

GROUND OF APPEAL.

**PLANNING APPLICATION FOR CONVERSION OF
EX SWW RADAR STATION TO DOMESTIC DWELLING HOUSE.**

**SITE ADDRESS: LAND ADJACENT TO 1 PYLON COTTAGES, GULDEFORD LANE, EAST
GULDEFORD, RYE, TN32 7PG.**

LOCAL PLANNING AUTHORITY (LPA): SHEPWAY DISTRICT COUNCIL

PLANNING APPLICATION NUMBER Y17/1413/SH.

REASON FOR APPEAL: COUNCIL'S REFUSAL TO GRANT PLANNING PERMISSION.

APPELLANT: MR C JOSEPH

APPELLANT PLANNING AGENT: JOHN TADMAN BD&S ASSOCIATES

DATE OF SUBMISSION OF APPEAL: February 2018

**THE DEVELOPMENT AS DESCRIBED BY THE COUNCIL:
CONVERSION OF EX SECOND WORLD WAR RADAR STATION TO RESIDENTIAL
DWELLING HOUSE WITH ASSOCIATED PARKING ALONG WITH FIRST FLOOR
EXTENSION.**

1.0) GROUND OF APPEAL

- 1) The appellant contests and rebuts the Council's reasons for refusing to grant planning permission.
- 2) The Council failed to take a positive and proactive approach to the appellants development proposals in accordance with paragraphs 186 and 187 of the National Planning Policy Framework (NPPF) in that they made no attempt to enter into any meaningful discourse regarding the special nature of the listed building or the preservation and the conversion of the historical asset that constitutes the proposed development.
- 3) That in failing to appreciate the special nature of the grade II listed building relative to the proposed development and safe guarding of that historic asset the Council failed to give due and proper weight to Section 12 of the NPPF, in particular: paragraphs 126, 129, 131, 132, 134, 137 and 140 when determining the application.

2.0) Planning History

Planning approval subject to conditions was granted during 2001 for the conversion and extension of the building under application number YO1/1109/SH. That planning approval was subsequently renewed on owner of the property in compliance with Condition 1 of application Y06/1063/SH. Due to lack of finance the works ceased, and the building was left to deteriorate without further attention to this present day. A Lawful Development Certificate (LDC) application is currently with the local planning authority (LPA) requesting confirmation that the work had commenced in compliance with the relevant condition attached to the then planning permission.

3.0) Listed Building Status

The building was granted grade II listed status by Historic England on the 30th November 2009, list entry number 1393538. The listing includes: the receiver site, receiver building, receiving mast bases and light anti-aircraft gun site; the remains of a small single storey building located some 30m to the south east of the subject building that, although of the same period as the radar station, is in a state of partial collapse. That building was not included in the HE listing (although regulated because it lies within the curtilage of the historic site) presumably because of its advanced state of dilapidation.

4.0) Pre-Application Advice

A) Pre-application advice was sought from the LPA on two occasions; First, an initial application was submitted during March 2017 with reference to approved application Y01/1109/SH and subsequent renewal of that application during 2006. Upon receipt of comments from the LPA and the conservation officer acting for the Council a second application complete with outline drawings and written statements was submitted during June 2017.

B) The LPA and the conservation officer responded to the second application and copies of their advice/comments are provided as part of the submissions accompanying this appeal. However, in general the planning officer's comments were negative and opposed the idea of the proposed development stating national and local policies where restrictions are placed upon allowing individual houses to be erected outside of existing settlements and that the site was not suitable for conversion to a habitable dwelling. The planning officer made no reference to or invited any dialogue relating to the historic building or the site being of special and significant historic interest where that interest might be accepted in mitigation that could outweigh the policies that the planning officer relied upon to object to the development.

C) The conservation officer took a more enlightened and pragmatic view and suggested support for the application and provided constructive suggestions regarding an approach to the design. The conservation officer recommended that the application be approved on both pre-application advice advances by the appellant and again during the course of the determination of the formal planning and listed building application. The design of the proposed alterations and conversion of subject building largely adheres to the conservation officer's comments and suggestions.

5.0) Council's Grounds for Refusal.

1. The application site is located outside of the defined settlement boundary, where the proposal would result in an unacceptable and unsustainable residential development in the countryside outside the confines of an existing town, village or rural settlement and would result in the erosion of the established rural character of the area, with no special justification as to why a rural or coastal location is essential. As such the proposal would be contrary to saved Shepway District Local Plan Review policies SD1, CO1 and HO1, Shepway Core Strategy Local Plan policies DSD, SS1, SS3 and CSD3 and paragraphs 14, 17 and 55 of the National Planning Policy Framework, which seek to ensure new development is sustainable, is directed to the built confines of identified existing rural settlements (in accordance with the adopted settlement hierarchy).

3. The proposal would result in harm to the setting of the listed building and character of the countryside due to the proposed large residential curtilage which would likely result in pressure for the domestication of the site through the provision of domestic paraphernalia, including washing lines, outbuildings, parking area, patios, bin storage etc cluttering the currently plain and austere character of the listed building and its setting and flat, open isolated countryside location, to its detriment. The proposal has therefore failed to demonstrate that it would not cause harm to the setting of the listed building or to the character of this countryside location. The proposal is therefore contrary to saved policies BE5 and CO1 of the Shepway Local Plan Review and paragraphs 132 and 17 of the NPPF.

4. The submitted ecological study recommends further work is undertaken to establish the presence, or means of mitigating potential impacts on protected species (in particular bats, barn owls and reptiles) which has not been submitted to the Local Planning Authority. Consequently, it has not been demonstrated that protected species will not be harmed by the proposed development, contrary to saved policies CO1 and CO11 of the Local Plan and paragraph 118 of the NPPF, which seek to conserve and enhance biodiversity through resisting development if it is likely to endanger plant or animal life (or its habitat) protected under law and/or identified as a UK Biodiversity Action Plan priority species.

6.0) Appellants Rebuttal

6.01:

Policy BE5 (8.15) of the Shepway Local Plan (SLP) states: *'The District Planning Authority will seek the proper preservation of listed or historic buildings by: (d) in appropriate cases, flexible application of other planning policies where this would provide the best means of safeguarding the future of a Listed Building'*.

6.02:

A) The appellant contends that the conversion of the listed building for use as a domestic dwelling house will ensure its preservation in perpetuity in a more sustainable and sympathetic manner than any other use save perhaps its use as a museum dedicated to its original purpose and history. The residential use of the building would be a far less intrusive form of use than the impact that would be imposed upon it by way of daily wear and tear if used for industrial, business or other forms of commercial use, including office use and therefore the appellant contends that the proposed use is the best means of safeguarding the future of the listed building.

6.03:

A) The appellant contends that the Council failed to take into account and apply policy BE5(8)(d) of the local Plan when determining the planning application and therefore gave no consideration toward allowing a more flexible approach when weighing the proposed development against other policies. By failing to give due consideration to policy BE5(8)(d) the Council singularly failed to apply scholarly consideration regarding the greater good that would be achieved to the benefit of the listed building by the setting aside of policies that would otherwise prevent approval. The fact is that if the building was just any old redundant building the Council's policy based reasons for refusal may in all probability be justified. However, the building is not just any old redundant building, it is a building with a serious historic pedigree that must be preserved and cared for and it deserves better than to be left to decay simply because the Council failed to allow that the building is of special interest and that policies that might apply to other redundant buildings do not apply to the subject building.

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b) In the matter of sustainability policy SD1 states: *'All development proposals should take account of the broad aim of sustainable development - ensuring that development contributes towards ensuring a better quality of life for everyone, now and for generations to come. This involves meeting economic and social objectives and helping people meet their personal aspirations through accommodating the district's need for commercial and industrial development, new homes and other land uses and improving quality of life for all members of society whilst respecting the following environmental criteria:*

- a) Shape new development patterns in a way which reduces the need to travel, especially by car, and increases the attractiveness of walking, cycling and public transport;*
 - b) Preserve and enhance built and cultural heritage including Listed Buildings and their settings, conservation areas, sites and settings of nationally and locally important ancient monuments and archaeological sites, historic parks and gardens and, historic landscapes;*
 - c) Protect and enhance areas of countryside that are of special quality, particularly the Kent Downs Area of Outstanding Natural Beauty, Special Landscape Areas, Local Landscape Areas, Heritage Coast and undeveloped coast, ancient woodlands and, the best and most versatile agricultural land. Sustain the character and diversity of the wider countryside in general;*
 - d) Protect and enhance designated or proposed sites of international, national, countywide and local wildlife importance and plant or animal life protected by law. Maintain the District's overall stock of nature conservation resources;*
 - e) Locate new development within or around existing built-up areas, especially on previously developed land, in preference to 'greenfield' sites;*
 - f) Maintain and improve the character and vitality of the built environment, promote a high quality of design and ensure that development density is appropriate to its location;*
 - g) Encourage energy efficiency and conservation, re-use and recycling of materials and, the sensitive development of renewable energy resources;*
 - h) Maintain and enhance water, soil and air quality;*
 - i) Maintain and enhance the provision of recreational open space, amenity land and tree and hedgerow cover;*
 - j) Prevent negative impacts on coastal protection, flood defence, land drainage and groundwater resources.*
 - k) Safeguard and enhance the amenity of residents*
- Shepway District Local Plan Review (2006) Policies Applicable 2013 Onwards*

6.04:

1) The appellant contends that the proposed development does comply with *'the broad aim of sustainable development - ensuring that development contributes towards ensuring a better quality of life for everyone, now and for generations to come'* as stated in the first paragraph of policy SD1. The proposed conversion of the grade II listed building will preserve an important historic asset for future generations to appreciate and learn from and, by virtue of the lifting of the structure out of its condition of decay and dilapidation, will, by improving the aesthetic appearance of the building, contribute toward ensuring an enhancement of the quality of life for those who live close by the building and those who come into contact with it and its setting, including future generations to come. Social objectives represent an ethical framework that suggests an entity, be it organisational or individual, that has an obligation to act for the benefit of society at large. By extension therefore Policy SD1 must include that social objectives are inclusive of local and national history since the actions of one generation will have consequences on those following.

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The preservation of this historic asset adds to the sum of societies understanding of the history of its people and the then burgeoning technology that the asset was part of that enabled the effective protection of the Nation during a period of world conflict, ergo: the preservation of the subject building assists in meeting social objectives required by policy SD1.

2) SD1 requires that development includes ‘***helping people meet their personal aspirations through accommodating the district’s need for commercial and industrial development, new homes and other land uses*** The appellant considers himself one of ‘the people’ referenced in the policy (unless the Council consider the term ‘people’ to be taken in the abstract in which case it is meaningless in the context of development control) and that he has aspirations by wishing to construct a home for himself and his family. The Council in refusing to grant planning permission have failed to help him achieve that aspiration contrary to the requirements of Policy SD1.

3) Policy SD1 requires compliance with a list of environmental criteria the majority of which the proposed development complies with or would do if conditions are applied to planning permission should approval be granted that would ensure compliance as referred to later in this appeal. The appellant comments upon each of the criteria as follows;

a) ***Shape new development patterns in a way which reduces the need to travel, especially by car, and increases the attractiveness of walking, cycling and public transport;***

4) The ‘shape’ of the proposed development is dictated by the buildings physical location and that cannot be changed. If the building is to be preserved, and the following applies to whatever use it may be put, the users or occupiers will travel (in all probability) to and from the site by car. If the building is put to some form of business or commercial use motorised travel and delivery/transport of goods to and from the site will be by car and in larger types of vehicles with the inevitable attendant problems of noise, air quality pollution and road safety concerns among other issues.

5) The use of the building as a dwelling house will have far less impact upon other residents and the environment a situation that will improve over time as technology advances and more and better ‘clean’ engines are available and the law prohibits the use of any other form of motorised propulsion system. The objection to travelling by car is predominantly based on the pollution that the majority of cars emit. When applying policy Councils should look ahead and allow that where long term development is located outside of urban settlements such development relative the use of cars is ‘sustainable’ by virtue of the fact that clean car engines are of the present and not just some sort of futuristic ideal that may or may not happen.

6) The appellant is of the opinion that the building is ‘sustainable’. There exists adequate infrastructure off site by the presence of a regular scheduled bus service on the B259 that runs to main town facilities, including a main line railway station, with access to the bus route within a reasonable walking distance of the appeal site. Additionally, the site is reached by a metalled surface access driveway from the public highway to the subject building that is safe for use by pedestrians and vehicles plus there is provision of telephone cable and mains electricity and water. The site is therefore ‘sustainable’ in the context of policy SD1(a). The proposed development in the context of being part of an established ‘settlement’ and therefore ‘sustainable’ is addressed against response (c) below.

b) ***Preserve and enhance built and cultural heritage including Listed Buildings and their settings, conservation areas, sites and settings of nationally and locally important ancient monuments and archaeological sites, historic parks and gardens and, historic landscapes;***

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7) The applicant contends that the proposed development if allowed would preserve and enhance the nations stock of built and cultural heritage by virtue of the restoration and thenceforth continuing preservation of this important listed building, including its setting given that the setting of the building is as important in the context of the history of the site as the listed building itself.

c) Protect and enhance areas of countryside that are of special quality, particularly the Kent Downs Area of Outstanding Natural Beauty, Special Landscape Areas, Local Landscape Areas, Heritage Coast and undeveloped coast, ancient woodlands and, the best and most versatile agricultural land. Sustain the character and diversity of the wider countryside in general;

8) Romney Marsh is an important biodiversity opportunity area as identified in the Shepway Local Development Framework Green Infrastructure Report. Romney Marsh is included in the Dungeness, Romney Marsh & Rye Bay Special Site of Scientific Interest (SSSI) that covers 9090ha and the Dungeness, Romney Marsh & Rye Bay SPA and Ramsar site. The appeal site is located to the western end of the Marsh. Ecological and biodiversity reports relating to the site have been prepared and are referred to against item (d) below.

d) Protect and enhance designated or proposed sites of international, national, countywide and local wildlife importance and plant or animal life protected by law. Maintain the District's overall stock of nature conservation resources;

9) The applicant refers to the following reports that were submitted as part of the planning application:

Arbtech Bat Survey

Ambiental Reptile Survey

Lloydbore Ecology Survey.

Each of the surveys are comprehensive and describe the various species and their habitats that have been found upon the site. The appellant has, by virtue of having the reports prepared, demonstrated that he is fully committed to complying with policy SD1(d). The appellant is prepared to ensure that any and all recommendations that are contained within the reports are applied to the site prior to commencement of the development and that any additional studies and/or surveys that are required to ensure that protected species are not destroyed or disturbed are implemented. The appellant will accept planning permission with conditions attached to that affect.

e) Locate new development within or around existing built-up areas, especially on previously developed land, in preference to 'greenfield' sites;

10) The proposed development involves the change of use, conversion and extension of an existing building located upon a site that was, as is well recorded, extensively developed by the Ministry of Defence prior to the Second World War (SWW) with development continuing upon the site during the course of the war. There can be no doubt therefore that the development is located upon 'previously developed land' i.e 'brown field' and therefore the proposed development complies with Policy SD1 (c).

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11) The site is located close by a small settlement of residential dwelling houses that include small holdings and a series of electricity pylons are located close by that extend in a line across the Romney Marsh (thus the addresses of the houses being 'Pylon Cottages'). In recent times a wind farm has been erected immediately to the south of this small settlement thereby establishing the area within which the appeal site is located as one of a mixed industrial and residential community. Whereas the settlement does not constitute a 'settlement' as defined by the SLP neither can it be described as 'open countryside' as referred to within the Council's reasons for refusal. Given the obvious level of development and the intensive use of the land about the site, including the nearby busy A259 that passes directly to the north east of the listed building the proposed development complies precisely with the requirements of policy SD1 (c).

f) Maintain and improve the character and vitality of the built environment, promote a high quality of design and ensure that development density is appropriate to its location;

12) Preapplication advice was sought from the LPA on two occasions prior to submission of the planning and listed building applications. The planning officer who responded to both preapplication advice requests provided no advice regarding design stating that she considered that any attempt to convert the building along the lines of a previously approved conversion would be unacceptable on policy grounds.

13) Pre-application advice received from the Council's conservation officer in the first instance found that the previously approved design (approved prior to the building being awarded grade II listed status) was inappropriate but commented as follows:

'Having said this, there is merit in considering the conversion of what is currently an unoccupied building that is vandalised and deteriorating. However, my view is that this needs to be treated in a completely different way with an understanding of the existing features of the building and forming the conversion in a simple modern way that allows the form and character of the Radar Station to remain.'

This could perhaps be better carried out as a simple modern solution to allow the simple form of the building to dominate and I would envisage a possible scheme with a thin flat roof floating above the parapet with dark recessed glazing set below to allow light into the interior. The treatment of the site is also very concerning and it is important that the Radar Station building remains associated with the pylon bases and AA battery, not separated off. The idea of building an extension to the main building is unacceptable.'

Following on from the conservation officer's comments revised outline drawings were prepared that incorporated the suggested design criteria as suggested by the conservation officer. Again, the planning officer provided a negative response, but the conservation responded as follows:

'The proposals follow on from a previous pre-application enquiry to which we responded in April 2017. This completely revised proposal is to convert the main building into a five bedroom house. This involves converting the ground floor accommodation and constructing new accommodation, partially within the existing high parapet walls surrounding the flat roof (an area originally intended to take a deep bed of shingle which was intended to protect the building from aerial attack). The upper floor comprising a large master bedroom and 4 other bedrooms with en-suites, bath and utility rooms.'

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Unlike the previous proposals, this new scheme is of a completely different modern design with a flat, sedum roof with plateau rooflights and overhanging 'brise soliel' eaves. The walls are inset from the original brick parapets and clad in expanded metal rain screen panels with a rust colour finish. Within, the spaces are to be subdivided into a fairly conventional house plan with living room/kitchen/diner and hallway with an opening cut through the existing flat roof slab to accommodate stairs up to an upper floor with the five bedrooms with en-suites and a family bathroom.

At ground floor, the intention is to re-use the existing plan layout with additional partitions to form an entrance draught lobby. Existing openings are retained, including existing widow and door openings, but the conversion will require the formation of four new window openings of a similar shape to those already there with new cross-mullioned window joinery. The first floor structure will be built of lightweight timber framing set inside the line of the original brick parapet walls. This will be clad in rust coloured expanded metal rainscreen cladding with bronze anodised aluminium windows with bronze tinted glass, as required, supplemented by Plateau type flat rooflights set within the Sedum painted 'green' flat roof.

Whilst the revised consultation does now include a site boundary plan which appears to cover the whole site, little detail has been provided of how the wider site would be dealt with. However, the Architect's letter suggests that his Client is aware of the importance of the rest of the site and the structures on it and is considering repairing and restoring the small ruinous detached guardroom at a later stage.

Clearly the Radar Station played a significant part in the progress of WWII and in particular The Battle of Britain. The site was only listed about eight years ago and the list entry goes into much detail about the history, operation and war time activity of the site. This is therefore a sensitive site which is a monument to our not-so-distant military past.

Previously our concerns were that the previous scheme proposals did not seem to acknowledge the rather special historic character that has led to the listing of what is otherwise a very undistinguished brick box.

The current scheme is very different and the overall design is now of a modern nature which responds to the rather uncompromising appearance of the building and its "semi-industrial" setting with the radar pylon bases, AA gun base and with modern electricity pylons marching across the open marshland setting. The new scheme is therefore much more responsive, with the use of rust coloured 'ex-met' cladding, louvre eaves etc. The idea of a sedum roof seems particularly appropriate and will mean that the building will become less obvious in the landscape – especially when viewed from the air.

The conversion scheme (of the ground floor) is now also far more responsive to the building, with the resignation of the existing layout with only a few minor changes to the layout. It would be useful if the full application were to show all of the detail of the interior and the alteration proposals were detailed showing the interventions. For example, it might be a good idea to floor over the cable distribution pit, (referred to in the listing) with a timber floor, rather than simply filling it in and concreting it over!

The scheme now also shows the majority of the windows to be simple cross-mullioned casements set into existing openings, with only 4no additional (and similar) windows cut into the brickwork. These additional windows appear to be the minimum necessary to make the interior useable and will not adversely affect the overall character of the building.

The cross-mullioned design is typical of the era of the building but I consider it desirable that these should be a re-instatement of the pattern of window that was there originally. It would be useful if the owner could do some research to find old photos to inform the design. I checked with google and only found 2 photos from the time of sale of the building but there must be others. They could try the National Monuments Record (a part of Heritage England), The Romney Marsh.net, Rye museum and the War & Peace photo collection for a start. Similarly I would prefer to see the door sets having a more traditional appearance with the original type of doors and frames re-instated or alternatively the doors could have a modern approach, but preferably rather more special than the very ordinary standard door and frame designs shown.

Clearly there is merit in considering the conversion of what is currently an unoccupied building that is vandalised and deteriorating. My view is that a residential conversion, carried out with an understanding of the existing features of the building and forming the conversion in a simple modern way that allows the form and character of the Radar Station to remain, is the best way of ensuring that the building and its surrounding site is maintained and cared for into the future.

My one concern is that the first floor extension will fundamentally change the appearance of the building and, bearing in mind its Listed status, I do have concerns about the dominance of the rooftop extension. On the other hand the Building is unusual in that the flat roof is surrounded by a very high brick parapet, (which was intended to be filled with beach gravel as an anti-blast measure). For that reason it seems to me appropriate to consider some accommodation at the upper level but perhaps it would be better not to fill up the entirety of the roof space with an upper story but limit this to a part of the area only, with the remainder left as an open terrace area. This would allow the upper floor to be set back further from the parapet, lessening the impact of the first floor accommodation

The treatment of the site is also very important and it is important that the Radar Station building remains associated with the pylon bases and AA battery, not separated off.

Recommendations:

That the proposed design approach of the proposed conversion of the building be considered acceptable in principle but that consideration should be given to a reduction in the size (area) of the first floor, rooftop, extension, with the upper floor elevations set back further from the parapet to lessen the impact of the first floor accommodation. The remaining flat roofed areas could then become an upper terrace for the first floor accommodation

The architect should be advised that the preference would be to see the original window designs re-instated to the original pattern if this can be determined by reference to old photos and further consideration given to the design of the doors. Survey plans should be provided to demonstrate the current layout of the interior including the location of any items associated with the former radar station use that might survive.

Further details will need to be shown to demonstrate the intended layout of the site around the house – driveways, paths, fences and the like.

14) The conservation officer's comments and recommendations were extensive and detailed and it was upon the advice received that the design for the building was formulated. The appellant therefore considers that he has complied with policy SD1 (f).

g) Encourage energy efficiency and conservation, re-use and recycling of materials and, the sensitive development of renewable energy resources;

15) The appellant acknowledges the need to comply with policy SD1 (g) as far as it is practicable to do so. The building grade II listed status restricts the attachment of energy efficient technology to the building or its siting in close proximity to the building. However, the construction of the conversion and the extension can be such as to include for high efficiency materials and heating and hot water systems that would be compatible with the requirements of policy SD1 (g). The construction work would be subject to the imposition of a construction waste management plan as described within the Design and Access statement that accompanied the planning application.

h) Maintain and enhance water, soil and air quality;

16) A Phase 1 Preliminary Risk Assessment (PRA), land contamination desk study assessment of the site was carried and is appended to this appeal. The following conclusions are reported:

Conclusions

'7.0 The geological records indicate that the geology of the site is Hastings Beds (subgroup) - Sandstone, Siltstone and Mudstone, with a superficial deposit comprising of Tidal Flat Deposits - Clay. The actual presence of contamination in, on, or under the ground can only be confirmed by an intrusive site investigation.

7.1 The main potential contamination sources on the site are from its current and historic use as a Second World War radar station. No instances of olfactory contamination was observed at the site.

7.2 Military activities could have resulted in accidental leakages of contamination into the ground. It is unlikely the ground was contaminated when the radar station was built but contamination may be present as a result of construction activities. The site is currently disused, and no obvious signs of contamination were observed during the walkover.

7.3 The site aside from the building has been left as open ground for a number of years. It is possible a localised event may have occurred. It is possible any contamination from an event may have leached in the ground. A spherical bottle style septic tank was located on the site which appeared to be in good condition on the whole.

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7.4 The actual presence of contamination in, on, or under the ground can only be confirmed by an intrusive site investigation. Receptors include future users of the site, the principle aquifer beneath the site and the nearby sensitive areas.

7.5 The historic and current use of the site as a Second World War radar station is considered to be a High risk as a potential contamination source to future users and construction workers and a Low risk to current site users, controlled water bodies and physical structures. The risk is considered to be mainly from the underground services and drains, and possible chemical seepage.

7.6 The future use of the site as a residential dwelling with garden is predicted to have a Low contamination risk.

7.7 The potential risks to the current or proposed future users of the site from any off-site contamination sources, either current or historical, are considered to be Low, due to the site being surrounded agricultural operations, including livestock, as well as large scale crop production and small holdings.

7.8 There is a Moderate risk from unexploded ordnance at the site.

7.9 There is a Very High risk from Asbestos Containing Materials at the site and we would recommend that the intrusive site investigation included testing the soil samples for Asbestos.

7.10 There is a Low risk from Radon Gas as less than 1% of the properties in the area are below the Action Level.

7.11 On the basis of the above we consider the risk of contamination being in the ground of the external areas of the site is Moderate.

7.12 Based on the development of residential units a high risk of a pollutant pathway between sources and receptors has been found.

7.13 As a result, based on the basis of the above we consider the risk of contamination being in the ground is Moderate and we would advise that further investigation is carried out in the form of an intrusive, Phase II ground investigation.

7.14 The Phase II survey should be designed to identify any below ground structures and potential contaminants in the ground associated with the historic use of the site.

7.15 In addition we recommend an unexploded ordnance survey and an asbestos refurbishment / demolition survey are carried out at the site.

17) The overall conclusion is that the likelihood of contamination of the ground is moderate. The appellant is prepared to have intrusive tests carried out and where found any contamination present will be removed or made sterile. The appellant will accept a condition to that effect being attached to planning permission.

i) Maintain and enhance the provision of recreational open space, amenity land and tree and hedgerow cover;

18) Where applicable to the site policy SD1(i) will be complied with by the preparation for approval of a fully detailed landscape scheme that will be submitted to the LPA for approval. The appellant will accept a condition to that effect being attached to planning permission.

j) Prevent negative impacts on coastal protection, flood defence, land drainage and groundwater resources.

19) A flood assessment report was prepared and submitted as part of the planning application. The conclusion contained within the report states:

'Following the guidelines contained within the NPPF, the proposed development is considered to be suitable assuming appropriate mitigation (including adequate warning procedures) can be maintained for the temporary lifetime of the development.'

k) Safeguard and enhance the amenity of residents.

20) The design of the building is such that its occupancy would not cause undue overlooking of other nearby properties from the first floor and the impact of the day to day use of the building by a family would not be out of the ordinary or inconsistent with what is usually acceptable in a residential environment.

21) Shepway District Council Local Plan Review (SLPR) policies CO1 and HO1
Policy CO1 states:

'The District Planning Authority will protect the countryside for its own sake. Subject to other Plan policies, development in the countryside will be permitted where proposals:

- a) maintain or enhance features of landscape, wildlife, historic, geological and agricultural importance, and the particular quality and character of the countryside;***
- b) demonstrate that they cannot be practicably located within an existing settlement and essentially require a countryside location;***
- c) are of a high standard of design and, sympathetic in scale and appearance to their setting;***
- d) are acceptable in highway and infrastructure terms and;***
- e) preserve or enhance the amenity, character and functioning of rural towns and villages.***

Development proposals that would significantly conflict with one or more of criteria a - e above will only be permitted where it can be shown that:

- i) there is an overriding social or economic need;***
- ii) negative impacts are minimised as far as possible and;***
- iii) adequate measures will be taken to compensate for any the adverse environmental effect. Compensatory measures should, as a minimum, ensure that no net environmental loss occurs.***

Note: For the purposes of Policy CO1, the Countryside is defined as the area outside of the settlement boundaries identified on the proposals map. Where land in the countryside is allocated on the proposals map for a specific development purpose, the associated policy will take precedence over Policy CO1.

22) The applicant contends that the proposed development by virtue of the fact that the majority of the proposal comprises an extant building and that the proposed extension to that building is such as not to be over dominant or out of keeping with the existing structure would not be intrusive in the countryside or within its setting generally and therefore would not be in conflict with policy CO1 relative to the protection of the countryside for its own sake.

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Policy CO1(a) states that development will be permitted where proposals: ***‘a) maintain or enhance features of landscape, wildlife, historic, geological and agricultural importance, and the particular quality and character of the countryside.’***

23) The appellant contends that the proposed development does maintain and enhance an historic asset of importance in the countryside and therefore complies with the requirements of policy CO1(a) contrary to the reason given by the Council for refusing to grant planning permission.

Policy CO1(b) states that development will be permitted where proposals: ***b) demonstrate that they cannot be practicably located within an existing settlement and essentially require a countryside location;***

24) The appellant contends for the reasons stated previously against comments regarding policy SD1(a) that the use of the extant building as a dwelling house is essentially the best use that will ensure the continuing wellbeing of the building for the foreseeable future.

24) Policy CO1(c) states that development will be permitted where proposals ***c) are of a high standard of design and, sympathetic in scale and appearance to their setting;***

25) The appellant contends that the proposed design of the building is of a high standard and sympathetic in scale and appearance with the host building and its setting. The design was based upon advice received from the local authority conservation office all as stated within the appellants comments against policy SD1(f) of these grounds of appeal. The design is considered to be minimalist in its impact upon the existing structure whilst maintaining all of the buildings features that remain intact.

26) Design criteria that are fundamental to the design of the building, in particular the extension to the building to form a new first floor level are:

- 1) Compliance with the Flood Risk Assessment Report (FRA) (Paragraph 1.8) wherein it states that all sleeping accommodation will be at first floor level.
- 2) That the accommodation provided is compatible with the requirements of the appellants large family that comprises himself, his wife and 8 children.
- 3) That the original architectural form, including materials, shape and size of the building is retained in order that it may be readily identifiable to current and future generations.
- 4) That any new building or element shall be kept to the minimum thereby preserving the historic integrity of the original structure and its purpose for being.

27) It is considered that the proposed design fulfils the design criteria in all respects and that in so doing the design complies with policy PO1(c)

28) Policy CO1(d) states that development will be permitted where proposals:) ***‘are acceptable in highway and infrastructure terms.’***

29) There are no County Highway Authority objections to the proposed development and as stated previously within this document basic infrastructure is extant upon the site in the form of mains water and electricity. The proposed development therefore complies with policy CO1(d).

30) Policy HO1: States that: *The following may be permitted, subject to environmental and highway safety considerations:-*

- a) Redevelopment of previously developed sites or infill within existing urban areas.*
- b) Conversion of existing buildings particularly where this would result in the preservation of a building of architectural or historic interest. The conversion should be compatible with surrounding development and safeguard residents' amenity.*

31) The appellant contends contrary to the Council's grounds for refusal that the proposed development complies with policy HO1(b) insofar that it would result in the preservation of a building of historic interest. Previous statements within these grounds of appeal support the appellant's contention that the conversion of the building in the form submitted would result in its preservation for the foreseeable future and that the proposed design of that conversion would be compatible with surrounding development and safeguard other residents' amenity.

32) Shepway Core Strategy Local Plan policies (SCSLP)

Policy DSD - Delivering Sustainable Development-states; *'When considering development proposals Shepway District Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework. It will always work proactively with applicants jointly to find solutions which mean that proposals can be approved wherever possible, and to secure development that improves the economic, social and environmental conditions in the area. Planning applications that accord with the policies in this plan (and, where relevant, with policies in neighbourhood plans) will be approved without delay, unless material considerations indicate otherwise. Where there are no policies relevant to the application or relevant policies are out of date at the time of making the decision then the council will grant permission unless material considerations indicate otherwise – taking into account whether: • Any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the National Planning Policy Framework taken as a whole;'*

33) The appellant contends that in refusing to grant planning permission the Council did not take a positive approach or work proactively with the appellant during the period of the determination of the application. The appellant provided full and detailed information regarding the history relating to the subject building that clearly demonstrated its historical importance on a national level as well as identifying it as an important historic asset. Despite the fact that the conservation officer also drew the Council's attention to the importance of the building and the planning officer who dealt with the preapplication advice (as well as the applications once submitted) made brief reference to that history in reports the special status of the building was largely ignored.

34) Paragraph 187 of the National Planning Framework (NPPF) states: *'Local planning authorities should look for solutions rather than problems, and decision-takers at every level should seek to approve applications for sustainable development where possible. Local planning authorities should work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area'.*

35) The LPA did not look to provide a solution relative to the use of this special historic asset. Whereas the appellant had every right to believe that the Council would seek to ensure that the listed building would be treated as a special case and to look foremost to its protection and preservation and then to open a dialogue whereby that end could be achieved they instead cobbled together every policy they could find to justify doing the exact opposite.

36) The special nature and character of the listed building was and is a material consideration when weighed against local and national planning policies. Sustainability is a core principle and underpins development in planning legislation. However, such policies in the round do not fit all circumstances and paragraph 55 of the NPPF recognises that circumstance and states:

'To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. For example, where there are groups of smaller settlements, development in one village may support services in a village nearby. Local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances such as:

●● where the development would re-use redundant or disused buildings and lead to an enhancement to the immediate setting;

37) In failing to give due consideration and weight to the requirements of para 55 of the NPPF referred to above the Council failed the appellant and the historic asset by refusing to seek a solution and in so doing acted contrary to the requirements of para 187 of the NPPF and policy DSD of the SCSLP .

38) The Council refer to policies SS1, SS3 and CSD3 of the SCSLP. Policy SS1 is not applicable to the proposed development as it is directed at major development. The Council omit any mention of policy SS2 that the appellant considers pertinent in support of the proposed development. SS2 states:

'Housing and the Economy Growth Strategy: The core long-term objective is to ensure the delivery of a minimum of 350 dwellings (Class C3) per annum on average until 2030/31 (inclusive from 2006/7). This is an achievable rate and can address strategic needs. To promote sustainable development and prioritise urban regeneration, a target is set for at least 65% of dwellings to be provided on previously developed ('brownfield') land by the end of 2030/31.

To support housing delivery, a target is set to provide for approximately 8,000 dwellings by the end of 2025/26. This equates to an initial target average delivery of 400 dwellings per annum. This trajectory is set out to provide impetus to the transformation of the district's economy sought in the district spatial strategy, and to promote a good rate of delivery of new employment land and infrastructure.'

39) The Council make no mention that the proposed development would not comply with the objectives of policy SS2's required target of 65% of dwellings being provided on previously developed ('brownfield') land. Neither does the Council provide any evidence that they have achieved the stated target and therefore that the proposed development would not be needed in that context. The appellant contends that the special nature of the subject building when considered as a sustainable dwelling house in its own right when converted would add to the sum of the objective as sated within policy SS2.

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Policy SS3 states:

'Place-Shaping and Sustainable Settlements Strategy Development within Shepway is directed towards existing sustainable settlements to protect the open countryside and the coastline, in accordance with policy SS1. Change in settlements will be managed to occur in a form that contributes to their role within the Settlement Hierarchy (Table 4.3) and local place-shaping objectives, to promote the creation of sustainable, vibrant and distinct communities.'

The principle of development is likely to be acceptable on previously developed land, within defined settlements, provided it is not of high environmental value. All development must also meet the following requirements:

- a. The proposed use, scale and impact of development should be proportionate and consistent with the settlement's status and its identified strategic role (see Table 4.3) within the district.*
- b. Consideration of alternative options within the appropriate area should be evident, with a sequential approach taken as required for applicable uses set out in national policy, for example to inform decisions against clause (c) below on flood risk. In considering appropriate site options, proposals should identify locational alternatives with regard to addressing the need for sustainable growth applicable to the Romney Marsh Area, or Urban Area or North Downs Area'.*

Policy CSD3 states:

Rural and Tourism Development of Shepway Proposals for new development in locations outside of the Settlement Hierarchy may only be allowed if a rural or coastal location is essential, and to meet green infrastructure requirements. Development in these locations will only be acceptable in principle if forming a site for:

- a. affordable housing (rural exceptions as per CSD1, or allocated sites)*
- b. agriculture, forestry or equine development*
- c. sustainable rural diversification, and tourism enterprises as set out below*
- d. local public/essential services and community facilities in line with policies SS3/4 e. replacement buildings (on a like for like basis)*
- f. conversions of buildings that contribute to the character of their location***
- g. sustainable rural transport improvements h. essential flood defences or strategic coastal recreation.*

Policy CSD3 is anomalous insofar that it makes no allowance for the optimum use of heritage assets in accordance with paragraph 55 of the NPPF that states that development should be allowed:

- '●● where such development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets; or*
- where the development would re-use redundant or disused buildings and lead to an enhancement to the immediate setting'.*

40) Further, the appellant contends that the proposed development does conform with policy CSD3(f).

The subject building and the surrounding war time paraphernalia such as the light anti-aircraft gun site and the receiver mast bases represent the historical character of the location including the immediate area. Due to age and neglect that character is disappearing to the detriment of the original form and history of the site. The conversion and refurbishment of the building to its predominantly original form will reinvigorate the whole of the site and ensure that its history is maintained for the foreseeable future. On that basis the appellant contends that the proposed development will contribute significantly to the character of its location.

6.05) Design – Original building

1) The applicant is mindful that minimal alteration to the historic fabric of the building shall be undertaken in order to preserve the original structure and the defined use of the building reflected in its architectural form. However, at the risk of stating the obvious, the building was not designed for use as a house but for its specific mechanised military use that because of the danger of aerial attack necessitated not only that the building was constructed in a fortified form but that it was provided with the minimum of entry doors and fenestration. Clearly in order that the building may be converted for use as a family dwelling house some additional windows will need to be added about the elevations of the building.

2) The appellant welcomed the observations expressed by the conservation officer for Shepway Borough Council as part of provided pre-application advice. Those observations were given due consideration and fully taken into account when considering the approach to the design of the building, including advice regarding the retention and utilisation of existing structures and openings within and about the original building. Additionally, the conservation officer's observation that the design of the first floor extension of the building should be minimalistic and include a flat form of roof such as not to detract from the simple form of the existing structure and not be overbearing was taken into account and subsequently influenced the design.

3) Taking into account the aforementioned the design criteria allows for:

A) The retention and utilisation of the existing window and door openings allowing for 4 new window openings to be formed in order to increase light and ventilation within the living and dining area.

B) The retention of all internal walls including openings within the original building. Aside from the new windows the only other structural alteration to the historic fabric of the building being the introduction of a new stair that will require the removal of a section of the existing flat roof.

C) Timber framed and glazed demountable partitions have been included at ground floor level to form an entrance lobby about the front entrance door.

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6.06) Proposed First Floor Extension

1) The proposed first floor extension comprises a construction of lightweight pre-fabricated steel framed enclosing walls set 500mm inside the original parapet walls all around the building thereby ensuring that the shape and form of the original building is maintained and preserved. The new walls are to be clad with rust coloured Proteus Ltd expanded metal rainscreen panels backed with dark grey anti-infestation mesh. The rainscreen material is shown upon the accompanying photograph ref: 2330 / 17 / CL1.

2) Fenestration within the new walls has been kept to the minimum with additional light and ventilation to the bathrooms, stairway and landing provided by the introduction of plateau roof lights within the flat roof structure as depicted upon the accompanying photograph ref: 2330 / 17 / PL1. Windows and the patio door frames will be constructed in anodised aluminium tinted bronze to compliment the colour of the rainscreen panels. Glazing, including the glass to the inset patio doors, will be double glazed Pilkington Optifloat bronze tinted glass thereby meeting the conservation officer's suggestion that the window glazing should be 'dark' and additionally to minimise night time light pollution.

3) The extension roof comprises a pre-fabricated composite insulated steel framed roof structure specifically designed to accept a sedum roof topping planted in a similar vein to that shown upon the accompanying photograph ref: 2330 / 17 / SE1. Box gutters will also include the fascia panels about the roof with down pipes all matching the colour of the rainscreen panels.

6.06) Design Concept

A) The design for the provision of the first floor of the building is based upon the observations put forward by the conservation officer with due consideration given to the buildings origins and setting. As has been thoroughly described previously in this appeal the building had a specific purpose during the SWW that required it to be architecturally non-descript and without embellishment. The building was and remains in effect a building that reflects an industrial use albeit a military one.

B) The buildings setting in the landscape is visually semi-industrial given that the remains of an SWW anti-aircraft gun emplacement along with the remains of large concrete radar pylon bases are close by and placed about the building. Additionally, modern steel electricity pylons march across the open marshland just a short distance away and recently erected wind turbines line the horizon.

C) It is from those observations and the fact that site is located within a semi-industrialised landscape that the use of expanded metal rainscreen panels applied to the exterior of the enclosing walls of the extension to the building was considered appropriate as the material would provide an aged and lightly industrial appearance in keeping with the original building that would, by virtue of the shadowing provided by the perforated textured surfacing of the cladding, avoid a solid panel look that a smooth or extruded linear shaped sheet material would give. Over 50% of the proposed extension is concealed below the existing 1.7m high parapet walls and therefore the new building, including its roof line, will not be overbearing relative to the height, bulk and mass of the original building that will still retain its dominant form and presence within its setting and the landscape in general.

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D) Doors and windows to be placed within the existing and new openings within the original enclosing walls are to be constructed in good quality hardwood or softwood and paint finished. Information in the form of photographs and researched information will be provided to the conservation officer in order that fenestration and doors of a type and design may be installed that match those that would have been originally installed or that the conservation officer deems to be acceptable.

E) The addition of a sedum roof to the design will not only increase thermal insulation to the building and soften its visual appearance in the landscape but will also reflect (in a controlled manner) the growth of wild plants that have taken hold upon the building over the years since it's abandonment, thereby retaining the appearance of the building being slowly absorbed into the natural environment and thus lessening the effect of the buildings more urbanised use once converted.

F) The conservation officer suggested that the roof extension should be set further back behind the parapet walls than that shown upon the accompanying drawings. Whereas the applicant is mindful that the extension needs to be subservient to the original building and that its impact upon the skyline needs to be minimal the expense and practicalities related to the conversion need to be taken into account when considering such a recommendation. The applicant has a large family all of whom need to be provided with reasonably spacious accommodation and facilities. Additionally, and specifically, the appellant requires a study for his work that needs, because of the nature of his work, to be on the ground floor of the building and therefore the utility room, normally placed at ground floor level, is located on the first floor. Floor space is therefore of the utmost importance and the loss of floor area by incorporating the conservation officer's suggestion would not be practicable relative the family use of the property or the cost involved in converting the building to a lesser size than is essential to meet the needs of the occupants.

G) In addition, it should be noted that the formation of a wide accessible terrace all around the building would not be desirable and would be unneighbourly given the possibility of over looking and noise from the occupants of the building. Whereas the building is far enough away from the existing cottages to the south west of its location the cottages and their gardens to the south east are close enough to be detrimentally affected by activities carried on should a terrace form part of the development.

H) The Council state within the grounds for refusing the application that the first floor extension would dominate the existing building in scale and proportions thereby causing substantially harm to the heritage asset and failing to preserve the special historic and architectural interest of the listed building. The appellant refutes that claim. As is demonstrated more than adequately upon the drawings that were submitted as part of the planning application the height of the extension that would rise above the parapet walls of the original building would be no more than 1.6m overall. The overall height of the existing building from the exterior ground level to the top of the parapet walls is 5.0m. Given that fact it cannot be said by any reasonably minded person that the extension would be anything other than subservient to the original building and would most certainly not 'dominate' it as purported by the Council.

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J) Furthermore, by virtue of the fact that the extension would be set back 0.8m from the outer faces of the existing enclosing walls and set behind 1.7m high parapet walls the visual impact, allowing for perspective relative to how close or far away the converted building is viewed, would in extremis be minimal. The appellant points out that the conservation officer comments that he ***'finds it rather odd that the 'massive' French doors to the master bedroom are positioned only 600mm away from the inside of the parapet walls'***. The French doors in fact are placed 1.2m at their closest point to the inside face of the parapet wall as is clearly shown upon the submitted floor plan drawing. The appellant finds it rather odd that the conservation officer could not measure the provided floor plan with any degree of accuracy before making such a comment. It begs the question as to what else he failed to observe correctly?

K) The Council refer to the windows and the infilling of the cable distribution pit, references that demonstrate the lack of any substance to the Council's case relative to design issues. The design of the windows as shown upon the drawings was based upon remaining casement frames still insitu in a couple of the window openings. Something that the planning officer would have noticed had she carried out a close up inspection the building both internally and externally rather than just observing it from the public highway and the nearby private access. It appears that the conservation never visited the site as part of the planning process. The infilling of the cable distribution pit, as described by the Council, is extant and was carried out in the past by a previous owner of the property as a consequence of the approved planning application referred to previously in this appeal. The Council cannot therefore include something that already exists as a reason for refusing to grant planning permission.

L) In the matter of the window frames the planning statement that accompanied the planning and listed building application made clear that details of the doors and windows to be incorporated into the existing building would be submitted to the conservation officer for approval.

The statement states:

'Doors and windows to be placed within the existing and new openings within the original enclosing walls are to be constructed in good quality hardwood or softwood and paint finished. Information in the form of photographs and researched information will be provided to the conservation officer in order that fenestration and doors of a type and design may be installed that match those that would have been originally installed'.

M) It is entirely consistent with normal planning practice for a condition to be attached to listed building approval that requires that large scale or full size detail drawings are first submitted to the local authority for approval. There is no reason why that particular protocol should not apply to this application including that the proposed joinery should be substantiated as being historically appropriate to the period and use of the building as far as it is possible to do so.

N) For the reasons stated above and elsewhere within this appeal the applicant contends that the proposed extension and other issues as stated within reason 2 of the Council's grounds for refusal are spurious and in one instance as stated above simply wrong and that the proposed development is not therefore contrary to policies BE5 of the SLPR and paragraphs 132 and 133 of the NPPF.

O) The appellant refutes the Council's grounds for refusing his planning application as stated within reason 3 of the refusal notice. The building is a grade II listed building and, along with the site that it is set within, is regulated by the planning system in accordance with the Planning (Listed Buildings and Conservation Areas) Act 1990. The local planning authority therefore are able to control any 'pressure' for the domestication of the site through the provision of domestic paraphernalia of the type described within their reason for refusal.

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P) The appellant points out that ‘paraphernalia’ albeit of a different kind would have been placed and strewn across the site and about the building as a consequence of its military use, indeed some of it still exists. Therefore, the setting of the building would have been anything other than ‘plain and austere’. The appellant contends that the planning authority in seeking to ‘gentrify’ the site are in fact supporting a setting that is inappropriate to the listing buildings original use and historical context.

Q) As agued elsewhere in this appeal submission the appellant refutes the Council’s claim that the building is located in an ‘open isolated countryside location’. The appeal site is located within a mixed residential and semi-industrial landscape. The appellant contends that for the reasons stated the proposed development is not contrary to saved polices BE5 and CO1 of the SLPR and paragraphs of 132 and 17 of the NPPF.

R) The appellant offered to arrange for additional studies to be undertaken in order to establish means of mitigating potential impacts on protected species such as bats, owls and reptiles but was informed by the planning officer dealing with the application that it was considered unnecessary due to the application being recommended for refusal on other grounds. The appellant considers therefore that it is unreasonable of the Council to state that it has not been demonstrated that protected species will not be harmed by the proposed development when that information could have been provided had the planning officer not intervened.

S) The appellant further points out that the submitted ecology study, although recommending further work be carried out, confirms that in the case of owls they do not nest in the building but only roost there occasionally and in the case of bats that they too are only occasional visitors and do not roost within the building. In any event the appellant is willing to accept planning approval with a condition attached that further studies are undertaken to ensure that protected species will not be harmed or unduly disturbed by the development.

6.07) Summary

A) The subject listed building is a building of significant historical importance in the context of the Second World War (SWW), in particular the Battle of Britain. The building has been left in a dilapidated and ruinous condition almost since it was sold by the Ministry of Defence during the 1950’s. The appellant is prepared to restore the building and to maintain it in good order for the foreseeable future subject to him being allowed to carry out the proposed development.

B) Shepway District Council have demonstrated a lamentable lack of sympathy or appreciation toward this important historic asset, in fact it is fair to say that they have no interest in it whatsoever. If they had any interest they would have put into place measures by which the building could be preserved and protected for posterity a long time ago. Given that the building has been the subject of planning applications, has been granted listed status and has had an Article 4 directive placed upon it the Council cannot justify their disinterest by saying that they are unaware of its existence.

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C) The appellant contends that the conversion of the building to that of a dwelling house is the best guarantee that the future preservation and well being of the historic asset is assured. The appellant if granted planning permission will be investing a considerable amount of money in the property to bring about its conversion to a home that will be lived in and cared for by his family and, if sold, future owners of the property for generations to come. Financial investment and pride in ownership provides the most likely assurance that the historic asset will remain in good order and be maintained not only for the benefit of the owner but also to ensure that the original form of the building that represents its original use and history is preserved.

D) The building located as it is in a flood zone is required by the Environment Agency (EA) to have sleeping arrangements on the first floor should it be converted. Insofar that no first floor exists one must be constructed to comply with the EA's requirements. This is to state the obvious but it is an important consideration in the justification for the addition of a first floor to the listed building. If this building is to be preserved the appellant contends that there are limited options open to ensure that the structure and fabric of the building are used in a manner that is sympathetic to that aim. As stated within the planning statement submitted as part of the planning application other uses although possible would not ensure that the building would be cared for in a suitable manner or that another use would endure or be sustainable in the long term. The planning statement submitted as part of the planning application looks at other uses and comments as follows:

E) B1 Use- Offices, other than a use within Class A2 (Financial services, Research and development of products or processes, Light industry.

- a) The location of the site is set close to established dwellings and therefore it would not be desirable for any of the B1 use categories of business to occupy the building by reason of the imposition of additional traffic that would in all probability include heavy lorries to and from the site resulting in increased noise and air pollution and would be hazardous to the local residents.
- b) The use of the building for manufacturing or other light industrial uses would be inappropriate relative to the preservation and protection of the historic asset giving rise to the likelihood that the fabric of the building would likely be damaged or altered or otherwise be endangered by inappropriate usage,
- c) That the site within which the building is located including the remnants of the radar tower bases and gun emplacement would be endangered or damaged by lack of maintenance or care,
- d) That the long term sustainability of the historic asset and the site in general would be at the whim of commercial pressure relative to its commercial value should the company owning the site become insolvent and the building remains unsold and therefore subject to long term lack of care and maintenance,
- e) The LPA place much weight on the sustainability of the site and building stating that the proposed development as a dwelling house is unsustainable because of the need for car travel despite the site being close to a bus route. Any other use would be even less sustainable given that transport to and from the site would have to be wholly by road.

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F) B8 Use -Use for storage or distribution centre

It is considered that B8 use would be inappropriate for the same reasons that it is considered that B1 use would be detrimental to the preservation of the historic asset.

G) The fact is that various of the policies applied by the Council to prevent the listed building being granted planning permission for C3 use would also apply equally along with other relevant policies to preventing the building from being used for other uses and that assumes that any other use would be supported by an applicant who would be prepared to take on a listed building with all of its incumbent restrictions and that is located away from any main commercial centre and main stream highways and transport infrastructure, the lack of which would, in any event, lead to refusal to grant planning permission because of the remoteness of the site from any of those facilities.

H) The appellant contends that in the final analysis the historic asset is best served by its conversion to a dwelling house and that the following policies contained within the NPPF should override the grounds of refusal stated by the Council:

Paragraph 126 – 12 – of the NPPF – ‘**Conserving and enhancing the historic environment**’ states that local authorities should take into account: *‘the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation’*;

J) Paragraph 131 of the NPPF states that: *‘In determining planning applications, local planning authorities should take account of: the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation’*;

K) Paragraph 134 of the NPPF states: *‘Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use’*

L) Paragraph 140 of the NPPF states: *‘Local planning authorities should assess whether the benefits of a proposal for enabling development, which would otherwise conflict with planning policies but which would secure the future conservation of a heritage asset, outweigh the disbenefits of departing from those policies’*.

6.08) Conclusion

For the reasons stated herein the appellant respectfully requests that this appeal is upheld.

Informative

This appeal relates to listed building consent application Shepway District Council Ref: Y17/1414.SH. The application was refused. Appeal decision pending.

John Tadman Dip arch (FA&S) ACIOB FFB FTC

For and on behalf of the appellant

