***g) It is capable of having safe lighting and pedestrian access provided without a significant impact on neighbours or on the integrity of the street scene;***

The site is located within the built-up confines of St. Michaels, Tenterden and safe lighting would be available and safe pedestrian access would be provided for both plots.

***h) It would not displace an active use such as employment, leisure or community facility, unless meeting the requirements of other policies in this Plan.***

It would not.

**Living condition of the future occupiers**

Regard must be had to whether the proposed development would provide high standard of amenity to the future occupants. The proposed dwelling would be of a good size, whilst all

habitable rooms would be naturally lit. The internal accommodation proposed complies with the nationally described space standards in accordance with Local Plan policy HOU12 and proposed garden is of acceptable size and would comply with policy HOU15 and the Council's Residential Space and Layout SPD.

### **Parking**

Policy TRA3(a) requires proposals seeking to provide four bed dwellings to achieve a minimum parking standard 3 spaces. Parking for three vehicles is proposed to be provided and sufficient turning space is proposed which would allow vehicles to enter and exit in forward gear. Subject to conditions retaining the use of parking spaces the development is acceptable on this matter.

### **Biodiversity Net Gain**

Statutory BNG does not apply to this proposal courtesy of the exemptions. The proposed dwelling is a self-build.

Notwithstanding there is no requirement to provide a statutory 10% BNG under para 193 of the NPPF there remains a duty to conserve or enhance biodiversity where possible, Opportunities to improve biodiversity in and around developments should be integrated as part of their design.

There is scope for biodiversity enhancements to be integrated into the proposal and accordingly these can be secured by condition.

### **Working with the applicant**

In accordance with paragraph 39 of the NPPF Ashford Borough Council (ABC) takes a positive and creative approach to development proposals. ABC works with applicants/agents in a positive and creative manner as explained in the note to the applicant included in the recommendation and the decision notice.

### **Human Rights**

I have also taken into account the human rights issues relevant to this application. In my view the "Assessment" section above and the Recommendation below represents an appropriate balance between the interests and rights of the applicant (to enjoy his 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) and the wider public interest.

### **Conclusion**

In light of the above assessment, the proposal considered acceptable. The proposal would comply with national policy as set out within the NPPF/NPPG and the Development

Plan. Accordingly and with no overriding matters which would otherwise indicate refusal I recommend that application is permitted subject to conditions.

**Conditions:**

- 1 The development hereby permitted shall be begun before the expiration of 3 years from the date of this decision.

**Reason:** To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

- 2 The development hereby permitted shall be carried out in accordance with the following approved plans and documents:

<b>Description</b>	<b>Date</b>
Location Plan	17 January 2025
North and South Elevations 2109/35	3 February 2025
East and West Elevations 2109/34	3 February 2025
Block Plan - 2109/31	3 February 2025
Ground Floor Plan 2109/32	3 February 2025
First Floor Plan 2109/33 Rev A	3 February 2025

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

- 3 Prior to above ground works taking place, details (including source/manufacturer and colour) and samples (where required) of all materials to be used on the external surfaces of the buildings, including but not limited to brick, tiles and cladding shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the details so approved and retained for the lifetime of the development.

**Reason:** In the interests of the visual amenity of the locality.

- 4 None of the buildings shall be occupied until the sewage disposal works have been completed in accordance with the relevant Building Regulation requirements and treated effluent discharge requirements as set by the Environment Agency (where applicable).

**Reason:** To avoid pollution of the surrounding area.

- 5 Prior to the completion of the development an ecological enhancement plan shall be submitted and approved in writing by the Local Planning Authority. The proposed plan shall demonstrate how the proposal will enhance biodiversity through the inclusion of ecological enhancement features within the site. The approved details shall be implemented fully within 12 months of the completion of the development and shall be retained thereafter.

**Reason:** In the interest of enhancing and improving the biodiversity and habitats on and around the site.

- 6 The landscaping scheme as shown in approved drawing 2109/31 shall be carried out fully within 12 months of the completion of the development. Any trees or other 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 a similar size and species unless the Local Planning Authority give prior written consent to any variation.

**Reason:** In order to protect and enhance the amenity of the area.

- 7 The approved development shall be carried out in such a manner as to avoid damage to the existing trees, including their root systems, and other planting to be retained by observing the following:

(a) All trees to be preserved shall be marked on site and protected during any operation on site by temporary fencing in accordance with BS 5837:2012, (Trees in relation to design, demolition and construction - recommendations) and in accordance with the approved Tree Protection Plan and any approved Arboricultural Method Statement, to the satisfaction of the Local Planning Authority. Such tree protection measures shall remain throughout the period of construction

(b) No fires shall be lit within the spread of branches or downwind of the trees and other vegetation;

(c) No materials or equipment shall be stored within the spread of the branches or Root Protection Area of the trees and other vegetation;

(d) No roots over 25mm diameter shall be cut, and no buildings, roads or other engineering operations shall be constructed or carried out within the spread of the branches or Root Protection Areas of the trees and other vegetation;

(e) Ground levels within the spread of the branches or Root Protection Areas (whichever the greater) of the trees and other vegetation shall not be raised or lowered in relation to the existing ground level, except as may be otherwise agreed in writing by the Local Planning Authority.

(f) No trenches for underground services shall be commenced within the Root Protection Areas of trees which are identified as being retained in the approved plans, or within 5m of hedgerows shown to be retained without the prior written consent of the Local Planning Authority. Such trenching as might be approved shall be carried out to National Joint Utilities Group recommendations.

**Reason:** Pursuant to Section 197 of the Town and Country Planning Act 1990 and to protect and enhance the appearance and character of the site and locality in accordance with Policy EN1 of the Local Plan.

- 8 The area shown on the drawing number 2109/3 & 2109/32 as vehicle parking space, garages and turning shall be provided, before the dwelling(s) is occupied, and shall be retained for the use of the occupiers of, and visitors to, the development, and no

permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) 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 this reserved parking space.

**Reason:** Development without provision of adequate accommodation for the parking of vehicles is likely to lead to parking inconvenient to other road users

- 9 Prior to the first occupation of the dwelling hereby approved at 1 Electric Vehicle Charging point shall be provided. All Electric Vehicle charger points shall be provided to Mode 3 standard (providing up to 7kw) and SMART (enabling Wifi connection). The charging point shall thereafter be retained available, in a working order for the charging of electric vehicles. 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 take into account the cumulative impacts of development on air quality and to encourage the use of sustainable transport modes including incorporation of facilities for charging plug-in vehicles.

- 10 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015, no development shall be carried out within Classes A to E of Part 1 and Class A of Part 2 Schedule 2 of Schedule 2 of that Order or any Order revoking and re-enacting that Order.

**Reason:** In order [to protect the visual amenity of the locality.

- 11 Part 1

If unexpected contamination is found at any time when carrying out the approved development it must be reported in writing to the Local Planning Authority. An investigation and risk assessment must be undertaken and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of Part 2.

#### Part 2

Following completion of the remediation scheme a verification report that demonstrates the effectiveness of the remediation carried out must be prepared and submitted for approval in writing by the Local Planning Authority.

**Reason:** To ensure that risks from land contamination to the future users of land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

#### **Informatives:**

- **Biodiversity Net Gain**

The effect of paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990 is that planning permission granted for the development of land in England is deemed to have been granted subject to the condition “(the biodiversity gain condition)” that

development may not begin unless:

- a) a Biodiversity Gain Plan has been submitted to the planning authority, and
- b) the planning authority has approved the plan.

The planning authority, for the purposes of determining whether to approve a Biodiversity Gain Plan if one is required in respect of this permission, would be Ashford Borough Council.

There are statutory exemptions which mean that the biodiversity gain condition does not always apply and these are set out in The Biodiversity Gain Requirements Exemptions Regulations 2024.

**This permission will not require the approval of a Biodiversity Gain Plan before development is begun because one or more of the statutory exemptions or transitional arrangements are considered to apply.**

### **The effect of section 73D of the Town and Country Planning Act 1990**

If planning permission is granted on an application made under section 73 of the Town and Country Planning Act 1990 (application to develop land without compliance with conditions previously attached) and a Biodiversity Gain Plan was approved in relation to the previous planning permission (“the earlier Biodiversity Gain Plan”) there are circumstances when the earlier Biodiversity Gain Plan is regarded as approved for the purpose of discharging the biodiversity gain condition subject to which the section 73 planning permission is granted.

Those circumstances are that the conditions subject to which the section 73 permission is granted:

- i) do not affect the post-development value of the onsite habitat as specified in the earlier Biodiversity Gain Plan, and
- ii) in the case of planning permission for a development where all or any part of the onsite habitat is irreplaceable habitat the conditions do not change the effect of the development on the biodiversity of that onsite habitat (including any arrangements made to compensate for any such effect) as specified in the earlier Biodiversity Gain Plan.

- The applicant is reminded of the need for the development to satisfy the requirements of the Building Regulations and in respect of climate change in particular the following documents:

- Approved Document L (Conservation of fuel and power)
- Approved Document F (Ventilation)
- Approved Document O (overheating)
- Approved Document S (Infrastructure for electric charging vehicles)

- In accordance with paragraph 39 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,
- informing applicants/agents of any likely recommendation of refusal prior to a decision

In this instance,

- the applicant/agent was updated of any issues after the initial site visit,
- the application was acceptable as submitted and no further assistance was required.