

AGENDA

PLANNING COMMITTEE MEETING

Date: Thursday, 24 September 2015

Time: 7.00 pm

Venue: Council Chamber, Swale House, East Street, Sittingbourne, Kent, ME10 3HT

Membership:

Councillors Mike Baldock, Cameron Beart, Bobbin, Andy Booth, Roger Clark, Richard Darby, Mike Dendor, Mark Ellen, Sue Gent, James Hall, Mike Henderson, James Hunt, Lesley Ingham, Peter Marchington, Bryan Mulhern (Chairman), Prescott (Vice-Chairman) and Ben Stokes

Quorum = 6

	Pages
1. Apologies for Absence and Confirmation of Substitutes	
2. Minutes	
To approve the Minutes of the Meeting held on 3 September 2015 (Minute Nos. 188 - 191) as a correct record.	
3. Declarations of Interest	
Councillors should not act or take decisions in order to gain financial or other material benefits for themselves or their spouse, civil partner or person with whom they are living with as a spouse or civil partner. They must declare and resolve any interests and relationships.	
The Chairman will ask Members if they have any interests to declare in respect of items on this agenda, under the following headings:	
(a) Disclosable Pecuniary Interests (DPI) under the Localism Act 2011. The nature as well as the existence of any such interest must be declared. After declaring a DPI, the Member must leave the meeting and not take part in the discussion or vote. This applies even if there is provision for public speaking.	
(b) Disclosable Non Pecuniary (DNPI) under the Code of Conduct adopted by the Council in May 2012. The nature as well as the existence of any such interest must be declared. After declaring a DNPI interest, the Member may stay, speak and vote on the matter.	
Advice to Members: If any Councillor has any doubt about the existence or nature of any DPI or DNPI which he/she may have in any item on this agenda, he/she should seek advice from the Director of Corporate Services as Monitoring Officer, the Head of Legal or from other Solicitors in Legal Services as early as possible, and in advance of the	

Meeting.

Part B reports for the Planning Committee to decide

4. Planning Working Group

To approve the Minutes of the Meeting held on 14 September 2015
(Minute Nos. to follow).

15/503738/FULL 9 Woodside, Dunkirk, Kent, ME13 9NY

To approve the Minutes of the Reconvened Meeting held on 21
September 2015 (Minute Nos. to follow).

15/502716/FULL Breach Farm Paddocks, Land North-east of Breach
Farm Bungalow, Breach Lane, Upchurch, Kent, ME9 7PE

15/500819/FULL Land adjoining Driftwood, Imperial Drive, Warden, Kent,
ME12 4SE

5. Report of the Head of Planning

1 - 250

To consider the attached report (Parts 2, 3 and 5).

The Council operates a scheme of public speaking at meetings of the
Planning Committee. All applications on which the public has registered
to speak will be taken first. Requests to speak at the meeting must be
registered with Democratic Services (democraticservices@swale.gov.uk
or call 01795 417328) by noon on Wednesday 23 September 2015.

Issued on Wednesday, 16 September 2015

The reports included in Part I of this agenda can be made available
in **alternative formats**. For further information about this service, or
to arrange for special facilities to be provided at the meeting, **please
contact DEMOCRATIC SERVICES on 01795 417330**. To find out
more about the work of the Planning Committee, please visit
www.swale.gov.uk

Corporate Services Director Swale Borough Council,
Swale House, East Street, Sittingbourne, Kent, ME10 3HT

SWALE BOROUGH COUNCIL

PLANNING SERVICES

Planning Items to be submitted to the Planning Committee

24 SEPTEMBER 2015

Standard Index to Contents

DEFERRED ITEMS Items shown in previous Minutes as being deferred from that meeting may be considered at this meeting

PART 1 Reports to be considered in public session not included elsewhere on this Agenda

PART 2 Applications for which permission is recommended

PART 3 Applications for which refusal is recommended

PART 4 Swale Borough Council's own development; observation on County Council's development; observations on development in other districts or by Statutory Undertakers and by Government Departments; and recommendations to the County Council on 'County Matter' applications.

PART 5 Decisions by County Council and the Secretary of State on appeal, reported for information

PART 6 Reports containing "Exempt Information" during the consideration of which it is anticipated that the press and public will be excluded

ABBREVIATIONS: commonly used in this Agenda

CDA Crime and Disorder Act 1998

GPDO The Town and Country Planning (General Permitted Development) Order 1995

HRA Human Rights Act 1998

K&MSP Kent and Medway Structure Plan 2006

SBLP Swale Borough Local Plan 2008

This page is intentionally left blank

INDEX OF ITEMS FOR PLANNING COMMITTEE – 24 SEPTEMBER 2015

- Minutes of last Planning Committee Meeting
- Deferred Items
- Minutes of any Working Party Meetings

Part 2

2.1 Pg 1 – 5	15/504083/FULL	DUNKIRK	Potters Corner, Dawes Road
2.2 Pg 6 – 11	15/502969/FULL	EASTCHURCH	Fairlea, Warden Road
2.3 Pg 12 – 18	15/502729/FULL	LEYSDOWN	Seaview Holiday Park, Warden Bay Road
2.4 Pg 19 – 26	15/505666/FULL	RODMERSHAM	Bourne Place, Stockers Hill
2.5 Pg 27 – 35	15/505662/FULL	STALISFIELD	Kennelling House, Kennelling Road
2.6 Pg 36 – 38	15/504681/FULL	FAVERSHAM	13 Preston Park
2.7 Pg 39 – 64	15/505252/FULL	OSPRINGE	Horseshoe Farm, Elverland Lane
2.8 Pg 65 – 76	15/503291/FULL	MINSTER	59 The Leas
2.9 Pg 77 – 95	15/506681/FULL	SITTINGBOURNE	Sittingbourne Mill & Wharf Sites, Land Adj Milton Road, Mill Way and Charlotte Street
2.10 Pg 96 – 115	14/504619/FULL	FAVERSHAM	Macknade Garden Centre, Canterbury Road
2.11 Pg 116 – 125	15/504978/FULL	FAVERSHAM	Wreights Cottage, The Mall
2.12 Pg 116 – 125	15/504979/LBC	FAVERSHAM	Wreights Cottage, The Mall
2.13 Pg 126 – 192	SW/14/0257	FAVERSHAM	Land at Oare Gravel Works, Ham Rd
2.14 Pg 126 – 192	SW/14/0301	FAVERSHAM	Land at Oare Gravel Works, Ham Rd
2.15 Pg 193 – 207	14/505230/FULL	UPCHURCH	Jack Russell Place, Halstow Lane

Part 3

3.1 Pg 208 – 213	15/504839/FULL	SITTINGBOURNE	Tannery Court, Kings Mill Close
3.2 Pg 214 – 247	15/503633/FULL	DUNKIRK	Red Lion Caravan Park, London Road

Part 5 - Index
Pg 248

5.1
Pg 249 – 250

14/501628/FULL

BORDEN

Bowl Reed, Oad Street

PLANNING COMMITTEE – 24 SEPTEMBER 2015

PART 2

Report of the Head of Planning

PART 2

Applications for which **PERMISSION** is recommended

2.1 REFERENCE NO - 15/504083/FULL			
APPLICATION PROPOSAL			
Erection of a single storey rear extension and detached garage to side as amended by drawings RVS-0515-02 Sheets 1 and 2 Revision C received 7 September 2015.			
ADDRESS Potters Corner Dawes Road Dunkirk Kent ME13 9TL			
RECOMMENDATION – GRANT subject to conditions			
REASON FOR REFERRAL TO COMMITTEE			
Parish Council objection			
WARD Boughton & Courtenay	PARISH/TOWN COUNCIL Dunkirk	APPLICANT Mr And Mrs C Reeves AGENT CJS Design Services	
DECISION DUE DATE 27/08/15	PUBLICITY EXPIRY DATE 31/07/15		
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):			
App No	Proposal	Decision	Date
SW/08/1157	Erection of new bungalow with garage and erection of garage for existing bungalow	Granted	02.04.09

1.0 DESCRIPTION OF SITE

1.01 Potters Corner is a three-bed brick built bungalow set back from the road by approximately 4.0 metres and located within the built up area boundary of Dunkirk. The property was formerly larger with a longer frontage to Dawes Road, but in 2009 planning permission was granted for a new bungalow in part of the garden (and a new garage for the original bungalow) and whilst the development has not been implemented this plot is no longer part of the property, meaning that the property’s frontage to Dawes Road is significantly reduced.

1.02 The remaining property is located on a corner plot with vehicular access at the front facing Dawes Road. The original garage was demolished to provide space for the new bungalow. There is private amenity space to the side and rear of the property. It is currently well screened by dense vegetation that borders the application site.

2.0 PROPOSAL

- 2.01 This application seeks permission for the erection of a single storey rear extension and detached garage to the side of the property.
- 2.02 The rear extension would measure 13 metres in length and 5.8 metres in width. The detached garage would be 4.5 metres wide x 6 metres in length. The external walls for both developments would be constructed of a brick plinth to match the existing brickwork with contrasting weatherboard cladding above.
- 2.03 The proposed extension would provide a sun room and two bedrooms with en-suite bathrooms. Alterations would be made to the existing internal layout by replacing a bedroom with the enlargement of the existing kitchen. The extension would be set back from the side boundary with the neighbouring property by 0.9 metres tapering to 0.5 metres. There would be a high level windows to the side facing the boundary fence and one glazed door.
- 2.04 Two off-road parking space would be provided in front of the garage. The proposed garage would measure 6m X 4.5m ,finished off with a 4.6m high ridged roof .This would be set back from the side boundary by 0.3 metres.

3.0 PLANNING CONSTRAINTS

None

4.0 POLICY AND OTHER CONSIDERATIONS

The National Planning Policy Framework (NPPF)
 National Planning Practice Guidance (NPPG)
 Development Plan: Saved policies E1 (General Development Criteria) E19 (Design Criteria) E24 (Extensions & Alterations) of the Swale Borough Local Plan 2008.
 Supplementary Planning Documents: Supplementary Planning Guidance entitled “Designing an Extension – A Guide for Householders”

5.0 LOCAL REPRESENTATIONS

None

6.0 CONSULTATIONS

- 6.01 Dunkirk Parish Council objects to the application stating “The Council feel it is over development for the site which is a relatively small plot. There will be insufficient parking for what will become a 4 bedroom house. The plot is on a corner and there is no additional on street parking nearby.”

- 6.02 Kent Highways Services confirmed that the proposal did not meet the criteria to warrant involvement in accordance with the current consultation protocol arrangements.

7.0 BACKGROUND PAPERS AND PLANS

- 7.01 Application papers and drawings referring to application reference 15/504083/FULL

8.0 APPRAISAL

Principle of Development

- 8.01 The main considerations in the determination of this planning application are the impact of the proposed extension on the design of the existing building, and the visual appearance of the area.

Visual Impact

- 8.02 The proposed extension would occupy an area less than half the width of the rear elevation of the property, projecting 13 metres and would be obscured from public view by dense vegetation. The proposed pitched roof would complement the character of the existing building and in my opinion, this proposal has been well designed to minimise the visual impact. The new garage would provide covered car parking space to the front leaving further parking space between it and the highway. This space would measure 5.7m deep by 5m wide. Normally two individually accessible parking spaces as well as any enclosed garage should be provided for new 4 bedroom dwellings in a village location (see IGN3 from KCC) and whilst usually each parking space should be 2.5m wide, between walls it is recommended by Kent Highway Services that this width should be enlarged to 2.7m. Here the area in front of the garage is bounded on both sides by solid means of enclosure but it is not wide enough for two spaces each of 2.7m. Nevertheless, taking into account the fact that the property will enjoy a generous garage, the lack of any on-street parking potential due the narrow width of Dawes Road, I do not consider that the proposal would be likely lead to parking problems in the area and is therefore considered acceptable.

Residential Amenity

- 8.03 The property is located on a corner plot and as such, the neighbouring bungalow in Staplestreet would be most affected by the proposal. The large single story extension which would have a depth of 13 m would not have a significantly harmful impact on adjoining dwellings due to its distance and orientation from the neighbouring properties. Although the proposed extension would be just 0.9 metres from the side boundary, this neighbouring bungalow is over 11 m away and concealed by dense vegetation. Therefore, I do not consider there to be any overlooking or overshadowing issues.

9.0 CONCLUSION

9.01 This application for the erection of a single storey rear extension and detached garage to the side of the property is considered acceptable and I therefore recommend that permission be granted.

10.0 RECOMMENDATION – GRANT Subject to the following conditions:

CONDITIONS

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

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

(2) The brickwork and roofing materials to be used in the construction of the external surfaces of the extension hereby permitted shall match those on the existing building in terms of type, colour and texture.

Reasons: In the interests of visual amenity

(3) The garage hereby approved and the area to the front of the garage shall be kept available for the parking of vehicles and no permanent development, whether permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 or not, shall be carried out on the land or in such a position as to preclude vehicular access thereto.

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

Council's approach to the application

In accordance with paragraphs 186 and 187 of the National Planning Policy Framework (NPPF), the Council takes a positive and proactive approach to development proposals focused on solutions. We work with applicants/agents in a positive and proactive manner by:

Offering pre-application advice.

Where possible, suggesting solutions to secure a successful outcome.

As appropriate, updating applicants/agents of any issues that may arise in the processing of their application.

In this instance:

The application was acceptable as submitted and no further assistance was required

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

The conditions set out in the report may be subject to such reasonable change as is necessary to ensure accuracy and enforceability.

This page is intentionally left blank

2.2 REFERENCE NO - 15/502969/FULL			
APPLICATION PROPOSAL Additional garaging with hobby workshop and domestic storage over			
ADDRESS Fairlea Warden Road Eastchurch Kent ME12 4EX			
RECOMMENDATION – GRANT subject to conditions			
SUMMARY OF REASONS FOR /REASONS FOR REFUSAL The proposal would not give rise to unacceptable harm to the residential amenity or character and appearance of the surrounding rural area.			
REASON FOR REFERRAL TO COMMITTEE Eastchurch Parish Council have raised objections to the application			
WARD Sheppey Central	PARISH/TOWN COUNCIL Eastchurch	APPLICANT Mr Malcolm Magenty AGENT Kent Design Partnership	
DECISION DUE DATE 27/05/15	PUBLICITY EXPIRY DATE 27/05/15	OFFICER SITE VISIT DATE	
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):			
App No	Proposal	Decision	Date
SW/00/0040	Replacement Dwelling	Refused	26.06.2015
SW/00/0699	Replacement dwelling and demolition of existing	Approved	25.09.2015
SW/02/1138	Replacement Dwelling - (Appeal Dismissed)	Refused	10.10.2003
SW/04/0114	Replacement dwelling	Approved	25.03.2004
SW/04/0836	Detached garage	Approved	27.08.2015
SW/05/0912	2 conservatories to rear and side of existing house	Refused	30.08.2005

MAIN REPORT

1.0 DESCRIPTION OF SITE

- 1.1 Fairlea, Warden Road, is a detached two-storey dwelling in the countryside to the east of the Eastchurch holiday parks. The property sits within extensive grounds and features a detached garage to the southern side, and a driveway/turning area to the front.

- 1.2 The property is of a similar size and style to the existing surrounding properties, the majority of which are large detached residential properties with sizeable gardens.

1.3 The site boundaries are lined by trees and hedging, with additional trees in close proximity to the house and garage and brick entrance features and metal gates by the vehicular entrance onto Warden Road.

2.0 PROPOSAL

2.1 The application seeks to erect an additional garage building with workshop / hobby space above to the northern side of the existing house.

2.2 The proposed building would measure approximately 6.40m to the ridge, approximately 14.00m wide and 8.4m deep. The proposal would include 4 garage doors along the front elevation, with additional access to the rear, and would include a window to the rear and barn window with shutters to the front. The ridge height of the proposed building was reduced by 800mm after discussions between the case officer and the agent with regards to the scale of the proposal.

2.3 The barn style design of the building would be similar to that of the existing house and garage, and external materials include brick, render, tile hanging and a tiled roof.

2.3 The applicant advises that the building is required for the storage and maintenance of the applicant’s classic cars.

3.0 SUMMARY INFORMATION

	Proposed
Approximate Ridge Height (m)	6.40
Approximate Depth (m)	8.4
Approximate Width (m)	14
No. of Storeys	2
Net Floor Area	127.44

4.0 PLANNING CONSTRAINTS

4.01 None.

5.0 POLICY AND OTHER CONSIDERATIONS

5.01 The National Planning Policy Framework (NPPF) and the National Planning Practice Guidance (NPPG) are relevant in terms of encouraging good design standards and minimising the potential impact of any development upon the amenity of the rural area.

5.02 The adopted Swale Borough Local Plan 2008 in particular the saved policies E1, E6, E9 and E19 are of relevance with regard to the provision of high quality development and minimising the impact on the countryside.

- 5.03 The Council's emerging local plan Bearing Fruits is of relevance and its proposed policies will be taken into account. However as the plan is yet to be adopted it cannot be given fully weight.
- 5.04 The Council's adopted Supplementary Planning Guidance (SPG) entitled "Designing an Extension" is relevant (and remains a material consideration following a formal review and adoption procedure) in that it recommends extensions should be subservient to the main dwelling in terms of scale.

6.0 LOCAL REPRESENTATIONS

- 6.01 The application has been advertised through a general site notice, and notification letters have been sent to the occupiers and owners of neighbouring properties.

7.0 CONSULTATIONS

- 7.01 Eastchurch Parish Council objects to this application on the grounds that the application proposes a "large-scale building comparable if not larger than the main residence. It is felt that it is of unreasonable size and not in keeping." Additional observations include that if permission is granted that conditions to be imposed include a prohibition on the building to be used for accommodation to prevent conversion into a dwelling in the future.
- 7.02 Further to the amended drawings Eastchurch Parish Council Planning Committee sees no reason to change their original objection (above).

8.0 BACKGROUND PAPERS AND PLANS

Application papers and correspondence relating to planning reference 15/502969/FULL

9.0 APPRAISAL

Principle of Development

- 9.01 The principle consideration with regard to the application is the size and scale of the proposal in relation to the main residence and its impact on the countryside. The proposal is for a sizeable garage with hobby workshop adjacent to the existing dwelling. The site is outside the build-up settlement boundary and is therefore part of the countryside.
- 9.02 However, large outbuildings (such as garages, workshops, stores, etc.) are not uncommon within the countryside, and particularly at larger properties such as this. Furthermore the use of the building would be ancillary to the main residential use of the house, and it would not provide any further residential accommodation.
- 9.03 I therefore consider the proposal to be acceptable in principle, subject to amenity considerations as set out below.

Impact on the Countryside

- 9.04 The proposed building would be of a good standard of design in my opinion, and I believe that it would sit comfortably on the plot and in relation to the existing buildings on site. Views of the building will be set against the existing house, garage, entrance features and landscaped garden. I therefore do not believe that there would be any serious impact upon the character or appearance of the wider countryside.

Achieving High Quality Design and Distinctiveness

- 9.05 Policy E19 of the Swale Borough Council Local Plan expects development to be of high quality design. Of relevance to this application is (7) of E19 - *“Development proposals should respond positively to the following:*

7. providing development that is appropriate to its context in respect of scale, height and massing, both in relation to its surroundings, and its individual details;

- 9.06 As discussed above, the amendments made to the application have reduced the scale and height of the barn / workshop and the proposal is now considered appropriate with regard to its size and scale within its surrounding context. The application is of high quality design, in a manner which maintains the Kent vernacular. Additionally the materials proposed, subject to conditions, will match the existing house where possible and ensure that the building does not harm the residential amenity or rural setting.
- 9.07 I note the objection of Eastchurch Parish Council. However, I consider the amendments to the original scheme have reduced the visual impact of the development. I appreciate the concerns raised by the Parish Council; however, I believe that through the provision of planning conditions, the proposal will be compliant with planning policy and I do not consider the application to be harmful to the adjacent dwelling or the wider rural area.

Residential amenity

- 9.08 The proposed building will be set away from the main dwelling, and well away from any neighbouring properties. I therefore have no serious concerns in regards to residential amenity.

Summary

- 9.09 Overall ,whilst the proposed building would represent a large outbuilding I do not consider the application to be detrimental to the existing adjacent dwelling or the rural setting. The applicant has made amendments to the scheme in order to reduce its size to accord with the Swale Borough Local Plan 2008.
- 9.10 The application is of high quality design and is in keeping with the surrounding location with regard to design, materials and appearance. The application is not considered to be harmful to the countryside or to local amenity.

10.0 CONCLUSION

10.01 Having reviewed the application, received amended drawings, and taken all material considerations into account, I do not consider the application to cause demonstrable harm to the amenity of the main house or the rural area. The proposal is of high quality design and is in keeping with the surrounding area in terms of design, materials and appearance. I appreciate the concerns raised by the Eastchurch Parish Council; however, I believe the amendments made to the scheme have addressed these concerns and the application is now considered to comply with the adopted Local Plan policies and supplementary guidance.

10.02 I therefore recommend that planning permission should be granted.

11.0 RECOMMENDATION – APPROVE Subject to the following conditions:

- (1) The development to which this permission relates must be begun no later than the expiration of three years beginning with the date on which permission is granted.

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

- (2) Prior to the commencement of development, details of the external finishing materials to be used on the development hereby permitted shall be submitted to and approved in writing by the Local Planning Authority and shall be implemented in accordance with the approved details.

Reasons: In the interest of visual amenity.

- (3) The development hereby permitted shall not be used for any other purpose other than for purposes ancillary to the existing dwelling and shall not be used as a separate individual dwellinghouse.

Reasons: In the interests of residential amenity.

The Council's approach to this application:

In accordance with paragraphs 186 and 187 of the National Planning Policy Framework (NPPF), the Council takes a positive and proactive approach to development proposals focused on solutions. We work with applicants/agents in a positive and proactive manner by:

- Offering pre-application advice.
- Where possible, suggesting solutions to secure a successful outcome.
- As appropriate, updating applicants/agents of any issues that may arise in the processing of their application.

In this instance:

The applicant was advised of minor changes required to the application and these were agreed.

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

The conditions set out in the report may be subject to such reasonable change as is necessary to ensure accuracy and enforceability.

2.3 REFERENCE NO - 15/502729/FULL			
APPLICATION PROPOSAL			
Retention of two replacement chalets, nos. 84 and 85 (retrospective)			
ADDRESS Seaview Holiday Park Warden Bay Road Leysdown Kent ME12 4NB			
RECOMMENDATION Grant			
SUMMARY OF REASONS FOR RECOMMENDATION			
The development is acceptable in principle as it would comply with Policies B6 of the adopted Local Plan and DM4 of the emerging Local Plan. The chalets would have no detriment to the visual amenities of the area and there would be no adverse parking impact. The proposal does not require a 10 month occupancy condition to be imposed given the history of the site and established Lawful Development Certificate that confirms that the previous chalets here were not restricted by an occupancy condition. I have considered the impact on the SPA and conclude that there would be no significant effects on the interest features of the SPA.			
REASON FOR REFERRAL TO COMMITTEE			
Parish Council objection			
WARD	Leysdown & Warden	PARISH/TOWN COUNCIL	Wickland (Holdings) Ltd Wardens Leysdown
APPLICANT	Wickland (Holdings) Ltd	AGENT	Forward Planning And Development Ltd
DECISION DUE DATE	01/07/15	PUBLICITY EXPIRY DATE	16/07/15
OFFICER SITE VISIT DATE	25/06/15		
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):			
App No	Proposal	Decision	Date
SW/12/0404	Lawful Development Certificate for 12 month annual use of 9 chalets nos.81-89 (inclusive) shown on plan enclosed WS/01/OP. (Proposed) - <u>Lawful</u>		
SW/12/1548	Lawful development certificate for moving 5 existing chalets within site. (Proposed) - refused		
SW/13/1204	Variation of condition 1 of NK/8/63/326 to allow 10 month occupancy of caravans. – approved.		
NK/8/53/127	change the use of land to a camp site for chalets and caravans - refused but allowed on appeal		
NK/8/54/119	construct 63 chalets - approved		
NK/8/63/326	An application to seek permanency of the land for the stationing of caravans and erection of chalets, seeking permanency of both the above two applications. This application was allowed with conditions. This restricted the use of the land as a site for caravans except during the period 1 st March to 31 st October in each year.		

MAIN REPORT

1.0 DESCRIPTION OF SITE

- 1.01 The application site lies within the confines of Seaview Holiday Park and covers the area on which two chalets are sited – nos. 84 and 85. These chalets have recently been re-built and were almost complete at the time of my site visit. The chalets occupy slightly larger footprints than the original chalets that were at this site. The adjacent chalets have not been re-built/refurbished and it is likely that the original chalets would have been similar in age and appearance to them. The chalets within the holiday park are set out in a ‘U’ shape and are mostly sited adjacent to the park boundaries. There are approximately 87 Chalets on the park. Caravans – mostly statics, occupy the central area of the holiday park. Seaview holiday park is located outside the built-up area boundary but in land designated as a holiday park and covered by policy B6 of the Swale Borough Local Plan 2008. Other holiday parks lie to the south and east. The village of Warden lies just to the north of the Seaview Holiday Park with Leysdown to the east.
- 1.02 The site lies within the coastal zone and is covered by Policy E13 of the Swale Borough Local Plan 2008. It also lies within flood zone 3. The site lies 670m to the south of The Swale SSSI and 1.3km to the southwest of The Swale SPA.

2.0 PROPOSAL

- 2.01 This is a retrospective planning application to regularise the erection of two holiday chalets within an existing holiday park. There had previously been two chalets in this location but the evidence suggests that these were substantially demolished and replaced with new chalets of a slightly larger footprint and height. In terms of build quality, they are a significant improvement to the previous chalets that occupied this site. It is understood that the owner of the site intends to carryout similar re-building of the remaining chalets on the site (approx. 85 of them). The chalets provide two bedrooms each, a living area with kitchen and bathroom. The chalets have dual pitched black fibre cement slate roofs, white UPVC weatherboarding to the elevations and white UPVC windows. The doors are timber with glazed panels.

3.0 PLANNING CONSTRAINTS

Environment Agency Flood Zone 2

Environment Agency Flood Zone 3 141081

4.0 POLICY AND OTHER CONSIDERATIONS

The National Planning Policy Framework (NPPF)
National Planning Practice Guidance (NPPG)

Swale Borough Local Plan 2008 – E1; E6; E9; E12; E13; E19; B6; B7; T3.
Emerging Local Plan – Bearing Fruits publication version December 2014 -
DM4; DM5; DM7; DM14; DM22 & DM28.

5.0 LOCAL REPRESENTATIONS

5.01 No representations from local residents have been received.

6.0 CONSULTATIONS

6.01 Leysdown Parish Council object to the application on the grounds that the chalets are new build and have not just been refurbished. They should not be allowed a 12 month occupancy.

6.02 The Environment Agency have no objections to the proposal.

6.03 The Head of Environmental Services has no objection to the proposal.

7.0 BACKGROUND PAPERS AND PLANS

Proposed plans and elevations and site location plan. Design and Access Statement.

8.0 APPRAISAL

Principle of Development

8.01 It is clear that the current chalets now built are new chalets and this goes far beyond a refurbishment as the applicant's agent had sought to argue. As such, I consider this proposal on the basis of the erection of two new chalets within an established chalet park. Policy B6 allows for the "*upgrading and improvement of existing static caravan and chalet sites*". Policy B6 goes on to note that this should take place within the site boundaries wherever possible. Policy DM4 of the emerging Local Plan reiterates this approach. I consider that the two chalets that have been built in place of two older and dilapidated chalets within the boundaries of the existing holiday park would amount to an upgrading and improvement in accordance with policy B6 of the adopted Local Plan and DM4 of the emerging Local Plan. For this reason I have no doubt that the new chalets are acceptable in principle.

Visual Impact

8.02 The chalets as built are simple in design. The use of UPVC weatherboarding is appropriate for the setting in my view which consists of static caravans and dilapidated chalets. I am mindful that these two chalets are the start of what could be a wholesale replacement of the chalets on site and as such, their design and materials would be likely to set a precedent for future replacements. I am of the view that the overall design and materials would be appropriate here and do not consider it harmful if repeated elsewhere within this holiday park.

Other Matters

- 8.03 Parking would not be adversely affected by this proposal which would not increase the number of chalets on this holiday park.
- 8.04 Members will note below that I have not imposed the normal ten month occupancy condition. This is because the Lawful Development Certificate SW/12/0404 established that, having reviewed the planning history of the site, there was no occupancy condition on the chalets nos. 81-89. The two new chalets replace two of the chalets included within this Lawful Development Certificate. Whilst I am considering the new chalets as new development, one cannot ignore the occupancy rights that existed for the chalets that stood in place at this site for many years. Whilst this would mean that the occupants of the new chalets could live there as any other normal dwelling, I am of the view that it would be unreasonable to now impose a 10 month restriction on occupancy given the established 12 month occupancy for chalets at this site.
- 8.05 The application site would provide two new dwellings close to the The Swale Special Protection Area. Appended is a Habitat Regulations Assessment as required by the Conservation of Habitats and Species Regulations 2010 as amended (the Habitat Regulations) due to the sites proximity to the SPA and the potential for recreational disturbance as a cumulative impact with other small housing developments. This concludes that there would be no significant effects from the proposal on the SPA features of interest.

9.0 CONCLUSION

- 9.01 Having considered the comments from consultees and the Parish Council and the relevant planning policies, I am of the view that the development is acceptable in principle as it would comply with Policies B6 of the adopted Local Plan and DM4 of the emerging Local Plan. The chalets would have no detriment to the visual amenities of the area and there would be no adverse parking impact. The proposal does not require a 10 month occupancy condition to be imposed given the history of the site and established Lawful Development Certificate that confirms that the previous chalets here were not restricted by an occupancy condition. I have considered the impact on the SPA and conclude that there would be no significant effects on the interest features of the SPA.

10.0 RECOMMENDATION – GRANT.

No conditions required.

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

The conditions set out in the report may be subject to such reasonable change as is necessary to ensure accuracy and enforceability.

The Council's approach to this application:

In accordance with paragraphs 186 and 187 of the National Planning Policy Framework (NPPF), the Council takes a positive and proactive approach to development proposals focused on solutions. We work with applicants/agents in a positive and proactive manner by:

Offering pre-application advice.

Where possible, suggesting solutions to secure a successful outcome.

As appropriate, updating applicants/agents of any issues that may arise in the processing of their application.

In this instance:

The application was acceptable as submitted and no further assistance was required.

Appendix A:**Habitat Regulations Assessment**

This HRA has been undertaken without information provided by the applicant.

The application site is located approximately 1.3km to the southwest of The Swale Special Protection Area (SPA) which is a European designated sites afforded protection under the Conservation of Habitats and Species Regulations 2010 as amended (the Habitat Regulations).

SPAs are protected sites classified in accordance with Article 4 of the EC Birds Directive. They are classified for rare and vulnerable birds and for regularly occurring migratory species. Article 4(4) of the Birds Directive (2009/147/EC) requires Member States to take appropriate steps to avoid pollution or deterioration of habitats or any disturbances affecting the birds, in so far as these would be significant having regard to the objectives of this Article.

The proposal therefore has potential to affect said site's features of interest.

In considering the European site interest, Natural England advises the Council that it should have regard to any potential impacts that the proposal may have. Regulations 61 and 62 of the Habitat Regulations require a Habitat Regulations Assessment. For similar proposals NE also advise that the proposal is not necessary for the management of the European sites and that subject to a financial contribution to strategic mitigation and site remediation satisfactory to the EA, the proposal is unlikely to have significant effects on these sites and can therefore be screened out from any requirement for further assessment.

It is the advice of NE that when recording the HRA the Council should refer to the following information to justify its conclusions regarding the likelihood of significant effects: financial contributions should be made to the Thames, Medway and Swale Estuaries Strategic Access Management and Monitoring (SAMM) Strategy in accordance with the recommendations of the North Kent Environmental Planning Group (NKEPG) and; the strategic mitigation will need to be in place before the dwellings are occupied.

In terms of screening for the likelihood of significant effects from the proposal on the SPA features of interest, the following considerations apply:

- Due to the scale of development there is no scope to provide on site mitigation such as an on site dog walking area or signage to prevent the primary causes of bird disturbance which are recreational disturbance including walking, dog walking (particularly off the lead), and predation of birds by cats.
- Based on the correspondence with Natural England, I conclude that off site mitigation is required. However, the Council has taken the stance that financial contributions will not be sought on developments of this scale because of the practicalities of securing payment. In particular, the legal agreement would cost substantially more to prepare than the contribution itself. This is an illogical approach to adopt; would overburden small scale

developers; and would be a poor use of Council resources. This would normally mean that the development should not be allowed to proceed. **However, the North Kent Councils have yet to put in place the full measures necessary to achieve mitigation across the area and there are questions relating to the cumulated impacts on schemes of 10 or less that will need to be addressed in on-going discussions with NE.** Developer contributions towards strategic mitigation of impacts on the features of interest of the SPA- I understand there are informal thresholds being set by other North Kent Councils of 10 dwellings or more above which developer contributions would be sought. Swale Council is of the opinion that Natural England's suggested approach of seeking developer contributions on single dwellings upwards will not be taken forward and that a threshold of 10 or more will be adopted in due course. In the interim, I need to consider the best way forward that complies with legislation, the views of Natural England, and what is acceptable to officers as a common route forward. Swale Council intends to adopt a formal policy of seeking developer contributions for larger schemes in the fullness of time and that the tariff amount will take account of and compensate for the cumulative impacts of the smaller residential schemes such as this application, on the features of interest of the SPA in order to secure the long term strategic mitigation required. **Swale Council is of the opinion that when the tariff is formulated it will encapsulate the time period when this application was determined in order that the individual and cumulative impacts of this scheme will be mitigated for.**

Whilst the individual implications of this proposal on the features of interest of the SPA will be extremely minimal in my opinion, cumulative impacts of multiple smaller residential approvals will be dealt with appropriately by the method outlined above.

For these reasons, I conclude that the proposal can be screened out of the need to progress to an Appropriate Assessment. I acknowledge that the mitigation will not be in place prior to occupation of the dwelling proposed but in the longer term the mitigation will be secured at an appropriate level, and in perpetuity.

This page is intentionally left blank

2.4 REFERENCE NO - 15/505666/FULL		
APPLICATION PROPOSAL Demolition of existing outbuilding. Proposed change of use of existing outbuildings to form two holiday lets with additional onsite parking provision, as amended by drawing 14/2520/2B received 7 th September 2015		
ADDRESS Bourne Place Stockers Hill Rodmersham Kent ME9 0PJ		
RECOMMENDATION: GRANT subject to conditions		
REASON FOR REFERRAL TO COMMITTEE Contrary Representations from Parish Council and local objections		
WARD West Downs	PARISH/TOWN COUNCIL Rodmersham	APPLICANT Mr And Mrs Tim Bishop AGENT Nigel Sands And Associates
DECISION DUE DATE 09/09/15	PUBLICITY EXPIRY DATE 26/08/15	
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites): None of relevance to the present application		

1.0 DESCRIPTION OF SITE

- 1.01 The property is situated just outside the built up area boundary at Rodmersham, although the host property is just within the boundary. It forms part of a steeply sloping field, with a level ‘shelf’ towards the top where the buildings the subject of this application are situated. The topography of the land then continues steeply upwards to the rear gardens of the residential properties situated within Stockers Brow to the east. The view to the west is across the Highsted Valley, commanding panoramic views.
- 1.02 The majority of the field has an established use for the keeping of horses, and indeed is used as such now. At the top part of the field is a private road way running north/south; adjacent to these are three existing buildings. The first is an old Nissen hut type structure, which is to be demolished. The second and third buildings are stable/outbuildings of indeterminate age. Whilst structurally sound, both would require major refurbishment and are not visually pleasing in their present state.
- 1.03 Bourne Place is situated on the outside of a sharp bend in the road known as Stockers Hill, near to the brow of the hill. Stockers Hill is the principal road between Highsted Valley and the village of Rodmersham.

2.0 PROPOSAL

- 2.01 The proposal is for the complete renovation and refurbishment of the two stables/outbuildings, and changing their use to holiday lets.

- 2.02 To enable the conversion, the proposal is to re-clad the exterior of the buildings with weatherboarding, and to add doors and fenestration to create two relatively small, two-bedroomed holiday lets.
- 2.03 The drawings show each building with large glazed sliding doors to the western elevation, facing the aforementioned views across the valley. To the rear, the windows shown would serve bathrooms, and as such would be obscure glazed, although the entrance door to buildings would also be situated on this elevation, together with a high level window to one kitchen.
- 2.04 The site already boasts parking for two cars where the present Nissen hut now stands; this would be increased to six spaces.
- 2.05 The overall outer dimensions of both buildings would be unchanged by this proposal, if approved.
- 2.06 The original submitted drawings showed high level windows to both of the buildings; this was an error. The high level window on building B has been omitted, due to concerns over potential overlooking, and amended drawings have been received showing this.
- 2.07 A comprehensive Planning Statement has been submitted with the application, outlining the benefits that the two units will bring, not only to the applicant but more importantly to the benefit of the rural economy, particularly local shops, pubs, etc. It notes the support for rural tourism within paragraph 28 of the NPPF and states that the proposal is fully compliant with same. It also notes that a cleaner would be employed to service the units.

3.0 SUMMARY INFORMATION

	Existing	Proposed	Change (+/-)
Approximate Ridge Height (m)	4.5m	4.5m	None
Approximate Eaves Height (m)	2.8m	2.8m	None
No. of Storeys	1	1	
Net Floor Area	58.5 square metres (each unit)	58.5 square metres (each unit)	None
Parking Spaces	2	6	+ 4

4.0 PLANNING CONSTRAINTS

- 4.01 None

5.0 POLICY AND OTHER CONSIDERATIONS

- 5.01 The National Planning Policy Framework (NPPF): Paragraph 28 states that Local Authorities should support *'the provision and expansion of tourist and*

visitor facilities in appropriate locations where identified needs are not met by existing facilities in rural service centres'

5.02 Swale Borough Local Plan 2008: Policies E1, E6, E19, B5 and RC1 (development criteria; protecting the countryside; design criteria; new tourist facilities and rural economy).

5.03 Policy B5 states that;

"Policy B5

Existing and New Tourist Attraction and Facilities

The Borough Council will seek to retain existing tourist attractions and facilities, including tourist accommodation. Proposals to change the use of such facilities will be considered in accordance with Policy B1, Policy RC2, and Policy C1 as appropriate. The Borough Council will permit improvements to existing tourist facilities and the development of new tourist attractions and facilities, including serviced and self-catering accommodation in accordance with the Local Plan."

5.04 Policy RC1 states;

"Policy RC1

Helping to Revitalise the Rural Economy

Proposals that would help to diversify the rural economy, provide new rural jobs and services or provide environmentally positive countryside management, will be permitted provided that:

- 1 the proposal is appropriate in scale with its locality and the site retains its rural character;*
- 2 there is a positive impact upon, or no detriment to, landscape character, biodiversity or countryside conservation;*
- 3 the use would not result in a significant increase in traffic to the detriment of the character, quiet enjoyment or safety of the lanes to and from the site, or be of a scale as to create unsustainable travel patterns;*
- 4 maximum use is firstly made of existing buildings, or, if not suitable, their modest redevelopment, followed by use of other previously developed land, in preference to development on greenfield land, except where this would result in a more acceptable and sustainable development than might be achieved through conversion; and*
- 5 the reuse of such buildings, or their extension, do not detract from their historical, architectural or landscape interest, character, or appearance."*

6.0 LOCAL REPRESENTATIONS

6.01 Three letters and emails of objection have been received from local residents. Their contents may be summarised as follows:

- Noise and light pollution
- Concern that the buildings may become separate dwellings, rather than just holiday lets
- Stockers Hill is a steep hill; the entrance to the site is just thirty feet below the brow
- There is no pavement above the entrance
- View from the entrance is generally obscured by several parked cars
- Although Building B is situated below my property on a slope, views from the rear windows will look directly into my windows
- Disruption during construction
- Smells from barbecues and bin stores
- Noise and lighting disruption from people staying in the holiday lets
- Emergency vehicles will find access to the site difficult
- Will damage the value of my property
- Additional traffic from holiday makers
- Lack of clarity over where property owners will park their own cars
- There are better areas of the site on which to build two new holiday lets

7.0 CONSULTATIONS

- 7.01 Rodmersham Parish Council objects to the proposal, for the following reasons:

“Concerns have been expressed to the PC ref this application. Firstly the increased traffic is causing some concern. The only entrance/exit already serves two properties and this will increase to four properties and probably be 8 cars or more. This exit is on a bend, where already parked cars are causing problems to cars coming down the hill - this problem has been reported to the police on numerous occasions. It is also the exact place the pavement ends making it even more dangerous for pedestrians - having to deal with the parked cars, traffic on the hill and now excess traffic entering the properties. The proposed building also will be overlooking the immediate neighbours with the inclusion of windows on that side but also it will be overlooking some of the properties in Highsted Valley - this build will be looking down on to them.”

- 7.02 Kent Highway Services raises no objection: *‘I refer to the above planning application and having considered the development proposals and the effect on the highway network, raise no objection on behalf of the local highway authority. I note that the parking spaces nearest the proposed holiday lets and the available turning areas are quite constrained, and this may result in difficulties manoeuvring a vehicle within the site. I do not consider that this has an effect on the highway, but may cause difficulties within the site.’*

- 7.03 The Lower Medway Internal Drainage Board raises no objection.

7.04 Southern Water raises no objection, but requests that an informative be added advising the applicant of the correct procedure for connecting the units to water services.

7.05 The Council's Tourism Officer supports the proposal, noting that:

"The size and scale of the tourism development is in keeping with the location and landscape and I am pleased to support the application. There is a limited stock of quality self catering accommodation in Swale and this will support a growing requirement for more flexible guest accommodation in an area where the product base has widespread and growing appeal not just in the traditional visitor season but throughout the year. With growing visitor interest in the 'great outdoors' and for short breaks in the UK, this accommodation will appeal to those seeking year-round leisure breaks - walking, cycling, photography and birdwatching as well as those seeking more traditional pursuits such as visiting family and friends or visiting the 'Garden of England'. The location is well placed to take advantage of honeypot destinations in Kent and near Europe. Tourism is no longer confined to summer holidays only and accommodation of this calibre is key to supporting a growing demand throughout the four seasons."

8.0 BACKGROUND PAPERS AND PLANS

8.01 Application papers and correspondence relating to planning reference 15/505666.

9.0 APPRAISAL

9.01 The main issues of concern appear to centre around highways issues; privacy and overlooking; and the potential future use of the holiday lets (if approved). For the sake of regularity, I will deal with each of these issues in turn.

9.02 With regard to highways issues, I acknowledge that the entrance to the site is on a sharp bend on a steep hill, but visibility is still good in both directions. I have no doubt that parking may indeed occur on this corner, but the lack of any parking restrictions would suggest that neither the police nor Kent Highway Services consider the matter one for particular concern. I also note that Kent Highway Services raises no objections of grounds of highway safety, but have mentioned that the parking proposal seem a little constrained. I have therefore thought it prudent to include Condition 4 below, requesting a full parking area drawing.

9.03 With reference to issues of privacy, overlooking and general residential amenity, I believe that local concerns may have to some extent been influenced by an error shown on the submitted drawings, which originally showed a high level window to the kitchen areas of both structures. This is an error: the agent acknowledges that Building B is not as well screened to the rear as Building A, and has therefore now omitted any windows to the kitchen, relying on the light from the glazed doors to the front. This will leave only the

en-suite bathroom windows (which would be obscure glazed) and the rear window in the door of the rear lobby areas facing the properties above in Stockers Brow. An amended drawing received on 7 September shows this. As such, I recommend the inclusion of Condition 5 below, which will ensure that these windows are obscure glazed, and shall remain so in perpetuity. It should also be noted that the rear windows of Building B and the properties in Stockers Brow are at least 28 metres apart, far in excess of the normal minimum privacy distance of 21m.

- 9.04 I do not share the Parish Council's contention that the buildings would have views over the properties in Highsted Valley. I can confirm that from the site only the roofs of two properties can be seen, and no windows at all. One property on Stockers Hill can be seen from the site, but this is on an oblique angle, and situated 55 metres away.
- 9.05 With regard to the objections raised regarding potential smells from barbecues and bins, and noise from any holiday makers, these are matters of conjecture only; bearing in mind that the applicants live adjacent to these buildings, it is unlikely that such problems would be tolerated.
- 9.06 Concern has been expressed that the buildings might not in future be used as holiday lets and might be used as separate residential dwellings. In view of these concerns, I have thought it prudent to include Condition 6 below, to ensure that the use of the buildings is as holiday lets only.
- 9.07 Given the above discussion I conclude that the general policy in favour of new tourist accommodation in rural buildings is not outweighed by other local factors which give rise to unacceptable consequences. Accordingly, I find that the development accords with local plan policy and is acceptable.

10.0 CONCLUSION

- 10.01 In view of the above, and as the appearance of the buildings would be vastly improved if the application were to be supported, I recommend that the application be approved, subject to strict conformity with the conditions noted below.

11.0 RECOMMENDATION – GRANT Subject to the following conditions:

CONDITIONS

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

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

- 2) No development shall take place until samples of facing materials, including roof slates and featheredged weatherboarding to be used in the development

hereby permitted shall have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with these approved details.

Reason: In the interests of visual amenity to ensure a high standard of materials are used before development is commenced.

- 3) Detailed drawings of all new joinery work and fittings, together with sections through glazing bars, frames and mouldings, at a scale of 1:10, shall be submitted to and approved in writing by the Local Planning Authority before any development takes place. The development shall then proceed in complete accordance with the approved details.

Reason: In the interests of visual amenity to ensure a high standard of joinery is used before development is commenced.

- 4) Notwithstanding the details submitted, a detailed drawing of the parking/turning area, showing adequate parking and turning space in line with Kent Vehicle Parking Standards ING3, shall be submitted to and approved in writing by the Local Planning Authority. The development shall then proceed in complete accordance with these approved details and the parking area so shown shall be maintained clear of obstruction at all times..

Reason: In the interests of highway safety and amenity and to ensure that adequate parking and turning facilities are provided before development is commenced.

- 5) Notwithstanding the details submitted, the windows serving the en-suite bathrooms and the rear entrance doors shall be obscure glazed, to remain so in perpetuity.

Reason: In the interest of preserving the privacy to neighbouring properties.

- 6) The holiday let accommodation hereby permitted shall be used solely for the purpose of holiday accommodation and shall not be let or occupied by any person or group of persons for more than four weeks in any calendar year.

Reason: In order to prevent the permanent residential use of the buildings and having regard to the rural location of the site.

- 7) Upon completion of the development hereby permitted, no external alterations, whether permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 or not, shall be carried out.

Reason: In the interest of visual and local amenity.

Council's approach to the application

The Council recognises the advice in paragraphs 186 and 187 of the National Planning Policy Framework (NPPF) and seeks to work with applicants in a positive and proactive manner by offering a pre-application advice service; and seeking to find solutions to any obstacles to approval of applications having due regard to the responses to consultation, where it can reasonably be expected that amendments to an application will result in an approval without resulting in a significant change to the nature of the application and the application can then be amended and determined in accordance with statutory timescales.

In this case the proposal was submitted to the Council's Planning Committee, and the applicant/agent had the opportunity to address the Committee.

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

The conditions set out in the report may be subject to such reasonable change as is necessary to ensure accuracy and enforceability.

2.5 REFERENCE NO - 15/505662/FULL		
APPLICATION PROPOSAL Erection of two storey side extension with light lantern, roof extension, creation of basement, insertion of lift, erection of porch, insertion of Hydrotherapy Pool and changes to fenestration and doors.		
ADDRESS Kennelling House Kennelling Road Stalisfield Kent ME13 0JQ		
RECOMMENDATION - Approve		
REASON FOR REFERRAL TO COMMITTEE Objection from Parish Council		
WARD East Downs Ward	PARISH/TOWN COUNCIL Stalisfield	APPLICANT Mr David Breaker AGENT Cyma Architects Ltd.
DECISION DUE DATE 10/09/15	PUBLICITY EXPIRY DATE 07/08/15	
FOR RELEVANT PLANNING HISTORY SEE BELOW		

1.0 DESCRIPTION OF SITE AND PREVIOUS HISTORY

- 1.01 Kennelling House lies to the east of the remote village of Stalisfield Green in an extremely isolated and prominent hill top position to the south of Kennelling Road, to the east of Parsonage Farm. It is within the countryside and the Kent Downs Area of Outstanding Natural Beauty. There is extensive planning history for this site.
- 1.02 Outline planning permission was originally granted in 1996 (SW/95/1007) to replace a former timber “Colt” style bungalow on the current application site, which was completely destroyed by fire following a direct lightning strike. This bungalow measured 8.6m wide by 6.25m deep.
- 1.03 The current applicant bought the site on the strength of this outline permission. He then sought approval for a very large two-storey house in the Wealden Hall House style, measuring 20m wide by 8m deep. The Council refused approval of reserved matters for such a large house compared to the previous bungalow, and this decision was appealed. The appeal was dismissed (T/APP/V2255/A/99/1022117/P5) in September 1999 with the Inspector noting that the site lies towards the crest of a small ridge in open landscape, with footpaths to the north and south-west. He found that on this small plot the proposed house would represent a considerable presence and would not be seen in the context of other buildings. The Inspector concluded that the house would be prominent, occupying an isolated and elevated position in the landscape, highly visible from public viewpoints, being unsympathetic to its surroundings, too large, and an unduly prominent feature in the landscape.
- 1.04 Following dismissal of the appeal the Council renewed the outline permission in 1999 (SW/98/1094) and approved the final design of the house in February 2000 (SW/99/1192). This created a substantially smaller but still 4 bedroom 2

bathroom property; the main frontage to the lane being 13.5m in width and with the main range 5.8m in depth, plus a two-storey rear wing measuring 4.5m by 5m housing the kitchen and one bedroom. This is largely the house that stands on the site today.

- 1.05 Approval was granted for a very small two storey rear extension in 2001 within the L shape to the rear of the property (this has been built) and a further larger two storey rear wing to create disabled accommodation, creating a U shaped house, was approved in 2008. This remains un-built but the permission was renewed in 2011 (SW/11/0658).
- 1.06 In addition applications SW/07/0304 and SW/07/0815 were refused for the construction of a garage/workshop/store being too large. However SW/07/1152 approved an oak framed 3 bay garage, which has been built.
- 1.07 Application SW/09/0787 then proposed a 7.3m deep x 4.1m wide two-storey extension of the roadside end of the detached garage to create dedicated live in accommodation for a care assistant. This was refused and the subsequent appeal dismissed (APP/V2255/D/10/2120106) in March 2010. This Inspector noted that the property is isolated and near to the top of a hill. She concluded that the extension would be prominent in the open landscape and fail to protect the natural beauty of the area.
- 1.08 Application SW/11/1346 was then submitted for a single storey building described as “annex accommodation” comprising two bedrooms, one with ensuite, an additional bathroom and an open plan living and kitchen area for a live in career. This was refused permission as it was considered that the scale and self contained nature of the proposed accommodation amounted to the creation of a separate residential property capable of independent occupation from the main dwelling.
- 1.09 Application (SW/13/1565) was refused permission as it was considered that the extension by virtue of its size, scale and massing and along with the significant increase in floorspace would result in an immodest extension to this very isolated and prominent dwelling located in the designated countryside and Kent Downs Area of Outstanding Natural Beauty. Furthermore the Council considered that justification for the size of the proposed extensions, which was based on the applicant’s personal circumstances, was insufficient to overcome the harm to the character of this protected area.
- 1.10 Of most significance now is that in 2014 application 14/502711 was submitted. This was an identical scheme to that submitted the year before, but importantly it was supported by extensive evidence of the applicant’s personal circumstances and backed up by professional advice. This made a strong case for the scale of enlargement proposed based on the applicant’s son’s extremely unusual and severe personal requirements. The Parish Council did not object to that application and although such personal requirements would not have been seen as justification for a new house here, I (in consultation with the Ward Member) concluded that the policy restraint on rural extensions

was outweighed by the personal circumstances involved. Accordingly the application was approved but with a condition meaning that only the applicant could carry out the development.

- 1.11 The approved scheme is for the same works now proposed except that a basement area is also now proposed.

2.0 PROPOSAL

- 2.01 This application in many parts is identical again to that previously approved, the extension will extend by two stories 7m in depth across the full width of the rear of the property (13.6m) and will incorporate an area previously approved for a smaller two storey rear extension. In addition a new porch measuring 2.6m in depth by 3m in width is proposed for the side (east elevation) and this will be of two storey form.
- 2.02 The completed property will provide on the ground floor, a porch, a family sitting room, a dining/living room, a laundry and a family kitchen, a reception hall, winter garden, hydrotherapy pool, physiotherapy area, plant and change area, two w.c's and a live in care assistant's living room and kitchen and a lift.
- 2.03 Two staircases provide access to the first floor. Here void areas are shown above the winter garden and family dining room and living room. In addition a family bedroom 1 with en suite, bedroom 2, a home office and family bathroom are proposed. One live in care assistant's bedroom with en suite and a second care assistant's bedroom/family bedroom 3 are also shown. In addition the applicant's son has rooms allocated for a bedroom, en suite, kitchen, sitting room and study
- 2.04 The additional element in this application, to the above, is a proposed basement which will be provided partially under the existing property but on the whole under the previously approved extension to the rear and will amount to approximately 105sqm of additional storage space in three linked rooms. A modest basement courtyard is also proposed. This basement will provide storage facilities for wheelchairs, hoists, therapy equipment and to avoid this equipment becoming obstacles or clutter on the ground and first floor to ease access for the applicant's son in his wheelchair. It will also house a plant room for the boiler, underfloor heating and ground source heat plant.
- 2.05 The original house had a total floor area of approx. 210sqm and with the first approved two storey extension this increased to 234sqm. The second extension would have increased the total area to 292 sqm, however this was not built. The proposed new building would have completed total floor area of 498sqm.

3.0 PLANNING CONSTRAINTS

Countryside
Kent Downs Area of Outstanding Natural Beauty

4.0 POLICY AND OTHER CONSIDERATIONS

- 4.01 The NPPF was released on 27th March 2012 with immediate effect, however, para 214 states *“that for 12 months from this publication date, decision-makers may continue to give full weight to relevant policies adopted since 2004 even if there is a limited degree of conflict with this Framework.”*
- 4.02 The 12 month period noted above has now expired. As such, it was necessary for a review of the consistency between the policies contained within the Swale Borough Local Plan 2008 and the NPPF. This has been carried out in the form of a report agreed by the Local Development Framework Panel on 12 December 2012. All policies cited below are considered to accord with the NPPF for the purposes of determining this application and as such, these policies can still be afforded significant weight in the decision-making process.
- 4.03 NPPF para 115 requires that *“Great weight should be given to conserving landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to landscape and scenic beauty...”*
- 4.04 Policies E6 (Countryside), E9 (Protection of the AONB), E19 (High Quality Design), E24 (Alterations and Extensions) and RC4 (Extensions to dwellings in Rural Areas) of the Swale Borough Local Plan 2008
- 4.05 Supplementary Planning Guidance 5 (1993) *‘Designing an Extension- A Guide for Householders’* (which was adopted by the Council following public consultation, is a material planning consideration in determining applications, and which is referred to in paragraph 3.71 of the adopted Swale Borough Local Plan 2008).

5.0 LOCAL REPRESENTATIONS

- 5.01 None received

6.0 CONSULTATIONS

- 6.01 Stalisfield Parish Council commented that “after a lot of discussion the PC felt that they could not support this planning application. Although the Council understands that the applicant’s son has very complex needs, we feel that the history of applications suggests that these needs cannot be met within the existing property notwithstanding any alterations/enlargements to what is already an enormously extended property. Particularly the scale and decorative element of the basement means this is a further extension to the house which we feel cannot be justified. Based upon the above we object to the planning application.”

7.0 BACKGROUND PAPERS AND PLANS

Plans and written material submitted with application

8.0 APPRAISAL

- 8.01 This application is identical to the application previously approved 14/502711 in most elements but with an additional basement now proposed. The application remains to be assessed as a balance between the special personal needs of the applicant's son and environmental protection in this protected sensitive rural area with its clear background of policy restraint and protection of natural beauty.
- 8.02 Members should note that the fall back position here is that the above ground extensions to the property area generally have been approved under application 14/502711. This approved the rear two storey extension 7m in depth across the full width of the rear of the property (13.6m) and incorporating the area previously approved for a smaller two storey rear extension. It also approved a new porch measuring 2.6m in depth by 3m in width proposed for the side (east elevation). This permission can still be implemented and it is therefore simply the impact of the addition of the basement to the scheme that needs to be considered now.
- 8.03 Despite the history of the site the Council has made clear its willingness to set aside its strict restraint policies to some extent in view of the special needs of the applicant's son. The applicant's submission clarifies that the original house, as built, had a footprint of 100sqm with a total gross floor area of 210sqm. The proposed extension to the property would result in the building having a final footprint of 259sqm and 494sqm of total floor area with an additional 105sqm with the proposed basement.
- 8.04 This is considerably more than what could be described as a "modest" extension when having taken into account any previous additions undertaken and it would not be of an appropriate scale, mass and appearance to a dwelling house as described within Policy E6 and RC4 of the Swale Borough Local Plan 2008.
- 8.05 In addition, by extending the house to such a degree the impact on the scale and appearance of the house would be dramatic and not a proposal the Borough Council would normally accept on a rural dwelling, particularly given the property's isolated and prominent location within the Kent Downs AONB which is afforded the highest protection in terms of conserving landscape and scenic beauty.
- 8.06 However, the provision of such a large extension was justified by the applicant in that the existing house "is not adapted to the applicant's son's needs". His medical condition means he has very limited movement, he is a wheelchair user and requires 24 hour care. This is supported by professional evidence of the limitations of the current property and the benefits of the proposed alterations. The detailed information and support from the relevant GP and an

Occupational Therapist was also submitted with the previously approved application and remains relevant now as they agreed that the proposed extensions did provide for the identified needs and was therefore a justified expansion of the property.

- 8.09 This submission argues that the applicant and its family require far more storage and utility space than is normally required by a typical family; for wheelchairs, hoists, transfer tables, therapy equipment and hygiene equipment. The basement would ensure that equipment would not become an obstacle or be clutter on the ground and first floor and will ease access and circulation for the applicants son.
- 8.10 The proposed additional basement is to be under the rear of the property and will be unseen from outside of the site. The basement courtyard which will provide outside access and light to the basement would be identifiable only due to the metal railings which will surround it.
- 8.11 I consider that it remains the case that a balance is to be made between the applicant's case of wanting the extension to meet the needs of his son and the architectural quality of the proposal weighed against the harm to policy, visual amenity and to the landscape of the AONB.
- 8.12 I am mindful of the previously approved scheme and consider that the circumstances remain the same and as such is acceptable again here, to be considered is the impact, if at all, of the additional basement area.
- 8.13 Current local planning policy includes saved policies E6, E9, E19, E24 and RC4 of the Swale Borough Local Plan 2008 which between them restrict development in the countryside, protect the AONB, encourage appropriate design and control extensions to rural dwellings to ones of only modest proportions so as to protect the character of the countryside.
- 8.14 The proposal clearly creates an immodest dwelling for a small site located in the countryside and as such would not be in line with policy guidance, specifically policies E6 and RC4 both of which restrict immodest development in the rural areas. The immodesty is very apparent in relation to the increased bulk and size of the proposal and along with a significant increase in floor space the proposal would result in an immodest extension to the dwelling.
- 8.15 I further appreciate that the house is not a rural dwelling of genuine historic significance, and that creating a unified new design rather than adding extensions to the original in an ad hoc manner can create a far better end result, this proposal will however create a property which would have a dramatic impact on the landscape and character of the area.
- 8.16 I therefore return to the terms of the NPPF which is clear in the "great weight" it places on the protection of the AONB and the highest status of protection in relation to landscape and scenic beauty. However, I do not consider the

addition of a basement to the already permitted proposal adversely affects this in addition to the impact considered previously and accepted.

- 8.17 It remains the case that the circumstances in this case are extremely unusual, and that the Borough Council is entitled to give weight to these circumstances. Here, I believe that the previous decision where in the balance of considerations it was judged that the personal circumstances are so unusual here and the evidence so compelling that despite the fact that permission would not normally be granted, the application was approved with a special condition limiting its implementation by the applicant only – in recognition of his family's circumstances, was correct. I am of the view that the addition of a rear basement under the already approved property with minimal impact on the development creates no additional harm.
- 8.18 I note the comments from the Parish Council. However, with the basement to the rear and unseen from outside the site, and considering the fall back position, I do not consider to refuse the application would be reasonable and I am surprised that they now feel that the proposal is too large having previously raised no objection to the proposals without the basement.

9.0 CONCLUSION

- 9.01 The previous extensions granted at the property have shown the Borough Council's sympathetic attitude to the personal circumstances, and the applicant has shown very special personal circumstances sufficient to set the proposal apart from the norm. The previously approved extension was clearly designed to provide additional facilities for the applicant's son and that the case was sufficiently made that this very large extension to the property and the resultant alterations are a reasonable response to or indeed that all are necessary for the applicant's son's welfare. It remains clear that the design has been conceived to meet those needs and that without such circumstances the proposal would not otherwise be permitted. As such I consider it remains the case that there is sufficient justification to overcome the significant adverse consequences on the character and appearance on this sensitive area from the development proposed.

I therefore recommend that planning permission is granted subject to the same conditions as before, including the personal implementation condition.

10.0 RECOMMENDATION – GRANT Subject to the following conditions

CONDITIONS

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

Reasons: In pursuance of Section 91 of the Town and Country Planning Act 1990.

2. This permission shall be implemented only by or on behalf of the applicant Mr David Breaker during his occupation of the property.

Reasons: In recognition of the personal circumstances of the applicant's family which underlies the Council's decision to grant permission for a development that would not normally be seen as acceptable in this location.

3. The development hereby permitted shall not be carried out otherwise than in complete accordance with the drawings submitted with the application.

Reasons: In the interests of preserving and enhancing the special character and appearance of the property and the Kent Downs Area of Outstanding Natural Beauty.

4. The materials to be used in the construction of the external surfaces of the extension hereby permitted shall match those on the existing building in terms of type, colour and texture.

Reasons: In the interests of preserving and enhancing the special character and appearance of the property and the Kent Downs Area of Outstanding Natural Beauty.

5. The accommodation hereby permitted shall be used only as a single dwellinghouse and the references to "Live in Care Assistant Living Room and Kitchen", "Live in Care Assistant Annex Bedroom 1" or "Live in Care Assistant Bedroom 2" shall not be taken to authorise use of any part of the accommodation as an independent unit of living accommodation.

Reasons: In the interests of protecting the countryside from additional residential development and preserving and enhancing the special character and appearance of the property and the Kent Downs Area of Outstanding Natural Beauty.

6. Upon completion, no further development including enlargement of the property, whether permitted by Classes A, B, C or D of Part 1 of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order) or not, shall be carried out without the prior permission in writing of the Local Planning Authority.

Reasons: In the interests of the amenities of the area and in recognition that the degree of extension permitted far exceeds what would normally be permitted in this location.

The Council's approach to this application:

In accordance with paragraphs 186 and 187 of the National Planning Policy Framework (NPPF), the Council takes a positive and proactive approach to development proposals focused on solutions. We work with applicants/agents in a positive and proactive manner by:

Offering pre-application advice.

Where possible, suggesting solutions to secure a successful outcome.

As appropriate, updating applicants/agents of any issues that may arise in the processing of their application.

In this instance the application was carefully considered and found to be acceptable only on the grounds of the personal circumstances involved, and that it would otherwise be found to be fundamentally contrary to the provisions of the Development Plan and the NPPF.

2.6 REFERENCE NO - 15/504681/FULL		
APPLICATION PROPOSAL Erection of rear garden fence.		
ADDRESS 13 Preston Park Faversham Kent ME13 8LH		
RECOMMENDATION – GRANT subject to conditions		
REASON FOR REFERRAL TO COMMITTEE Applicant is a Borough Councillor		
WARD Watling	PARISH/TOWN COUNCIL Faversham	APPLICANT Mr Nigel Kay AGENT FDA Chartered Architects
DECISION DUE DATE 12/08/15	PUBLICITY EXPIRY DATE 23/07/15	
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):		
App No	Proposal	
SW/96/0189	Single storey rear extension to dwelling – APPROVED	
SW/02/0795	Replacement of shed - APPROVED	
SW/11/0700	Replacement rear garden boundary wall – APPROVED – 22.07.11	

1.0 DESCRIPTION OF SITE

1.01 No. 13 Preston Park is a modern detached property, situated in the built up area of Faversham. The rear garden is enclosed by an attractive brick wall which runs along the rear of the properties of Preston Park, which border the public footpath, giving pedestrian access between Preston Park and Canterbury Road. The house is set above the level of the footpath and the rear of the house is visible over the wall due to the levels involved.

2.0 PROPOSAL

2.01 This application proposes the erection of a 2.134m high fence to be erected directly behind the rear garden wall, 15m in length, consisting of 6 fence panels. The fence panels would be supported by oak posts set in a concrete base, with gravel boards to each fence panel. Members may wish to note that a 2m high fence could be erected as Permitted Development.

2.02 Planning permission was granted in 2011 for a replacement brick garden wall measuring 2.775m in height. Due to the trees and vegetation along the pedestrian access way, this scheme has not been implemented.

2.03 The proposed fence would measure 0.641m lower than that of the replacement wall permitted under reference SW/11/0700, and would also retain the existing wall which will continue the uniform nature of the wall.

- 2.04 The applicant has confirmed that following removal of tall conifer trees along this boundary his privacy in his rear garden is compromised by users of the footpath. The approved higher wall is not now practical or economic due to extensive tree roots in the area and that the fence is the proposed alternative means of regaining his privacy.

3.0 PLANNING CONSTRAINTS

- 3.01 None

4.0 POLICY AND OTHER CONSIDERATIONS

The National Planning Policy Framework (NPPF)
 National Planning Practice Guidance (NPPG)
 Swale Borough Local Plan 2008: Policy E1 (General Criteria); Policy E19 (Design)

5.0 LOCAL REPRESENTATIONS

- 5.01 No representations have been received.

6.0 CONSULTATIONS

- 6.01 Faversham Town Council has no objection to this application.

7.0 BACKGROUND PAPERS AND PLANS

- 7.01 Application papers and drawings relating to planning reference 15/504681/FULL

8.0 APPRAISAL

Principle of Development

- 8.01 The principle of this development is to provide privacy for the occupiers of No. 13 Preston Park to the rear garden, and to minimise the impact of overlooking from the pedestrian link from Preston Park to Canterbury Road.

Visual Impact

- 8.02 Due to the nature of this development, the fence will have little visual impact on the area as it will be erected behind the existing wall and there are mature trees between the wall and the footpath.

Residential Amenity

- 8.03 By reason of the location of the proposed fence, this will not have an adverse impact on residential or neighbouring amenity.

8.04 I am therefore of the opinion that the proposal will have no unacceptable adverse impact upon residential or visual amenity, if approved.

9.0 CONCLUSION

9.01 In view of the above, I recommend that the application be approved

10.0 RECOMMENDATION – GRANT

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

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

Council’s approach to the application

In accordance with paragraphs 186 and 187 of the National Planning Policy Framework (NPPF), the Council takes a positive and proactive approach to development proposals focused on solutions. We work with applicants/agents in a positive and proactive manner by:

Offering pre-application advice.

Where possible, suggesting solutions to secure a successful outcome.

As appropriate, updating applicants/agents of any issues that may arise in the processing of their application.

In this instance:

The application was acceptable as submitted and no further assistance was required

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

The conditions set out in the report may be subject to such reasonable change as is necessary to ensure accuracy and enforceability.

This page is intentionally left blank

2.7 REFERENCE NO - 15/505252/FULL			
APPLICATION PROPOSAL			
Variation of conditions 1 and 2 of APP/V2255/C/11/2167577 - to remove reference to "a limited period being the period of 4 years from the date of this decision" from condition 1; and "or at the end of 4 years" from condition 2.			
ADDRESS Horseshoe Farm Elverland Lane Ospringe Kent ME13 0SP			
RECOMMENDATION – Grant further temporary permission SUBJECT TO: amendment to description of application to refer to the current planning permission.			
REASON FOR REFERRAL TO COMMITTEE			
Contrary to local representations			
WARD East Downs Ward	PARISH/TOWN COUNCIL Ospringe	APPLICANT Mr Alfred Willet AGENT Philip Brown Associates	
DECISION DUE DATE 20/08/15	PUBLICITY EXPIRY DATE 24/07/15		
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):			
App No	Proposal	Decision	Date
	Enforcement Notice Appeal Decision	Allowed	10/08/2012
SW/13/0743	Replacement of appeal decision	Approved	27/09/2013

1.0 DESCRIPTION OF SITE/SITE HISTORY

- 1.01 This site is the top end of an open field (a former orchard) which lies on the side of the Newnham Valley just south of the M2. It therefore lies within the Kent Downs Area of Outstanding Natural Beauty. The field, which has been divided up, is dominated by two tall lines of conifers, one along its northern boundary adjacent to Elverland Lane, the other down the middle of the field.
- 1.02 The application site is a small part of the field where the boundary steps in to create a relatively narrow area between the southern boundary and the southern line of conifers. From some directions, the boundary planting and the line of conifers screen the site quite well. However, the site lies on a sharp double bend in the single-track and steep Elverland Lane, and the site entrance is a direct continuation of the lane’s alignment when approaching the double bend from the east. The site is therefore prominent from that direction.
- 1.03 The site is also extremely prominent from the M2 when travelling east as it is directly in front as the motorway bears left and down across the valley. Views across the countryside from the M2 as a whole are generally limited, but both as one dips into the valley, and from the overbridge at this point, the site is in direct view and very prominent.
- 1.04 Lying high on the side of the valley its western boundary is well below its general level, and accordingly offers poor scope for screening by new planting. There is therefore a long distance view across the valley into the site which is available to many people daily.

- 1.05 The site can also be readily seen from to the south from a public footpath, from where the caravans present an intrusive appearance
- 1.06 The site's previous planning history includes the refusal of planning permission for stables in 1996, when the site was known as Jarvis Downs. This refusal, following well voiced local concern about the highway and landscape implications of the proposal, was based on harm to the character and visual amenities of the Area of Outstanding Natural Beauty, the impact of groundworks given the steep gradient of the site, and lack of regard to the Council's guidelines for such developments.
- 1.07 Despite this refusal, a makeshift stable type building exists on the site, and has been therefore for some years.
- 1.08 Since then, the current application site was included within the site of an enforcement notice served in September 2002 relating to the occupation principally of the lower end of the overall field by caravans. This was a very blatant attempt at occupying the site by persons who were not gypsies, but who were well known to the Police, and which they were very keen to put a stop to.
- 1.09 When the enforcement notice took effect, the site was vacated. However, the occupants later returned and submitted a planning application to station one mobile home and one caravan on the same lower part of the field which they had previously occupied. This application (SW/04/0574) was refused in June 2004.
- 1.10 The enforcement notice has now been superseded over most of the field by temporary planning permissions for gypsy sites both here and at the very bottom of the field on a site known as Meads Farm.
- 1.11 A 2004 planning application for use of the site as a caravan site (SW/04/0422) was submitted at the same time that the applicant first stationed a mobile home on the site, in breach of the then established enforcement notice. This application was refused by the Council and an enforcement notice served in 2011.
- 1.12 The enforcement notice appeal was allowed on August 2012, see decision letter at Appendix 1 to this item. The appeal decision granted a personal and temporary planning permission for occupation of the site as a private gypsy site and for keeping horses until 10 August 2016. It also required (by condition 9) a scheme of site layout to be submitted within 3 months of the decision. This was not done and the permission granted by the appeal decision lapsed. The 2013 planning application SW/13/0743 sought to regain the benefit of the appeal decision and this was approved by Members in the same terms and to the same end date of 10 August 2016 by decision dated 27 September 2013.
- 1.12 Conditions of that decision included the following;

Condition 1;

The residential use hereby permitted shall be carried on only by Alfred Willett and his resident dependants, and shall be for a limited period until 10 August 2016 only, or the period during which the premises are occupied by them, whichever is the shorter.

Grounds: In recognition of the personal circumstances of Alfred Willett and the 10 August 2012 appeal decision which sought to balance personal circumstances, harm to the Kent Downs Area of Outstanding Natural Beauty and the policy process for provision of private gypsy sites.

Condition 2;

When the premises cease to be occupied Alfred Willett and his dependants, or on 10 August 2016, whichever shall first occur, the residential use hereby permitted shall cease and all caravans, buildings, structures, materials and equipment brought on to the land, or works undertaken to it in connection with that use shall be removed and the land restored to its condition before the residential use took place

Grounds: In recognition of the terms of the 10 August 2012 appeal decision which sought to balance personal circumstances, harm to the Kent Downs Area of Outstanding Natural Beauty and the policy process for provision of private gypsy sites.

- 1.13 This permission therefore supersedes the appeal decision which had lapsed, although the applicant has incorrectly applied to vary the conditions of the appeal decision. I have sought the applicant's agreement to describe the application as to vary conditions 1 and 2 of the 2013 planning permission, and hope to have this ahead of the meeting..

2.0 PROPOSAL

- 2.01 This application seeks to remove or vary conditions 1 and 2 as set out above in order to make the permission personal and permanent. He seeks removal of any reference to a time limit in either condition. The applicant states that the latest GTAA demonstrates a need to provide an additional 35 residential gypsy and traveller pitches in Swale, and that Part 2 of the emerging Local Plan has not progressed beyond the Issues and Options stage, meaning that is unlikely that any alternative sites will be brought forward until after the expiry of the current temporary permission.
- 2.02 The applicant suggests that because he has now lived on the application site for over 10 years and has already integrated with other residents of Elverland Land this provides exceptional mitigating circumstances which, in the absence of alternative sites, demonstrate that this site is required to meet the needs of this traveller. Members may wish to note that the only residents of land along Elverland Lane are themselves on sites only approved on temporary permissions for gypsies and travellers.
- 2.03 The applicant further argues that the site is small and does not dominate the area, overburden local services, suffer from any environmental problem or flood risk. He adds that access to the site is safe, that it contains adequate parking and amenity space, and that the applicant does not need working space.
- 2.04 In terms of the impact of the site on the AONB the applicant suggests that the development is small in scale, set away from Elverland Lane and seen against a backdrop of woodland. He notes that the appeal Inspector saw limited impact on the landscape from near views and that other views were distant and where the caravans were below the skyline. Since then, an alien earth bund has been removed from the site (this removal was part of the approved site development scheme) and the touring caravan is now sited less prominently.
- 2.05 Finally, the applicant suggests that whilst caravans do not blend with the landscape they are found on farms and they have been present on this site over many years, meaning that the proposed permanent use will not result in any material harm to the landscape character of this part of the AONB. He asks that he be allowed to stay on the site as it would be unfair to prolong the uncertainty over his future home.

3.0 PLANNING CONSTRAINTS

Area of Outstanding Natural Beauty KENT DOWNS

Area of Outstanding Natural Beauty Maidstone AONB directive

Enforcement Notice ENF/02/033

Enforcement Notice ENF/11/035

Enforcement Notice ENF/11/036

Enforcement Notice ENF/11/036

Enforcement Notice ENF/11/035

Enforcement Notice ENF/02/033

4.0 POLICY AND OTHER CONSIDERATIONS

National Planning Policy Framework (NPPF) and Planning Policy for Traveller Sites (PPTS) (Re-issued)

4.01 The national policy position comprises the National Planning Policy Framework (NPPF) and Planning Policy for Traveller Sites (PPTS). Both documents were released in 2012 but the PPTS was re-issued in August 2015 with amendments. Together they provide national guidance for Local Planning Authorities on plan making and determining planning applications for Gypsy and Traveller sites. A presumption in favour of sustainable development runs throughout both documents and this presumption is an important part of both the plan-making process and in determining planning applications. In addition there is a requirement in both documents that makes clear that Councils should set pitch targets which address the likely need for pitches over the plan period and maintain a rolling five year supply of sites which are in suitable locations and available immediately.

4.02 Whilst regard has been paid to all of the guidance as set out within the NPPF, consider that the following extracts from paragraph 7 are particularly pertinent:

“There are three dimensions to sustainable development: economic, social and environmental. These dimensions give rise to the need for the planning system to perform a number of roles:

- an economic role – contributing to building a strong, responsive and competitive economy, by ensuring that sufficient land of the right type is available in the right places and at the right time to support growth and innovation; and by identifying and coordinating development requirements, including the provision of infrastructure;
- a social role – supporting strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations; and by creating a high quality built environment, with accessible local services that reflect the community’s needs and support its health, social and cultural well-being; and
- an environmental role – contributing to protecting and enhancing our natural, built and historic environment; and, as part of this, helping to improve biodiversity, use natural resources prudently, minimise waste and pollution, and mitigate and adapt to climate change including moving to a low carbon economy.”

4.03 In relation to rural housing the NPPF (at paragraph 55) 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:
 - the essential need for a rural worker to live permanently at or near their place of work in the countryside; or
 - 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; or
 - the exceptional quality or innovative nature of the design of the dwelling. Such a design should:
 - be truly outstanding or innovative, helping to raise standards of design more generally in rural areas;
 - reflect the highest standards in architecture;
 - significantly enhance its immediate setting; and
 - be sensitive to the defining characteristics of the local area.

4.04 In relation to conserving and enhancing the natural environment the NPPF, at paragraph 109, states;

The planning system should contribute to and enhance the natural and local environment by:

- protecting and enhancing valued landscapes, geological conservation interests and soils;
- recognising the wider benefits of ecosystem services;
- minimising impacts on biodiversity and providing net gains in biodiversity where possible, contributing to the Government's commitment to halt the overall decline in biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures;
- preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of soil, air, water or noise pollution or land instability; and
- remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate.

4.05 The NPPF prioritises the safeguarding of AONBs at paragraph 115.

Planning Policy for Traveller Sites (PPTS)

4.06 The PPTS was originally published in March 2012 but it was re-issued in August 2015 with minor changes. Whilst regard has been paid to all of the guidance as set out within the PPTS, its main aims now are:

"The Government's overarching aim is to ensure fair and equal treatment for travellers, in a way that facilitates the traditional and nomadic way of life of travellers while respecting the interests of the settled community." (para 3 PPTS)

To help achieve this, Government's aims in respect of traveller sites are:

- a. that local planning authorities should make their own assessment of need for the purposes of planning
- b. to ensure that local planning authorities, working collaboratively, develop fair and effective strategies to meet need through the identification of land for sites
- c. to encourage local planning authorities to plan for sites over a reasonable timescale
- d. that plan-making and decision-taking should protect Green Belt from inappropriate development
- e. to promote more private traveller site provision while recognising that there will always be those travellers who cannot provide their own sites
- f. that plan-making and decision-taking should aim to reduce the number of unauthorised developments and encampments and make enforcement more effective
- g. for local planning authorities to ensure that their Local Plan includes fair, realistic and inclusive policies
- h. to increase the number of traveller sites in appropriate locations with planning permission, to address under provision and maintain an appropriate level of supply
- i. to reduce tensions between settled and traveller communities in plan-making and planning decisions
- j. to enable provision of suitable accommodation from which travellers can access education, health, welfare and employment infrastructure
- k. for local planning authorities to have due regard to the protection of local amenity and local environment." (para 4 PPTS)

4.07 In terms of plan making the PPTS advice is that;

"Local planning authorities should ensure that traveller sites are sustainable economically, socially and environmentally. Local planning authorities should, therefore, ensure that their policies:

- a) *promote peaceful and integrated co-existence between the site and the local community*
- b) *promote, in collaboration with commissioners of health services, access to appropriate health services*
- c) *ensure that children can attend school on a regular basis*
- d) *provide a settled base that reduces the need for long-distance travelling and possible environmental damage caused by unauthorised encampment*
- e) *provide for proper consideration of the effect of local environmental quality (such as noise and air quality) on the health and well-being of any travellers that may locate there or on others as a result of new development*
- f) *avoid placing undue pressure on local infrastructure and services*
- g) *do not locate sites in areas at high risk of flooding, including functional floodplains, given the particular vulnerability of caravans*
- h) *reflect the extent to which traditional lifestyles (whereby some travellers live and work from the same location thereby omitting many travel to work journeys) can contribute to sustainability." (para 13 PPTS)*

4.08 For sites in rural areas and the countryside the PPTS advice is that;

"When assessing the suitability of sites in rural or semi-rural settings, local planning authorities should ensure that the scale of such sites does not dominate the nearest settled community." (para 14 PPTS)

4.09 In relation to the determination of planning applications the PPTS says that;

“Applications should be assessed and determined in accordance with the presumption in favour of sustainable development and the application of specific policies in the National Planning Policy Framework and this planning policy for traveller sites.” (para 23 PPTS)

“Local planning authorities should consider the following issues amongst other relevant matters when considering planning applications for traveller sites:

- a) the existing level of local provision and need for sites*
- b) the availability (or lack) of alternative accommodation for the applicants*
- c) other personal circumstances of the applicant*
- d) that the locally specific criteria used to guide the allocation of sites in plans or which form the policy where there is no identified need for pitches/plots should be used to assess applications that may come forward on unallocated sites*
- e) that they should determine applications for sites from any travellers and not just those with local connections”*

“However, as paragraph 16 [relating to Green Belts] makes clear, subject to the best interests of the child, personal circumstances and unmet need are unlikely to clearly outweigh harm to the Green Belt and any other harm so as to establish very special circumstances.” (para 24 PPTS). Members might like to note that the mini paragraph above was added in the 2015 re-issue of PPTS

“Local planning authorities should very strictly limit new traveller site development in open countryside that is away from existing settlements or outside areas allocated in the development plan. Local planning authorities should ensure that sites in rural areas respect the scale of, and do not dominate the nearest settled community, and avoid placing an undue pressure on the local infrastructure.” (para 25 PPTS). Members might like to note that the word “very” was added to this paragraph in the 2015 re-issue of PPTS.

“If a local planning authority cannot demonstrate an up-to-date 5year supply of deliverable sites, this should be a significant material consideration in any subsequent planning decision when considering applications for the grant of temporary permission. The exception to this is where the proposal is on land designated as Green Belt; sites protected under the Birds and Habitats Directives and / or sites designated as Sites of Special Scientific Interest; Local Green Space, an Area of Outstanding Natural Beauty, or within a National Park (or the Broads).” (para 27 PPTS). Members might like to note that the last sentence above was added to this paragraph in the 2015 re-issue of PPTS.

Finally, the definition of gypsies and travellers has been amended in the re-issued PPTS to remove the words “or permanently” from after the word “temporarily” in the following definition;

“Persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family’s or dependants’ educational or health needs or old age have ceased to travel temporarily, but excluding members of an organised group of travelling showpeople or circus people travelling together as as such.”

The implications for this change in definition has clouded the issue with regard to defining need. At this stage, given that the application relates to a single pitch, it is advised that the Council should consider the application in the context of the existing GTAA as set out below.

- 4.10 The Council has responded positively and quickly to the changes in the national policy position in respect of Gypsy and Traveller accommodation. The Local Development Framework Panel quickly supported the commissioning of a new Gypsy and Traveller Accommodation Assessment (GTAA), which was completed in June 2013 and identified a need for 82 pitches to be provided during the plan period (adjusted down from 85 pitches in reflection of those sites granted permanent permission whilst the document was under preparation). This need figure is incorporated within the draft Bearing Fruits Swale Borough Local Plan: Part 1 alongside a policy introducing provision for pitches on certain major development sites. An additional net 47 permanent pitches (some with personal use conditions) have also been approved up to March 2015, reducing the outstanding need to 35 pitches over the Plan period. A further number of pitches enjoy temporary permissions, including the current application site.
- 4.11 Shortly after publication of the GTAA in 2013 the Council began work on Part 2 of the Swale Borough Local Plan which will deal with site allocations for Gypsy and Traveller pitch provision only. This process began with a call for sites between September and December 2013, and the publication of an issues and options paper which was subject to public consultation (this finished on 25th April 2014).

Saved Policies of Swale Borough Local Plan 2008

- 4.12 Policy E1 (General Development Control Criteria) sets out standards applicable to all development, saying that it should be well sited appropriate in scale, design and appearance with a high standard of landscaping, and have safe pedestrian and vehicular access whilst avoiding unacceptable consequences in highway terms.
- 4.13 This site lies in an isolated position within the countryside where policy E6 (The Countryside) seeks to protect the quality, character and amenity of the countryside, and states that development will not be permitted outside rural settlements in the interests of countryside conservation, unless related to an exceptional need for a rural location.
- 4.14 Within Areas of Outstanding Natural Beauty policy E9 (Protecting the Quality and Character of the Borough's Landscape) gives priority to the long term protection and enhancement of the quality of the landscape, whilst having regard to the economic and social well being of their communities. Policy E9 seeks to protect the quality, character and amenity value of the wider landscape of the Borough. Within the countryside it expects development to be informed by local landscape character and quality, consider guidelines in the Council's landscape character and assessment, safeguard distinctive landscape elements, remove detracting features and minimise adverse impacts on landscape character. Protection of AONBs is a high priority in the NPPF and they are now afforded recognition in the PPTs, see below.
- 4.15 Policy E19 (Achieving High Quality Design and Distinctiveness) requires development proposals to be well designed.
- 4.16 Policy RC7 (Rural Lanes) seeks to protect the physical features and character of rural lanes, of which Elverland Lane is one.

- 4.17 Policy H4 explains the Borough Council will only grant planning permission for the use of land for the stationing of homes for persons who can clearly demonstrate that they are gypsies or travelling showpersons with a genuine connection with the locality of the proposed site, in accordance with 1 and 2 below.
1. For proposals involving the establishment of public or privately owned residential gypsy or travelling showpersons sites:
 - a) there will be a proven need in the Borough for the site and for the size proposed;
 - b) the site will be located close to local services and facilities;
 - c) there will be no more than four caravans;
 - d) the site will be located close to the primary or secondary road networks
 - e) in the case of a greenfield site there is no suitable site available on previously developed land in the locality;
 - f) the site is not designated for its wildlife, historic or landscape importance;
 - g) the site should be served, or capable of being served, by mains water supply and a satisfactory means of sewage disposal and refuse collection;
 - h) there is no conflict with pedestrian or highway safety;
 - i) screening and landscaping will be provided to minimise adverse impacts;
 - j) no industrial, retail, commercial, or storage activities will take place on the site.
 - k) use of the site will not give rise to significant adverse impacts upon residential amenity, or agricultural or commercial use, of surrounding areas; and
 - l) the land will not be in a designated flood risk area.
 2. Additionally to 1, for proposals for short term stopping places:
 - m) there will be a planning condition to ensure that the length of stay for each caravan will be no longer than 28 days with no return to the site within 3 months.”

- 4.18 This policy was criticised by the Local Plan Inspector who saw it, as a criteria based rather than site allocations policy, as inconsistent with the then Circular 01/2006 - which itself has since been superseded by PPTS and its emphasis of a five year supply of sites - and the policy can only be of limited significance to this application.

Swale Landscape Character and Biodiversity Appraisal SPD 2011

- 4.19 This site is divided between the Doddington and Newnham Dry Valleys and the Faversham and Ospringe Fruit Belt landscape character areas as defined in the March 2011 Swale Landscape Character and Biodiversity Appraisal, areas which are seen as of high and moderate sensitivity respectively and in good condition.

Bearing Fruits 2031: 2014 Publication version of the Swale Borough Local Plan: Part 1

- 4.20 The Council's Publication version of the draft Local Plan, entitled *Bearing Fruits 2031*, was published in December 2014 and is shortly due for examination.
- 4.21 Policy CP 3 of the draft Local Plan aims to provide pitches for gypsies and travellers as part of new residential developments. Policy DM10 sets out criteria for assessing windfall gypsy site applications

Site Assessment

- 4.22 The Council's February 2014 Gypsy and Traveller Site Allocations: Issues and Options consultations document recommends a new methodology for how to assess site suitability for determining whether or not to allocate a site. Although this was primarily intended to rank potential site allocations, it was agreed by Members of the LDF Panel in June 2014 to be used as a material consideration in planning applications. Even though this is normally done in relation to the potential suitability of a fresh site, given that its publication post-dates the appeal decision on this site I have considered this in formulating this recommendation to be sure that the recommendation is up-to-date. This assessment is a Red/Amber/Green staged approach to site suitability, with any site scoring Red in any stage not being progressed to the next stage.
- 4.23 The assessment starts with Stage 1: Availability. The site owner is in occupation of the site. Here the site scores green. This means that the site should proceed to Stage 2.
- 4.24 Stage 2: Suitability/Constraints. The site is not in a flood risk zone (assessment green); it is in an AONB and has a previously recognised unacceptable impact on the reasons for designation of the area (red); it has unacceptable landscape impact (red); it has no unacceptable impact on biodiversity (green); no dominating effect on settlements (green); no adverse impacts on heritage/archaeology (green); is not known to be contaminated (green); will not be subject to noise or disturbance (green); has adequate access (green); but is remote and not within walking distance to any significant facilities (red). The red scores mean that the site should not proceed to Stage 3 and will not be a candidate site for a future allocations policy. It is not a site considered to be suitable as a permanent site.
- 4.25 The proposed timetable for Part 2 of the new Local Plan included production and consultation upon a preferred options document in Summer 2014 (now completed). The adoption of Part 2 of the Local Plan is currently dependent upon the successful adoption of Part 1 of the Local Plan. Should the Examination Inspector find problems with Part 1 of the Local Plan, Officers are likely to suggest that all pitch provision matters be deferred to Part 2 to enable Part 2 of the Local Plan to progress independently of Part 1.

Five year supply position

- 4.26 The PPTS has since 2012 introduced a need for Council's to maintain a rolling five year supply of sites which are in suitable locations and available immediately. This is a relatively new requirement for Council's and the Council could only start attempting to meet this requirement following the commissioning and publication of the GTAA which provided the need figure and a base date. As such, the Council put measures into place to deal with the PPTS requirements very quickly, but have only recently started down the route of trying to maintain a rolling five year supply.
- 4.27 The GTAA sets out a target of 85 pitches to be provided by the year 2031, with a suggested provision of 35 pitches in the first five years (to 2018). Three pitches were approved during the course of the GTAA's production so the final target was in fact 82 pitches. Since the publication of the GTAA and up to the end of March 2015 a total of 47 permanent pitches have been approved in Swale almost exclusively without an appeal, of which 33 pitches had been implemented. Evidence to be presented to the Local Plan examination later this year shows that at the end of March 2015 the need for pitches identified from the GTAA thus stood at 82 pitches

minus the 33 permanent pitches approved and implemented, including the personal permissions granted in the interim. This reduced the need to 49 pitches which, at an annualised rate of 4.6 pitches per year (23 pitches over five years) indicated that the Council has already provided a surplus of supply of 0.8 pitches over the full five year requirement. This is calculated by taking the two year annualised requirement of 9.2 pitches from the completions so far to show a current surplus of 23.8 implemented pitches over the two year requirement and already a surplus of 0.8 approved permanent pitches over the five year need after just two years. In addition to this there are a further 13 approved but unimplemented permanent pitches as at the end of March 2015, an overall surplus of 14 pitches. These mostly comprise extensions to, or more intensive use of, existing sites and are awaiting occupation. Since then two more wholly new permanent sites have been approved at Eastchurch and Newington. Planning permission for a further two fresh pitches is awaiting only the completion of a Section 106 Agreement on a large mixed use development site at Faversham. This is a very considerable achievement and indicates the Council's positive attitude to such development in the right location. Furthermore, the likelihood of significant pitch provision as part of major new mixed use developments is a key feature of the emerging Local Plan and we will shortly see if that policy forms part of the final Plan.

- 4.28 However, irrespective of the question of the five year supply, the question of whether any approved and unoccupied sites are available to individual appellants is also normally taken in to account by Inspectors. Here, the evidence suggest that they may consider that sites approved as expansions of existing site are not readily available to appellants facing loss of their existing temporary site. This appears to confirm their decisions where the question of availability of alternative sites is crucial to their decision.
- 4.29 To conclude on this subject, it seems that there is no reason to see approved but unimplemented pitches as other than as part of a five year supply. Nor should potential ethnic grouping issues rule them out of consideration where this applies. However, there appears to be a question in Inspector's minds regarding whether such sites should be afforded full weight in relation to the prospects of them being suitable for a particular appellant, and whether they will wish to, or be able to, occupy such a site for reasons of ethnicity, or availability for other than families of the current site owners. I will deal with this question below.
- 4.30 At a more local level the Council is a contributor to the Kent Downs AONB management unit which has recently published its second revision to the Kent Downs AONB Management Plan (2014 – 2019). This included policies SD1, SD2, SD3, SD8 and LLC1 of the Plan, which refer to the need to conserve and enhance the natural beauty of the AONB being the prime purpose of the designation, with new development respecting the area's character, quality and distinctiveness, with development that runs counter to the primary purpose of the AONB, or its distinctive landform, special characteristics or qualities being opposed.

5.0 LOCAL REPRESENTATIONS

- 5.01 I have received three letters of objection to this application from local residents who have consistently opposed the use of this site. They argue the following summarised points;
- The site is within the Kent Downs AONB and the use does nothing to conserve or enhance the natural beauty of the AONB, especially as it is sited on the side of a valley

- The site is remote and does not meet the Council's criteria for sustainable gypsy sites
- The site was subject to an enforcement notice in 2004 when the applicant moved onto the land but the Council failed to take any action at that time
- The 2012 Inspector found the site unsuitable as a gypsy caravan site
- Only temporary permission was granted
- The application is premature over a year as the applicant is meant to be using the four years to find an alternative site, not attempting to make this site permanent
- The site should be vacated and the land returned to its natural state
- The Planning Inspector stated that the site is not suitable as a permanent gypsy caravan site
- If approved, this application will open the floodgates to the other two sites within the area who would be in a strong position to seek permanent permission
- If approved, the site could be subdivided and sold off in plots for other mobile homes
- The site should be cleared in August 2016

6.0 CONSULTATIONS

6.01 Newnham Parish Council objects to the application on the following grounds;

- The occupied and developed the site without planning permission
- Only a four year permission was granted after enforcement action was taken
- The Inspector made it clear that there is no justification for development which erodes the natural beauty of the AONB, and this development does not conserve or enhance the natural beauty of the area
- The Inspector recognised the applicant's personal circumstances when the Council could not show a five year supply of sites, but she concluded that a permanent permission was not justified
- The site does not meet the requirements of Local Plan policies SP1, SP2, E1, E9 or H4, or of emerging Plan policy DM10 and the relevant site assessment
- The site is totally unacceptable as a permanent gypsy site
- The applicant has made no attempt to relocate or to find another site that would be suitable for permanent permission

6.02 The Kent Downs AONB Management Unit has written to say that the application should be tested against the aims of AONB designation; to conserve or enhance natural beauty. They say that they have visited the site which is within a particularly attractive, un developed and remote part of Swale where one of the objectives of policy is to maintain the remote quality of the countryside and control urban fringe pressures. This application to make the site permanent would detract from the landscape character of the locality and fail to conserve and enhance the natural beauty of the AONB contrary to policies SD1, SD3, SD8 and LLC1 of the Kent Downs AONB Management Plan which has been adopted by all local authorities in Kent and is a material planning consideration as shown in appeal decisions. The Unit therefore objects to the application.

7.0 BACKGROUND PAPERS AND PLANS

7.01 Application papers and correspondence for application 15/505252/FULL
Application papers and correspondence for application SW/13/0743

Appeal decision ref: APP/V2255/C/11/2167577 dated 10 August 2012

Application papers and correspondence for application SW/10/0422

Appeal decision ref: APP/V2255/C/07/2040928 and A/07/2035766 dated 15 November 2007

Appeal decision ref: APP/V2255/A/11/2157005 and C/11/21597290, 2159721 and 2159722 dated 23 February 2012

8.0 APPRAISAL

- 8.01 I believe that the main considerations in this matter are the recent appeal decision, as reaffirmed by the current 2013 permission, and whether circumstances have changed so significantly since that date so as to indicate a different outcome now. I consider that there has been a significant change in relevant considerations since September 2013 with a very strong growth in the number of permanent permitted pitches, and the evolution of the policy approach to gypsy and traveller sites. The re-issued PPTS has also changed matters in relation to temporary permissions in the AONB.
- 8.02 The Council has commissioned a new GTAA since the appeal decision was issued in 2012 and this has shown a substantial future need for sites. This need is being addressed and much has already been achieved. It is clear that the Council is substantially above trend in the supply of sites and that there is a small but significant number of approved but unimplemented permanent pitches in existence. However, these pitches are expansions of existing sites, and Inspectors have not generally considered them to be genuinely available to those being faced with losing their own site. Other sites remain on temporary permissions pending resolution of the site allocations issue.
- 8.03 This situation may improve still further with new sites coming forward on new major development sites or, if that policy is not supported at Local Plan stage, by other new allocations. The situation is very positive but not yet completely resolved. However, there is not yet a set of currently genuinely available sites for this applicant to relocate to. Whether there will be within the lifetime of the current temporary permission on this site is another question, and the answer to that question also appears to be no. This suggests that more time than initially thought is required to see the future of the applicant resolved.
- 8.04 Nevertheless, the 2012 Inspector found the current application site to be remote and to cause harm to the AONB and I welcome that conclusion. Appeal decisions in 2007 and 2012 on the nearby site formerly known as Tootsie Farm on Elverland Lane have described the location as in a relatively remote and sparsely populated location some distance from services and unacceptable as a permanent Gypsy site. Considerable weight was also placed by on the fact that there was no reason to doubt that the eventual allocations of sites will be in more sustainable locations and circumstances in terms of an objection to permanent use.
- 8.05 I see no need to divert from these conclusions now and I note that the AONB Unit themselves have presented clear evidence that indicates a need not to grant a permanent permission here. The applicant has noted that the Inspector found limited harm to the rural character of the area from occupation of the site, but that it failed to conserve or enhance the Kent Downs AONB. Nevertheless she also concluded that it was not a sustainable site but that only due to uncertainty over gypsy pitch provision, with the possibility of a site allocations DPD not being likely until 2015, was the applicant granted time to vacate the site. Her decision was to allow a year beyond the anticipated allocation of sites for the applicant to relocate to a new site. This original expected date has now been missed and it is this that primarily informs my judgement on how to determine this application.

- 8.06 Now, the re-issued PPTS appears to have stated clearly that personal circumstances or unmet need is not likely to outweigh harm to AONBs, or point to a temporary permission.
- 8.07 Nor do I accept that the applicant's argument that his own unauthorised occupation of the site and the Council's reasonable attitude to deferring action until the policy situation became clearer is any cause for granting him a preferential permanent planning permission now. That was clearly not the intention behind the 2012 appeal Inspector's decision. I have seen no evidence that the applicant does not continue to live alone, or that any dependants including children are affected by this decision
- 8.08 Hence, whilst policy matters are now different from when I recommended refusal of any permission for this site in 2011, they are more consistent with when the temporary permission was granted on appeal. The recent redaction of Government support for temporary permission on AONBs weighs heavily against any extension of the permission on this site. As such, in my view there are now far stronger grounds to refuse the application outright and hope to see the site cleared by next August. However, the expected programme for alternative sites has been delayed beyond the Inspector's expectations. Given the lack of a clear alternative site for this applicant by then, I consider that the right and fair decision now is for the Council to extend the current temporary planning permission by a further year in terms reflecting those of the appeal decision. To that end I recommend that the Council extends the current temporary permission to a date one year on from the current end date to allow the Local Plan process to evolve and for alternative site allocations to be made. This will replicate the balance of considerations in the appeal decision, a determination which I consider will be very favourable to the applicant given the very different site supply and policy situation now compared to that in 2012. At that time a four year permission was given in anticipation of progress on site provision, a process which has moved forward in the sense that the GTAA has now been carried out, and that a DPD is to be produced, but not quite to the timetable envisaged in 2012.

9.0 Recommendation

- 9.01 This site is prominent within the Kent Downs AONB and has unacceptable landscape impact. It is not, in my view, at all suitable for a permanent permission and to that extent the obvious reaction to this application is to refuse permission. However, in the light of lack of policy progress on creating a set of genuinely available alternative sites for this applicant to relocate to I conclude that the right decision is to allow a little more time to establish alternatives and to encourage the applicant and others in his position to engage with looking to relocate to such a site.
- 9.02 As many of the relevant circumstances have continued between the appeal decision date and now, and as the Council has not yet reached the point where alternative sites are identified, I consider that the only reasonable option open to the Council is to grant a new permission to reflect the aims of the appeal decision.

- 10.0 RECOMMENDATION** – GRANT a short extension of the current temporary permission subject to the following conditions, which are repeated from the current position in all material respects apart from the end date.:

CONDITIONS

1. The residential use hereby permitted shall be carried on only by Alfred Willett and his resident dependants, and shall be for a limited period until 10 August 2017 only, or the period during which the premises are occupied by them, whichever is the shorter.

Reason: In recognition of the personal circumstances of Alfred Willett and the 10 August 2012 appeal decision which sought to balance personal circumstances, harm to the Kent Downs Area of Outstanding Natural Beauty and the policy process for provision of private gypsy sites.

2. When the premises cease to be occupied by Alfred Willett and his dependants, or on 10 August 2017, whichever shall first occur, the residential use hereby permitted shall cease and all caravans, buildings, structures, materials and equipment brought on to the land, or works undertaken to it in connection with that use shall be removed and the land restored to its condition before the residential use took place

Reason: In recognition of the terms of the 10 August 2012 appeal decision which sought to balance personal circumstances, harm to the Kent Downs Area of Outstanding Natural Beauty and the policy process for provision of private gypsy sites.

3. In connection with the residential use hereby permitted, no more than two caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 (of which no more than one shall be a static caravan) shall be stationed on the site at any time.

Reason: In recognition of the terms of the application, and because an uncontrolled use of the land would be unacceptably detrimental to the character and amenities of the Kent Downs Area of Outstanding Natural Beauty.

4. Other than in connection with agriculture and the keeping and breeding of horses, no commercial activities and no open storage of plant, products or waste shall take place on the land and no vehicle over 3.5 tonnes shall be stationed, parked or stored on this site.

Reason: Because an uncontrolled use of the land would be unacceptably detrimental to the character and amenities of the Kent Downs Area of Outstanding Natural Beauty.

5. The horse keeping use hereby approved includes the keeping and breeding of horses. There shall be no keeping of horses at livery and no commercial use as a riding school or riding stable.

Reason: In recognition of the terms of the application, and because an uncontrolled use of the land would be unacceptably detrimental to the character and amenities of the Kent Downs Area of Outstanding Natural Beauty.

6. In connection with the horse keeping use hereby approved, no external storage of materials or items of any kind including jumps, caravans, mobile homes, vehicles or trailers shall be kept on the site other than one trailer for the storage of manure and one horse trailer.

Reason: Because an uncontrolled use of the land would be unacceptably detrimental to the character and amenities of the Kent Downs Area of Outstanding Natural Beauty.

7. No more than one horse or pony per acre of grazing land shall be kept on the site and the land used for horse keeping shall not be subdivided other than by electric rope of a type approved by the local planning authority.

Reason: Because an uncontrolled use of the land would be unacceptably detrimental to the character and amenities of the Kent Downs Area of Outstanding Natural Beauty.

8. No burning of straw or manure shall take place on the site.

Reason: Because an uncontrolled use of the land would be unacceptably detrimental to the character and amenities of the Kent Downs Area of Outstanding Natural Beauty.

9. The site shall at all times be maintained in accordance with those details comprised in the "site layout plan" drawing as submitted with application SW/13/0743 apart from the installation of new concrete or tarmacadam at the site entrance. No new hardstanding (including that new concrete or tarmacadam shown on the submitted site layout plan), lighting, screen fencing, or planting shall be installed or carried out within the site.

Reason: In the interests of the conserving the character and appearance of the Kent Downs Area of Outstanding Natural Beauty.

10. The method of horse manure storage and disposal from the site shall be carried on in accordance with the details set out on page 2 of the letter dated 3 June 2013 from Philip Brown Associates Ltd as submitted with planning application SW/13/0743.

Reason: In the interests of the conserving the character and appearance of the Kent Downs Area of Outstanding Natural Beauty.

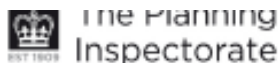
Council's approach to this application

The Council recognises the advice in paragraphs 186 and 187 of the National Planning Policy Framework (NPPF) and seeks to work with applicants in a positive and proactive manner by offering a pre-application advice service; having a duty planner service; and seeking to find solutions to any obstacles to approval of applications having due regard to the responses to consultation, where it can reasonably be expected that amendments to an application will result in an approval without resulting in a significant change to the nature of the application and the application can then be amended and determined in accordance with statutory timescales.

In this case, the application was approved as an extension to the timescale envisaged by the intentions of the 2012 appeal decision having regard to current planning policies and the personal circumstances of the applicant..

NB For full details of all papers submitted with this application please refer to the relevant Public Access pages on the council's website.
The conditions set out in the report may be subject to such reasonable change as is necessary to ensure accuracy and enforceability.

APPENDIX A



Appeal Decision

Hearing held on 3 & 4 May 2012

Site visit made on 4 May 2012

by **Bridget M Campbell BA(Hons) MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 10 August 2012

Appeal Ref: APP/V2255/C/11/2167577

Horseshoe Farm, Elverland Lane, Ospringe, Kent ME13 0SP

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr A Willett against an enforcement notice issued by Swale Borough Council.
- The Council's reference is ENF/11/0035 – Case 16033.
- The notice was issued on 22 November 2011.
- The breach of planning control as alleged in the notice is without planning permission, the material change of use of the Land to land used as a caravan site for the stationing of caravans/mobile homes used residentially and land used for the keeping of horses.
- The requirements of the notice are to:
 - (i) Cease the use of any part of the Land as a caravan site for the stationing of any mobile homes or caravans, or for the keeping of horses; and
 - (ii) Remove any caravans/mobile homes and any horses from the Land, and remove any structures, fencing, materials and equipment brought on to or erected on the site including any works undertaken in connection with the use of the site for stationing mobile homes or caravans or for the keeping of horses.
 - (iii) Restore the Land to its previous condition.
- The period for compliance with the requirements is 12 months.
- The appeal is proceeding on the grounds set out in section 174(2) (a), (d), (f) and (g).

Summary of Decision: The appeal is allowed, the notice is quashed and planning permission granted subject to conditions set out below in the Formal Decision.

The appeal on ground (d)

1. The ground of appeal is that at the time the notice was issued no action could be taken against the alleged breach of planning control. The land is in mixed use for residential purposes involving the use of a mobile home and for the keeping of horses – the notice attacks that mixed use and not operational development.

Horse keeping

2. The Appellant breeds, buys and sells horses and suggests that the use of the land is for grazing. If that were so it would be agriculture as the definition of agriculture for planning purposes includes use of land as grazing land (s336 of the Act). The use of land for agriculture is not development (s55(2)(e)) and so would not require planning permission.
3. Any argument that the land is so used would have been better made under ground (b) – that the use alleged (horse keeping) has not occurred. However, it is appropriate for me to deal with it shortly here.

www.planningportal.gov.uk/planninginspectorate

APPENDIX A

Appeal Decision APP/V2255/C/11/2167577

4. The horses do not simply graze the land. I heard that they receive hard feed (oats and nuts) and hay all year round. They are also stabled from time to time; in particular I heard that one is kept in a stable and the stallion comes in overnight. In my view horse keeping is an appropriate description of the use which is occurring; it does not fall within the definition of agriculture; and so is not excluded from the meaning of development.
5. The proposition under ground (d) that the keeping of horses has become lawful over time (10 years) so that at the time the notice was issued it was too late to take action has not been made out. The current mixed use was commenced in 2004 by the Appellant. Before that I heard evidence that horses had been kept on the land but as part of an assortment of other activities. Moreover some residents said that when the land was used for "raves" in 2003/4 before the Appellant bought it, there were no horses present. The onus of proof is on the Appellant in appeals on legal grounds. It has not been shown on the balance of probability that at the time the notice was issued it was too late to take action against that part of the mixed use comprising horse keeping.

Residential use

6. There is no argument that it was too late to take action against the residential use when the notice was issued.

Operational development

7. Operational development is not included in the alleged breach. Any argument that the notice cannot require buildings to be removed is a matter to be dealt with in the appeal on ground (f) that the requirements of the notice are excessive.

Conclusion on ground (d)

8. The appeal on ground (d) fails. At the time the notice was issued it was not too late to take action against either of the two activities comprising the mixed use alleged in the notice as the breach of planning control.

The appeal on ground (a)***The Main issue***

9. The ground of appeal is that planning permission should be granted for the matter alleged, that is the mixed use. In relation to the horse keeping element, the Council has no objection in principle to that use provided that it is controlled by conditions. It thus seeks to bring that use within planning control through the enforcement notice and would expect conditional planning permission to be granted.
10. With regard to the residential use, the Appellant does not argue that a residential caravan site would in general be acceptable in this countryside location. His case is put on the basis that he is a Romany Gypsy and that the site is suitable for a gypsy caravan site. For national and local planning policies relating to gypsies and travellers to apply to this case, the Appellant needs to meet the gypsy and traveller definition set out in Annex 1 of DCLG *Planning policy for traveller sites* (PPTS). The Council, having regard to relevant legal authorities are satisfied that he meets the definition. Having heard relevant evidence at the hearing about his travels in connection with horse breeding and

APPENDIX A

Appeal Decision APP/V2255/C/11/2167577

trading and for undertaking tree work, I have no reason to reach a different conclusion.

11. The main issue in this case is, therefore, whether the site is suitable for a gypsy caravan site as part of a mixed residential and horse keeping use having regard to national and local policy and if not whether any harm identified is outweighed by other considerations.

Reasons*Background*

12. The Appellant has occupied the appeal site since 2004. At that time he submitted a planning application for residential use involving the stationing of a mobile home for a gypsy family. The intended occupiers were the Appellant, his wife and their two daughters. However, the couple have since separated and the Appellant currently lives on the site on his own. The application remained undetermined and the site presumably tolerated by the Council until November 2011 when planning permission was refused and the enforcement notice, the subject of this appeal followed. That is some 7 years.

Suitability of the site – the effect on the rural area

13. The Appellant's land is mainly pasture. It adjoins the southern side of Elverland Lane which is a quiet and attractive rural lane. Access into the site lies on the outside of a sharp bend in the lane and is distinguished by prominent and inappropriate entrance gates and piers which, I understand, are the subject of separate enforcement action. If a more traditional entrance such as a 5 bar gate were present, then there would be a view directly into the site along the vehicular access when approaching along the lane from an easterly direction.
14. The residential element of the mixed use is not, however, particularly apparent when viewed from this direction due to the distance from the lane along the access, and the screening afforded by the fall of the land and by vegetation to either side of the access. The informality of the access track and the rural nature of the most prominent building, a barn to the side of the access, gives the impression of a use in keeping with the countryside location. Looking from the lane to the north across the Appellant's field, the residential element is again relatively inconspicuous, screened by a wooden fence and a line of mature conifers. From close quarters, therefore, there is limited impact on the rural character and appearance of the area.
15. The site lies within the Kent Downs Area of Outstanding Natural Beauty (AONB) and is located high on the side of the Newnham Valley. I was taken to 3 locations from where the site could be seen in more distant, panoramic views of the landscape. These were from a byway and from a road bridge over the M2 motorway to the west and looking across the valley, and from a public footpath to the south. I also looked at the visibility of the site from the M2 when driving in an easterly direction.
16. Whilst I do not disagree that the site is visible from all of these public vantage points, it is seen at a considerable distance. Furthermore, the structures on the site are not situated within an exposed and open part of the landscape but rather sit below the skyline, within a vegetated setting with a backdrop of mature trees. Even when the woodland is coppiced (as I am told it will be) the

APPENDIX A

Appeal Decision APP/V2255/C/11/2167577

remaining vegetation would prevent the impression of isolated development in an exposed position. In this respect, it seems to me that the development assimilates far better into the landscape setting than does the neighbouring gypsy site occupied by the Appellant's brother at Tootsie Farm which appears to have been established initially in an open field with little natural screening.

17. I understand that the mobile home has only recently been painted a more subdued colour on its western side which must have helped to reduce the visual impact in distant views. Indeed the contrast is notable as the gable end, which has not been so treated, and the white touring caravan on the site stand out in views from the public footpath. I note that banking, topped by a laurel hedge, has also recently been formed behind the mobile home to provide additional screening. The Council consider that the bank is not an appropriate means of screening the development and I agree that it is, in itself, a significant and alien landform.
18. My overall conclusion in respect of the effect that the mixed use has on the rural area is that it is limited because of the particular intimate setting. It could be presumed that the Council were of a similar view since it has tolerated the site in the AONB for some 7 years whilst taking positive action against the site nearby at Tootsie Farm. Nonetheless, it does introduce a collection of structures into a largely natural and unspoilt landscape and whilst some, for example the barn and stables, are in keeping, the mobile home and touring caravan do give the site a more domesticated character. Whilst there is a very thin scatter of other development throughout the area, this does not provide justification for more which would erode the undeveloped natural appearance of the rural scene. Paragraph 115 of the NPPF says great weight should be given to conserving landscape and scenic beauty in AONBs which have the highest status of protection in relation to landscape and scenic beauty. The development fails to conserve or enhance the natural beauty of the landscape. It conflicts with the objective of the AONB designation and with Development Plan policies concerned with the protection of the landscape.

Suitability of the site – sustainability considerations

19. Paragraph 11 of the PPTS requires traveller sites to be sustainable economically, socially and environmentally. The appeal site is remote from all services and facilities and is not well located in relation to any settlement so as to foster social inclusion. It is isolated, in a sparsely populated area and there is environmental harm as identified above. Although there are two other gypsy sites nearby, they are not lawful.
20. A positive factor is that the Appellant has his horse keeping and breeding business based on the land on which he lives which reduces daily travel. There are also the recognised benefits arising from having a permanent base, such as being able to access health services more readily and reducing any need to move around on unauthorised sites. But those are benefits which arise in the provision of any permanent site and do not outweigh the disbenefits arising from the isolated location in this case.

Other Considerations – need for gypsy and traveller sites

21. The need for additional gypsy pitches both nationally and within Kent is not in dispute. The Borough of Swale traditionally has one of the largest gypsy and

APPENDIX A

Appeal Decision APP/V2255/C/11/2167577

- traveller populations within Kent and the South East of England. Public sites have high occupancy levels, low turnover and long waiting lists.
22. The last assessment of need for the area was the North Kent GTAA published in December 2007 with a survey base date of August 2006. That identified a need for 62 new pitches in the Borough for the period 2006-11, one of the highest in Kent. That fed into work on the RSS process, now halted with the intention to abolish. The RSS was to identify pitch allocations for each local authority and, with the option for pitch re-distribution over the region, the panel was recommending a reduced allocation for Swale.
 23. The Council's adopted Local Plan 2008 includes a criteria based policy for the consideration of proposals for gypsy sites, policy H4. That remains as part of the Development Plan. Nonetheless, at the time of adoption that policy was recognised as not conforming with national policy in force at the time (Circular 01/2006) and the supporting text indicated that the policy was being reviewed as a matter of urgency and that where there was tension national advice would take precedence.
 24. As an interim measure, and ahead of the Core Strategy, the Council has taken some positive steps towards addressing the need for additional pitches although not by producing a site allocations DPD. It published a Corporate Gypsy and Traveller Policy in July 2009. That was followed by a call for sites and a Site Assessment process was adopted and applied to assess the suitability, availability and achievability of a range of potential sites, both to inform the LDF process and as a consistent basis against which to assess planning applications alongside the application of development plan policies.
 25. Notwithstanding some progress made in this way towards the provision of sites, the overall target in terms of numbers of pitches required for the Borough has yet to be set and is a matter under consideration in connection with the Council's preparation of its Core Strategy/Local Plan. Prior to the publication of the PPTS, the Council was considering 3 options for the number of pitches required for the period 2006-2031. The first figure (41) was based on capacity/opportunity, the second (112) on need/demand and the third takes option one and adds 3% per annum over 20 years (74).
 26. With the recent publication of the PPTS, local authorities are expected to make their own assessment of need and to use a robust evidence base to establish accommodation needs to inform the preparation of local plans and make planning decisions. Paragraph 8 says they should set pitch targets which address the likely permanent and transit site accommodation needs in their area. Whilst the implications of the NPPF and PPTS on the emerging Core Strategy/Local Plan had yet to be formally considered, at the hearing the Council, taking PPTS advice into account, fairly took the second pitch option as the basis for assessing its land supply position (but only for the purposes of this appeal).
 27. With that as the base, it says that it only has a two year supply of sites rather than 5 years as required in the PPTS, the shortfall being 12 pitches. To address any shortfall the Council accepts that a separate site allocations DPD might be required following adoption of the Core Strategy/Local Plan which is at an advanced stage and scheduled for adoption at the end of 2013. An anticipated date for adoption of a DPD would be mid-2015.

APPENDIX A

Appeal Decision APP/V2255/C/11/2167577

28. The assessment of need for pitches takes as its starting point a GTAA which had a base date of 2006, some 6 years hence, and which made an assessment of need only to 2011. It is not up to date and the only way of assessing need beyond that period has been to add 3% for household growth. That does not take into account possible changed circumstances or the need arising from elsewhere – that is other sources than from household growth. Moreover, whilst 62 pitches are required in the first 5 years from 2006-11, only 50 pitches would then be required for the whole of the remaining 19 years from 2012-2031. Using such a dated assessment as the 2007 GTAA does not seem to me to be the “robust evidence base” envisaged by the PPTS on which to assess need.
29. In looking at supply, the Council has included tolerated sites despite such sites having been excluded from the RSS process. The argument is that if the Council has no intention of taking enforcement action then those sites will become lawful over time. The Appellant on the other hand points out that without a planning condition restricting occupation, those sites will not be restricted to occupation by gypsies and travellers and so cannot be relied upon to continue contribute to supply. If these sites were not included the shortfall would increase.
30. This appeal is not the appropriate forum for reviewing the Council’s work on the Core Strategy as there is a separate process for assessing the soundness of emerging policy. Nonetheless, from the above it might be concluded that there is the potential for an up to date and robust assessment of need to result in a higher pitch figure than that arrived at by simply applying 3% compound growth to the 2007 assessment. However, even without any potential increase in the numbers needed and the disagreement concerning the contribution of tolerated sites towards supply, the Council accepts that it has not got a 5 year supply as is now required.
31. Paragraph 25 of the PPTS indicates that the failure to demonstrate a 5 year supply of deliverable sites should be a significant material consideration when considering whether to grant planning permission. Paragraph 28 says that policy only applies to applications made 12 months after the policy comes into force. Nonetheless, the need for more pitches and any shortfall in supply remain factors to be taken into account and I do not see the paragraphs as indicating that rather than considering a temporary period, permission should be refused in the 12 months before that policy comes into effect.
32. With regard to the availability of alternative sites, the Appellant has not looked for an alternative. That is perhaps understandable given that he has had a planning application with the Council for the use of the appeal site since 2004 which remained undetermined for 7 years with no action taken against him. He might have assumed from that that there was no objection to his remaining where he was. The Council says that 7 pitches approved at Brotherhood Wood Yard, Dunkirk meet the definition of deliverable sites in the PPTS. That may be so but there is no indication that any of those are available, affordable, acceptable and suitable to meet the needs of the Appellant.

Other considerations – personal circumstances

33. Since the planning application was submitted in 2004, the Appellant has separated and now lives alone although it is his wish to become reconciled with his wife and to live again as a family. A settled base can only assist. It

APPENDIX A

Appeal Decision APP/V2255/C/11/2167577

provides easier access to health services and to education. The Appellant has strong local connections with the area and it also helps to live on the site where his horse related activities are based, especially when greater supervision is required such as when mares are foaling.

The balance of considerations and conclusion on ground (a)

34. I have found limited harmful effect on the rural area but nonetheless a failure to conserve or enhance the natural beauty of the AONB. The development conflicts with Development Plan policies aimed at protecting the quality of the environment and in particular Local Plan policy E9. In addition the site is not in a sustainable location and this is contrary to criterion b of Local Plan policy H4 – a criterion which conforms to up to date national guidance. These are substantial factors which weigh against the grant of permanent planning permission. On the main issue I conclude that the site is not suitable for a gypsy caravan site as part of a mixed residential and horse keeping use having and that the harm identified is not outweighed by the other considerations such as to warrant the grant of a permanent planning permission.
35. The Council has been content to allow the Appellant to remain on the land for 7 years despite the identified harm but now feels compelled to require him to leave. The question is why now? It is not to prevent the use from becoming lawful over the passage of time because there is an earlier enforcement notice which is in force. With considerable uncertainty as to the number of pitches that will be required until the adoption of the Core Strategy/Local Plan; and with the possibility that a site allocations DPD with an anticipated date of 2015 might be required to bring the necessary sites forward; it seems to me that now is not the time to require the Appellant to leave his site without an alternative identified which is suitable and available for him to go to now.
36. In the circumstances of this case I consider the grant of a temporary permission would strike the appropriate balance between the competing considerations in this appeal. A period of 4 years would enable the number of pitches required to be confirmed through the development plan process, give time for future supply to be addressed, possibly by way of a DPD, and give time for sites identified to come forward.

Conditions

37. A condition limiting occupation to the Appellant is necessary given that his personal circumstances have weighed in favour of the grant of the temporary permission in this case. To limit the harm to the character and appearance of the area, conditions controlling the residential use in terms of numbers of caravans and layout of the site are required, together with conditions to control any intrusion from the horse keeping use and to prevent any expansion of commercial activity. Whilst I find it necessary to limit the number of horses kept to prevent poaching of grazing land, I shall use the ratio advised in the Council's own guide to the erection of stables and keeping of horses.
38. At the hearing it was suggested that demolition of the two buildings erected by the Appellant in connection with his horse keeping use be required. However, these have been in position well over 4 years as discrete pieces of operational development. The Council could have taken action against them during that period as provided for by the Act. It did not do so and they are thus lawful. Whilst their removal might have been required in the enforcement notice in

APPENDIX A

Appeal Decision APP/V2255/C/11/2167577

connection with the unauthorised use, by requiring the land to be restored to its condition before the breach took place, since the use is to be allowed, that is no longer the case. I believe it would be unreasonable to require removal now especially given that they are buildings of simple design and entirely in keeping with the use taking place.

Conclusion

39. For the reasons given above and taking into account all other matters raised I conclude that the appeal should succeed on ground (a), the enforcement notice will be quashed and temporary planning permission granted. The appeal on grounds (f) and (g) do not therefore need to be considered.

Formal Decision

40. The appeal is allowed and the enforcement notice is quashed. Planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended, for the development already carried out, namely the use as a caravan site for the stationing of caravans/mobile homes used residentially and land used for the keeping of horses on land at Horseshoe Farm, Elverland Lane, Ospringe, Kent ME13 0SP, subject to the following conditions:

- 1) The residential use hereby permitted shall be carried on only by Alfred Willett and his resident dependants, and shall be for a limited period being the period of 4 years from the date of this decision, or the period during which the premises are occupied by them, whichever is the shorter.
- 2) When the premises cease to be occupied Alfred Willett and his dependants, or at the end of 4 years, whichever shall first occur, the residential use hereby permitted shall cease and all caravans, buildings, structures, materials and equipment brought on to the land, or works undertaken to it in connection with that use shall be removed and the land restored to its condition before the residential use took place
- 3) In connection with the residential use hereby permitted, no more than two caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 (of which no more than one shall be a static caravan) shall be stationed on the site at any time.
- 4) Other than in connection with agriculture and the keeping and breeding of horses, no commercial activities and no open storage of plant, products or waste shall take place on the land and no vehicle over 3.5 tonnes shall be stationed, parked or stored on this site.
- 5) The horse keeping use hereby approved includes the keeping and breeding of horses. There shall be no keeping of horses at livery and no commercial use as a riding school or riding stable.
- 6) In connection with the horse keeping use hereby approved, no external storage of materials or items of any kind including jumps, caravans, mobile homes, vehicles or trailers shall be kept on the site other than one trailer for the storage of manure and one horse trailer.

APPENDIX A

Appeal Decision APP/V2255/C/11/2167577

- 7) No more than one horse or pony per acre of grazing land shall be kept on the site and the land used for horse keeping shall not be subdivided other than by electric rope of a type approved by the local planning authority.
- 8) No burning of straw or manure shall take place on the site.
- 9) The use hereby permitted shall cease and all caravans, structures, equipment and materials brought onto the land for the purposes of such use shall be removed within 28 days of the date of failure to meet any one the requirements set out in (i) to (iv) below:
 - i) within 3 months of the date of this decision a scheme for:
 - a) the layout of the site including the siting of caravans, hardstanding, parking, lighting and landscaping; and
 - b) the means of storage prior to disposal and the method of disposal of waste arising from the animals kept on the site shall have been submitted for the written approval of the local planning authority and the details shall include a timetable for implementation.
 - ii) within 11 months of the date of this decision the scheme shall have been approved by the local planning authority or, if the local planning authority refuse to approve the scheme, or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.
 - iii) if an appeal is made in pursuance of (ii) above, that appeal shall have been finally determined and the submitted scheme shall have been approved by the Secretary of State.
 - iv) the approved scheme shall have been carried out and completed in accordance with the approved timetable.
- 10) Subsequent to the implementation of the details required by condition 9, there shall be no change to those details.

Bridget M Campbell

Inspector

APPENDIX A

Appeal Decision APP/V2255/C/11/2167577

APPEARANCES

FOR THE APPELLANT:

Mr P Brown	Managing Director, Philip Brown Associates Limited
Mr A Willett	Appellant

FOR THE LOCAL PLANNING AUTHORITY:

Mr G Thomas	Area Planning Officer
Mr A Best	Principal Planning Officer – Policy Team

INTERESTED PERSONS:

Mr G Elvy	Local Resident
Mr S Fisher	Local Resident
Mrs H Ensing	Local Resident

DOCUMENTS

- 1 E mail correspondence with Darren Wilding submitted by the Council
- 2 *The Erection of Stables & Keeping of Horses* Planning and Development Guidelines – Swale BC

REFERENCE NO - 15/503291/FULL		
APPLICATION PROPOSAL Construction of a 3-bedroom 2 1/2 storey house with detached single garage and laundry room and parking spaces		
ADDRESS 59 The Leas Minster-on-sea Kent ME12 2NL		
RECOMMENDATION: GRANT subject to conditions		
SUMMARY OF REASONS FOR RECOMMENDATION/REASONS FOR REFUSAL The development is acceptable in principle being in an established settlement and would amount to sustainable development therefore. The proposed dwelling, although of a different design to the properties along The Leas and Seaside Avenue, would add to the mix of house types which display different roof pitches and heights. I do not consider that the proposed dwelling would have a detrimental impact on the visual amenities of the area or the character of the street scene. The proposal would also have no demonstrable harm on the residential amenities of the adjacent properties, in particular no. 66 Seaside Avenue. This is due to the nature of the windows within the side elevation of this neighbouring property and its position in relation to the proposed dwelling. The proposed dwelling would not impact upon the necessary sight lines at the junction of The Leas and Seaside Avenue and pedestrians crossing Seaside Avenue at the crossing point would have enough warning of cars travelling at slow speeds at this point. I therefore consider that there would be no detriment to highway safety or amenity.		
REASON FOR REFERRAL TO COMMITTEE Ward Member call-in and Parish Council objection.		
WARD Minster Cliffs	PARISH/TOWN COUNCIL Minster	APPLICANT Mr Colin Overington AGENT Kent Design Partnership - Architect
DECISION DUE DATE 12/06/15	PUBLICITY EXPIRY DATE 12/06/15	OFFICER SITE VISIT DATE 16/06/15

MAIN REPORT

1.0 DESCRIPTION OF SITE

1.01 The application site lies within the built-up area boundary of Minster-on-Sea. It fronts onto The Leas and is opposite the beach/seafront. The site is located on the corner of The Leas and Seaside Avenue. The Little Oyster Care Home lies on the opposite corner of the road. The site currently comprises the side and rear garden of no. 59 The Leas, a detached two storey dwelling. This property has a garage and vehicular access to the rear off Seaside Avenue. This garage would be demolished as part of the proposal. No. 59 also has a vehicular access off the Leas and a block paved driveway to accommodate at least 3 cars.

1.02 The site is level and is at the same ground level as no. 59 and the adjacent road.

2.0 PROPOSAL

2.01 The proposal is for the erection of a two storey (with rooms in the roof) detached dwelling to be built within the side garden of no. 59 The Leas. The proposed dwelling would have three bedrooms, a hobby studio and home office at first and second floors and a living, kitchen and breakfast room at ground floor. Two parking spaces would be provided off Seaside Avenue. The rear garden would be 10.5m in depth taken from the main rear elevation. The dwelling would be a distance of 1.5m from the flank wall of 59 The Leas. A 1.8m high brick wall is proposed to be erected adjacent to Seaside Avenue and around the parking spaces to enclose the rear garden of the new dwelling.

2.02 The proposed dwelling would be of a contemporary design with a steeply pitched roof and large glazed sections to the elevation facing towards the sea. Front and rear balconies would be provided at first floor and the main roof would over-sail the front and rear elevations to shelter the balconies. The elevations would be clad with wood grain fibre cement boarding in a blue/grey colour and would have a brick plinth of yellow stocks. The windows and doors would be white powder-coated aluminium and the roof would be covered in grey fibre cement slates. The balconies would be flanked by glazed panels at 1.7m in height. The 900mm high boundary wall to the front of the site would be retained as well as an existing tree within the front garden of the proposed dwelling. The driveway to the front of 59 The Leas would be reduced in width to accommodate 2 cars only and it is anticipated that the area to the front of the new dwelling would be turfed. A small side extension to no. 59 would be demolished as part of the proposal.

2.03 The scheme has been amended to remove a large garage and laundry room that would have occupied the rear half of the garden to the proposed house, thereby increasing the usable garden space and reducing the impact on the adjacent property no. 66 Seaside Avenue. The application has also been amended to reduce the amount of hardstanding for parking to the front of the existing and proposed properties. An additional two parking spaces are shown to be provided off Seaside Avenue as a consequence.

3.0 SUMMARY INFORMATION

	Proposed
Site Area (ha)	0.3ha
Approximate Ridge Height (m)	9.5m
Approximate Eaves Height (m)	5.2m
Approximate Depth (m)	9.5m
Approximate Width (m)	6.3m
No. of Storeys	2.5
Parking Spaces	2

4.0 PLANNING CONSTRAINTS

None

5.0 POLICY AND OTHER CONSIDERATIONS

The National Planning Policy Framework (NPPF)
National Planning Practice Guidance (NPPG)
Swale Borough Local Plan 2008: E1; E19; E24 & T3

6.0 LOCAL REPRESENTATIONS

6.01 Two letters of objection have been received from local residents. A summary of their comments is as follows:

- Over-intensive development;
- Little amenity space;
- There is a covenant that permits only one dwelling on this site;
- The 2 ½ storey dwelling will not be in-keeping with the properties in the area;
- The new building will be beyond the building line in Seaside Avenue;
- The rear windows and balcony will overlook the garden and the flank windows of 66 Seaside Avenue;
- The development will reduce visibility of drivers and pedestrians using the junction between The Leas and Seaside Avenue;
- The proposed 1.8m high wall would make reversing into the driveway of 66 Seaside Avenue difficult;
- The view from no. 66 Seaside Avenue would be lost but they recognise that there is no legal right to a view;
- Delivery vehicles to the proposed dwelling would be likely to block the driveway to no. 66 Seaside Avenue due to parking restrictions along this part of the road;
- The dwelling would look odd and 'unplanned';
- The dwelling is much higher than the adjacent properties and;
- The building would be too big for the plot.

7.0 CONSULTATIONS

7.01 Minster-on-Sea Parish Council strongly object to the proposal on the grounds that the development would be over-intensive and not in-keeping with the street scene in terms of form and scale. They note that there would be 'encroachment on the building line' and no amenity space for the dwelling which could potentially have 5 bedrooms. They consider that the proposed dwelling would 'be the only one to off-set the street' and that it would impact on the vision of road users coming from Seaside Avenue and The Leas rounding the corner. The reduced visibility would also impact on wheelchair users from the opposite care home in their view.

- 7.02 Kent Highways have no comment noting that the development does not meet the criteria to warrant involvement from the Highway Authority.

8.0 BACKGROUND PAPERS AND PLANS

Design and Access Statement; Site Location Plan; Plans, Elevations and Site Plan and Site Survey.

9.0 APPRAISAL

Principle of Development

- 9.01 The proposed dwelling would provide an additional house within a established settlement and in this respect would amount to a sustainable form of development. I therefore consider that the development is acceptable in principle.

Visual Impact

- 9.02 The Leas has a mix of house types and designs. A number of the more 'traditionally' designed dwellings have been adapted in the past to add balconies and/or large areas of glazing to the front elevations. Differently orientated roof pitches and heights are a feature of this street scene. The proposed dwelling would add to this mix as opposed to being an incongruous feature within the street scene in my view. The corner location of this application site calls for a building of presence and of an interesting design in my view. I consider that the proposed dwelling would fulfil this. I do not consider it appropriate to discourage architecture that could be argued to be 'different' to the surrounding buildings. Paragraph 60 of the NPPF states:

60. Planning policies and decisions should not attempt to impose architectural styles or particular tastes and they should not stifle innovation, originality or initiative through unsubstantiated requirements to conform to certain development forms or styles. It is, however, proper to seek to promote or reinforce local distinctiveness.

- 9.03 It is clear that The Leas has developed sporadically over the years with individual plots being developed as opposed to a wider comprehensive development taking place. I see no harm in allowing the space to the side of no. 59 The Leas to be developed in a similar way to the development of other plots along The Leas. I am also mindful of the scale and design of The Little Oyster Care Home which sits on the opposite corner of the road. The proposed dwelling would not look out of place within this context in my view.
- 9.04 I acknowledge that the proposal would result in the loss of the 'openness' to this corner of The Leas/Seaside Avenue. However, I do not consider that the contribution of this openness to the street scene is so critical that one could identify harm as a result of its loss. Indeed, the opposite corner is occupied by the aforementioned care home which sits close to the back edge of the footpath. Enclosing the space at no. 59 would mirror this relationship with the road. I do not consider that the character or appearance of the street scene along Seaside Avenue

would be unduly affected by the projection of the proposed dwelling in front of the building line. The opposite side of Seaside Avenue has no established building line and I consider that the proposed dwelling would act as a landmark building at the end of this road.

- 9.05 The proposal would result in a decrease in the amount of hardstanding to the front of the site and increase the amount of soft landscaping. In this respect, I consider that the scheme would be an improvement.
- 9.06 In conclusion, I consider that the proposed dwelling, although of a different style to the properties along The Leas and Seaside Avenue, would add interest to the street scene and would be of a scale and height that would be appropriate for this corner location.

Residential Amenity

- 9.07 The main impact from the proposed dwelling would be on no. 66 Seaside Avenue. This property is sited to the rear of the proposed dwelling with its flank elevation facing the rear elevation of the proposed dwelling. This neighbouring property has two first floor flank windows facing the application site and one flank window that sits between the ground and first floor and is therefore assumed to serve a staircase. There would be a distance of approximately 12 metres between the rear elevation of the proposed dwelling and the flank elevation of no. 66 Seaside Avenue. This would be a sufficient distance, in my view, to ensure that the proposed dwelling would not unduly overshadow or have an overbearing impact on the residents of this neighbouring property. In terms of mutual overlooking, I note that one of the first floor windows serves a bathroom and so has frosted glass. The other first floor window is a secondary window to serve a bedroom. The main window to this bedroom looks onto Seaside Avenue and so the residents of this neighbouring property have the option to draw blinds across the secondary flank window if they feel their privacy is being compromised. They would still be provided with an outlook and light from the main window facing Seaside Avenue. It is common for a bedroom to only be served by one window. As the window serving the staircase is not a habitable space, I do not consider that the proposed dwelling would compromise the privacy of no. 66 if any overlooking into this window did occur.
- 9.08 There are ground floor flank windows within 66 Seaside Avenue but these are largely already blocked by the existing garage for no. 59. This garage would be demolished as part of this proposal and the boundary treatment here would be replaced with a 1.8m close boarded fence. The impact on the ground floor windows would therefore be no worse than the current situation.
- 9.09 Owing to the nature of the windows within the flank elevation of no. 66 and for the reasons set out above, I do not consider that no. 66 would unduly overlook the rear windows or garden space to the proposed new dwelling.
- 9.10 In terms of overlooking of the rear garden of no. 66 Seaside Avenue, I note that the flank elevation of this neighbouring property projects approximately

3m beyond the side elevation of the proposed new dwelling. As such, I am of the view that the position of the proposed dwelling in relation to no. 66 will ensure that overlooking of the rear garden space would be limited. I also note that no. 59 The Leas already overlooks no. 66 Seaside Avenue.

- 9.11 The proposed rear balcony would have a glazed panel at either end (as would the front balcony) and I have recommended a condition to ensure that the panel closest to no. 59 The Leas is obscure glazed so as to avoid direct overlooking of the rear garden to this property from the rear balcony.
- 9.12 The proposed dwelling would have a sufficiently sized rear garden and internal space to ensure that it would provide a good living environment for future residents in my view.
- 9.13 In conclusion, I do not consider that the proposed dwelling, by virtue of its position in relation to no. 66 Seaside Avenue and the nature of the windows within the flank of this neighbouring property, would have a detrimental impact on residential amenities.

Highways

- 9.14 The proposal would provide two parking spaces for the proposed dwelling and two spaces for the existing dwelling. This would comply with the Kent Highway parking standards.
- 9.15 Local residents and the Parish Council have concerns about the impact that the proposed dwelling would have on visibility for cars and pedestrians at the junction of The Leas and Seaside Avenue. The proposed dwelling would be set back from the mouth of the junction by approximately 9.5m. Cars emerging from Seaside Avenue would not have their vision blocked by the proposed dwelling therefore. Similarly, cars turning into Seaside Avenue would not have their views impeded by the proposed dwelling. I note that there is a raised section of the highway on Seaside Avenue that is opposite the proposed dwelling. This raised table is likely used by wheelchair and motorised buggy users from the care home, as well as pedestrians. Local residents and the Parish Council are concerned that the users of this raised table would have reduced visibility of cars approaching the junction from The Leas. Whilst I acknowledge that due to the location of the raised table in relation to the new dwelling, there would be less warning for pedestrians using this crossing point, cars will have slowed down considerably to turn into Seaside Avenue and there is still a distance of some 14m between the mouth of the junction and the raised table. There will be sufficient warning therefore for both motorists and pedestrians.
- 9.16 The resident of no. 66 Seaside Avenue is concerned about visibility from their driveway. The plans indicate that there would be a low 900mm brick wall immediately adjacent to their drive (low enough to see approaching vehicles) and that the proposed 1.8m high brick wall would be a distance of 5.8m from their driveway and at an angle to incorporate the necessary pedestrian visibility splay needed for the parking spaces for the proposed dwelling.

- 9.17 In summary, I consider that the proposal would have no detriment to highway safety or amenity.

Other Matters

- 9.18 The application site would provide a new dwelling 0.8km to the south of The Swale Special Protection Area. Appended is a Habitat Regulations Assessment as required by the Conservation of Habitats and Species Regulations 2010 as amended (the Habitat Regulations) due to the sites proximity to the SPA and the potential for recreational disturbance as a cumulative impact with other small housing developments. This concludes that there would be no significant effects from the proposal on the SPA features of interest.
- 9.19 The neighbour has identified the fact that the application site is bound by a covenant that restricts the number of dwellings to one. No evidence of this covenant has been provided. Members will be aware that covenants do not hold any weight in terms of planning matters and regardless of the outcome of this planning application, the covenant, if it is still in place, would be a private legal matter that would need to be considered by the developer.
- 9.20 I appreciate that the resident of no. 66 will lose their view of the seafront as a consequence of this proposal. However, there is no legal right to a view and no planning harm that would arise in this respect.

10.0 CONCLUSION

- 10.01 Having considered the comment from local residents, the Parish Council and consultees and the relevant planning policies, I am of the view that the development is acceptable in principle. The proposed dwelling, although of a different design to the properties along The Leas and Seaside Avenue, would add to the mix of house types which display different roof pitches and heights. I do not consider that the proposed dwelling would have a detrimental impact on the visual amenities of the area or the character of the street scene. The proposal would also have no demonstrable harm on the residential amenities of the adjacent properties, in particular no. 66 Seaside Avenue. This is due to the nature of the windows within the side elevation of this neighbouring property and its position in relation to the proposed dwelling. The proposed dwelling would not impact upon the necessary sight lines at the junction of The Leas and Seaside Avenue and pedestrians crossing Seaside Avenue at the crossing point would have enough warning of cars travelling at slow speeds at this point. I therefore consider that there would be no detriment to highway safety or amenity.

- 11.0 RECOMMENDATION – GRANT** Subject to the following conditions:

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

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

2. The development hereby approved shall be carried out in accordance with the following approved drawing: 14.69.10E

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

3. Upon completion, no further development, whether permitted by Classes A, B, C, D, E or F of Part 1 of Schedule 2 to the Town and Country Planning (General Permitted Development) Order 2015 (as amended) (or any order revoking and re-enacting that Order) or not, shall be carried out without the prior permission in writing of the Local Planning Authority.

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

4. Before the development hereby permitted is first used, the proposed glazed panel to the rear balcony that faced no. 59 The Leas shall be obscure glazed and shall subsequently be maintained as such.

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

5. No construction work in connection with the development shall take place on any Sunday or Bank Holiday, nor on any other day except between the following times:-
Monday to Friday 0730 – 1900 hours, Saturdays 0730 – 1300 hours unless in association with an emergency or with the prior written approval of the Local Planning Authority.

Reason: In the interests of residential amenity.

6. The area shown on the submitted plan as car parking space shall be kept available for such use at all times and no permanent development, whether permitted by the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking or re-enacting that Order) or not, shall be carried out on the land so shown or in such a position as to preclude vehicular access thereto; such land and access thereto shall be provided prior to the occupation of the dwelling(s) hereby permitted.

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

7. No development shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the Local Planning Authority. These details shall include existing trees, shrubs and other features, planting schedules of plants, noting species (which shall be native species and of a type that will encourage wildlife and biodiversity), plant sizes and numbers where appropriate, means of enclosure, hard surfacing materials, and an implementation programme.

Reason: In the interests of the visual amenities of the area and encouraging wildlife and biodiversity.

8. All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development or in accordance with the programme agreed in writing with the Local Planning Authority.

Reason: In the interests of the visual amenities of the area and encouraging wildlife and biodiversity.

9. Upon completion of the approved landscaping scheme, any trees or shrubs that are removed, dying, being severely damaged or becoming seriously diseased within five years of planting shall be replaced with trees or shrubs of such size and species as may be agreed in writing with the Local Planning Authority, and within whatever planting season is agreed.

Reason: In the interests of the visual amenities of the area and encouraging wildlife and biodiversity.

10. Prior to the commencement of development hereby approved, details of the external finishing materials to be used on the development hereby permitted shall be submitted to and approved in writing by the Local Planning Authority and shall be implemented in accordance with the approved details.

Reason: In the interest of visual amenity.

11. Prior to the commencement of development hereby approved, details shall be submitted to the Local Planning Authority and approved in writing, which set out what measures have been taken to ensure that the development incorporates sustainable construction techniques such as water conservation and recycling, renewable energy production including the inclusion of solar thermal or solar photo voltaic installations, and energy efficiency. Upon approval, the details shall be incorporated into the development as approved.

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

The Council's approach to this application:

In accordance with paragraphs 186 and 187 of the National Planning Policy Framework (NPPF), the Council takes a positive and proactive approach to development proposals focused on solutions. We work with applicants/agents in a positive and proactive manner by:

Offering pre-application advice.

Where possible, suggesting solutions to secure a successful outcome.

As appropriate, updating applicants/agents of any issues that may arise in the processing of their application.

In this instance:

The applicant/agent was advised of minor changes required to the application and these were agreed.

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

Case Officer: Emma Eisinger

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

The conditions set out in the report may be subject to such reasonable change as is necessary to ensure accuracy and enforceability.

Appendix A:**Habitat Regulations Assessment**

This HRA has been undertaken without information provided by the applicant. The application site is located approximately 1.3km to the southwest of The Swale Special Protection Area (SPA) which is a European designated sites afforded protection under the Conservation of Habitats and Species Regulations 2010 as amended (the Habitat Regulations).

SPAs are protected sites classified in accordance with Article 4 of the EC Birds Directive. They are classified for rare and vulnerable birds and for regularly occurring migratory species. Article 4(4) of the Birds Directive (2009/147/EC) requires Member States to take appropriate steps to avoid pollution or deterioration of habitats or any disturbances affecting the birds, in so far as these would be significant having regard to the objectives of this Article.

The proposal therefore has potential to affect said site's features of interest.

In considering the European site interest, Natural England advises the Council that it should have regard to any potential impacts that the proposal may have. Regulations 61 and 62 of the Habitat Regulations require a Habitat Regulations Assessment. For similar proposals NE also advise that the proposal is not necessary for the management of the European sites and that subject to a financial contribution to strategic mitigation and site remediation satisfactory to the EA, the proposal is unlikely to have significant effects on these sites and can therefore be screened out from any requirement for further assessment.

It is the advice of NE that when recording the HRA the Council should refer to the following information to justify its conclusions regarding the likelihood of significant effects: financial contributions should be made to the Thames, Medway and Swale Estuaries Strategic Access Management and Monitoring (SAMM) Strategy in accordance with the recommendations of the North Kent Environmental Planning Group (NKEPG) and; the strategic mitigation will need to be in place before the dwellings are occupied.

In terms of screening for the likelihood of significant effects from the proposal on the SPA features of interest, the following considerations apply:

- Due to the scale of development there is no scope to provide on site mitigation such as an on site dog walking area or signage to prevent the primary causes of bird disturbance which are recreational disturbance including walking, dog walking (particularly off the lead), and predation of birds by cats.
- Based on the correspondence with Natural England, I conclude that off site mitigation is required. However, the Council has taken the stance that financial contributions will not be sought on developments of this scale because of the practicalities of securing payment. In particular, the legal agreement would cost substantially more to prepare than the contribution itself. This is an illogical approach to adopt; would overburden small scale

developers; and would be a poor use of Council resources. This would normally mean that the development should not be allowed to proceed. **However, the North Kent Councils have yet to put in place the full measures necessary to achieve mitigation across the area and there are questions relating to the cumulated impacts on schemes of 10 or less that will need to be addressed in on-going discussions with NE.** Developer contributions towards strategic mitigation of impacts on the features of interest of the SPA- I understand there are informal thresholds being set by other North Kent Councils of 10 dwellings or more above which developer contributions would be sought. Swale Council is of the opinion that Natural England's suggested approach of seeking developer contributions on single dwellings upwards will not be taken forward and that a threshold of 10 or more will be adopted in due course. In the interim, I need to consider the best way forward that complies with legislation, the views of Natural England, and what is acceptable to officers as a common route forward. Swale Council intends to adopt a formal policy of seeking developer contributions for larger schemes in the fullness of time and that the tariff amount will take account of and compensate for the cumulative impacts of the smaller residential schemes such as this application, on the features of interest of the SPA in order to secure the long term strategic mitigation required. **Swale Council is of the opinion that when the tariff is formulated it will encapsulate the time period when this application was determined in order that the individual and cumulative impacts of this scheme will be mitigated for.**

Whilst the individual implications of this proposal on the features of interest of the SPA will be extremely minimal in my opinion, cumulative impacts of multiple smaller residential approvals will be dealt with appropriately by the method outlined above.

For these reasons, I conclude that the proposal can be screened out of the need to progress to an Appropriate Assessment. I acknowledge that the mitigation will not be in place prior to occupation of the dwelling proposed but in the longer term the mitigation will be secured at an appropriate level, and in perpetuity.

2.9 REFERENCE NO - 15/506681/FULL		
APPLICATION PROPOSAL		
Removal of condition 39 (requirement to complete open space - linear park and waterside park, prior to occupation of residential units) of SW/11/0159 - outline planning application for leisure and community buildings, 150 residential units; and incorporating detailed planning permission for a retail food store and petrol filling station.		
ADDRESS Sittingbourne Mill & Wharf Sites Land Adj Milton Road, Mill Way And Charlotte Street Sittingbourne Kent ME10 3ET		
RECOMMENDATION Grant subject to conditions and to the expiration of the consultation period (18 th September 2015)		
SUMMARY OF REASONS FOR RECOMMENDATION		
This application seeks to remove condition 39 from the hybrid application SW/11/0159. I have recommended that Members vary the condition instead so that it aligns with the modified section 106 agreement. This would ensure that the linear park is completed prior to 75% occupation of the dwellings as is the requirement of the modified Section 106 agreement. Members have already agreed to this modification as well as the altered phasing which would see the provision of the waterside park disconnected from the housing development.		
REASON FOR REFERRAL TO COMMITTEE		
Ward Member call-in		
WARD Chalkwell	PARISH/TOWN COUNCIL	APPLICANT Essential Land (Sittingbourne) Ltd AGENT Winckworth Sherwood LLP
DECISION DUE DATE 17/11/15	PUBLICITY EXPIRY DATE 17/11/15	OFFICER SITE VISIT DATE 25/08/15

MAIN REPORT

1.0 DESCRIPTION OF SITE & HISTORY

1.01 The most relevant part of the application site (the residential and linear park elements) lies to the east of Charlotte Street, a residential street of terraced properties and the west of the Morrisons foodstore (approved under the same hybrid planning application) close to Sittingbourne Town Centre. The southern boundary of the site abuts Jubilee Street. The Wharf site upon which the waterside park is planned, lies to the northwest of the Sittingbourne Retail Park and to the south of Milton Creek. The waterside park area totals 1.98ha and lies on the opposite side of Mill Way to the residential site. Part of the Sittingbourne and Kemsley Light Railway, including the ticket office, runs through the wharf site. There has been no development of the Wharf site so far but a Skate Park is planned for half of the waterside park area under SW/14/0023. There is a current planning application for a barge museum within the middle section of the waterside park land (15/501934/FULL). The determination of this application is being held up by flooding and ecology issues but it is anticipated that the application will receive a favourable recommendation.

- 1.02 The residential and linear park sites total 2.62ha. This area has been left in an untidy state with piles of rubble left across the site. The site has been enclosed by Herras fencing and hoardings.
- 1.03 The application site for the hybrid planning application – SW/11/0159 totals 7.79ha and granted outline planning permission for up to 1,200sqm of leisure use floorspace, 250sqm of community floorspace, 150 residential units, in buildings ranging from 2 to 4 storeys in height, together with car and cycle parking; and incorporating detailed planning permission (Phase 1) for a retail food store of 6,682sqm, petrol filling station of 72sqm together with associated landscaping, car and cycle parking & full landscaping detail for new parkland areas (Phases 2 & 3).
- 1.04 The housing part of the development was granted outline permission only with landscaping and appearance to be agreed under a future reserved matters application. The first phase of the housing development was submitted under reserved matters application 15/501773/REM which was for 18 houses adjacent to Church Street. This was approved in July this year.
- 1.05 Members may recall that the applicant submitted a request for the modification of the Section 106 agreement pursuant to SW/11/0159 (the hybrid application). Members resolved to approve these modifications in November 2014 under SW/14/0399. The table below shows the altered phasing approved by Members at the time.

Phase	Original scheme	Modified scheme
1	Foodstore (morrison's)	Foodstore (morrison's)
2/A	Mill site public realm (Linear park)	Housing
3/B	leisure building and waterside park	Mill Site public realm (linear park)
4/C	Housing	leisure building and waterside park
5/D	Heritage building	Heritage building

- 1.06 Within the above phases, Members agreed to the following:

Phase A – residential units

Affordable housing – 3 no. 2 bed Rented houses; 1 no. 2 bed Shared Ownership apartment; 1 no. 1 bed shared ownership apartment = 5 in total (3.3% of the total number of houses) 70% affordable rent, 30% shared ownership. A viability appraisal should be submitted to assess the profit of the development prior to occupation of the final dwelling and any additional profit should be given as a commuted sum towards off-site affordable housing.

Car parking management plan submitted 28 days prior to completion of housing phase.

Primary and Secondary education contributions - £237,276.48 & £237,159.90 respectively. 50% paid upon 25% occupation and 50% paid upon 75% occupation.

Submission of a Green Travel Plan and implement prior to occupation of housing phase.

Monitoring fee - £25,000 (equivalent to approx. 5% of the total paid under the modified 106 agreement) paid over 4 phases of the housing development.

Wheeled bins - £12,500

Submission of schedule to improve the Laburnum Place underpass and £10,000 towards CCTV covering the underpass.

Phase B – Mill site public realm (linear park)

Upon practical completion, submit a strategy from the management of the land and clause to ensure that the footpath/cycle path is retained for public use. Linear park completed prior to 75% occupation of the houses.

Phase C – leisure building and waterside park (no obligation to provide this)

Prior to occupation of leisure building/waterside park, hand-over process for waterside park initiated.

Payment of waterside park maintenance contribution of £25,000 upon completion of phase C.

Phase D – museum and heritage building (no obligation to provide this)

A review mechanism upon completion of the last dwelling for the payment of a commuted sum to be used for affordable housing off-site.

- 1.07 Members should note that the modified Section 106 agreement is still being finalised due to a significant amount of redrafting required. It is though anticipated that the modified Section 106 agreement will be signed, in accordance with Member's resolution, within the next month.

2.0 PROPOSAL

- 2.01 Condition 39 of the hybrid planning application SW/11/0159 states the following:

39. The linear park and waterside park hereby approved shall be completed prior to the first occupation of any of the dwellings built as part of the residential phase of development hereby approved.

Reason: To ensure that the development is carried out in controlled phases ensuring that the different uses do not cause detriment to each other and the wider environment and ensuring that the necessary open space and leisure provision is provided to complement the residential element in accordance with Policies E1 and C3 of the Swale Borough Local Plan 2008.

- 2.02 The applicant seeks to remove this condition from the planning approval. The complete removal of this condition would effectively allow the developer to build the houses without providing the linear park and/or the waterside park. They justify this request by referring to the agreement by Members to modify the Section 106 agreement for the hybrid application and stating that the planning permission would then be consistent with the modified Section 106 agreement.
- 2.03 Members should note that despite the fact that the applicant is asking for condition 39 to be removed, it is within our remit to simply vary the condition if this would be more appropriate and we are also able to vary or remove other conditions pursuant to SW/11/0159 if it is reasonable and necessary to do so as a consequence of this application. I propose a varied wording to condition 39 below.

3.0 PLANNING CONSTRAINTS

Potential Archaeological Importance

Environment Agency Flood Zone 3

Section 106 or 52 Agreement

4.0 POLICY AND OTHER CONSIDERATIONS

The National Planning Policy Framework (NPPF)

National Planning Practice Guidance (NPPG)

Swale Borough Local Plan: E1 and C3

Emerging Local Plan – Bearing Fruits – Publication Version December 2014: DM14 & DM17

Supplementary Planning Documents: Developer Contributions 2009.

5.0 LOCAL REPRESENTATIONS

- 5.01 The Swale Footpaths Group ask that land is kept within the waterside park area, adjacent to Milton Creek, for a footpath that could be used as part of the Saxon Shore Way in the future.

6.0 CONSULTATIONS

- 6.01 The Open Spaces Manager:

“...while disappointing that the Linear Park could not be established prior to the development of the dwellings, the important consideration is that

ultimately green open space is provided to the new community and a buffer established between the new development and the already completed store.

As such I would accept anything that delivers this ultimate outcome.”

7.0 BACKGROUND PAPERS AND PLANS

Site location plan & covering letter.

8.0 APPRAISAL

Principle of Development

- 8.01 I set out above that although the applicant is seeking the removal of condition 39 of planning permission SW/11/0159, it is within our remit to vary the condition instead. As such, I recommend that Members agree to the variation of condition 39 which would read:

The linear park shall be completed prior to the occupation of 75% of the dwellings hereby approved.

Reason: To ensure that the development is carried out in controlled phases ensuring that the different uses do not cause detriment to each other and the wider environment and ensuring that the necessary open space and leisure provision is provided to complement the residential element.

- 8.02 This would effectively align the planning permission with the previously agreed modification to the Section 106 agreement. Extracts from the 20th November 2014 planning committee report are set out below:

“7.06....The developer has explained that they cannot complete the linear park prior to construction the housing. The drainage from the different phases of the housing development would run, at regular intervals, into a main drain running underneath the linear park. Due to the significant expense of the drainage, it can only be put in place in conjunction with each phase of the housing development. Therefore if the park were completed before the housing is constructed, all of the landscaping would have to be dug up at each drainage interval. This would be both impractical and expensive. I have asked the developer to provide more detailed information on the likely phasing of the housing development and how this will dictate the delivery of the linear park. Members may wish to give officers delegation to agree a timetable for the delivery of the linear park which would correlate with the phasing on the housing. I will update members at the meeting on this issue. Members may also be comforted to know that the developer is willing to erect a hoarding along Charlotte Street during construction in order to minimise disruption to the residents of this road, as well as for health and safety reasons.

7.07 The provision of the leisure building and heritage building was never required, under the existing section 106 agreement, to be developed prior to the housing. For clarity, Members will note that the requirements of the original S106 are set out a

2.02 of the report at Appendix A. With any development involving different buildings under the same planning application, there is no requirement to 'complete' the development i.e. build all of the buildings. This is unless there is a legal requirement to do so and there would have to be sound planning reasons for this, which I do not consider to be present in this case. However, it is still quite possible that the developer will proceed with the development of the leisure building and waterside park.

7.08 It is of course regrettable that the development is potentially not going to be built-out as envisaged under the original hybrid planning application SW/11/0159. However, the Morrisons development and housing development did not rely on the development of the leisure building, waterside park and heritage building to be acceptable in planning terms. I am of the view that the Morrisons and the housing development alone enhance Sittingbourne economically and socially and in this respect, I do not consider that the result for the Sittingbourne community is a negative one. Moreover, part of the waterside park has planning permission for a skate park and it is quite possible that other development will come forward on the remaining land in the near future. Members are also asked to give some consideration to the future planning application for the regeneration of Sittingbourne Town Centre which would offer a leisure use in the middle of the town."

- 8.03 The minutes of the 20th November 2014 meeting insofar as they are relevant to the current application area as follows:

"The Senior Planner reported that the Applicant had submitted a phasing plan which showed the phasing for the construction of the housing development. She explained that the linear park could not be implemented as one operation as there needed to be access to that area for drainage work throughout the construction phases. A base for the linear park could be started, but would not be able to be completed until the housing was completed."

- 8.04 It is clear to me from the above extracts that Members accepted the delay of the provision of the linear park under the modified Section 106 agreement. The applicant has since agreed that this delay can be tied to the occupation of 75% of the dwellings which I consider to be reasonable given the difficulties in its provision as explained to Members previously and set out above. In addition, it was made clear to Members (see above) that the provision of the waterside park cannot reasonably be tied to the housing development. Its provision as approved is becoming less likely now that the Skate park has outline planning permission and also now that we have a current application for the Barge Museum which is looking likely to be approved. Both of these developments would take place on the waterside park land. There would only be a small section of land left over if these developments do come forward. Members should also note that the agreed altered phasing for the hybrid permission has seen the waterside park pushed back to follow the completion of the linear park with no connection to the housing development therefore.
- 8.05 In the interests of ensuring consistency between decisions made by the planning committee as well as for the reasons set out above, I urge Members

to agree to my suggested modified wording as set out at paragraph 8.01 above.

Other Matters

8.06 Members should note that the conditions listed below are relevant to the original planning permission and have been re-ordered resulting in condition 39 of SW/11/0159 becoming condition 36. It is standard practice to repeat conditions as set out in the original planning permission where they are still relevant as, for technical reasons, by permitting this current application, it is as if a fresh permission were granted. I have also had to modify some of the conditions where subsequent planning applications have been approved for variations.

9.0 CONCLUSION

9.01 This application seeks to remove condition 39 from the hybrid application SW/11/0159. I have recommended that Members vary the condition instead so that it aligns with the modified section 106 agreement. This would ensure that the linear park is completed prior to 75% occupation of the dwellings as is the requirement of the modified Section 106 agreement. Members have already agreed to this modification as well as the altered phasing which would see the provision of the waterside park disconnected from the housing development. I therefore urge Members to grant planning permission for the varied condition as set out at paragraph 8.01 above.

10.0 RECOMMENDATION – GRANT Subject to the following conditions

(1) Details relating to the appearance of the proposed residential, leisure and heritage/cultural buildings and the landscaping of the areas surrounding these buildings (excluding the linear park and waterside park) shall be submitted to and approved by the Local Planning Authority before any development on that specific phase is commenced.

Reason: In pursuance of Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

(2) Application for approval of reserved matters referred to in Condition (1) above must be made not later than the expiration of three years beginning with the date of the grant of outline planning permission SW/11/0159.

Reason: In pursuance of Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

(3) The outline development to which this permission relates must be begun not later than the expiration of five years from the date of the grant of outline planning permission; or, on each phase of the development hereby approved, as set out in the application details, the development shall commence within two years of the date of the final approval of reserved matters for that same phase.

Reason: In pursuance of Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

- (4) The development hereby approved shall be carried out in accordance with the following approved drawings:

10-127/D5, 10-127/D6, 10-127/D7, 10-127/D8, 10-127/D9, 10-127/D12 rev. A, 10-127/D14, 10-127/D15, 10-127/D16, 10-127/D17, 10-127/D18, 10-127/D34 rev. B, 10-127/D36 rev. A, 10-127/D37 rev. A, D19 (W105266D02) rev. C, D30 A (W105266L05) rev. B, (D11) W105266L06 rev. A, 10-127/D2, 10-127/D3 rev A, 10-127/D1, D04 A (W105266L01) rev. H, D13 A (W105266L03) rev. B, 10-127/D10 rev. A, 0308 rev. A, 0302 rev. C, 307 rev. A, 5005, 1011, 10514/001, 0303, 0020, 0304 rev. B, 10-127/D32, D35 (W105266L04), D33 A (W105266D01) rev. D, D35 (W105266L04), W105266B03 & SK601 rev. B

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

- (5) The areas shown on the approved drawings as 'linear park' and 'play areas' shall be reserved for the general amenity of the area. Play spaces for the linear park, waterside park and the residential area shall be equipped with play equipment and any associated supporting engineering works, in accordance with a schedule to be agreed in writing by the Local Planning Authority, before the commencement of that respective phase of development, and shall be provided before the commencement of the use of that land and/or the occupation of the last dwelling depending on the particular phase of development. No permanent development whether permitted by the Town and Country Planning (General Permitted Development) Order 1995 or not shall be carried out in the areas so shown without the prior written approval of the Local Planning Authority.

Reason: To ensure that these areas are made available and provide the necessary play equipment in the interests of the residential amenities of the area.

- (6) Prior to the commencement of the housing and mill site public realm (linear park) phases, details of the public art to be installed within the application site shall be submitted to the Local Planning Authority for approval in writing and shall be implemented in accordance with the approved details within 6 months of the completion of the phase of development within which it sits.

Reason: In the interests of the visual amenities of the site.

- (7) Prior to the commencement of each respective phase of the development hereby approved, full details of both hard and soft landscape works shall be submitted to and approved in writing by the Local Planning Authority. These details shall include existing trees, shrubs and other features, planting schedules of plants, noting species, plant sizes and numbers where

appropriate, means of enclosure, hard surfacing materials, and an implementation programme.

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

- (8) Samples of the finishing materials to be used in the construction of the residential, leisure and heritage/cultural buildings hereby approved shall be submitted under condition (1) above and shall be implemented in accordance with the approved details.

Reason: In the interest of visual amenity.

- (9) No dust or fume extraction or filtration equipment, or air conditioning, heating or ventilation equipment shall be installed on the foodstore or petrol filling station until full details of its design, siting, discharge points and predicted acoustic performance have been submitted to and approved by the Local Planning Authority.

Reason: To safeguard the amenities of nearby residential properties.

- (10) Within the residential site, the proposed estate road, footways, footpaths, verges, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, vehicle overhang margins, embankments, visibility splays, accesses, carriageway gradients, driveway gradients, car parking and street furniture, as appropriate, shall be constructed and laid out in accordance with details to be submitted at the reserved matters stage and approved by the Local Planning Authority in writing before their construction begins and in accordance with a schedule of house completion and an implementation programme for the agreed works, also to be submitted to the Local Planning Authority for approval in writing.

Reason: To ensure that the roads are constructed and laid-out in a satisfactory manner in the interests of highway safety and amenity.

- (11) Prior to the commencement of the residential and leisure building phases of the development hereby approved, details of covered secure cycle parking facilities shall be submitted to the Local Planning Authority before each respective phase of development for approval in writing and the approved facilities shall be provided prior to the occupation or first use of the leisure building and residential units respectively hereby approved and shall be retained in perpetuity.

Reason: To ensure that there is sufficient cycle parking at the site in the interests of sustainable development.

- (12) Prior to the commencement of development hereby approved, details shall be submitted to the Local Planning Authority and approved in writing, which set out what measures have been taken to ensure that the development incorporates sustainable construction techniques such as water conservation

and recycling, renewable energy production including the inclusion of solar thermal or solar photo voltaic installations, and energy efficiency. Upon approval, the details shall be incorporated into the development as approved.

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

- (13) The leisure and heritage buildings hereby approved shall be constructed to BREEAM 'Very Good' Standard or an equivalent standard and prior to the use of the building the relevant certification shall be submitted to the Local Planning Authority confirming that the required standard has been achieved.

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

- (14) The electric car charging points provided within the car park to the foodstore hereby approved shall be retained in good working order in perpetuity.

Reason: To ensure the scheme provides for electric charging points for vehicles and in the interests of promoting sustainable development.

- (15) The approved (under SW/11/0159) renewable and carbon saving technologies within the foodstore shall be retained in perpetuity.

Reason: To ensure the development adheres to an energy strategy in providing 10% on-site energy generation from renewable sources.

- (16) Prior to the commencement of the development of the residential element of the proposal, full details of how the development will meet the principles of 'Secure by Design' shall be submitted to the Local Planning Authority for approval in writing and shall be implemented in accordance with the approved details.

Reason: In the interests of public amenity and safety.

- (17) Prior to the commencement of each phase of development, details of the measures to be taken in the diversion and protection of the public sewers and water supply mains shall be submitted to the Local Planning Authority for approval in writing and these measures shall be implemented in accordance with the approved details.

Reason: In the interests of the protection of Southern Water apparatus.

- (18) The development hereby approved shall be carried out in accordance with the approved Flood Risk Assessment (prepared by RSK Group PLC – dated February 2011) under planning permission SW/11/0159 and the following mitigation measures as partially detailed within:

- a. The minimum finished floor levels for all living accommodation shall be in accordance with those outlined in Section 10.1 of the approved FRA (chapter 7 paras. 7.6.2, 7.6.3, and 7.6.4 of the ES).
- b. A flood warning device and Flood Plan shall be established at/for the wharf site as detailed in Chapter 7, paragraphs 7.6.8 and 7.6.9 of the submitted Environmental Statement.
- c. Prior to the commencement of each phase of development a sustainable surface water drainage scheme for the site shall be submitted to, and approved in writing by the Local Planning Authority. Such details should demonstrate that the surface water run-off generated by rainfall event (up to and including the climate change adjusted 100yr critical storm) will not exceed the run-off from the existing site. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed.
- d. All appropriate flood resilience measures, as outlined within Section 10.2 of the approved FRA, shall be approved in writing by the Local Planning Authority and incorporated into the design of all buildings on the lower parts of the site (areas to be agreed with the Local Planning Authority).

Reason: To reduce the impact of flooding on the proposed development and future occupants, to prevent the increased risk of flooding, to improve and protect water quality, improve habitat and amenity, and ensure future maintenance of the surface water drainage system.

- (19) Prior to the commencement of each phase of development hereby approved, full details of the method of disposal of foul and surface waters as part of a detailed drainage strategy for that phase shall be submitted to and approved by the Local Planning Authority. This drainage strategy should be based on SuDS principle, taking full account of the potential tide-locking of the outfall and also ensure that the 'first flush' principle can be accommodated to protect the water quality of the adjacent watercourses. A drainage Infrastructure Maintenance Plan should be incorporated into the strategy which should set out the information and procedures the owners/operators of the development will adhere to. The approved details shall be implemented before the first use of the development hereby permitted.

Reason: In order to prevent pollution of water supplies.

- (20) Ground Source Heat Pump systems using penetrative methods shall not be permitted other than with the express consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to groundwater. The development shall be carried out in accordance with the approved details.

Reason: To prevent pollution of groundwater within the underlying principle aquifer within Source Protection Zone 1.

- (21) Prior to the commencement of each phase of the development hereby approved, the following components of a scheme to deal with the risks

associated with contamination of the site to which that phase relates shall each be submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented as approved.

- a. A preliminary risk assessment which has identified: all previous uses; potential contaminants associated with those uses; a conceptual model of the site indicating sources; pathways and receptors and; potentially unacceptable risks arising from contamination at the site.
- b. A site investigation scheme based on (a) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
- c. The results of the site investigation and detailed risk assessment referred to in (b) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
- d. A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (c) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangement for contingency action.

Reason: To ensure development addresses potential risks to groundwater within the underlying principle aquifer within Source Protection Zone 1.

- (22) Upon completion of the works identified in the contaminated land assessment as set out above, and before any part or agreed phase of the development is occupied, a closure report shall be submitted which shall include details of the proposed remediation works with quality assurance certificates to show that the works have been carried out in accordance with the approved methodology. Details of any post-remediation sampling and analysis to show the site has reached the required clean-up criteria shall be included in the closure report together with the necessary documentation detailing what waste materials have been removed from the site.

Reason: To ensure any contaminated land is adequately dealt with.

- (23) Piling or any other foundation design using penetrative methods shall not be permitted other than with the express written consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to groundwater. The method and hours of piling shall also be previously agreed in writing by the Local Planning Authority prior to the commencement of development. The development shall be carried out in accordance with the approved details.

Reason: To ensure development is carried out using appropriate techniques to prevent contamination of land and groundwater. The site is underlain by a principle aquifer and is located in Source Protection Zone 1.

- (24) The surface water management from the petrol filling station approved under SW/11/0159 shall be retained.

Reason: To ensure the surface water run off is safe where it will not potentially pollute other areas of the site.

- (25) Prior to the commencement of any works to the waterside park, a black redstart survey must be carried out as specified within the ecological scoping survey submitted with this application and if black redstarts are identified as breeding on site, a mitigation strategy shall be submitted to the Local Planning Authority for approval in writing and shall be carried out in accordance with the approved details.

Reason: In the interests of the protection of breeding black redstarts at the site.

- (26) Prior to the commencement of each separate phase of development (as set out in the application documents) hereby approved, a report demonstrating how the proposal on that specific phase will incorporate measures to encourage and promote biodiversity and wildlife, shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with those approved details and shall thereafter be retained.

Reason: In the interests of promoting wildlife and biodiversity and wildlife in urban areas.

- (27) Prior to the commencement of any works to the waterside park and leisure building, a detailed lighting strategy for the waterside park taking account of bats or their breeding sites or resting places shall be submitted to, and approved in writing by the Local Planning Authority. At the same time, details of crevices for bats within the proposed leisure and heritage buildings or bat bricks or boxes shall also be submitted to the Local Planning Authority for approval in writing. All works shall then proceed in accordance with the approved strategy and retained as such.

Reason: In the interest of protecting the local bat population.

- (28) Prior to the commencement of any works to the waterside park a detailed lighting strategy for the waterside park taking account of reptiles or their habitat shall be submitted to, and approved in writing by the Local Planning Authority. All works shall then proceed in accordance with the approved strategy and retained as such.

Reason: In the interest of protecting the local bat population.

- (29) Prior to the commencement of development hereby approved, the applicant, or their agents or successors in title, shall secure the implementation of:

(1) archaeological field evaluation works in accordance with a specification and written timetable which has been submitted to and approved in writing by the Local Planning Authority; and

(2) Following on from the evaluation, any safeguarding measures to ensure preservation in situ of important archaeological remains and/or further archaeological investigation and recording in accordance with a specification and timetable which has been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure appropriate assessment of the archaeological implications of any development proposals and the subsequent mitigation of adverse impacts through preservation in situ or by record.

(30) Prior to the commencement of each phase of development hereby approved, details of foundation designs and any other proposals involving below ground excavation shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

Reason: To ensure that due regard is had to the preservation in situ of important archaeological remains.

(31) The remaining historic boundary marker that originates from the mill site shall be incorporated into the development in a way and in a location to be previously agreed in writing by the Local Planning Authority. The reinstatement of this boundary marker shall take place in accordance with a timetable to be agreed in writing by the Local Planning Authority.

Reason: In the interests of the historic value of the site.

(32) No construction work in connection with the development shall take place on any Sunday or Bank Holiday, nor on any other day except between the following times:-

Monday to Friday 0730 – 1900 hours, Saturdays 0730 – 1300 hours unless in association with an emergency or with the prior written approval of the Local Planning Authority.

Reason: In the interests of residential amenity.

(33) Prior to the commencement of each phase of the development a Construction and Environmental Method Statement/Management Plan for that specific phase shall be submitted to and approved in writing by the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period. This shall include details relating to:

- The control of noise and vibration emissions from construction activities including groundwork and the formation of infrastructure, along with arrangements to monitor noise emissions from the development site during the construction phase;
- The loading and unloading and storage of plant and materials on site;
- The erection and maintenance of security hoardings including decorative displays and facilities for public viewing, where appropriate;

- The control and suppression of dust including arrangements to monitor dust emissions from the development site during the construction phase;
- Measures for controlling pollution/sedimentation and responding to any spillages/incidents during the construction phase;
- Measures to control mud deposition off-site from vehicles leaving the site;
- The control of surface water drainage from parking and hard-standing areas including the design and construction of oil interceptors (including during the operational phase);
- The use, if any, of impervious bases and impervious bund walls for the storage of oils, fuels or chemicals on-site;
- The location and size of temporary parking and details of operatives and construction vehicle loading, off-loading and turning and personnel, operatives and visitor parking;
- Phasing of the development;
- The method of piling to be used and;
- Any other information as set out in chapter 9 paragraphs 9.7.2, 9.7.3 and 9.7.4 of the Environmental Statement submitted with this application.

Reason: To ensure the development does not prejudice conditions of residential amenity and highway safety and convenience through adverse levels of air pollution, noise and disturbance during construction.

- (34) No piling work that may be associated with the construction of the waterside park shall take place within the over-wintering bird season (October-February inclusive) and no impact pile driving in connection with the whole development shall take place on site on any Saturday, Sunday or Bank Holiday or on any other day except between the following times: Monday to Friday 0900 – 1700 hours unless in association with an emergency or with the prior written approval of the Local Planning Authority.

Reason: To reduce noise disturbance to any SPA interest birds using habitats along Milton Creek and in the interests of residential amenity.

- (35) No site clearance work shall take place at the wharf site during the bird breeding season without the written consent of the Local Planning Authority.

Reason: To reduce disturbance to any SPA interest birds using habitats along Milton Creek.

- (36) The linear park shall be completed prior to the occupation of 75% of the dwellings hereby approved.

Reason: To ensure that the development is carried out in controlled phases ensuring that the different uses do not cause detriment to each other and the wider environment and ensuring that the necessary open space and leisure provision is provided to complement the residential element.

- (37) All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation/use

of any part of the development on each phase or in accordance with the programme agreed in writing with the Local Planning Authority.

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

- (38) Upon completion of the approved landscaping scheme, any trees or shrubs that are removed, dying, being severely damaged or becoming seriously diseased within five years of planting shall be replaced with trees or shrubs of such size and species as may be agreed in writing with the Local Planning Authority, and within whatever planting season is agreed.

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

- (39) Upon completion of the residential properties hereby approved, no further development, whether permitted by Classes A, B, C, D or E of Part 1 of Schedule 2 to the Town and Country Planning (General Permitted Development) Order 1995 (as amended) (or any order revoking and re-enacting that Order) or not, shall be carried out.

Reason: In the interests of the residential amenities.

- (40) Notwithstanding the provisions of Class A, Part 2, Schedule 2 to the Town and Country Planning (General Permitted Development) Order 1995 (as amended), no gates, fences, walls or other means of enclosure shall be erected or provided in advance of any wall or any dwelling within the residential element of the development that fronts on a highway.

Reason: In the interests of residential amenity.

- (41) The amenity area to the rear of the blocks of flats as shown on the approved plans shall be retained for use by the residents of all the flats within that corresponding block in perpetuity.

Reason: In the interests of residential amenity.

- (42) A 1.8 metre high close-boarded fence shall be provided and maintained between the boundaries of the private amenity space or communal amenity space to the rear of the blocks of flats, of the residential properties hereby approved prior to the completion of the development hereby permitted.

Reason: In the interests of residential amenity.

- (43) The residential properties highlighted within the submitted Noise Assessment contained within the Environmental Statement under SW/11/0159 as falling within Noise Exposure Category C of Planning Policy Guidance Note 24 – Planning and Noise and those properties fronting Church Street shall be provided with double glazing not less than 6/12/10mm prior to their first occupation.

Reason: In the interest of the residential amenities.

- (44) The retail store hereby approved shall be permanently restricted to a total net floorspace area of 3,440 square metres which shall be dedicated for the sale of convenience goods with the exception of the sale of comparison goods which shall not exceed 20% of this area. For the avoidance of doubt, the total net sales area excludes the following areas: café, lobby area, check-outs, food preparation and other ancillary areas which are not used for the sale of convenience and comparison goods.

Reason: To ensure the retail development and its comparison goods offer remain controlled in order that it does not prejudice the viability and vitality of Sittingbourne town centre and its High Street.

- (45) No ancillary or concessionary units whether independent of the operator of the permitted foodstore or not, including post office, pharmacy, dry cleaners, photo-processing or retail concessions can be introduced within the store.

Reason: To ensure the retail development and its comparison goods offer remain controlled in order that it does not prejudice the viability and vitality of Sittingbourne town centre and its High Street.

- (46) The use of the foodstore hereby permitted shall be restricted to the hours of 7 am to 11 pm Monday to Saturday and 10 am to 6pm on Sundays and Bank Holidays.

Reason: In the interests of residential amenities.

- (47) No deliveries to the foodstore or Petrol Filling Station shall take place outside the times of 6am and 11pm Mondays to Saturdays and 8am and 6pm on Sundays and Bank Holidays.

Reason: In the interests of residential amenities.

- (48) The leisure building hereby approved shall be used for the purpose of leisure and assembly falling within Use Class D2 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended).

Reason: In the interests of the amenities of the area and highway safety and convenience.

- (49) Notwithstanding Section 55 of the Town and Country Planning Act 1990 (as amended) no additional floor space in the form of an addition to the mezzanine floor within the leisure unit shall be provided.

Reason: In order to reduce the potential for the intensification of use of the site and in the interests of highway safety and amenity.

- (50) The use of the car wash to the petrol filling station hereby permitted shall be restricted to the hours of 7 am to 7 pm on weekdays and Saturdays, and shall be restricted to the hours of 9am to 6pm on Sundays and Bank Holidays.

Reason: In the interests of the protection of the amenities of local residents.

- (51) The petrol filling station hereby permitted shall not be open to customers outside the following times: 0600 to 00:00 Monday to Saturday and 0800 to 2000 on Sunday.

Reason: To ensure the unit operation does not prejudice conditions of residential amenity at night time hours.

- (52) The areas within the residential land shown on the submitted plans as car parking and turning space shall be kept available for such use at all times and no permanent development, whether permitted by the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking or re-enacting that Order) or not, shall be carried out on the land so shown or in such a position as to preclude vehicular access thereto; such land and access thereto shall be provided prior to the occupation of the dwelling(s) hereby permitted.

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

- (53) The area shown on the submitted plan as 'service yard' and 'car park' for the foodstore and leisure building shall be used for or be available for such use at all times when the premises are in use and no development, whether permitted by the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking or re-enacting that Order) or not, shall be carried out on that area of land or in such a position as to preclude vehicular access to this reserved area; such land and access thereto shall be provided prior to the commencement of each separate the use hereby permitted.

Reason: The development without the provision of the loading, off-loading and parking space would be detrimental to amenity and likely to lead to inconvenience and danger to road users by virtue of vehicles parked on the public highway amenity.

- (54) The mitigation measures for breeding birds and the mitigation measures to prevent surface water run-off as set out in the Environmental Statement (chapter 5 para 5.7.7 and 5.7.8) submitted under SW/11/0159 shall be implemented in accordance with these details.

Reason: In the interests of the protection of birds using the creek and the protection of creek water that connects to inter-tidal habitats.

- (55) The mitigation measures as set out within the submitted reptile method statement (August 2011) submitted under SW/11/0159 shall be fully implemented or in accordance with a revised scheme to be previously agreed in writing by the Local Planning Authority.

Reason: In the interests of the protection of reptile at the site.

- (56) The invertebrate enhancements as set out within the Environmental Statement (ch 5 para 5.7) submitted under SW/11/0159 shall be implemented in full unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of the protection of the habitat for invertebrates.

Informative:

1. The applicant is advised to carefully consider the information contained within Natural England's letter of 11th April 2011 in respect of the information about licenses.
2. The Milton Creek is a 'main river', therefore under the Water Resources Act 1991 and associated byelaws, the consent of the Environment Agency is required prior to the carrying out of certain works. The applicant is advised to refer to the Environment Agency's letter of 21st April 2011 for further details or this and further information about surface water drainage, the storage of fuels/chemicals and the protection of ground waters.
3. The installation of Automated Teller Machines (ATM) within the site should be installed in accordance with the ATM Working Group Guidelines.

The Council's approach to this application:

In accordance with paragraphs 186 and 187 of the National Planning Policy Framework (NPPF), the Council takes a positive and proactive approach to development proposals focused on solutions. We work with applicants/agents in a positive and proactive manner by:

Offering pre-application advice.

Where possible, suggesting solutions to secure a successful outcome.

As appropriate, updating applicants/agents of any issues that may arise in the processing of their application.

In this instance:

The application was acceptable as submitted and no further assistance was required.

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

NB For full details of all papers submitted with this application please refer to the relevant Public Access pages on the council's website.
The conditions set out in the report may be subject to such reasonable change as is necessary to ensure accuracy and enforceability.

2.10 REFERENCE NO - 14/504619/FULL		
APPLICATION PROPOSAL Demolition of existing structures and erection of a restaurant/public house, Associated residential accommodation, car park, access, landscaping and ancillary works.		
ADDRESS Macknade Garden Centre Canterbury Road Faversham Kent ME13 8LX		
RECOMMENDATION- Grant subject to conditions		
SUMMARY OF REASONS FOR RECOMMENDATION The proposal is in line with local and national planning policies.		
REASON FOR REFERRAL TO COMMITTEE Number of objections received.		
WARD Watling	PARISH/TOWN Faversham	COUNCIL APPLICANT Marston's Plc AGENT Mr Alan Hughes
DECISION DUE DATE 10/12/14	PUBLICITY EXPIRY DATE 03/09/15	

RELEVANT PLANNING HISTORY

SW/13/0262- proposed motor vehicle showroom with linked valeting facility - withdrawn.

SW/10/1238- proposal for 4 retail units - approved.

SW/10/0742- proposed retail development - withdrawn.

SW/09/1297- change of use from garden centre to hand car wash - refused.

SW/09/0525- change of use from garden centre to hand car wash - refused.

SW/00/1102- outline application for A3 restaurant with associated parking and access alterations - refused.

SW/82/0912- display of garden and house plants and sundries in poly tunnel house, covered walkway and check out area - approved.

SW/81/1165- change of use to garden centre - approved.

SW/78/1159- erection of single storey builder's offices - refused.

SW/78/1158- erection of showroom for sale of motor vehicles - refused

SW/78/1157- erection of 3 residential units - approved.

1.0 DESCRIPTION OF SITE

1.01 The site is currently vacant and was most recently used illegally as a hand car wash facility. The former garden centre ceased trading some years ago. The site is located on the junction of Canterbury Road and Selling Road and

measures approximately 0.31 hectares. The site currently comprises a small cluster of derelict buildings and some vegetation.

- 1.02 The site lies within the designated countryside and outside of the designated built-up area of Faversham. The site lies adjacent to grade 2 listed Macknade Manor with an historic walled garden, currently used a restaurant located to the west of the application site. Part of the high boundary wall to the walled garden is located on the western boundary of the site, and this listed wall is in a state of disrepair.
- 1.03 Located on the other side of the A2 (to the north of the site) is a petrol filling station with a large forecourt. Situated to the east of the application site is a large car park serving the Macknade farm shop/café. Located to the south and west of the site is a cluster of buildings used for a mix of residential and farm uses, including Macknade Farm which comprises two grade II listed oast buildings.
- 1.04 The existing access to the site is via an access off Selling Road, south of its junction with Canterbury Road (A2).

2.0 PROPOSAL

- 2.01 Planning permission is sought for the demolition of the existing structures and erection of a restaurant/public house, associated residential accommodation, car park, access, landscaping and ancillary works.
- 2.02 The proposed building comprises approximately 528 square metres floorspace at ground floor and an associated manager's flat at first floor comprising approximately 129 square metres. The proposal also includes a terrace area to be used by the customers, a garden with children's play area, 51 car parking spaces (2 disabled spaces) and 6 cycles-stands.
- 2.03 The proposal seeks to cater for approximately 150 covers and will be operated by Marston's.
- 2.04 The existing access off Selling Road will be used and it is proposed to run a new second pedestrian access from Canterbury Road to provide connectivity to the proposed building's main entrance.
- 2.05 The small triangular-shaped area of land to the immediate north-east of the site is in separate ownership, but the agent has confirmed that subject to the owner's agreement, landscaping is proposed in this location to complete the overall development plot.
- 2.06 I am awaiting confirmation of the intended hours of operation; however the applicant has submitted a license application for the following hours:

Monday- Thursday 10am to Midnight
Friday 10am to 1am
Saturday 10 and to 1am

Sunday 10am to midnight

2.07 The application is supported by the following reports;

- Planning Statement
- Design and Access Statement
- Geo-Environmental Report
- Energy Recovery Statement
- Noise Assessment
- Archaeological Desk-Based Assessment
- Arboricultural Implications Assessment
- Transport Statement

2.08 The agent has prepared a detailed Planning Statement which address comprehensively the guidance contained within the NPPF in relation to the Sequential Test for town centre uses. The sequential test makes the following summarised comments:

- Marston's do not operate any public houses within Faversham. The nearest Marston's public house is The Jenny Wren, located in Sittingbourne around 9 miles from Faversham
- The way that the proposed Marston's format operates is distinctly different to town centre public houses and restaurants
- A customer is unlikely to break or cancel their trip to a town centre (with its physical availability and variety of public houses and restaurants) to visit the proposed Marston's instead
- The business model characteristics of the proposed family public house/restaurant and associated requirements means it is not a facility that can readily be provided within a town centre setting because of e.g physical constraints of town centre locations, existing vacant units being unsuitable, the need for on-site parking, servicing requirements and road frontage to enable visibility
- Locating the low density proposal in a town centre may pose design challenges in terms of integrating the Marston's format into a town centre setting e.g dense urban form, streetscape or potential impact on heritage assets
- The town centre is not an appropriate location for the type of pass-by visitor Marston's is seeking to attract i.e. those already on the main road network
- The proposed public house/restaurant at the Former Macknade Garden Centre is sought to cater for a different catchment and type of customer than those catered for within the town centre
- The agent has analysed Faversham Town Centre for sequentially preferable sites- there are no other designated centres in close proximity to the application site
- Primary search of area focused on in/edge of centres sites of a suitable size to accommodate the proposal

- Recent High Court decision judge refers to the Dundee Supreme Court decision (Tesco Stores Ltd v Dundee city Council to highlight the need for a sequential approach to be carried out in the real world and that the sequential approach should address the question of *'whether an alternative site is suitable for the proposed development, not whether the proposed development can be altered or reduced so that it can be made to fit an alternative site'*.
- Marston's are seeking opportunities to provide 150/180 cover pub/restaurants aimed at the family eating market and drawing from local and pass-by business and tourist markets
- Easy access by car and prominence to the road network is key to the success of this model
- Minimum size requirement is approximately 0.3ha
- The managers residential accommodation is a key element to the scheme
- In terms of the sequential test the agent has considered a minimum site size of 0.3ha
- Site search was carried out in July 2014 for vacant, under-used and actively marketed sites within and on the edge of Faversham town centre
- A number of development sites have been identified on the edge of Faversham town centre within the Swale Borough Local Plan Policies Map- these are large sites and identified for either housing or employment development
- 11 vacant units were identified within the town centre- the units varied in size from 60 square metres to 330 square metres. No suitably sized vacant units were available
- No potential edge of town centres sites were identified to be suitable in terms of the proposed use, short term availability and site size
- An impact assessment is only required for proposals exceeding 2,500 square metres gross of floorspace unless a different locally appointed threshold has been set by the LPA- Swale does not have a local threshold and therefore an impact assessment is not required as the proposal proposes 585 square metres of floorspace
- Faversham Town Centre contains seven public houses
- Likely to be a very limited overlap with existing provision in the town centre
- The existing public houses are predominantly 'wet' pubs which contrast with Marston's food orientated offer
- There is therefore a quantitative need for more restaurant/public house provision in Faversham and the wider area, in excess of that which will be met by Marston's
- The very different function of the town centre provision will limit competition with the Marston's proposal
- The proposal will have a minimal impact on existing, committed and planned public and private investment in the town centre and a minimal impact on town centre vitality and viability, choice and trade

2.09 Following meetings with the applicant’s significant improvements have been made to the original submission which includes the following:

- Re-positioning the building further back on the site and straight on with Canterbury Road boundary
- Major revisions to the scheme in terms of design approach- more of a barn style building similar to what was previously approved for the retail units
- Set back of terrace area to allow for greater and more appropriate landscaping along the front boundary with Canterbury Road (A2)
- Increased areas of landscaping especially along the front boundary of the site
- Greater articulation between main two storey element and west ‘side’ extension
- Clarification on impact on listed walled garden wall
- Reduced ground floor level window size to ‘side’ extensions
- Boarding on 2 storey element extended to ground floor window cill level
- Boarding above first floor level cill is to be vertical between windows, with horizontal below, and above on gable ends
- Monopitch roof over covered yard expressed as a gable feature facing Macknade Manor with rearrangement of yard area

3.0 SUMMARY INFORMATION

	Existing	Proposed	Change (+/-)
No. of Storeys	1	2	+1
Parking Spaces	0	51	+51

4.0 PLANNING CONSTRAINTS

Potential Archaeological Importance

Adjacent to listed buildings and listed wall.

Countryside location.

5.0 POLICY AND OTHER CONSIDERATIONS

5.1 Swale Borough Local Plan Policies- FAV1 (The Faversham and Rest of Swale Planning Area), SH1 (Settlement Hierarchy), E1 (General Development Criteria), E6 (The Countryside), E14 (Listed buildings), E16 (Archaeological sites), E19 (Achieving high quality design and distinctiveness), B5 (Existing and New Tourist Attractions and Facilities), C1 (Existing and new community facilities), T1 (Safe access for new development), T3 (Vehicle Parking for New Development) and T4 (Cyclists and Pedestrians).

5.2 National Planning Policy Framework Paragraphs 14, 17, 24 and guidance contained within the National Planning Practice Guidance.

Paragraph 14 states that:

At the heart of the National Planning Policy Framework is a **presumption in favour of sustainable development**, which should be seen as a golden thread running through both plan-making and decision-taking.

For **plan-making** this means that:

- local planning authorities should positively seek opportunities to meet the development needs of their area;
- Local Plans should meet objectively assessed needs, with sufficient flexibility to adapt to rapid change, unless:
 - any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or
 - specific policies in this Framework indicate development should be restricted.

For **decision-taking** this means:

- approving development proposals that accord with the development plan without delay; and
- where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:
- any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or
- specific policies in this Framework indicate development should be restricted.

Paragraph 17 states that (extract):

'proactively drive and support sustainable economic development to deliver the homes, business and industrial units, infrastructure and thriving local places that the country needs. Every effort should be made objectively to identify and then meet the housing, business and other development needs of an area, and respond positively to wider opportunities for growth. Plans should take account of market signals, such as land prices and housing affordability, and set out a clear strategy for allocating sufficient land which is suitable for development in their area, taking account of the needs of the residential and business communities;

- *always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings;*
- *take account of the different roles and character of different areas, promoting the vitality of our main urban areas, protecting the Green Belts around them, recognising the intrinsic character and beauty of the countryside and supporting thriving rural communities within it;*
- *encourage the effective use of land by reusing land that has been previously developed (brownfield land), provided that it is not of high environmental value;*

- *conserve heritage assets in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of this and future generations'*

Paragraph 24 states that:

'Local planning authorities should apply a sequential test to planning applications for main town centre uses that are not in an existing centre and are not in accordance with an up-to-date Local Plan. They should require applications for main town centre uses to be located in town centres, then in edge of centre locations and only if suitable sites are not available should out of centre sites be considered. When considering edge of centre and out of centre proposals, preference should be given to accessible sites that are well connected to the town centre. Applicants and local planning authorities should demonstrate flexibility on issues such as format and scale.'

Paragraph 26 states that:

'When assessing applications for retail, leisure and office development outside of town centres, which are not in accordance with an up-to-date Local Plan, local planning authorities should require an impact assessment if the development is over a proportionate, locally set floorspace threshold (if there is no locally set threshold, the default threshold is 2,500 sq m). This should include assessment of:

- *the impact of the proposal on existing, committed and planned public and private investment in a centre or centres in the catchment area of the proposal; and*
- *the impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and wider area, up to five years from the time the application is made. For major schemes where the full impact will not be realised in five years, the impact should also be assessed up to ten years from the time the application is made.'*

5.3 Planning Practice Guidance

The National Planning Practice Guidance provides more specific advice in relation to 'Ensuring the vitality of town centres' and provides the following guidance:

'The National Planning Policy Framework sets out two key tests that should be applied when planning for town centre uses which are not in an existing town centre and which are not in accord with an up to date Local Plan – the sequential test and the impact test. These are relevant in determining individual decisions and may be useful in informing the preparation of Local Plans.

The sequential test should be considered first as this may identify that there are preferable sites in town centres for accommodating main town centre uses (and therefore avoid the need to undertake the impact test). The sequential test will identify development that cannot be located in town centres, and which would then be subject to the impact test. The impact test

determines whether there would be likely significant adverse impacts of locating main town centre development outside of existing town centres (and therefore whether the proposal should be refused in line with policy). It applies only above a floorspace threshold as set out in paragraph 26 of the National Planning Policy Framework.

It may not be possible to accommodate all forecast needs in a town centre: there may be physical or other constraints which make it inappropriate to do so. In those circumstances, planning authorities should plan positively to identify the most appropriate alternative strategy for meeting the need for these main town centre uses, having regard to the sequential and impact tests. This should ensure that any proposed main town centre uses which are not in an existing town centre are in the best locations to support the vitality and vibrancy of town centres, and that no likely significant adverse impacts on existing town centres arise, as set out in paragraph 26 of the National Planning Policy Framework.

The sequential test guides main town centre uses towards town centre locations first, then, if no town centre locations are available, to edge of centre locations, and, if neither town centre locations nor edge of centre locations are available, to out of town centre locations, with preference for accessible sites which are well connected to the town centre. It supports the viability and vitality of town centres by placing existing town centres foremost in both plan-making and decision-taking.

It is for the applicant to demonstrate compliance with the sequential test (and failure to undertake a sequential assessment could in itself constitute a reason for refusing permission). Wherever possible, the local planning authority should support the applicant in undertaking the sequential test, including sharing any relevant information. The application of the test should be proportionate and appropriate for the given proposal. Where appropriate, the potential suitability of alternative sites should be discussed between the developer and local planning authority at the earliest opportunity.

The checklist below sets out the considerations that should be taken into account in determining whether a proposal complies with the sequential test:

- with due regard to the requirement to demonstrate flexibility, has the suitability of more central sites to accommodate the proposal been considered? Where the proposal would be located in an edge of centre or out of centre location, preference should be given to accessible sites that are well connected to the town centre. Any associated reasoning should be set out clearly.*
- is there scope for flexibility in the format and/or scale of the proposal? It is not necessary to demonstrate that a potential town centre or edge of centre site can accommodate precisely the scale and form of development being proposed, but rather to consider what contribution more central sites are able to make individually to accommodate the proposal.*

- *if there are no suitable sequentially preferable locations, the sequential test is passed.*

In line with paragraph 27 of the National Planning Policy Framework, where a proposal fails to satisfy the sequential test, it should be refused. Compliance with the sequential and impact tests does not guarantee that permission is granted – local planning authorities will have to consider all material considerations in reaching a decision.

The impact test only applies to proposals exceeding 2,500 square metres gross of floorspace unless a different locally appropriate threshold is set by the local planning authority.'*

6.0 LOCAL REPRESENTATIONS

6.1 Twenty one letters of objection to the application have been received making the following summarised comments:

- The choice of a Marstons Two for One public house and eatery is clearly the wrong one in this particular position
- This proposal is very different to SW/10/1238- 4 retail units and the approved scheme should not set a precedent for this scheme now proposed
- This proposal would take business away from the public houses in the town, town centre pubs are likely to lose trade
- The building would dominate the approach from the southern side of Faversham
- The proposal could be located in a less sensitive area within Faversham- away from listed buildings
- The current state of the site should not mean that inappropriate development should take place on this site
- Another Marston's Pub is not necessary- there are 2 already located within 8 miles of the application site
- The impact on the listed residential Coach House would be dramatic- sunlight would be obscured
- Loss of sunlight to the walled kitchen garden at Macknade Manor
- Located in close proximity to a number of listed buildings
- Impact on amenity due to noise generation from the kitchen extractors
- Concerns about lack of parking spaces- possibly causing highway safety concerns
- Noise from staff leaving the premises
- Concerned that the staff numbers provided are not a true reflection on actual staff numbers needed for a 150 cover restaurant
- Noise created from numerous refuse collections, deliveries to the site, bottle collection- conditions are required to address these
- Concerned about odour and visual impacts from the proposed elevated pergola- it would also attract noisy smokers
- Normally residential accommodation is resisted south of the A2, in this case a managers flat is proposed

- Visitors and staff unlikely to use public transport especially if leaving the site later in the evening
- No details of sewage treatment for the site has been provided
- Concerned that Selling Road cannot cope with this extra traffic
- Concerned about site levels
- The setting of Macknade Manor as a heritage asset should be a prime consideration
- Impact on the investment potential of an established business (Reads Restaurant)
- Severe adverse impact on the amenity of local residents and the hotel guests of Macknade Manor
- Customers may use the adjacent car park at Macknade Fine Foods
- There is no business case for adding yet another public house to Faversham
- Site should be used for offices or housing
- This site is set within a rural setting
- This large modern building will be out of keeping with the existing streetscene of the area
- The extension to Macknades Fine Foods and the Love Lane development will already increase traffic on the A2- the surrounding infrastructure will not be able to cope with the additional volume of traffic
- Scale and style of the development is not in keeping with the rural nature of the Faversham environment
- Concerned that the stability of the listed wall
- Concerned about the proposed site levels- the building will be substantially higher than the natural site levels
- Tranquil setting of Macknade Manor and its setting would be compromised especially for guests
- Amenity impact and loss of privacy to the Coach House
- Noise generated by the car park is not assessed in the noise survey
- Site levels should be used to mitigate the noise and visual impacts of the scheme on the adjacent dwelling and Reads restaurant with guest rooms
- The building would be visible from the wider views of Macknade Manor
- Concerned about the hours of operation and the resulting impact of the late hours of operation on the site

6.2 Two letters of no objection or support have been received making the following summarised comments:

- Site has previously been a petrol filling station and then a busy garden centre
- The vacant site is an eyesore
- Landscaping would improve the site

6.3 The Faversham Society does not object to this application in principle. However, they suggest that alterations may be required to the junction and that these could be the subject of a Section 106 Agreement.

7.0 CONSULTATIONS

- 7.01 Faversham Town Council raises no objection to the proposal and state that *'the pub would provide a family dining experience not presently available in the town'*.
- 7.02 Highways England offers no objection to the proposal.
- 7.03 Kent Highway Services raise no objection to the proposal subject to included conditions.
- 7.04 Kent County Archaeology raises no objection to the proposal and recommends a planning condition.
- 7.05 The Council's Tourism Officer supports the application provided that attention to detail is provided through a well laid out car park with appropriate access and egress arrangements to the site as this is a busy area given its proximity to the A2.
- 7.06 The Council's Climate Change Officer raises no objection- condition requiring building to be constructed to BREEAM 'Good' Standard or an equivalent standard.
- 7.07 I can confirm that the Environmental Service Manager has not raised an objection to the license application or the proposed hours of use.

8.0 BACKGROUND PAPERS AND PLANS

- 8.1 Application papers for application 14/504619/FULL

9.0 APPRAISAL

- 9.1 I consider the key issues to be the principle of the development, the impact on the amenities of the surrounding area, impact on the adjacent listed buildings and grounds and the adequacy of the parking provision.

Principle

- 9.2 Local residents have commented that there is no need for a local pub in this area. The need for such a facility is not a determining factor in the outcome of this application in my opinion. I have considered the previous uses for the site in particular the approved retail units and I therefore consider this site to be a brownfield site in need of development.
- 9.3 With regards to the nature of the proposed development I am of the view that this is an acceptable use for the site bringing a vacant site back into a viable use. Furthermore, I am firmly of the view that the proposal will not have a significant detrimental impact on other town centre uses, in particular other public houses, as Marston's offers a restaurant package that is not already found in Faversham. In addition, the sequential test requires that other town centre sites should be considered prior to allowing out of town centre sites to

come forward. In this instance I am of the opinion that there is no other suitable site located within the town centre that is available and able to accommodate this type of development. By its very nature a Marston's restaurants/public house caters for passing customers and they are mostly located in close proximity to infrastructure facilities. The application has been submitted with a detailed Planning Statement and Section 7 of that statement provides a well informed sequential test analysis- the findings of which are outlined in Section 2 of this report. The Sequential Test findings clearly confirm that there are no suitable sites available within the town centre that meet the required business model of the proposed public house/restaurant. The agent further refers to recent Case Law where the judge confirms that the sequential sites, under the sequential test, should be suitable for the end user and should not require the business model to be adapted to suit the site. I am also in agreement with the findings in as such that there are no vacant and available sites within the town centre for Marston's to locate to without compromising the needs of the business in terms of location, size and passing customers.

- 9.4 Turning to possible edge of town centre sites again, I am of the view that any sites that are available at this moment in time are either too large, not suitable in terms of location or have been allocated for other uses within the adopted Swale Borough Local Plan 2008 and within the emerging Local Plan.
- 9.5 The proposed floor space of 585 square metre means that an Impact Assessment assessing the impact on the town centre uses, in particular the impact on the other public houses in the town centre is not required in this instance, in line with guidance contained in paragraph 26 of the NPPF. However the planning statement does address the impact of the proposed use on the town centre public houses and indicates that Marston's would not compete with the other town centre uses due to its unique business model and focus on the food industry rather than 'wet' trade.
- 9.6 I am therefore of the opinion that this proposal could not be located in the town centre and also does not have a significant impact on other town centre uses due to the nature of the business proposed. I therefore, consider it important to assess the proposal in terms of its impact on the surrounding amenity, the listed buildings and grounds and any traffic implications.

Impact on amenities

- 9.7 I note that we have received a number of objections to the proposal, focusing in some cases on the likely impact on the amenity of the nearby residential properties. It is important to view the site in context with its surrounding area. It is located next to the busy and much used A2 (Canterbury Road), adjacent to the Macknade complex (which has recently received planning permission for an increase of the retail/café element) and a petrol filling station is located on the other side of the road. All of these existing uses contribute and have an impact on the residential amenity of the area and I am of the view that though residents of these properties would experience some noise from the pub/restaurant, this would not be significant to warrant a reason for refusal.

- 9.8 Although local residents are concerned about the potential for anti-social behaviour associated with the public house and noise impacts, I am of the opinion that this matter alone can be adequately addressed by the appropriate management of the pub and by working in conjunction with the Police and Anti-Social Behaviour Officers should the need arise. I do not consider that the application should be refused on this basis.
- 9.9 The applicant has submitted noise attenuation measures for the plant to be installed on the public house. The implementation of these measures should limit the levels of noise generated by these features ensuring that there would be no undue disturbance to local residents. I have added a condition requiring these mitigation measures to be carried out in accordance with the submitted report. I am though awaiting the final views of the Head of Environment Services and will report these to Members at the meeting.
- 9.10 The proposed play area and outdoor seating would be located to the front of the building facing out towards Canterbury Road thereby, ensuring that noise is reduced by the distance from the properties while the building itself which would provide a sound barrier.
- 9.11 The building would be visible from both Canterbury Road and Selling Road and is located in a very prominent corner location easily seen on approach to Faversham. Officers have had various discussions with the applicant and architect to achieve a well thought out design that does not just reflect the standard design approach of Marston's. The architect has successfully amended the design (see Section 2 above outlining the changes) to reflect the discussions with officers and I am of the opinion that the use of different finishing materials and use of some interesting design features ensures a good quality of design which will have a positive impact on the surrounding area. I consider that the overall design of the building is acceptable. I therefore, consider that there would be no detrimental impact on the amenities of the surrounding area as a consequence of the development.

Parking provision

- 9.12 I have consulted Kent Highway Services (KHS) on this application who have raised no objection. KHS confirms that the level of traffic activity associated with the proposal would be acceptable on the local highway network and that this use would be expected to generate similar levels of traffic during the afternoon peak as the existing garden centre and previously approved retail use of the site but significantly less during the morning peak hour. It is accepted that while the pub/restaurant would continue to generate activity during the evening and night beyond that of the garden centre this would not be during the busy times on the highway network and would therefore not create any capacity issues at the junction of Selling Road with the A2 Canterbury Road. KHS have also confirmed that the swept path analysis demonstrates that the development can adequately accommodate the movement of articulated and rigid HGV's likely to service the premises. In addition the parking provision complies with the relevant parking standards for

a business of this size and nature and as such I do not consider it necessary to seek additional provision within the site. The provision of 51 spaces is consistent with similar developments within the County and is considered to be an appropriate amount.

Impact on the setting of the listed building and grounds

- 9.13 It is clearly important to fully consider the impact on the setting of the adjacent listed buildings, namely Macknade Manor and the Oast House, both grade II listed. The architect has addressed the comments made by officers by amending the design to create a more architecturally attractive barn style building and setting the building back into the site. Setting the building back into the site creates a better view of the grade II listed wall of Macknade Manor. Following the revisions to the scheme the building is now less eclectic and makes use of more traditional materials which is a great improvement in design terms. I therefore am supportive of the design changes and of the view that there is no significant impact on the setting of the listed buildings.
- 9.14 I have added a condition requiring details of existing and proposed site levels to ensure that any impact is reduced through site level consideration. I am of the view that though there is a change proposed to the site levels the site can accommodate some changes to the site levels.

10.0 CONCLUSION

- 10.01 The proposal, following some changes, is considered acceptable in terms of design and impact on the surrounding area. The site is located in a prominent location and I am of the view that the careful design ensures that the development can be viewed as a gateway development on approach to Faversham.
- 10.02 I therefore recommend that planning permission is granted subject to receipt of comments from the Environmental Service Manager.

11.0 RECOMMENDATION – GRANT Subject to the following conditions:

CONDITIONS

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

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

2. The development hereby permitted shall be carried out in accordance with drawings

3251/P100 Revision B; 3251/P103 Revision A; 3251/P104 Revision O; 3251/P105 Revision J; 3251/P106 Revision D; 3251/P107 Revision J; 3251/P110 Revision A; 3251/P111; 3251/P112; 3251/P115; 3251/P116 Revision D; J49.06/01; J49.06/02 Revision A; 298-80/M/01 Rev A and 12089:SK09A.

Reasons: In the interests of proper planning.

3. Prior to the commencement of development, details in the form of samples of external finishing materials to be used in the construction of the development hereby approved shall be submitted to and approved in writing by the Local Planning Authority and works shall be implemented in accordance with the approved details.

Reasons: In the interests of the visual amenities of the area and to ensure that these details are approved prior to commencement of development.

4. No development shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the Local Planning Authority. These details shall include existing trees, shrubs and other features, planting schedules of plants, noting species (which shall be native species and of a type that will encourage wildlife and biodiversity), plant sizes and numbers where appropriate, means of enclosure, hard surfacing materials, and an implementation programme.

Reasons: In the interests of the visual amenities of the area and to ensure that these details are approved prior to commencement of development.

5. No development shall take place until a programme for the suppression of dust during the demolition of existing buildings and construction of the development has been submitted to and approved by the Local Planning Authority. The measures shall be employed throughout the period of demolition and construction unless any variation has been approved by the Local Planning Authority

Reasons: In the interests of residential amenity

6. Detailed drawings at a suggested scale of 1:5 of all new external and joinery work and fittings together with sections through glazing bars, frames and mouldings shall be submitted to and approved by the Local Planning Authority before any development takes place. The development shall be carried out in accordance with the approved details.

Reasons: In the interest of preserving or enhancing the character and appearance of the surrounding area and to ensure that these details are approved prior to commencement of development.

7. No development shall take place until constructional details at a suggested scale of 1:5 of the eaves and ridges have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reasons: In the interest of preserving or enhancing the character and appearance of the surrounding area and to ensure that these details are approved prior to commencement of development.

8. Prior to works commencing on site details of the flat roof plant installation area at a scale of 1:100 shall have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reasons: In the interest of preserving or enhancing the character and appearance of the surrounding area and to ensure that these details are approved prior to commencement of development.

9. Prior to the works commencing on site details of parking for site personnel/operatives/visitors shall be submitted to and approved by the Local Planning Authority and thereafter shall be provided and retained throughout the construction of the development. The approved parking shall be provided prior to the commencement of the development.

Reasons: To ensure provision of adequate off-street parking for vehicles in the interests of highway safety, and to protect the amenities of local residents and to ensure that these details are approved prior to commencement of development.

10. No development shall take place until full details of the method of disposal of surface waters have been submitted to and approved by the Local Planning Authority. The approved details shall be implemented before the first use of the development hereby permitted.

Reasons: In order to prevent pollution of water supplies and to ensure that these details are approved prior to commencement of development.

11. The building hereby approved shall be constructed to BREEAM 'Good' Standard or an equivalent standard and prior to the use of the building the relevant certification shall be submitted to the Local Planning Authority confirming that the required standard has been achieved unless otherwise agreed in writing by the Local Planning Authority.

Reasons: In the interest of promoting energy efficiency and sustainable development and to ensure that these details are approved prior to commencement of development.

12. Details in the form of cross-sectional drawings through the site, of the existing and proposed site levels (including typical cross sections along the west and south boundaries) shall be submitted to and approved in writing by the Local Planning Authority before work commences and the development shall be completed strictly in accordance with the approved levels.

Reasons: In order to secure a satisfactory form of development having regard to the nature of the surroundings of the site, and to ensure that these details are approved prior to commencement of development.

13. No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written specification and timetable which has been submitted to and approved by the Local Planning Authority.

Reasons: To ensure that features of archaeological interest are properly examined and recorded and to ensure that these details are approved prior to commencement of development.

14. The noise mitigation measures as set out in the Planning Noise Assessment Report 14/0389/R1-2 dated 2nd October 2014 shall be installed and maintained in accordance with these approved details and shall be operated in a manner that prevents the noise emissions to neighbouring premises.

Reasons: In the interests of residential amenity.

15. No construction work in connection with the development shall take place on any Sunday or Bank Holiday, nor on any other day except between the following times:-

Monday to Friday 0730 – 1900 hours, Saturdays 0730 – 1300 hours unless in association with an emergency or with the prior written approval of the District Planning Authority.

Reasons: In the interests of residential amenity.

16. No floodlighting, security lighting or other external lighting shall be installed or operated at the site, other than in accordance with details that have first been submitted to and agreed in writing by the Local Planning Authority. These details shall include:

- A statement of why lighting is required, the proposed frequency of the use and the hours of illumination.
- A site plan showing the area to be lit relative to the surrounding area, indicating parking or access arrangements where appropriate, and highlighting any significant existing or proposed landscape or boundary features.
- Details of the number, location and height of the lighting columns or other fixtures.
- The type, number, mounting height and alignment of the luminaries.
- The beam angles and upwards waste light ratio for each light.
- An isolux diagram showing the predicted illuminance levels at critical locations on the boundary of the site and where the site abuts residential properties.

Reasons: In the interests of visual amenity and the residential amenities of occupiers of nearby dwellings,

17. All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development or in accordance with the programme agreed in writing with the Local Planning Authority.

Reasons: In the interests of the visual amenities of the area.

18. Upon completion of the approved landscaping scheme, any trees or shrubs that are removed, dying, being severely damaged or becoming seriously diseased within five years of planting shall be replaced with trees or shrubs of such size and species as may be agreed in writing with the Local Planning Authority, and within whatever planting season is agreed.

Reasons: In the interests of the visual amenities of the area.

19. During construction provision shall be made on the site to accommodate operatives' and construction vehicles loading, off-loading or turning on the site.

Reasons: To ensure that vehicles can be parked or manoeuvred off the highway in the interests of highway safety.

20. Provision shall be made within the site for the disposal of surface water so as to prevent its discharge onto the highway details of which shall have been submitted to and approved in writing by the Local Planning Authority.

Reasons: In the interests of highway safety and convenience.

21. The premises shall be used for the purpose of a public house/bar and/or restaurant and for no other purpose, including any other purposes in Class A3 and A4 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended).

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

22. As an initial operation on site, adequate precautions shall be taken during the progress of the works to prevent the deposit of mud and similar substances on the public highway in accordance with proposals to be submitted to, and agreed in writing by the Local Planning Authority prior to commencement of development.

Reasons: In the interests of amenity and road safety and to ensure that these details are approved prior to commencement of development.

23. The area shown on the submitted layout as vehicle parking space shall be provided, surfaced and drained before the use is commenced or the premises occupied, and shall be retained for the use of the occupiers of, and visitors to, the premises, 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.

Reasons: Development without provision of adequate accommodation for the parking of vehicles is likely to lead to parking inconvenient to other road users and be detrimental to highway safety and amenity.

24. The building shall not be occupied until space has been laid out within the site in accordance with the details shown on the application plans for cycles to be parked.

Reasons: To ensure the provision and retention of adequate off-street parking facilities for cycles in the interests of highway safety.

25. The access details shown on the approved plans shall be completed prior to the commencement of any other works authorised by this permission, the occupation of any buildings hereby approved, the use of the site being commenced, and the access shall thereafter be maintained.

Reasons: In the interests of highway safety.

26. Before the building hereby permitted is first occupied, the area between the nearside carriageway edge and lines drawn between a point 2.4m back from the carriageway edge along the centre line of the access and points on the carriageway edge 43m from and on both sides of the centre line of the access shall be cleared of obstruction to visibility at and above a height of 0.9m above the nearside carriageway level and this area shall thereafter maintained free of such obstruction at all times.

Reasons: In the interests of highway safety.

27. The use of the premises as a bar/restaurant hereby permitted shall be restricted to the following hours:

Monday-Thursday 10am to Midnight
 Friday and Saturday 10am to 1am
 Sunday 10am to midnight

Reasons: In the interests of amenities of the area.

The Council's approach to this application:

In accordance with paragraphs 186 and 187 of the National Planning Policy Framework (NPPF), the Council takes a positive and proactive approach to development proposals focused on solutions. We work with applicants/agents in a positive and proactive manner by:

Offering pre-application advice.
 Where possible, suggesting solutions to secure a successful outcome.

As appropriate, updating applicants/agents of any issues that may arise in the processing of their application.

In this instance the applicant/agent was advised of minor changes required to the application and these were agreed and the application was determined by the Council's Planning Committee where the applicant was able to present his case to Members in person.

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

The conditions set out in the report may be subject to such reasonable change as is necessary to ensure accuracy and enforceability.

This page is intentionally left blank

2.11 & 2.12 REFERENCE NO - 15/504978/FULL & 15/504979/LBC		
APPLICATION PROPOSAL Erection of rear extension with glass roof, erection of garage to side, conversion of loft with insertion of dormer window to front elevation and various internal alterations as amended by drawings received 25 August 2015.		
ADDRESS Wreights Cottage The Mall Faversham Kent ME13 8JL		
RECOMMENDATION : Grant both applications		
REASON FOR REFERRAL TO COMMITTEE Town Council objection and local objections		
WARD Watling	PARISH/TOWN COUNCIL Faversham	APPLICANT Mr & Mrs Heaven AGENT Primefolio Ltd.
DECISION DUE DATE 28/08/15	PUBLICITY EXPIRY DATE 10/09/2015	
RELEVANT PLANNING HISTORY SW/96/0944 Wreight Cottage, The Mall, Faversham. Alterations to form pitched roof over existing study - Approved SW/96/0945 Wreight Cottage, The Mall, Faversham. Listed building consent for alterations to form pitched roof over existing study - Approved		

1.0 DESCRIPTION OF SITE

- 1.01 Wreights Cottage is an early 19th century Grade II listed house which is attached to Wreights House on its southern boundary. Historically Wreights Cottage formed part of Wreights House as one residential house. Number 49 Mall House, Number 50 Wreights House, the stables south of Wreights Cottage and the surrounding walls all form a group within this historic complex. The cottage is set within the Faversham conservation area and within the built up area boundary.
- 1.02 The cottage fronts the end of The Mall which was originally the principal entrance into the town from the south. The main entrance to the cottage is a small porch to the right of the front elevation which is accessed via the driveway which is shared with Wreights House. This entrance is connected to an extension approved in the 1990s which is in contrasting form to that of the main house. The property has an enclosed west facing private garden to the rear and a workshop building to the north separated by a paved area between the front door and the road to the east.

2.0 PROPOSAL

2.01 These applications, as now amended, are for planning permission and listed building consent for the erection of small single storey rear extension to the 1990s extension. This would have a glazed roof and would enlarge the dining space on the ground floor by 9 sqm. The existing paved area between the house and the workshop is to be enclosed by 23 sqm to form a vehicle garage / workshop. The roof is to be slate with 4 roof lights on a steel portal framed structure. The walls are to be insulated with glazed doors onto the rear garden.

2.02 These applications also originally included the conversion of the loft and other alterations to the cottage, details of which are highlighted below with comments about which elements remain.

2.03 External alterations:

- The front (east) elevation was to be altered with the addition of a dormer window to the main roof and 2 roof lights within the side addition roof. These elements have since been deleted from the application.
- A new gable wall over the gate to the new garage/workshop at the north side. Deleted
- To the rear (west) elevation a dormer window, and a glazed lean-to to the existing side extension was proposed. Amended.
- The side (north) elevation would have the new garage roof abutting it, and the new side glazing to the dining room extension. Amended

2.04 Internal alterations to the main house include:

Ground floor

- The existing door to living room from the entrance porch blocked.
- The existing cellar stairs removed and passageway excavated in cellar to allow access by new stairs from kitchen
- Existing stairs to the 1st floor (in the kitchen) removed.
- New opening formed from the entrance porch to the existing dining room,
- Existing ladder-stair in dining room to the 1st floor removed and a new staircase constructed at east end of that room to the 1st floor
- A new WC and shower room built beneath the new staircase
- The existing door and sidelights removed from the dining room and a new extension extending beneath the existing rear overhang with a glazed lean-to built into the west elevation. Amended

2.05 First floor

- Existing non-structural partition wall removed to create an en-suite room to bedroom 1
- Existing bathroom and wardrobe removed.

- Opening formed to access a new staircase to attic and an en-suite shower room constructed
- Wall moved to allow full existing window within bedroom 2,
- Hallway wall removed to increase the depth of existing bedrooms and allow access to new stairs
- Existing ladder-stairs in bedroom 3 removed and floor reinstated. New walls, staircase and new main bathroom with roof lights to eastern facing onto the front elevation. Amended.

2.06 Second floor attic

- new dormer windows (east and west elevation). East dormer now deleted.
- New party wall to ridge height
- New roof timbers as required. Deleted
- Glass roof over 200mm below the existing ridge. Deleted.

3.0 PLANNING CONSTRAINTS

Potential Archaeological Importance

Conservation Area Faversham

Listed Buildings SBC Ref Number: 313/SW

Description: G II GEORGE HOUSE, THE MALL, FAVERSHAM, ME13 8JL

Listed Buildings SBC Ref Number: 779/SW

Description: G II WRIGHTS HOUSE, THE MALL, FAVERSHAM, ME13 8JL

4.0 POLICY AND OTHER CONSIDERATIONS

The National Planning Policy Framework (NPPF) Conserving and enhancing the historic environment.

National Planning Practice Guidance (NPPG)

Development Plan: The Swale Borough Local Plan 2008 policies

E1 General Development

E14 Listed Buildings

E15 Conservation Area

E19 Design

E24 Alterations and Extensions

5.0 LOCAL REPRESENTATIONS

5.01 The Faversham Society comments are summarised as follows

- This application is invalid because the applicant has signed Certificate A indicating that they are owners of all the land within the red line site boundary. This is not the case as part of the forecourt is owned by the neighbouring property.

Note; This matter has now been resolved.

- The rear extension would make the annex to the building more dominant on the rear
- Linking the extension to the proposed workshop will be unacceptable
- The front dormer window will spoil the symmetry of the building as a whole
- The proposed rear dormer would be set too close to the ridge of the roof
- The proposal as a whole detracts from the special architectural character of this listed building and the conservation area

5.02 Letters of objection have been received from nine local residents. Their comments can be summarised as follows:

- Concerns that the view of Mall & Wreights House will be spoilt by the additional building to the side and the back of the cottage
- The proposal will destroy the integrity of one of Faversham's most important houses
- These plans will make Wreights Cottage an over – extended carbuncle on the end of this beautiful Georgian House
- It would look a hotch-potch of buildings and will lower the tone of one of the finest roads in Faversham
- The proposed plan for a new garage and conversion of the annexe is not appropriate for a listed building in such a prominent position
- Such over development would have a significant negative visual impact on the street view of this building and the local area
- It is not appropriate for this listed building to have a garage attached
- A dormer window on the right front side of the roof unbalances the symmetry of the house
- The listed building consent application does not have enough detail
- Wreights Cottage has no right of vehicular access to its proposed garage
- No permission has to date been given to provide three bedrooms. Attempts to officially allow a third bedroom have always been denied, although divisions have been carried out without consent by previous owners
- Will increase pressure on local parking
- Any alterations to the roof has the potential to adversely affect Wreights House and the new glass roof is inappropriate
- Loss of privacy to Wreights House
- The two front roof lights are modern and intrusive and are detrimental to Wreights house and cottage
- Architecturally and historically the mock period windows on the back of the garage are inappropriate

6.0 CONSULTATIONS

6.01 Faversham Town Council raises objection to this proposal; their comments are summarised below:

- The proposed internal alterations would cause significant harm to the character of the listed building.
- The proposed roof lights would cause significant harm to the character of the listed building and the conservation area
- The proposed area of flat roof and associated lantern light would cause harm to the character of the listed building

6.02 The County Archaeological Officer has advised that no archaeological measures are required in connection with the proposal.

6.03 Historic England advise that this application should be determined in accordance with national and local policy guidance, and on the basis of the Council's expert conservation advice.

7.0 APPRAISAL

7.01 The main considerations in this case concern the impact that the scale and design of the proposal would have upon the special architectural interest of the listed building and the conservation area. The Council has a statutory duty to have special regard to the desirability of preserving the listed building, its setting and any features of interest which it possesses. It has a similar duty with regard to the conservation area.

7.02 Paragraph 132 of the NPPF states that *"When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. As heritage assets are irreplaceable, any harm or loss should require clear and convincing justification."*

7.03 I had many concerns over the level of detail provided within the applications when first submitted. Many historic features including doors, door frames, panelling, walls and the roof structure which are directly affected by the development received no mention at all. Paragraph 128 of the NPPF requires applicants *"to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance....using appropriate expertise where necessary"*.

7.04 When considering the objections from the Town Council and local representations I believe their reasons for objection were all valid. The proposal was too invasive and did not have enough regard to preserving the listed building or its setting. The form of the proposed garage was uncomfortable and resulted in difficult geometries and junctions which would

impact negatively on the relatively simple forms of the cottage. I had serious reservations about its architectural treatment.

- 7.05 There needed to be more regard in the proposal to all historic features of the listed building. Buildings are listed in order to preserve their features and where alteration is unavoidable the applicant needed to provide a clear and convincing justification. I was of the opinion that roof lights should be avoided altogether as they are not part of the architectural vocabulary of Wreights House and Wreights Cottage and do not sit comfortably on the front elevation.
- 7.06 The substantial loss of the historic roof structure was unacceptable. The application gave very little detail about the extent of the historic fabric that would be lost or how the roof's structural integrity would be maintained within the attic conversion. The front and rear dormer windows potentially detracted from the architectural composition of the listed building.
- 7.07 The design of the glazed rear extension had much greater impact than was necessary. For the extension to be acceptable it needed to be of modest proportions and carefully detailed. I also believed that the first floor historic walls doors and door frames should be preserved in their original position, and noted as such.
- 7.08 The applicant was given the opportunity to submit substantial amendments to the scheme, as well as submitting a revised application form as highlighted by the Faversham Society, as the wrong ownership certificate had been signed and submitted. The applicant and the agent were receptive to my concerns and they have all been addressed. On receiving the amendments the Town Council and the local representations that objected to the proposal were reconsulted. No further comments have yet been received.
- 7.09 The originally proposed roof lights, front dormer on the main house, and alterations to the main roof have been omitted and the internal changes are more responsive to the historic features of the listed building with a heritage statement now forming part of the applications.
- 7.10 The extension to the proposed dining room is now informed by the design of the existing French doors, as small panes of glass form a significant part of the building's character. The glazed roof has also been lowered to lessen the impact of the extension. A similar glazing pattern has also been included on the north elevation of the 1990s wing to reinforce that design pattern. A new traditionally detailed pitched dormer window is now proposed on the front elevation to provide adequate light into the new main bathroom. I believe this dormer pattern is far more appropriate than the previously proposed roof lights.
- 7.11 The design and siting of the proposed garage is also resolved with a traditional double pitch roof in slate and a hipped end to match the form of the existing coach house. The doors are in timber with a small amount of glazing above, its design now responds much more positively to its historic context.

- 7.12 Matters of land ownership have been properly dealt with and the scheme revised to address objections. I consider that all reasonable objections to the original plans have been overcome.

8.0 BACKGROUND PAPERS AND PLANS

- 8.01 Application papers and drawings relating to planning reference 15/504978 and 979

9.0 CONCLUSION

- 9.01 I am of the view that this proposal now has an attractive and well thought out garage/workshop, with a modest rear extension. The internal alterations are clearly noted and justified within the application and the proposed front and rear dormer windows appear appropriate on the building and within the overall setting of this group of listed buildings and the surrounding conservation area. I consider that the alterations proposed will preserve the special architectural interest of the listed building and further to the policies outlined in the NPPF, policy E14 of the Local Plan clearly states that any proposals affecting a listed building are required to preserve the special architectural or historic interest of the building. The scale and design of the extension is considered to be modest in relation to the main house and the garage/ workshop shall remain an ancillary building in keeping with the existing dwelling. I also consider that the additional elements of the proposals preserve the special interest of the listed building. Therefore, I recommend that planning permission and listed building consent are granted.

10.0 RECOMMENDATION – GRANT Subject to the following conditions

CONDITIONS for 15/504978/FULL

- 1 The development to which this permission relates must be begun no later than the expiration of three years beginning with the date on which the permission is granted.

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

- 2 The development hereby permitted shall not be carried out otherwise than in complete accordance with the approved plans and specifications as amended by drawings 15-20-01A, 02C, 03A, 04C, 05C, 06B, 07A, 08A, 09E, 10D, 11B (full existing & proposed drawings).

Reasons: In the interest of the special architectural or historic interest of the listed building and the special character of the conservation area.

- 3 Prior to the commencement of development, details in the form of samples of external finishing materials to be used in the construction of the development

hereby approved shall be submitted to and approved in writing by the Local Planning Authority, and works shall be implemented in accordance with the approved details. All brickwork shall be laid in Flemish Bond and the samples shall include a completed sample of the brickwork and pointing.

Reasons: In the interest of the special architectural or historic interest of the listed building and to ensure these details are approved prior to the commencement of the development.

- 4 No development shall take place until constructional details at a scale of 1:5 of the dormer windows hereby permitted have been submitted to and approved by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reasons: In the interest of the special architectural or historic interest of the listed building and to ensure these details are approved prior to the commencement of the development.

- 5 Detailed drawings at a suggested scale of 1:10 and 1:2 or 1:1 of all new external and internal joinery work and fittings together with sections through glazing bars, frames and mouldings shall be submitted to and approved by the Local Planning Authority before any development takes place. The development shall be carried out in accordance with the approved details.

Reasons: In the interest of the special architectural or historic interest of the listed building and to ensure these details are approved prior to the commencement of the development.

- 6 No development shall take place until constructional details at a suggested scale of 1:5 of the eaves, ridges and hips of the proposed garage building have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reasons: In the interest of the special architectural or historic interest of the listed building and to ensure these details are approved prior to the commencement of the development.

- 7 All rainwater goods to be used as part of the development hereby permitted shall be of cast iron.

Reasons: In the interest of the special architectural or historic interest of the listed.

Council's approach to the application

The Council recognises the advice in paragraphs 186 and 187 of the National Planning Policy Framework (NPPF) and seeks to work with applicants in a positive and proactive manner by offering a pre-application advice service; having a duty

planner service; and seeking to find solutions to any obstacles to approval of applications having due regard to the responses to consultation, where it can reasonably be expected that amendments to an application will result in an approval without resulting in a significant change to the nature of the application and the application can then be amended and determined in accordance with statutory timescales.

In this case the applicant was provided the opportunity to submit amendments to the scheme/ address issues., which they have submitted for the Council's consideration.

CONDITIONS for 15/504979/LBC

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

Reasons: In pursuance of Section 18 of the Listed Building Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

- 2 The development hereby permitted shall not be carried out otherwise than in complete accordance with the approved plans and specifications as amended by drawings 15-20-01A, 02C, 03A, 04C, 05C, 06B, 07A, 08A, 09E, 10D, 11B (full existing & proposed drawings).

Reasons: In the interest of the special architectural or historic interest of the listed building and the special character of the conservation area.

- 3 Prior to the commencement of development, details in the form of samples of external finishing materials to be used in the construction of the development hereby approved shall be submitted to and approved in writing by the Local Planning Authority, and works shall be implemented in accordance with the approved details. All brickwork shall be laid in Flemish Bond and the samples shall include a completed sample of the brickwork and pointing.

Reasons: In the interest of the special architectural or historic interest of the listed building and to ensure these details are approved prior to the commencement of the development.

- 4 No development shall take place until constructional details at a scale of 1:5 of the dormer windows hereby permitted have been submitted to and approved by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reasons: In the interest of the special architectural or historic interest of the listed building and to ensure these details are approved prior to the commencement of the development.

- 5 Detailed drawings at a suggested scale of 1:10 and 1:2 or 1:1 of all new external and internal joinery work and fittings together with sections through glazing bars, frames and mouldings shall be submitted to and approved by the Local Planning Authority before any development takes place. The development shall be carried out in accordance with the approved details.

Reasons: In the interest of the special architectural or historic interest of the listed building and to ensure these details are approved prior to the commencement of the development.

- 6 No development shall take place until constructional details at a suggested scale of 1:5 of the eaves, ridges and hips of the proposed garage building have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details

Reasons: In the interest of the special architectural or historic interest of the listed building and to ensure these details are approved prior to the commencement of the development.

- 7 All rainwater goods to be used as part of the development hereby permitted shall be of cast iron.

Reasons: In the interest of the special architectural or historic interest of the listed.

- 8 All repairs and renewal of wall finishes and pointing to masonry shall be carried out using lime renders and lime mortars to match the original. No Gypsum plaster or cement shall be used.

Reasons: In the interest of the special architectural or historic interest of the listed.

- NB For full details of all papers submitted with this application please refer to the relevant Public Access pages on the council's website. The conditions set out in the report may be subject to such reasonable change as is necessary to ensure accuracy and enforceability.

2.13 & 2.14 REFERENCE NUMBERS: SW/14/0257 and SW/14/0301			
APPLICATION PROPOSAL			
<i>Planning permission for:</i>			
A) Outline component: Residential development for 330 dwellings with all matters reserved other than the means of access and realignment of the Oare Road and Ham Road junction on land at Oare Mineral Works (North of Oare Road and west and south of Ham Road) Faversham, Kent.			
B) Detailed component: Change of use from storage and vacant uses of the former Gunpowder Works Listed buildings to provide 873 square metres of offices, workshop-studios, storage, and 714 square meters of community uses (with retention of the 2 existing dwellings) including minor internal alterations to form or and washroom facilities and the formation of associated parking areas, earth bund engineering works, country park, landscaping, demolition of plant & buildings, illustrative details of landscaped parking area; on land at Oare Mineral Works (north of Oare Road and west and south of Ham Road), Faversham, Kent.			
Please note this is an Environmental Impact Assessment Development. (In accordance with EIA Regulations 2011).			
<i>Listed building consent for:</i>			
The restoration and repair of all the listed former Gunpowder Works Buildings including minor internal alterations to form toilet and washroom facilities.			
ADDRESS Land At Oare Gravel Works, Ham Road, Faversham, Kent, ME13 7TS			
RECOMMENDATION: (a) GRANT planning permission subject to the resolution of the developer contribution and other Section 106 agreement issues as set out below, the subsequent signing of a suitably-worded Section 106 Agreement and the conditions set out below (with fine-tuning as required); and (b) GRANT listed building consent subject to conditions as set out below.			
SUMMARY OF REASONS FOR RECOMMENDATION			
The proposed mixed use development is considered to be acceptable, being broadly in accordance with Bearing Fruits 2031 and amounting to sustainable development as required, in this instance, by the NPPF.			
REASON FOR REFERRAL TO COMMITTEE: objections from third parties and the scale / significance of the development proposed.			
WARD Davington Priory	PARISH/TOWN Faversham	COUNCIL	APPLICANT Brett Aggregates Ltd AGENT Mr Mick Drury
DECISION DUE DATE	PUBLICITY EXPIRY DATE: 8 April 2015	OFFICER	SITE VISIT DATE: various from April 2014 onwards.
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):			
App No	Proposal	Decision	Date
SW/91/965	OUTLINE APPLICATION FOR THE ERECTION OF BUSINESS PARK (CLASS B1,	Withdrawn	N/A.

	B2 & B8 USES).		
SW/99/0081	Outline Application for development of 6 hectares for Industrial purposes (Class B1, B2 and B8).	Resolution to approve, but, not determined	N/A.
SW/74/95 and SW/84/0799.	Planning permissions granted by Kent County Council for mineral extraction / processing. I understand, however, that the site has exhausted its mineral resources.	Permissions granted.	29/8/74 and 11/11/85
	Development Brief (revised June 2000) in support of proposals for 24,000 square metres of floor area to be developed on six hectares of the site.	Agreed by the Council.	2000

MAIN REPORT

1.0 DESCRIPTION OF SITE

- 1.01 The site area is 55.6 hectares (or 138 acres).
- 1.02 The site contains a quite complex mix of uses, landforms and habitats. The Habitat Survey appended, as Map 2, to the 'Access and Habitat Management Plan' shows these. The former landfill areas at the southern and northern ends of the site are now improved grassland. There are substantial areas of standing water, including two large lakes (flooded gravel pits extending to approximately 12 hectares; one of which is used by the Faversham Sea Scouts) on the eastern side of the site and smaller areas of standing water close to the centre of the site and at the south-western side of the site, where the site adjoins Windmill Lane and John Hall Close. The site also contains various areas of swamp and reedbed (approximately five hectares). In addition, the site contains various areas of scrub (dense and scattered) and two areas of broad-leaved woodland (2.5 hectares, including the scrub).
- 1.03 Although outside the application site, it is also worth noting the two tidal lagoons (measuring 6.2 hectares) that adjoin the site and Oare Creek. These are owned by the applicant and are subject to habitat management as part of this application.
- 1.03 A large area at the centre of the site is largely free of vegetation and is used for the processing and storage of imported aggregates; this part accommodates a number of buildings, including three modern structures close to its western edge and a larger group of historic buildings (all of which are Grade II listed) towards its north-eastern border. Elsewhere on the site, there are two further buildings, close to Ham Road, namely the Gate House [sometimes referred to as the cottage] and the Proof House, and these are also Grade II listed.
- 1.04 The group of historic buildings referred to above are associated with the former gunpowder industry and represent the surviving buildings of the Marsh Gunpowder Works and, according to the Heritage Statement, are dated

between 1789 and 1815. The Statement also states that production continued on the site until 1934. The seven buildings, which are shown on the 'Existing Site Plan – Old Gunpowder Works' and elsewhere consist of the 'Earth House' (Building 5), Building 10 (offices, store and house, the 'East Crystallising House' (Building 11), 'West Crystallising House' (Building 18), 'Refining House' (Building 19), 'Melting House' (Building 20) and 'Meals Room' (Building 8). Building 10 is part two-storey, but the remainder of the buildings are single storey; the submitted drawings given full details of the footprints, eaves and ridge heights, and photos - which are helpful in showing their recent condition - are included in the Heritage Statement.

- 1.05 The buildings are not intensively used; some are used for storage, including Building 11, which is partly used for the storage of boats by the Sea Scouts. All the listed buildings appear on the Swale Borough Heritage at Risk Register.
- 1.06 The southern part of the site and a pocket towards the northern tip of the site are in Flood Zone 1 (at a low risk of flooding), while much of the remainder of the site (including a section of the Oare Road frontage and the existing vehicular access to the commercial use on site) is in Zones 2 and 3.
- 1.07 The topography of the site is generally flat, with only slight variations in levels. At the southern end of the site, heights in the range five to eight metres AOD are typical, while the northern field is typically in range three to six metres AOD.
- 1.08 The profile of the site has been significantly altered by sand and gravel extraction and by land raising in two areas, at the southern end of the site and at the northern field. Various large temporary mounds of gravel and sand are also present on the site.
- 1.09 Vehicular access to the site is from two points, on Oare Road (just to south-east of its junction with the Western Link) and from Ham Road (just north of the Gate House). The site has lengthy road frontage with Ham Road (a cul-de-sac on its south-eastern and north-eastern boundaries) and, to a lesser extent, Oare Road (on its south-western edge).
- 1.10 There are no public rights of way running through the site, though a section of the Saxon Shore Way runs along Oare Creek just beyond the site's eastern boundary. There are public rights of way on land at Ham Marshes to the east of the site, connecting the Brents, Ham Farm and the Shipwrights Arms.

2.0 PROPOSAL

- 2.01 The planning application is in hybrid form, with an outline component and a fully detailed component; the disposition of these two areas is shown on the 'Application Areas Plan'.
- 2.02 The outline component - in respect of which approval is sought only for the access arrangements with the reserved matters, namely layout, scale, appearance and landscaping, to be agreed subsequently – would occupy the

southern part of the site and would be developed for housing. A proposed public car park close to the southern tip of the site also falls within the outline area.

- 2.03 Of the 55.6-hectare site, the area being developed for housing would amount to just under 11 hectares. Of this, the amended scheme envisages up to 330 dwellings being built at a density of *“just over 30 dwellings per hectare”* (*“just under 30.3 dwellings per hectare”*, according to paragraph 2.6 of the Planning Statement, Addendum May 2015). The scale of development would, according to the amended Design and Access Statement, be reduced by *“some 13%”* compared to the original proposal.
- 2.04 The public car park, referred to as ‘School Square’ on the Illustrative Site Layout and as shown in more detail on ‘Ham Road / Oare Road Improvements’, would accommodate 19 cars and be accessed from Oare Road, via a short section of Ham Road on its existing alignment. As noted above, the detail of this facility would be agreed at the reserved matters stage, and this would allow it to be located in a slightly different position (for example, to allow existing trees to be retained) or for the number of spaces to be increased.
- 2.05 The application has been amended and within the ‘outline’ part of the scheme, 4.34 hectares of land – located towards the southern end of the site - is to be retained in its current use, for the grazing of livestock, but described as *“development land”*. Under this application, the only development envisaged in this area would be the provision of the two footpath – cycle paths (one running parallel to Oare Road and a second connecting Ham Road to the area where housing is to be built), and the provision of a ‘linear park’. This area has been excluded from the housing development on account of contamination associated with its former use as a landfill site.
- 2.06 The submitted details suggest that the housing development would be a combination of two-, 2.5- and three-storey dwellings, with central areas at a density of up to 40 dwellings per hectare, while the peripheral areas would have a density of up to 30 dwellings per hectare. This indicative information is shown on the ‘Building Heights and Density Parameter Plan’.
- 2.07 The new housing would not generally be sited close to existing housing, though Members will note the existing houses just to the east of the southern end of Ham Road (Goldfinch Close) the new housing at Lakeside Avenue (off Oare Road, just to the south-west of the proposed housing and at Windmill Lane, adjoining the western boundary of the area where the new housing would be sited. In the case of the latter, it is worth noting that there is an area of wetland that is to be retained between the existing houses and location where the new dwellings would be sited. The submitted details are, as noted above, illustrative only, but nevertheless the submitted layout suggests a separation distance of a minimum of just under 70 metres. This is well in excess of the typical minimum separation distance between windows to habitable windows on dwellings of 21 metres that is generally sought in order to safeguard residential amenity.

- 2.08 The application envisages the provision of 30% of the dwellings as “affordable”, equating to 99 units. The tenure split would be 70:30 in favour of affordable rent, equating to 69 affordable rented units and 30 shared equity dwellings.
- 2.09 The outline application area includes a small part of the proposed habitat creation and management proposals, namely part of Area 8 (Western Corridor) and the majority of Area 10 (Southern Grassland). Members should note Map 3 in the ‘Access and Habitat Management Plan, May 2015’, which shows the position of these zones and the various other areas of habitat creation and management.
- 2.10 The detailed part of the planning application consists of the proposed vehicular access, the proposals for the Old Gunpowder Works listed buildings, and most of the habitat creation and management proposals (see paragraph 2.08 above for areas not part of the detailed application).
- 2.11 The access arrangements, which have been amended significantly since the initial submission, now consist of works to Ham Road and Oare Road. In particular, the first 430 metres of Ham Road, going north from the junction with Oare Road – as far as the existing, signal-controlled access into the site - would be re-designed. The road would be widened along much of this stretch and two sections would be re-aligned: a short stretch to form one of two accesses from Ham Road into the housing site and the second, at the southern end of Ham Road, to provide a new junction with Oare Road. For the latter, a new junction (a right-turn lane for traffic leaving Oare Road) would be created with a centre-line located 70 metres north of the existing Ham Road junction. A new section of Ham Road, with a width of six metres and a pavement of its northern side, would run for approximately 100 metres, before connecting with the existing Ham Road alignment. The first 110 metres of the existing Ham Road would no longer be a through-route to the rest of Ham Road for cars, but would be retained for access and for use by pedestrians and cyclists.
- 2.12 The listed building cluster would be accessed using the existing road access from Oare Road, just south of the junction with the Western Link. The emergency vehicular access to the housing would also be from this route.
- 2.13 A key component of these proposals is the creation of a new Country Park and a network of new / retained habitat areas alongside public access. As noted above, the application is accompanied by an ‘Access and Habitat Management Plan’. Map 4 in the document shows the proposed infrastructure – including fencing, paths, bird hides, bridges, benches, and waste bins – that would be provided in order to create the Country Park (featuring a two-kilometre walk starting from the listed building cluster) and at the same time manage access in a way that prevents areas of sensitive ecology being damaged by public access. The Country Park would be centred on the 11.9 hectare northern grassland, which is identified on Map 4.

2.14 The extensive proposals for habitat creation are set out on Map 3 in the 'Access and Habitat Management Plan, May 2015' and summarised in Table 3 from that document, which is include below.

Feature	Objectives of Management
<i>Habitats</i>	
Standing water – gravel pit lagoons	12 ha of steep-sided, reed-fringed open water on eastern side of site
Standing water – tidal lagoons	Non-intervention. Further restrict access by additional fencing.
Reedbeds	Manage reedbed by cutting to create successional diversity and maintain supply of water
Woodland and scrub	New planting to promote habitat connectivity
Grassland	Diversify structure and composition of grassland in northern field.
Pioneer vegetation and bare ground	Maintain areas of bare ground on rotation to encourage pioneer vegetation and associated invertebrates and plants, including Annual Beard-grass
<i>Protected and notable species</i>	
Assemblage of wintering birds associated with wetlands	Protect high tide roosting area used by Redshank, and roosting and foraging areas used by wintering wildfowl by restricting and controlling access to sheltered areas of open water
Assemblage of breeding birds associated with wetlands	Manage habitats (open water, reedbeds and scrub) for Kingfisher, Bearded Tit, Cetti's Warbler and protect nesting areas from disturbance by restricting and controlling access.
Populations of reptiles	Provide better quality and greater quantity of habitats for Slow Worm and Common Lizard by grassland management and hibernacula provision.
Populations of bats	Maintain and enhance bat roosts in former gunpowder mill buildings as

	an integral part of their restoration. Maintain foraging areas by management of a range of habitats across the wider site.
Population of Water Vole	Ensure ditches remain suitable for Water Voles.
Assemblage of invertebrates associated with wetland and bare ground habitats	Maintain the early successional habitats of importance to the key invertebrates, principally a range of bare ground conditions, and wetland habitats including reedbeds.

2.15 The seven listed buildings that make up the surviving components of the Marsh Gunpowder Works (see Paragraph 1.04 above) would be restored and converted to provide 873 square metres of ‘office, workshop-studio and storage’ uses and 714 square metres of community uses (with internal alterations to form toilet and washroom areas). The two existing dwellings would be retained. Parking areas – including provision for the Country Park - and the earth bund engineering works, which are detailed on the Lloyd-Bore drawing of this part of the site, are also proposed. The latter would extend to a typical height of three metres (as shown on the ‘Gunpowder Works Hub Illustrative Detail’ drawing) and feature a public path along the top, and two raised viewing areas.

2.16 The applicant envisages that the whole development would be built out in a number of phases; ‘Oare – Phasing v4’ describes the proposal, and this document is attached as Appendix 1 below. The arrangement is illustrated on the ‘Phased Development Plan’, which shows four phases of development; the delivery of the housing would be divided between these four phases, and the delivery of the highway changes (to Ham Road and its junction with Oare Road)(in Phase 1), the bunding to the listed building cluster (also in Phase 1) and the restoration of the listed buildings themselves (in Phases 2 [Building 8 only] and 3 would come forward as elements of the first three of these phases. I discuss the acceptability, or otherwise, of the suggested phasing arrangements in the ‘appraisal’ below – see Paragraph 9.45.

2.17 The planning application is supported by the following documents:

- i) Design and Access Statement
- ii) Design and Access Statement, Addendum May 2015
- iii) Planning Statement
- iv) Planning Statement – Addendum May 2015
- v) Access and Habitat Management Plan, May 2015
- vi) Environmental Statement (ES), which includes sections addressing ‘landscape and visual impact’, ‘ecology’, ‘transport’, ‘air quality’, ‘noise’, ‘cultural heritage’ and ‘the water environment’

- vii) Addendum to Environmental Statement, March 2015
- viii) Arboricultural Survey
- ix) Arboricultural Report (Roadside Trees along Oare Road and Ham Road)
- x) Preliminary Services Appraisal
- xi) Flood Risk Assessment – Appendix A shows the Flood Zones on the site and Appendix K an indicative SUDS strategy for surface water drainage of the proposed development
- xii) Heritage Statement (received 11/6/2014)
- xiii) Archaeological Desk-top Report
- xiv) Transport Assessment (TA)
- xv) Transport Assessment, Addendum 2
- xvi) Oare Road Addendum Note (to the TA) – part of which is attached as Appendix 4 below.

2.18 A suite of drawings has also been submitted in support of the application.

2.19 As noted at Paragraph 2.14 above, planning permission is sought for works to the cluster of listed buildings on site. The works to the listed buildings also require listed building consent, and this is sought under reference SW/14/0301. A set of detailed drawings illustrate the works proposed and the works (which include minor alterations to form toilet and washroom facilities) are summarised on Pages 10 and 11 of the Heritage Statement (received 11/6/2014).

3.0 SUMMARY INFORMATION

	Existing	Proposed	Change (+/-)
Site Area (ha)	55.6 hectares (or 138 acres)	55.6 hectares	NA
No. of Storeys	N/A	2, 2.5 and 3	NA
Parking Spaces		RESERVED MATTER	NA
No. of Residential Units	2	330 (+2 retained)	+330
No. of Affordable Units	0	99	+99

4.0 PLANNING CONSTRAINTS

4.1 As explained above, there are a number of Grade II listed buildings on the site, and Members will be mindful of the statutory duty to preserve or enhance the significance of heritage assets under the Planning (Listed Buildings & Conservation Areas) Act 1990.

4.2 The site is neither in, nor affecting the setting of, a Conservation Area.

4.3 None of the trees on site are covered by a TPO.

- 4.4 The site is not located close to an Air Quality Management Area, though Members will note the proximity to the Ospringe AQMA, on the A2, Ospringe Street. This AQMA is located on one of the routes between the site and the strategic road network, which includes the M2 and A2 east of Brenley Corner.
- 4.5 The site is not located close to an AONB, though Members will note that land immediately to the north-east (Ham Marshes) and north-west (Oare Creek) is designated as a Special Landscape Area, which is addressed at Policy E9 of the adopted Local Plan.
- 4.6 As noted above, some of the site is located in Flood Zones 2 and 3.
- 4.7 As noted above, there are no Public Rights of Way on the site.
- 4.8 As set out at Paragraph 5.3 below, Policy MU4 (which is set out in full below) of *'Bearing Fruits 2031', Submission Draft – April 2015* allocates the site for housing-lead regeneration, including up to 300 dwellings.
- 4.9 The site has archaeological potential. Members will note the comments of KCC Archaeology (see Paragraph 7.18 below).
- 4.10 As noted above, the site contains two former Landfill sites.
- 4.11 As set out in Sheet 1A accompanying the adopted Local Plan, the site adjoins to the north-west (Oare Creek) and north-east (Ham Marshes) land that is designated as Site of Special Scientific Interest / Special Protection Area and Ramsar site on account of the national / international significance of the flora and fauna to be found in these designated areas.

5.0 POLICY AND OTHER CONSIDERATIONS

5.1 National Planning Policy Framework (NPPF)(2012)

The NPPF has at its core the presumption in favour of sustainable development, and there are, it is suggested, three dimensions to this term: economic, social and environmental.

Paragraph 7 suggests the following roles for the planning system:

- *“An economic role – contributing to building a strong, responsive and competitive economy...*
- *A social role – supporting strong, vibrant and healthy communities...; and*
- *An environmental role – contributing to protecting and enhancing our natural, built and historic environment.”*

Paragraph 9 states that “...pursuing sustainable development involves seeking positive improvements in the quality of the built, natural and historic environment, as well as in people’s quality of life... “

The NPPF (see **Paragraph 12**) “...does not change the statutory status of the development plan as the starting point for decision making...development that accords with an up-to-date Local Plan should be approved, and...development that conflicts should be refused unless material considerations indicate otherwise.”

Paragraph 14 includes the following:

*“At the heart of the National Planning Policy Framework is a **presumption in favour of sustainable development**, which should be seen as a golden thread running through both plan-making and decision-taking.*

For **decision-taking** this means:

- *approving development proposals that accord with the development plan without delay; and*
- *where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:*
 - *any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or*
 - *specific policies in this Framework indicate development should be restricted.”*

Paragraph 17 states that the “...conservation of heritage assets in a manner appropriate to their significance so that they can be enjoyed for their contribution to the quality of life of this and future generations...” is a core planning principle “which should underpin decision taking”.

Paragraph 18 states that “the Government is committed to ensuring economic growth in order to create jobs and prosperity, building on the country’s inherent strengths, and to meet the twin challenges of global competition and of a low carbon future.”

Paragraphs 47 to 55 seek to significantly boost the supply of housing.

At **Paragraph 47** it states that “planning authorities should meet local housing needs and identify five year housing land supply with an additional 5% buffer”.

Paragraph 49 states “that housing application should be considered in the context of the presumption in favour of sustainable development” and that “Relevant policies for the supply of housing should not be considered up to date if the local planning authority cannot demonstrate a five year supply of deliverable housing sites.”

Paragraph 49 also confirms that the lack of a 5-year land supply triggers the presumption in favour of sustainable development as set out at Paragraph 14. It is necessary to determine what the relevant policies for the supply of housing are in order to identify which are out of date. What constitutes a policy for the supply of housing has been the subject of legal judgement, which can be interpreted as either policies that have specific and direct

impacts on housing supply or more indirect, but significant impacts on supply. Regardless of the approach taken, decision makers can and do take into account whether certain aspects of policies accord with the NPPF. Importantly, the decision maker must apply themselves properly to Paragraph 49.

Paragraphs 56 to 68 address 'requiring good design', and **Paragraph 56** asserts that *"Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people."*

'Meeting the challenge of climate change, flooding and coastal change' is addressed at **Paragraphs 93 to 108**.

Paragraph 93 refers to the key role that planning plays in, among other things, *"...supporting the delivery of renewable and low carbon energy and associated infrastructure. This is central to the economic, social and environmental dimensions of sustainable development."*

Paragraph 96, 2nd bullet states that in determining planning applications, local planning authorities should *"take account of landform, layout, building orientation, massing and landscaping to minimise energy consumption"*.

Paragraph 100 stipulates that *"Inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk, but where development is necessary making it safe without increasing flood risk elsewhere."*

The conservation and enhancement of the natural environment is discussed at **Paragraphs 109 to 125**.

At **Paragraph 109** it states, among other things, that *"...the planning system should contribute to and enhance the natural and local environment by...minimising impacts on biodiversity and delivering net gains in biodiversity where possible."*

Paragraph 112 seeks to protect best and most versatile agricultural land, ie Grades 1,2 and 3a and new development should, where possible, be directed to *"poorer quality land in preference to that of a higher quality."* Members will note that the former landfill site at the southern end of the site is used for livestock grazing, but this land does not have high agricultural land value and, in any case, is not to be developed as part of this application.

Paragraphs 126 to 141 deal with 'conserving and enhancing the historic environment'. In particular,

Paragraph 129 requires local planning authorities to *"identify and assess the significance of any heritage asset that may be affected (including by development affecting the setting of a heritage asset) and to take this assessment into account when considering the impact of a proposal on a*

heritage asset, to avoid or minimise conflict between the heritage asset's conservation and any aspect of the proposal."

Paragraphs 132 and 134 sets out that *"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."*

Paragraph 142 recognises that the safeguarding of minerals is an important element of sustainable development.

The determination of applications is covered at **Paragraphs 196 to 198**, and **Paragraph 197** instructs local planning authorities to *"...apply the presumption in favour of sustainable development."*

The use of 'planning conditions and obligations' are addressed at **Paragraphs 203 to 206**. To a large extent, these paragraphs advocate the approach set out in Circular 05/ 2005: 'Planning Obligations' [which is now cancelled], the Community Infrastructure Levy (CIL) Regulations (2010), and in particular, Regulation 122 (2), and Circular 11/95 'The Use of Conditions in Planning Permissions'.

And Members will note that **Paragraph 204** states the following:

"Planning Obligations should only be sought where they meet all of the following tests:

- Necessary to make the development acceptable in planning terms*
- Directly related to the development; and*
- Fairly and reasonably related in scale and kind to the development."*

However, **Paragraph 205** places an onus on taking account of changes in market conditions and being *"...sufficiently flexible to prevent planned development from stalling."*

Paragraph 216 deals with the weight to be given to relevant policies in emerging plans according to:

- "the stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);*
- the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and*
- the degree of consistency of the relevant policies in the emerging plan to the policies in this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given)."*

5.2 National Planning Practice Guidance (NPPG).

5.2.1 Alongside the NPPF, the Government has issued – and periodically updates – guidance on how the NPPF should be applied and on other aspects of the planning system.

5.3 Development Plan: both the adopted Swale Borough Local Plan 2008 and the emerging Local Plan ‘Bearing Fruits 2031’, which was submitted for Examination on 20 April 2015, are to be afforded weight in the determination of these applications, though the latter is not part of the Development Plan.

Swale Borough Local Plan 2008 – The following policies of the SBLP (2008) have been ‘saved’ and are considered to be relevant here:

SP1 (sustainable development), SP2 (environment), SP3 (economy), SP4 (housing), FAV1 (The Faversham and Rest of Swale Planning Area), SH1 (settlement hierarchy), E1 (general development criteria), E6 (countryside – rural restraint), E9 (character and quality of landscape), E10 (trees and hedges), E11 (biodiversity in the Borough), E12 (designated biodiversity sites), E13 (coastal zone), E14 (listed buildings), E15 (conservation areas), E16 (archaeology), E19 (design), B2 (new employment space), B3 (town centre vitality and viability, including identification of Core and Secondary shopping areas – see Sheet 1B), H2 (new housing), H3 (providing affordable housing), H5 (housing allocations), U1 (servicing development), U3 (renewable energy), U4 (placing services underground), RC7 (rural lanes; which applies to Oare Road, but not to Ham Road), T1 (access to new development), T2 (improvements to highway network), T3 (vehicle parking), T4 (cycle parking), T5 (public transport), C2 (developer contributions), C3 (open space on new housing developments), and B14 (new employment, including land at Western Link and Oare Gravel Workings and others in Faversham area; six hectares are allocated for employment at the Oare Gravel Works with an estimated yield of 24,000 square metres of floor space).

The supporting paragraphs to Policy B14 that relate to Oare Gravel Workings, namely 4.14 and 4.15, warrant inclusion here and read as follows:

“Oare Gravel Workings

4.14 In 2000 the Council agreed a Development Brief for the future use of the Oare gravel workings site, once those workings cease. Some 6 hectares of the site was considered suitable for employment development, and a resolution to grant outline planning permission for this part of the site was made by the Council, also in 2000, subject to the completion of a Section 106 agreement. This agreement, however, was never completed. The site could accommodate some 24,000 square metres of new employment floorspace.

4.15 The site is retained in the Local Plan as part of an Area Action Plan for the gravel workings in Chapter 5, and the Council remains of the view that some employment uses are appropriate within the area. Policy AAP3 provides Policy guidance for the site. “

In addition, AAP3 (Land at Oare) relates specifically to the site, and reads as follows:

“An Area Action Plan is designated for land at Oare, as shown on the Proposals Map. Within the Area Action Plan land is allocated for a mixed-use development comprising business, recreation and tourism uses, together with the conservation, enhancement, and long term management of the site’s ecological resources.

Planning permission will be granted for proposals in accordance with a revised Development Brief to be submitted to, and approved by, the Borough Council, subject to:

the prior assessment of the site’s environmental constraints, including its landscape, archaeological and ecological interests, together with the wider transport impacts of development; and

in the case of proposals coming forward in advance of the cessation of gravel workings/processing on the site, there being no significant adverse harm to the economic, transport, heritage and wildlife objectives for the site.

Development proposals must avoid any significant adverse environmental impacts, and where possible enhance the biodiversity interest of neighbouring internationally designated sites for nature conservation.”

‘Bearing Fruits 2031’, Submission Draft – April 2015

As Members will no doubt be aware, work has been going-on for some-time now on a replacement Local Plan; the initial draft, known as ‘Bearing Fruits’, was subjected to a period of public consultation during Spring 2012. Since then, there have been important changes to the national planning arrangements, notably the publication of the National Planning Policy Framework (NPPF), which I have discussed above.

The current draft follows further consultation to now arrive at the version submitted for independent examination in April.

The document is now at a relatively advanced stage in the overall process that will culminate, following independent scrutiny by a Planning Inspector, in the adoption of a new Local Plan. As such, its policies can be afforded some weight (in accordance with NPPF Paragraph 216, which I quote above) in the assessment of a planning application such as this. Members will note that the extent of this weight derives not just from the stage that the emerging Local Plan has reached, but also to the level of objection to a particular policy and also to the degree of compliance with NPPF policy.

I consider that the following draft policies warrant specific mention:

Policy CP1 (strong and competitive economy), CP2 (sustainable transport), CP3 (high quality housing), CP4 (requiring good design), CP6 (community facilities), CP7 (conserving natural environment – green infrastructure), CP8

(historic environment); MU4 (Oare Gravel Workings); ST1 (delivering sustainable development), ST3 (Swale development strategy), ST7 (Faversham area and Kent Downs strategy), A 12 (land at Western Link, Faversham), MU 5 (land east of Love Lane, Faversham), CP3 (high-quality homes), CP7 (conserving environment / providing green infrastructure), DM8 (affordable housing), DM10 (gypsy and traveller sites, including on-site provision within housing developments), DM14 (general development criteria), DM19 (sustainable design and construction), DM31 (agricultural land, and which seeks to restrict development on BMV farmland), DM24 (valued landscapes), DM 28 (biodiversity and geological conservation), DM32 (development affecting a listed building) and DM33 (development affecting a conservation area).

Policy MU4 is particularly important, and reads as follows:

“Planning permission will be granted for mixed-uses, comprising 1,500 sq m of commercial floorspace, together with some 300 homes and proposals for the conservation, enhancement, and long term management of the site's ecological and heritage assets at Oare gravel workings, as shown on the [Proposals Map](#). Development proposals will:

1. *Achieve buildings and landscape design, which are bespoke and appropriate to the site's constraints and context and conforming to a technical development brief, the preparation of which will be a condition of any outline planning application;*
2. *Minimise adverse transport impacts (inc. those on air quality), whilst enhancing opportunities for walking and cycling;*
3. *In accordance with an integrated landscape strategy, minimise adverse landscape impacts, including those upon dark night time skies, landmark buildings and settlement separation, and retain existing vegetation where possible, screen existing visually detracting features and achieve a structural landscape scheme with substantial new landscaping;*
4. *Manage and minimise the risk of flooding having regard to the relevant Shoreline Management Plan;*
5. *Manage and enhance water features and quality as part of a water management plan that will include sustainable urban drainage measures;*
6. *Address any contamination to achieve a safe development;*
7. *Avoid, minimise and mitigate adverse impacts upon biodiversity and achieve a net gain in biodiversity by:*
 - a. *assessing biodiversity interests, including, if required, a Habitats Regulations Assessment which will demonstrate that development is not likely to have a significant effect on the Special Protection Area (SPA);*
 - b. *reducing recreational disturbance on the SPA, by ensuring appropriate opportunities for use of the site by residents and visitors (particularly for dog walking) and using such land to meet natural and semi-natural green space needs. If demonstrated as required, a financial*

contribution toward wider management of recreational pressures on the North Kent Marshes will be sought in accordance with Policy CP7;

- c. ensuring that habitats retained, enhanced and created are protected from later development, and remaining accessible to the public; insofar as compatible with the objectives of criterion 8a;*
 - d. the agreement and implementation of a management plan for the whole site to clarify the proposals for various habitats across the site and to provide a sustainable and financially secure basis for managing the site through the development process and in the long term; and*
 - e. achieving a positive impact on the biodiversity of the site itself, including protecting and enhancing on-site habitats to provide for (at least) current levels of use by key species, including its use by SPA birds, and managing the site to maintain and enhance the biodiversity associated with fields, scrub, woodland, water features and ditches.*
- 8. Identify and assess the significance of heritage assets and secure their conservation, restoration, enjoyment and management through appropriate re-use and siting of development;*
 - 9. Achieve a mix of housing in accordance with Policy CP3, including provision for affordable housing and Gypsies and Travellers in accordance with Policies DM8 and DM10;*
 - 10. Agree the proportion of new housing that will come forward before the restoration of heritage assets and the implementation of those matters within criterion 8;*
 - 11. Make provision for formal play facilities on site, unless not compatible within criterion 8, otherwise make an off-site contribution toward these and improvements to existing sports pitches;*
 - 12. Ensure waste water connections at points that are adequate in their capacity;*
 - 13. Secure continued facilities and access to the water for sea scouts;*
 - 14. The submission of a viability assessment so the Council is satisfied as to the long-term security of proposed management measures; and*
 - 15. Provide infrastructure needs arising from the development.”*

Members will also note the supporting text and key diagram (Map 6.6.4). The area covered by Policy MU4 coincides largely with the application site, but the former is larger, extending to 67 hectares (approximately 11 hectares more than the application site).

Under Policy A14, land on the eastern side of Ham Road - immediately to the north of Goldfinch Close and facing some of the housing proposed under the current application - is allocated for residential development; a yield of 35 dwellings on the 1.1 hectare site is envisaged. The supporting text to this policy includes the following guidance:

“Through an integrated landscape strategy consider the creation of a new attractive urban edge to Faversham, with substantial landscaping, achieve the sensitive integration within adjacent open landscapes in a fashion that minimises its impact.

Consider the rural amenities and appearance of Ham Road.

Site is located within close proximity to a former landfill site and further investigation of any methane gas transmission will be required.”

- 5.4 The ‘Kent Mineral and Waste Local Plan 2013 to 2030’ also constitutes part of the Development Plan. Examination hearings have recently taken place. Policies CSM 5 and DM 7 are designed to ensure *“the protection of mineral resources from unnecessary sterilisation”*.

Supplementary Planning Documents:

- 5.5 The Council has adopted an SPD ‘**Developer Contributions**’ (2009), which sets out the authority’s requirements in terms of financial contributions required in support of new development and the provision of affordable housing, and I make reference to this in the corresponding section of the ‘appraisal’ (see Paragraph 9.22 onwards).
- 5.6 The Council also has an adopted ‘**Swale Landscape Character and Biodiversity Appraisal**’ (2010) SPD. In accordance with Policy DM24 of the emerging Local Plan, this document is a *“...key part of determining planning applications.”* The application site falls within the Stone Arable Farmlands character area and Members will note that the one of the ‘key characteristics’ identified is the *“flooded pools and gravel workings at Oare and Ham Farm”*. The area is described as being in poor condition (on account, among other things, of *“significant urban fringe influences”* and *“extensive works off Ham Road”*) and of moderate sensitivity. Amongst the guidelines, it is suggested:

“Conserve the distinctive landscape character of the historic structures, pools and land formed at the Oare Gravel Workings...”

- 5.7 The Ham Marshes character area is located to the north-east and east of the application site, and is considered to be *“an unspoilt landscape in good condition”...“it is a highly sensitive landscape...The highly visible nature of this open area means that unnatural features would be incongruous and inappropriate.”* The guidelines suggest that the focus should be on long-term conservation.

5.8 As Members may be aware, the **‘Faversham Town Heritage, Landscape Setting and Characterisation Study’** has recently been published. It has been produced in support of the emerging Local Plan and is pertinent to this application. I note the following:

- Figure 2 identifies that the development to the west and the east of the southern part of the application site is ‘post 1900 settlement’ and that development along Priory Row is generally ‘pre 1900 settlement’, while the village of Oare, to the north-west, includes a core area that is predominantly ‘pre1800 settlement’.
- With reference to the landscape character areas in the ‘Swale Landscape Character and Biodiversity Appraisal’ (2010), is noted that character areas, including Ham Marshes and Stone Arable Farmlands make a *“high contribution to the significance of this “heritage asset” [that is Faversham]...The important and close historic and functional relationship between Faversham and Oare Creeks...and the town itself remains clearly legible within this landscape...”*
- The concluding paragraph notes: *“...it is important that change should be managed in a way that sustains and, where appropriate, enhances the significance of the heritage asset...”*

6.0 LOCAL REPRESENTATIONS

6.1 The application has been advertised in accordance with the requirements of the Town and Country Planning (Environmental Impact Assessment) Regulations 2011, by press and site notices and the direct consultation of local residents / other third parties.

6.2 An initial round of consultation on the applications generated consultation responses that are summarised as follows:

6.2.1 TWENTY-FIVE letters of objection, which raised issues that are summarised as follows.

- Scale of development, in an area designated as a ‘buffer’ between settlements of Faversham and Oare and adjacent countryside, is inappropriate;
- Unacceptable extension of built-up area of Faversham;
- Junction of Ham Road and Oare Road will not cope with the additional traffic (500+ vehicles per day), even allowing for it being re-designed;
- Car parking on Oare Road and Priory Row already causes traffic flow issues, and these roads are not tenable for vehicular access to the site;
- Proposed car park opposite school will not be large enough to cope;
- Construction period (lasting several years) would jeopardise road safety (particularly on Oare Road), including for children using the adjacent school, and disturb residential amenity;
- Limited scope for highway upgrade to Oare Road;
- Impact of development traffic (road safety and traffic flow) made worse by relatively isolated location – town centre [1.1 kilometres to Guild Hall], supermarkets [Morrisons supermarket is circa 900 metres from southern

- end of site; Tesco 1.3 kilometres; or 1.2 kilometres to Sainsbury's] and the railway station [1.6 kilometres, approximately one mile] are over a mile away; adverse highway impacts would also affect M2 junctions and the A2
- Disturbance to 'peaceful village of Davington'
 - Unacceptable visual impacts and on the character of the area;
 - Is it appropriate to build houses on a former landfill site?
 - Proposed level of housing is greater ("it has doubled since initial proposals") than envisaged in Bearing Fruits 2031 (July/August 2013), making that consultation exercise a waste of time, and application should be refused due to conflict with emerging Local Plan;
 - Development likely to have significant harmful impacts for heritage / ecology and landscape quality, and would "destroy this rural area";
 - Concern about implications for capacity at local schools, GPs, dentists, hospitals, and other local services;
 - Significant harm to biodiversity (flora and fauna) at the site during construction period and subsequently
 - Information in respect of invertebrates – including surveying of site – is inadequate;
 - If planning permission is granted, measures (including choice of plant species and design of ponds etc) should be incorporated to minimise adverse impacts on invertebrates;
 - Sequential Assessment is required in respect of the potential implications of the proposed town centre uses [this has now been provided – BTF letter dated 8 October 2014];
 - Site is not sustainable or accessible, in contrast with other sites such as land at Perry Court (see SW/14/0015 and current application 15/504264) on the southern edge of Faversham;
 - Development would not make a significant contribution to the supply of employment floor-space at Faversham;
 - Location is a poor one for employment uses – lacks 'visibility' and road access is poor [unlike SW/14/0015]; the lack of development of employment uses on the site, despite the long-standing allocation in the Swale Borough Local Plan 2008 arguably backs this argument up;
 - Flood risk to adjacent properties, including Lakeside Avenue and Oare village – has this issue been adequately assessed? Land becomes saturated during winter months; development is also too close to a watercourse;
 - Capacity for foul drainage may be inadequate;
 - Historic appeal of Faversham and Oare would be reduced by these proposals, to the possible detriment of tourism;
 - General environmental and, in particular, air quality implications have been given "no consideration" and pollution levels at Ospringe Street already exceed Government targets;
 - Submitted technical notes in respect of transport issues and ecology identify deficiencies in transport modelling, the assessment of sustainability implications, and the work done in respect of implications for bats [need response from MD];
 - Scheme includes "numerous sweeteners to Swale Council" including proposed school car park and country park;
 - This proposal is not the answer to housing shortfall;

- General concern that Sea Scouts will be displaced from their current base at the site, and that despite references in the submission to them being relocated they may not be adequately catered for in the proposed development [see Design and Access Statement, section 3.4 and Statement of Community Involvement, sections 6.14 and 7.2]; Sea Scouts would need to be accommodated in a position that is not too close to dwellings, given the relatively noisy nature of their activities;
- Development is unpopular locally;
- Land east of Love Lane [see SW/14/0045, and which Members have now resolved to support] is a more suitable location for development of the type envisaged for this site, and has the support of residents;
- three-storey development would be “alien” – building height should be restricted to two-storey;
- Consultation with local people has been inadequate;
- This is a money-making scheme that would not benefit local people;
- Two new junctions on Oare Road would slow traffic down to “a sensible speed”;
- Properties and boats along Oare Creek would be vulnerable to anti-social behaviour - measures should be taken to address this, including parking restrictions and boundary fencing;
- If the scheme is not refused, it should at least be reduced in size;

6.2.2 TEN letters making observations, which are summarised as follows:

- Existing traffic problems on Ham Road and Oare Road due to their narrow nature and on-street parking will be exacerbated by construction of up to 375 further homes; what will be done to remedy this existing problem?
- Main access should be opposite end of Western Link, not as proposed – this would minimise additional flows of traffic through the town centre;
- Kent Bat Group generally welcome the proposed mitigation for the various types of bat found at the site and in the general vicinity;
- Mix of uses for the restored Marsh Gunpowder Works complex “*appears to be acceptable*”;
- Provision of a SANG (Suitable Alternative Natural Greenspace) would improve the natural environment and its biodiversity;
- Numbers of houses is likely to result in pressure on local schools and health facilities – suggest financial contributions through a S106 agreement to address this;
- Number of houses would appear to be excessive – could increase local population by “*about 1000 people*”
- Concern is expressed about how the access to the proposed car park (to serve Davington Primary School) would work.
- No objection to development, but does not wish to see new fencing built as part of proposals along PROW adjacent to Oare Creek moorings (no need for it and it would be out-of-keeping with rural character of the area)
- Faversham Sea Scouts are pleased to note that the application includes provision for their continued use of one of the lakes at the site and that a building [the Earth House] is set aside within the Heritage Cluster for their use; they wish to work with the applicants, however, in order to ensure that access to a building and to the water is not interrupted by the

development process and to ensure that conflicts with measures to promote biodiversity are minimised.

6.2.3 No letters in support were received.

6.3 Amendments to the application in March 2015 were subject to further public consultation, and the responses received are summarised as follows:

6.3.1 FOURTEEN letters of objection (including one on behalf of a group of neighbours), which are summarised as follows. The points raised are as summarised at Paragraph 6.2.1 above with additional points made as follows:

- if permission is granted, neighbours should be consulted on details submitted pursuant to conditions imposed, particularly in respect of materials, landscaping and fencing;
- proposed car park opposite Davington School will exacerbate existing problems for residents;
- concern that developer could make a subsequent planning application, once the initial scheme is complete, for the southern part of the site;
- the reduction in the number of dwellings is welcomed, but many of the issues of concern in respect of the original proposal remain valid;
- development should be limited to a maximum of 150 dwellings;

6.3.2 No letters in support were received.

6.4 In addition, the **Faversham Society** have commented on both the original proposals and the amended scheme. For the former, the provision of the SANG (in this case, the Country Park) and the restoration of the Marsh Works buildings were welcomed, while concern was expressed about the implications of the proposed 375 dwellings for “...*vehicular traffic, pressure on local schools and health facilities.*” It was also suggested that an adequate financial contribution (through the S106 agreement) was important.

In summary, their comments on the amended scheme question whether a single vehicular access for the housing development is appropriate and would favour the provision of a second vehicular “...*on Oare Road to one end of the fishing lake...*”

6.5 A letter from the local Member of Parliament, on behalf of a local resident “*and her neighbours*”, has also been received. The points it raises are summarised as follows:

- Proposed road access will be inadequate to cope with traffic generated by the development;
- Oare Road is narrow and already subject to congestion at peak times and to speeding traffic may not be able to cope with the additional traffic;
- The Transport Assessment may be based on traffic surveys carried out during the summer holidays, when traffic flows are low. This issue should be re-visited and further surveys carried out, if required;

- Could the vehicular access to the existing site from opposite the Western Link be used for the main vehicular access to the development, instead of the access proposed by the applicant?

7.0 CONSULTATIONS

7.01 **Kent County Council Ecology** have submitted a number of representations about the application, including in April 2015, in respect of the amended scheme: they raise no objection, and give a full response which covers both ecology within the site and the potential implications beyond the site, notably for the Swale SSSI, SPA and Ramsar site. In the light of their comments a number of conditions are included below, in respect of species (breeding birds, reptiles, invertebrates, bats) and with regard to the management and monitoring of ecology within the site, notably in respect of the proposed Country Park. They also sought clarification of the dedicated car parking arrangements for the Country Park. I have raised this matter with the applicant, and will update Members at the meeting.

7.011 They have also commented on the amended version of the 'Access and Habitat Management Plan (AHMP)(May 2015)'. This important document addresses the important issues of ecological provision within the site (which in part relates to mitigation for potential off-site impacts, notably on the adjacent SPA) and public access, to various areas of the site, including the proposed Country Park.

7.02 **Natural England** have commented both on the original proposal and upon the amended scheme. They have considered the potential for the development to impact upon the SPA and the SSSI and the proposed mitigation. They advise that the LPA should carry out a Habitats Regulations Assessment, as required by the relevant legislation. Provided that this is done and that the proposed mitigation is secured by planning conditions or through a suitably-worded Section 106 agreement, they raise no objection in respect of this issue. With regard to protected species, they refer to their standing advice and advise that this is an issue for the LPA to deal with.

7.03 **Kent WildlifeTrust** commented on the initial draft of the AHMP for the Council, and the amended draft of the document sought to address their comments. KWT also commented on the application in general, making points that are summarised as follows:

- Disputes the applicant's conclusion that the provision of the Country Park will mean that there will be no net increase in recreational pressure on the SPA, especially as the SPA is very near to the proposed development;
- As such, it is critical that the developer contribution for strategic mitigation across the whole of north Kent and administered through the 'North Kent Environmental Planning Group' is paid [the applicant is agreeable to this, and the issue is addressed in the 'appraisal' section below]; and
- The effectiveness of the Country Park should be monitored [Members will note that a condition that will cover this point is included below].

7.04 The **Greenspaces Manager** raises no objection, but makes the following points:

- Set-up costs for Country Park seem broadly reasonable;
- Would like to see relationship developed with the Oare Gunpowder Works Country Park;
- Happy with natural and semi-natural greenspaces provision, notably within proposed Country Park;
- Concerned about proximity of proposed children play space to dwellings [but suggested layout is illustrative only and detail can be controlled at reserved matters stage;
- Would like to see allotment provision;
- *“Of greatest concern is the lack of any formal sports provision”*
- With regard to the management of the Country Park and the other open space within the development, is concerned about the principle of this being undertaken by a management company, rather than by the Council, particularly if this were to undermine public access.

I have raised these points with the applicant, and they are discussed in the ‘appraisal’ section below.

7.05 The **Economy and Community Services Manager** raises no objection. However, it is requested that a clause be included in the Section 106 agreement in respect of the use of local labour during construction phase. I discuss this in the ‘appraisal’ below. They also welcome the proposed commercial floor-space in the converted listed buildings.

7.06 **Kent Highways Services** raise no objection to the application and an extract from their comments reads as follows:

“I refer to the amended plans and additional information received since the previous consultation response provided ...on 30 October 2014 in respect of the above planning application, and would comment as follows:

The amended details of the development have reduced the scale of the scheme down from 375 residential units to 330. As already stated in our previous response, the impact of the additional traffic on the local highway network has been accepted, and the Transport Assessment had demonstrated that the relevant junctions within the study area should operate within capacity. I would reiterate the suggestion previously made that the operation of the A251/A2 junction has been modelled on the assumption that roundabout proposals would have been implemented, and that scheme was itself assessed on the basis of the additional traffic generated by emerging strategic development sites in Faversham. Funding for the roundabout has not been fully secured, so it is therefore considered appropriate for this development to contribute a reasonable proportion of finance towards its provision.

The changes have also removed the earlier proposed junction directly onto Oare Road, so that all residential traffic will access the development via Ham Road. This change in access arrangement is not considered to alter the traffic distribution associated with the site for how vehicles would route to their eventual destinations, as the location and distance between the original two access points is not fundamentally different to affect the gravity model that is used to predict the route that vehicles are likely to take. Therefore, the flows north and south of the site are likely to remain the same as was originally anticipated, the impact of which on the local highway network had been considered acceptable. While it would mean that all the development's residential traffic would now use Ham Road, instead of being shared with another access, it is appreciated that the current Ham Road junction onto Oare Road/Priory Row would be relocated further north to a new junction designed to relevant standards, and away from the restrictive nature of the current arrangement. The traffic will not pass the existing residential section of Ham Road, which will become a cul-de-sac accessed off the new road alignment, and provide access to a new off-street car parking facility.

It will not be the intention of Kent County Council to take ownership or responsibility of the proposed car park, and I expect this will either be taken on by the Borough Council who manage on-street and much of the off-street public parking in Swale. The provision of this car park could present the opportunity to revisit the current parking restrictions in the immediate area, so that vehicle movement through Oare Road and Priory Row could be assisted.

I am satisfied that the existing access to the site, opposite the junction with Western Link, can be utilised for emergency access to the residential sector, and provide the sole access to the Cultural and Heritage Hub, given the level of use that is likely to be subjected to. I would confirm, however, following suggestions made by other representations that it should provide the main access to the whole development, that this would require substantial upgrading to cater for 2-way traffic with pedestrian routes, and I doubt that an acceptable junction layout onto Oare Road could be reasonably achieved to accommodate the complex arrangement of so many junctions in close proximity to one another.

- 7.07 **Highways England** have considered the potential implications of the development for the Strategic Road Network, particularly for Junction 7 of the M2 motorway. In the light of the amended drawing (13 008 104) showing proposed minor changes to the junction and the amended traffic flow modelling for the junction, they are “*content that the impact expected from the development proposals will be appropriately mitigated.*” Accordingly, no objection is raised.
- 7.08 The **Climate Change Officer** has commented both on the original scheme and on the amendment to reduce housing numbers and to change the access arrangements. She also acknowledges that the Code for Sustainable Homes

has now been withdrawn by the Government, and suggests that a condition be imposed to require that a package of sustainable design and construction measures be submitted in respect of the proposed development.

7.09 **Southern Water Services** raise no objection. The condition and informative they have requested are included below. Among other things, they note that “...*there is currently inadequate capacity in the local network to provide foul sewage disposal to service the proposed development...additional off-site sewers, or improvements to existing sewers...*”

7.10 The **Lower Medway Internal Drainage Board** raise no objection subject to a condition in respect of the SUDS scheme and they recommend liaison with EA in respect of ‘flood plain’ and ‘pollution prevention / control measures’.

7.11 The **Environmental Protection Team Leader** has considered the implications of the amended proposals, and the new comments are focused on the implications for land contamination issues. His conclusions are as follows:

- *“The revised Environmental Statement does not change my original comments regarding Air Quality and Noise for this site.*
- *I also do not have any objections to the revised Environmental Statement regarding land contamination, or the Phase III intrusive investigation, but because the work has not yet been completed there undoubtedly will still be land contamination issues to be faced on this site.”*

7.11.1 With regard to Air Quality and Noise he advises that:

“Removing a number of units is not a problem from an EH perspective as it should lead to less pollution from the extra residents/vehicles and therefore less of an air quality concern, though section 8 (Air Quality) in the revised environmental statement concludes that there will be ‘no change’ from the previous proposal. It remains to be seen whether an extra/alterd access to the site has any effect on air quality.

I did not have a noise objection in the original proposal; that will remain my position in the revised version.”

7.12 The **Environment Agency** raise no objection to the amended scheme, subject to a number of conditions and informatives. The conditions, which relate to (i) surface water drainage, (ii) flood defence bund details, (iii) contamination remediation strategy, (iv) contamination verification strategy, (v) contamination not anticipated, (vi) infiltration of surface water, (vii) piling / foundation design, and informatives in respect of (i) drainage, (ii) storage of fuel, oil and chemicals, (iii) waste on site and (iv) decommissioning of underground storage tanks are all included below.

7.13 The **Faversham Town Council** comments on the original proposal are summarised as follows: no objection, subject to conditions as follows:

- Ham Road to stay on current alignment;
- Only one access from Oare Road and one access from Ham Road;
- There must be 30% affordable housing;
- There must be “a wide spread of house types and sizes”; and
- “Suitable measures to mitigate the effects of increased traffic in Ospringe.”

Comments:

Any harm is mitigated by public benefits which must be retained in the fully developed scheme. These benefits are:

- Management of brownfield land to create “a landscaped and recreational buffer”;
- Long-term sustainable future for the Gunpowder Works; and
- A substantial contribution to the provision of affordable housing.

7.13.1 The **Town Council** subsequently raised no objection to the amended scheme, subject to ‘conditions’ and ‘comments’, which read as follows:

“No objection subject to the following:

Condition:

- 1) *Access onto Oare and Ham Road*

Comment:

- 1) *A traffic remediation plan for the site and its impact on the whole of Faversham is required*
- 2) *The impact on school places, medical services etc must be taken account of in the detailed planning application.”*

7.14 **Kent Police** raise no objection, and have commented specifically on the ‘residential areas’, the ‘country and linear park areas’ and the listed building cluster. They make the following summarised points:

- Secured by Design should be considered;
- Would like to work with the applicant in the preparation of the reserved matters layout;
- A range of measures are suggested to minimise opportunities for criminality /
- anti-social behaviour in the Country Park and other green areas within the site; and
- suggests that a planning condition be imposed to require the applicant to engage with Kent Police before submitting the reserved matters application(s).

7.15 **Housing Services** raise no objection to the principle of the development, and welcome the fact that 30% of the dwellings will be affordable and that the tenure split will be 70-30 in favour of affordable rent. Assurances are though sought from the agent in respect of the provision of a ‘comparable and

reasonable' mix of affordable dwelling sizes (compared to the private units) and in terms of the split of affordable dwellings between the phases of housing development.

- 7.16 **Kent County Council (Development Contributions Team)** seek contributions in respect of primary (towards the first phase of expansion of Bysingwood Primary School) and secondary school places (towards the expansion of the Abbey School). The amounts requested per applicable house are £2360.96 or £779,116.80 in total and £550 per applicable house or £181,500 in total respectively. They are happy for these payments to be phased.

They also seek contributions in respect of community learning (£43.35 per dwelling or £14,305.50 in total), youth services (55.55 per dwelling or £18,331.50 in total, based on 330 qualifying dwellings), libraries and archives (£230.09 dwelling or £75,929.70 in total, based on 330 qualifying dwellings), families and social care (adult social services)(£262.94 per dwelling or £86,770.20 in total).

The grand total requested, based on 330 qualifying dwellings, would be £1,155,953.70.

They also advocate the provision of superfast fibre optic broadband, and I have suggested an informative to cover this below.

- 7.17 **Kent County Council (Enterprise and Environment)** have formally commented with specific regard to the protection of mineral resources. They note that part of the site is allocated for development in the adopted Local Plan, under AAP3 which I quote above, and state that:

“Given that the ‘Kent Mineral and Waste Local Plan 2013 to 2030’ emerging policy specifically excludes adopted allocations (Policy DM 7, sub-section 7) the application does not have to be accompanied by a geological assessment to test the acceptability of potentially sterilising non-mineral development.”

- 7.18 **Kent County Council Archaeology** his comments are confined to the archaeological implications of the proposed development. He notes the submitted documents, including Chapter 13 of the ES, which deals with Cultural Heritage. However, for both the pre-Gunpowder Works Period (including later prehistoric and Roman periods) and the period of the Gunpowder Works he feels that provision needs to be made for archaeological field evaluation and potentially preservation in situ of any important remains. The recommended condition is included below, together with a further condition relating to the appropriate recording of the built heritage.

- 7.19 **Kent County Council, SUDS Team** have provided a response which includes the following:

“This application was submitted prior to the introduction of the LLFA’s [Local Lead Flood Authority] responsibility as statutory consultee. Accordingly, Kent County Council have no comment to make on the management of surface water at this location; however, we refer you to the advice within the Environment Agency’s letters... [see Paragraph 7.12 above] and would recommend that your Authority request further information on the nature and sizing of the proposed SUDS scheme, along with information on the manner in which the drainage provisions will be managed and maintained into the future.”

- 7.20 **Historic England** (formerly **English Heritage**) have been closely involved with the development and have consistently raised no objection to them. They defer to the Council’s Conservation Officer to resolve issue relating to the details of the proposed restoration and conversion of the listed buildings on site.

8.0 BACKGROUND PAPERS AND PLANS

- 8.01 I discuss these at Paragraphs 2.17, 2.18 and 2.19 above.

9.0 APPRAISAL

9.01 Principle of Development, including justification for proposed office provision

- 9.02 Further to the section above dealing with the adopted Local Plan (namely paragraph 5.3), Members will note that the site is not allocated for housing development in that Plan. It will therefore be necessary to consider whether the conflict with the adopted Local Plan is out-weighed by other considerations, sufficient to justify the grant of planning permission. Members will also have noted above that the emerging Local Plan, Bearing Fruits 2031, includes a draft allocation for this site (Policy MU4), which envisages among other things the provision of *some ‘...300 homes...’*. Although the Plan has not yet been adopted, as it has been submitted to the Secretary of State so that a Public Inquiry may be held, it can – in accordance with the NPPF (see Paragraph 216 above, which deals with the weight to be given to relevant policies in emerging plans) – be afforded significant weight.

- 9.03 I am also mindful that the Council does not have a five-year housing land supply. The current figure is 3.17 years. In these circumstances, and as set out above, Paragraph 49 of the NPPF triggers a presumption in favour of sustainable development in accordance with Paragraph 14 of the NPPF. For the avoidance of doubt, the pertinent parts of Paragraph 14 read as follows:

*“At the heart of the National Planning Policy Framework is a **presumption in favour of sustainable development**, which should be seen as a golden thread running through both plan-making and decision-taking.*

*For **decision-taking** this means:*

- *approving development proposals that accord with the development plan without delay; and*
- *where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:*
 - *any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or*
 - *specific policies in this Framework indicate development should be restricted.”*

- 9.04 As far as whether the site can be considered to be sustainable or not is concerned, I am mindful that the emerging Local Plan has been subjected to a sustainability appraisal and that this process has been applied specifically to this site, albeit not for the amount of development, and the mix, now envisaged. Nevertheless, it is certainly not the case that there is any overwhelming evidence to suggest that the development should not be considered sustainable.
- 9.05 As Bearing Fruits 2031 is not yet part of the Development Plan, the first bullet point above is not satisfied.
- 9.06 The following paragraphs grapple with the various material considerations that the proposed development gives rise to in order to reach a view on the balance between any adverse impacts and the potential economic, social and environmental benefits that may result from the proposed development. I will then reach a view on whether the proposed development accords with Paragraph 14 of the NPPF as part of the Conclusion.

Number of units and scope for further development

- 9.07 I am mindful that Bearing Fruits 2031 envisages “some 300 dwellings”. The application proposes 30 more dwellings. However, the supporting documents justify the 330 dwellings proposed, and I consider that this slightly larger amount of development can be satisfactorily accommodated on the site.
- 9.08 I have also considered the possibility of a subsequent housing application(s) being submitted for the area excluded from the proposed housing development under the amended scheme (see Paragraph 2.05 above). Members will note that, as mentioned above, the application has been amended to omit 4.3 hectares of land from the area to be developed for housing. This land, as also noted above, was formerly a landfill site and is omitted because the land contamination is such that remediating the area sufficiently to allow housing development would have added significantly to development costs.
- 9.09 I do not consider that this amendment makes a fundamental difference to the acceptability or otherwise of the proposal before Members. However, it does affect the total number of dwellings that might ultimately be built on the Oare Gravel Works site. The initial proposal envisaged “*up to 375 dwellings*” on the whole site, while the amended scheme proposes “*up to 330 dwellings*” but

with development excluded from the 4.3 hectares to which I refer above. As such, while if the this application were approved there would be a reduction of 45 dwellings in terms of the number of dwellings to be developed, there would remain the possibility of a subsequent application being submitted in the future for further housing development on the 4.3 hectares. If a moderate density of, say, 30 dwellings per hectare is assumed and the contamination issue can be satisfactorily addressed, this land could yield in the region of 130 dwellings. Combined with the 330 currently proposed, this would give a combined total of up to 460 dwellings for the Oare Gravel Works.

- 9.10 This hypothetical scenario clearly has significant planning implications, including (but not limited to) highway safety and convenience, residential amenity, the character and appearance of the area, air quality and other environmental impacts. However, Members will appreciate that the separate planning application that such a development would require would need to fully address these issues and would need to be comprehensively scrutinised by the Council and external consultees. With this mind, I conclude that the possibility of such a proposal coming forward in the future should not have a material bearing on Members' assessment of the acceptability or otherwise of the current planning application.

Visual and Landscape Impact

- 9.11 This application proposes a substantial amount of development on a site that adjoins areas that are locally designated on account of their landscape quality and visual amenity. See Paragraphs 5.6 and 5.7 above, which deal with the adopted 'Swale Landscape Character and Biodiversity Appraisal' (2010). I am also mindful that the application is supported by a Landscape and Visual Impact Assessment that appraises the potential impacts from various public vantage points in the vicinity of the site.
- 9.12 The proposed changes to Ham Road that form part of the application will necessitate the removal of a number of trees on the south-eastern edge of the site, and these are detailed (including their condition) in the supporting arboricultural documents. Members will note that that the trees along the affected stretch of Ham Road are in Category C2, being of "*low quality and value*" and mainly of landscape (rather than arboricultural or cultural) value. As such although their removal, together with some on Oare Road at the junction with the re-aligned Ham Road, is regrettable it is not of such concern as to warrant re-configuration of the proposed highway arrangements.
- 9.13 Members will note that the original proposal for a second vehicular access on to Oare Road, close to the junction Lakeside Avenue, has now been omitted. As such, the existing vegetation on the site frontage with Oare Road will be retained for the most part, reducing the visual impact on the new development and allowing some of the existing semi-rural character of this area to be retained.
- 9.14 Having said this, strategic landscaping – particularly on the frontage with the re-designed Ham Road - will play a critical role in mitigating the visual and

landscape impacts of the proposed development (particularly the proposed housing), both in its immediate vicinity and from public vantage points in the wider landscape, particularly to the north-west and west, where the Ham Marshes is a flat, open landscape across which parts of the application site can be seen. To this end, Members will note the various landscape conditions below and the one requiring the submission of a Development Brief. Members will also note that condition (46) will require a 'lighting plan' for the site; a lighting strategy is required in order to minimise the visual impact on the wider landscape.

- 9.15 The careful design and siting of the proposed dwellings – details of which are to be submitted pursuant to the suggested condition (1) below - will also play an important part in ensuring that the development is ultimately a sympathetic addition to the local environment and one that provides marked visual and landscape benefits when compared to the existing incongruous commercial use that occupies much of the site today.
- 9.16 In summary, I can see no justification for resisting the proposed development on account of potential landscape or visual impacts.

Residential Amenity

- 9.17 Mindful that the Environmental Protection Team Leader raises no objection to the application (see Paragraph 7.11 above) and that the conditions he has suggested are included below, there is no reason why this development should give rise to unacceptable impacts in this regard, either for residents of the new dwellings or for the existing communities living in the vicinity of the application site.
- 9.18 It is also worth noting that as housing element of the application is in outline form, the reserved matters application(s) - to be submitted pursuant to condition (1) below – will allow the Council to control details of the layout, scale, appearance and landscaping of the development in order to ensure that an acceptable level of residential amenity is achieved, both for residents of the proposed dwellings and for people living in existing dwellings in the vicinity of the site (for example, on the eastern side of Ham Road or at Windmill Lane).

Highways

- 9.19 The proposed development has implications both for the Strategic Road Network (motorways and trunk roads) and for the local road network. The former are the responsibility of Highways England, and Members will have noted above that they raise no objection (see Paragraph 7.07) to the application subject to minor changes to the configuration of Junction 7 (Brenley Corner) of the M2. These improvements will be secured by a clause of the proposed Section 106 Agreement that will need to be entered into, in order for planning permission to be granted.

- 9.20 With regard to the local road network, Members will have noted the comments of Kent Highways Services at Paragraph 7.06 above, and the highway-related comments from local residents and other interested parties. In reaching the view that the proposed vehicular access arrangements - for the proposed housing development and the restored listed building cluster and Country Park – are acceptable they had regard to the original Transport Assessment and to the addendums to it; it is important to note that not only are KHS content that a single new access point on to Oare Road (from the re-aligned Ham Road, and rather than the two accesses initially proposed) is acceptable in terms of highway safety and convenience, but they are also of the view that the applicant is correct in asserting that there are substantial barriers preventing the existing vehicular access to the site from Oare Road (close to the junction with the Western Link) from being converted for use as the main vehicular access to the proposed housing. As noted above, an extract from the 'Oare Road Addendum Note' that addressed this issue is attached to this report, as Appendix 4.
- 9.21 In the light of the above, and subject to the imposition of highway-related conditions as set out below and the developer contributions referred to in the 'Developer / Section 106 Issues' section below, I conclude that the development would not have unacceptable implications for highway safety or convenience.

Ecology (within the site)

- 9.22 I am mindful of the comments received from technical consultees (Natural England, KCC Ecology and Kent Wildlife Trust) and from interested third parties who have commented on ecological issues. I am also very aware of the substantial range of habitats within the site. I am mindful that KCC Ecology fully address the issues of potential impacts on protected species within the site and the question of needing enhance biodiversity throughout the site and that they raise no objection. I have included a number of conditions below with the specific aim of safeguarding protected species within the site. Conditions are also included with the aim of improving biodiversity.

Ecology (beyond the site)

- 9.23 As explained above (at Paragraph 4.11), the application site is very sensitively located from the point of view of biodiversity; the site adjoins land that is designated as SSSI / SPA and Ramsar site on account of the national / international significance of the flora and fauna to be found in these designated areas. The potential for adverse impacts on the adjacent SSSI / SPA and Ramsar site is therefore a very important material consideration. The key part of the development in this regard is the central area where permission is sought for the development of 330 dwellings. The application also includes, as Members will have noted above, the provision of a Country Park alongside the delivery of the housing in order to provide an area for informal recreation (for example, dog walking, jogging, walking) for the residents of the new housing (though its use will not be limited to them) so

that they have a good quality, readily accessible recreational alternative to walking along routes through the SPA, and in so doing potentially adding to existing adverse impacts on the special ecological features of the designated area.

- 9.24 In addition to providing the Country Park and a network of paths to link the housing, the listed building cluster and adjacent public highways to one and other, the applicant is committed to paying the tariff (which I discuss further below) that the Council now levies to be spent on off-site mitigation of potential impacts on the SPA.
- 9.25 Members will have noted the comments of Natural England, KCC Ecology and Kent Wildlife Trust (at Paragraphs 7.01 to 7.03 above, and none of whom raise objection). Mindful of this and the mitigation I have described, and on the basis of the appended Habitats Regulations Assessment (see Appendix 2), I do not consider that adverse impacts on off-site ecology sufficient to justify refusal will result from the proposed development.

Developer Contributions / Section 106 Issues

- 9.26 The SPD on developer contribution, to which I refer at paragraph 5.5 above, is the starting point for considering this issue. The planning obligations will also need to satisfy the tests set out in the CIL Regulations, and which are replicated at Paragraph 204 of the NPPF. I have set these out in Paragraph 5.1 above. Members will also note the payments requested by '**Kent County Council (Development Contributions Team)**' and as set out at Paragraph 7.16 above.
- 9.27 In addition, Members will note the submitted draft Heads of Terms (version 5), which is attached as Appendix 3 below.
- 9.28 With regard to the Country Park (and public access / habitat management for the wider site), the Section 106 agreement will need to include wording to (1) achieve the early delivery of the Country Park (including 'access infrastructure' as described in the Access and Habitat Management Plan (AHMP)(August 2015) and (2) ensure that both public access and appropriate habitat management are properly safeguarded in perpetuity. In addition, a condition is included below to require a review of the AHMP before development is commenced.
- 9.29 With regard to the Sea Scouts, they currently use one of the lakes at the site for boating and store some of their boats in one of the listed buildings (namely the 'East Crystallising House', Building 11). Members will have noted above that there has been correspondence from the Sea Scouts, who would very much like to continue using the site. The applicant has indicated a willingness to accommodate both aspects of the Sea Scouts' usage of the site in the development proposals, and the 'Refining House' building within the listed building cluster would be used for the storage of their boats. I consider that the Section 106 agreement will need to include wording to control the delivery of the Refining House building for use by the Sea Scouts and to ensure that

the re-development has minimum impact on their use a lake at the site for boating.

- 9.30 With regard to open space other than the Country Park and the provision of play equipment, although these areas will be privately maintained, the Section 106 Agreement will still need to include wording to ensure the appropriate provision for off-site formal sports provision [in the form of a payment in lieu of on-site provision], and for locally equipped areas for play (LEAPs) and unequipped areas for play (LAPs). The Section 106 Agreement will also need to control the timing of this provision / payment(s).
- 9.31 With regard to the restoration of the Gate House and the Proof House (both of which are, as noted above, Grade II listed buildings), the applicant is committed to their restoration, and I consider that this should be linked to the delivery of the proposed housing. A trigger for this to take place, together with specifications for the restoration, should be included in the Section 106 Agreement.
- 9.32 With regard to the provision of mitigation off-site for the potential impact on the Swale SPA (as mentioned at Paragraph 9.20 above), the applicant is agreeable to making the standard payment of £223.58 per dwelling (amounting to a total of £73,781.40). The Section 106 Agreement will need to require this and include a trigger (s) for the payment(s) to be made.
- 9.33 A financial contribution is also required in respect of the provision of wheelie bins (consisting of two per house and currently costing £39.47 per bin; the Section 106 Agreement will also need to make provision for possibility of flats being provided as part of the housing mix and the relevant corresponding payment, based on eight flats sharing two Eurobins).
- 9.34 A monitoring charge of 5% of the sum of all the financial contributions will also be payable, and will need to be included in the Section 106 Agreement.
- 9.35 Further to the comments of the Economy and Community Services Manager (at Paragraph 7.05 above), I have asked the applicant to agree to the use of best endeavours to achieve (i) 50% labour from Kent, (ii) within the 50% a target of 5% trainees through an accredited apprenticeship scheme and (iii) 20 from within Swale; (iv) contractors and sub-contractors to achieve 30% of business from Kent and (v) within that 10% from Swale, and (vi) quarterly monitoring reports to the Council in respect of job creation. However, has indicated an unwillingness to include these requirements in the Section 106 Agreement. Nevertheless, and unless Members resolve otherwise, I consider that these requirements are reasonable and consider that they should be included in the Section 106 Agreement.
- 9.36 As noted above, Highways England raise no objection but minor off-site highway works to Junction 7 (Brenley Corner) of M2 will need to be undertaken in order to mitigate potential minor impacts on traffic flow on the strategic road network, and the Section 106 Agreement will need to tie the delivery of these works to the housing development.

- 9.37 With regard to the local highway network, Members will have noted that Kent Highways Services raise no objection (see Paragraph 7.06 above) and the corresponding discussion at Paragraph 9.15 to 9.17 of the 'appraisal', the Section 106 agreement will not only need to secure the delivery of the changes to Ham Road and Oare Road (via a Section 278 agreement), but will also need to secure a suitable contribution to the proposed highway improvements to the junction of the A2 and A251 (Ashford Road), because the proposed 330 dwellings will result in additional traffic movements through that junction. I have raised this matter with the applicant, and will update Members as to his response at the meeting.
- 9.38 The Section 106 Agreement will also need to include arrangements for the on-going management and maintenance of the proposed car park opposite Davington Primary School, and a trigger linked to housing completions for the car park to be provided.
- 9.39 Policy DM10 (gypsy and traveller sites) of the emerging Local Plan Bearing Fruits 2031 requires, among other things, that for developments of 150 dwellings or more "...unless a commuted sum has been agreed with the Council, 1% of the total number of dwellings proposed shall be serviced and made available to Gypsies and Travellers as pitches...". Policy CP3(6) of Bearing Fruits 2031 also deals with this issue.
- 9.40 However, in allowing the appeal against the refusal of planning permission on land adjacent to Brogdale Road, Faversham (reference APP/V2255/A/14/2224509) the Inspector noted that there are unresolved objections to the relevant part of Bearing Fruits 2031 and that the proposed approach to gypsy site provision (i.e. within housing developments) is not advocated in the NPPF or elsewhere in Government planning guidance. He concluded that 'very little weight' can be given to the emerging policy and ultimately that the housing development need not include gypsy site provision. In light of this decision, I do not consider that gypsy and traveller pitch provision should be required as part of this development.
- 9.41 With regard to Affordable Housing, and further to paragraph 7.15 above, the applicant has agreed to provide the percentage and tenure split as required by the adopted Local Plan, but clarification is sought in respect of the mix of affordable dwelling sizes and the split between phases. I also seek authority to require the provision of four wheelchair-accessible affordable homes as requested by KCC. I will update Members at the meeting.
- 9.42 Further to the comments of the Kent County Council, SUDS Team (see Paragraph 7.19 above), I consider that the Section 106 Agreement should include provision for the long-term management and maintenance of SUDS system (details of which are to be controlled by a planning condition included below).
- 9.43 In respect of the cessation of the mineral processing and storage use currently taking place on site, Members will note that the appended draft

HOTs addresses this at Point 12. It will also be noted that the site's operators, Brett Aggregates Limited, have identified an alternative, off-site location for the mineral processing activities that currently take place at the site. I consider that the Section 106 Agreement should include a clause to ensure that the Council has sufficient control of this matter.

- 9.44 Finally, I seek delegated authority to negotiate a Section 106 Agreement based on the above and to agree suitable triggers for the payments referred to above to be made and for the delivery / implementation of the other items described in this section.

Phasing

- 9.45 Further to Paragraph 2.16 above, and the applicant's proposed phasing scheme (attached as Appendix 1), I consider that triggers in the proposed Section 106 agreement should be used to secure the necessary payments and the other items as described above. With regard to the division of the construction of the housing into phases, Members will note the 'Construction and Environmental Method Statement' condition below and that it includes a requirement for phasing to be agreed.

Foul and Surface Water Drainage

- 9.46 Members will have noted above that Southern Water Services, the Environment Agency and Kent County Council, SUDS Team all have no objection to this planning application. Members will also note the 'foul and surface water drainage' condition set out below and that the Section 106 Agreement will include a clause in respect of the long-term management of the SUDS system. I consider that the development will not give rise to unacceptable foul or surface water drainage implications.

Sustainable design and construction

- 9.47 Members will have noted the comments of the Climate Change Officer, as set out at paragraph 7.08 above. As noted above, the Code for Sustainable Homes has been cancelled. In the light of this, the applicant has commented as follows:

“Code for Sustainable Homes: Our original proposals were to meet Code level 4. As you note, Code for Sustainable Homes as a measure no longer apply following the Government's withdrawal of the policy on the 27th March 2015. However, the essence of the code will be fulfilled and other measures to reduce water consumption and carbon emissions and the implementation of sustainable design will still be incorporated. Code for Sustainable Homes is being replaced by alterations to the building regulations and critically the proposed development will fully comply with the latest requirements of the Approved Documents Part G, H and L ensuring water efficiency, suitable drainage and waste disposal, and conservation of fuel and power are still achieved.”

- 9.48 I consider that the conditions included below that deal with sustainable design and construction will enable suitable measures to be incorporated in the development.

Heritage Assets

- 9.49 As noted above, the application includes proposals to restore the Marsh Gunpowder Works listed buildings and proposes appropriate uses for them. Securing appropriate new uses for this important and largely redundant historic complex is fundamental to securing their future conservation. The proposals for re-use and conservation are to be welcomed and should allow all the buildings to be removed from the Heritage at Risk Register. The applicant is also committed to the restoration of both the Proof House and the Gate House (which are located close to Ham Road). Subject to the conditions set out below and appropriate wording in the Section 106 agreement to control the timing of the restoration works, it is considered that the proposals are acceptable in this regard and, in particular, that the new development (notably the housing) will not impact unacceptably on these heritage assets subject to the detailed layout being substantially revised in the area of the Gate House in order to respond more positively to its setting. Indeed their restoration would be a significant benefit from both a heritage and a community point of view. Development which secures the future of so many designated heritage assets makes a valuable contribution to the sustainability of the development as a whole

Other Matters

- 9.50 With regard to the proposed provision of office space (up to 873 square metres of space is proposed) within the restored cluster of listed buildings, Members will note that the applicant has addressed the issue of potential adverse impact on Faversham town centre as a location for office development as a result of this new provision; a dedicated response has been provided to this issue, which among other things identified a limited number of premises in the town centre which are considered to amount to available office accommodation. Two of the three locations are considered to be significantly constrained, and the third extends to just over 300 square metres. The document goes on to conclude that “...*the small amount of office space proposed at Oare Lakes is unlikely to prejudice the office market in Faversham. Indeed the provision of more modern office space is likely to enhance the local economy and the town’s position as a business location.*”
- 9.51 I agree with this conclusion and consider that the application is acceptable in this regard.

10.0 CONCLUSION

- 10.01 As set out at Paragraphs 9.01 to 9.06 above, given that the development proposed is not in accordance with the adopted Local Plan, the acceptability of the principle of the proposed scheme hinges (in the absence of a five-year housing land supply) on whether the application is considered to constitute

sustainable development. In reaching a conclusion on this, weight must also be given to the fact that the site is allocated for a mixed use development – including “*some 300 dwellings*” in the emerging Local Plan, namely Bearing Fruits 2031.

10.02 As set out above (from Paragraph 9.07 onwards), I have considered the various material considerations. Having done so, I have reached the conclusion the scheme has the potential (subject to careful control of the details using planning conditions and the Section 106 agreement) to deliver significant economic, social and environmental benefits and that while there may be some moderate adverse impacts that these would be significant outweighed by the benefits.

10.03 I therefore conclude that the development proposed amounts to sustainable development and that it would be in accordance with the NPPF and broadly with Bearing Fruits 2031; as such, planning permission and listed building consent should be granted.

11.0 RECOMMENDATION

11.01 GRANT planning permission (ref SW/14/0257) subject to the resolution of the developer contribution and other Section 106 agreement issues as set out above (from Paragraph 9.22 onwards), the subsequent signing of a suitably-worded Section 106 Agreement and the conditions set out below (with fine-tuning as required).

11.02 GRANT listed building consent (ref SW/14/0301) subject to conditions as set out under the listed building consent sub-heading below.

CONDITIONS FOR OUTLINE COMPONENTS: OF PLANNING PERMISSION REF: SW/14/0257

(1) Details relating to the layout, scale and appearance of the proposed building(s), the landscaping of the site shall be submitted to and approved by the Local Planning Authority before any development is commenced.

Reasons: In pursuance of Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

(2) Application for approval of reserved matters referred to in Condition (1) above must be made not later than the expiration of three years beginning with the date of the grant of outline planning permission.

Reasons: In pursuance of Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

(3) The development to which this permission relates must be begun not later than the expiration of two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.

Reasons: In pursuance of Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

Pre Commencement Conditions

- (4) The details submitted pursuant to condition (1) above shall show the residential development restricted to the residential areas as identified indicatively on the 'Illustrative Site Layout' (705-10C).

Reasons: In order to secure a satisfactory form of development having regard to the nature of the site.

- (5) For each phase of the housing development hereby approved, no development shall take place until details have been submitted to the Local Planning Authority and approved in writing, which set out what measures will be taken to ensure that the development incorporates sustainable construction techniques such as water conservation and recycling, renewable energy production including the inclusion of solar thermal or solar photo voltaic installations, and energy efficiency. Upon approval, the details shall be incorporated into the development of the phase of development in question as approved, and retained as such in perpetuity.

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

- (6) No development shall take place until details of a scheme for the long-term monitoring of breeding birds using the site has been submitted to, and approved in writing by, the Local Planning Authority.

Reasons: In the interests of monitoring breeding bird populations within the site.

- (7) None of the dwellings hereby approved shall be first occupied until the proposed foot-cycle paths (and accompanying soft landscaping and lighting) – namely the connections between 'School Square' / Ham Road and the southern part of the housing area and between the Ham Road / Oare Road junction and Oare Road close to the junction with Lakeside Avenue - shown indicatively on drawing 'Illustrative Site Layout' (705-10C) have been provided and are available for use. The specification (including the lighting, surfacing and soft landscaping) shall first have been agreed in writing by the Local Planning Authority.

Reasons: In the interests of sustainable development.

- (8) The proposed estate roads, footways, footpaths, verges, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, vehicle overhang margins, embankments, visibility splays, accesses, carriageway gradients, drive gradients, car parking and street furniture shall be constructed and laid out in

accordance with details to be submitted and approved by the Local Planning Authority in writing before their construction begins. For this purpose, plans and sections, indicating as appropriate, the design, layout, levels, gradients, materials and method of construction shall be submitted to the Local Planning Authority.

Reason: To ensure that the roads are laid out and constructed in a satisfactory manner.

- (9) Before the first occupation of a dwelling / premises the following works between that dwelling / premises and the adopted highway shall be completed as follows:
- (A) Footways and/or footpaths shall be completed, with the exception of the wearing course;
 - (B) Carriageways completed, with the exception of the wearing course, including the provision of a turning facility beyond the dwelling together with related:
 - (1) highway drainage, including off-site works,
 - (2) junction visibility splays,
 - (3) street lighting, street nameplates and highway structures if any.

Reason: In the interests of highway safety.

- (10) No dwelling hereby approved shall be occupied until a Travel Plan has been submitted to and approved in writing by the Local Planning Authority, and it shall be thereafter be implemented in accordance with the approved details. There shall be an annual review of the Travel Plan (for a period of 5 years from the date of approval of the plan) to monitor progress in meeting the targets for reducing car journeys.

Reason: To ensure the development accords with the measures set out in the travel plan, and in the interests of sustainable development and promoting public transport, walking and cycle visits.

- (11) None of the dwellings hereby approved shall be first occupied until details of measures to ensure that the emergency vehicular access to the approved housing is used only in the event of an emergency have been submitted to and approved in writing by the Local Planning Authority. The agreed measures shall then be implemented in accordance with a programme that shall also have been agreed in writing by the Local Planning Authority. Following implementation, the approved measures shall then be retained in perpetuity.

Reason: In the interests of highway safety and convenience.

Post Commencement / General Conditions

- (12) The details submitted pursuant to condition (1) above (in respect of the housing development) shall show adequate land, reserved for the parking or garaging of cars (in accordance with the currently adopted Kent County Council Vehicle Parking Standards) which land shall be kept available for this purpose at all times and no permanent development, whether permitted by the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking or re-enacting that Order) or not shall be carried out on such land (other than the erection of a private garage or garages) or in a position as to preclude vehicular access thereto; such land and access thereto shall be provided prior to the occupation of the dwelling(s) hereby permitted.

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

CONDITIONS FOR DETAILED COMPONENTS OF PLANNING PERMISSION REF : SW/14/0257:

- (13) The areas shown on the plan 705A-10A as parking space shall be used for or be available for such use at all times when the premises are in use and no development, whether permitted by the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking or re-enacting that Order) or not, shall be carried out on that area of land or in such a position as to preclude vehicular access to this reserved area; such land and access thereto shall be provided prior to the commencement of the use hereby permitted. Details of the surface treatment shall be submitted to and approved in writing by the Local Planning Authority before any of the buildings are first occupied, and the agreed treatment shall be fully implemented in full within four weeks of the first occupation of any of the buildings.

Reason: The development without the provision of the parking space would be detrimental to amenity and likely to lead to inconvenience and danger to road users by virtue of vehicles parked on the public highway amenity

Pre Commencement Conditions

- (14) No development shall take place in respect of the Marsh Gunpowder Works listed buildings, until details have been submitted to the Local Planning Authority and approved in writing, which set out what measures have been taken to ensure that the development incorporates sustainable construction techniques such as water conservation and recycling, renewable energy production including the inclusion of solar thermal or solar photo voltaic installations, and energy efficiency. Upon approval, the details shall be incorporated into the development as approved, and implemented in full for each of the buildings before the building in question is first used.

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

- (15) No development shall take place on the detailed elements of the site until full details of both hard and soft landscape (including indigenous species chosen to enhance biodiversity) works for that site have been submitted to and approved in writing by the Local Planning Authority. These details shall include existing trees, shrubs and other features, planting schedules of plants, noting species, plant sizes and numbers where appropriate, size of tree pits, measures to prevent tree vandalism, means of enclosure, hard surfacing materials, and an implementation programme.

Reasons: In the interests of the visual amenities of the area and encouraging wildlife and biodiversity.

Post Commencement / General Conditions

- (16) Full details of the bunding (include plans and cross section of the bund, and details of any gates or openings, including plans for the operation and maintenance of these), the raised walkways and viewing areas for the heritage cluster shall be submitted to and approved in writing before any of the heritage buildings or the first dwelling hereby approved are first occupied, and the agreed measures shall have been provided in full before any of the restored listed buildings are first occupied of details having been agreed.

Reason: In the interests of visual amenity and public access.

- (17) A sample panel of the proposed re-pointing for heritage cluster buildings shall be prepared for inspection and approved in writing by the Local Planning Authority. Any repointing or new brickwork shall then be implemented in accordance with the approved sample details.

Reason: In the interest of the special architectural or historic interest of the listed buildings.

- (18) In respect of the culture and heritage hub buildings, detailed drawings at a suggested scale of 1:1 and 1:10 of all new external and internal joinery work (including new window linings as appropriate) and fittings together with sections through glazing bars, frames and mouldings shall be submitted to and approved by the Local Planning Authority before any development takes place. The development shall be carried out in accordance with the approved details.

Reasons: In the interest of the special architectural or historic interest of the listed buildings.

- (19) Notwithstanding the details shown on drawing 705A-30A, details of external lighting for the culture and heritage hub shall be submitted to and approved in writing by the Local Planning Authority. The development shall then be implemented in accordance with the approved details.

Reason: In the interests of safeguarding the setting of these listed buildings.

- (20) In respect of the East Crystallising House, prior to the removal of the existing timber louvres, a detailed measured survey drawing shall be submitted to and approved in writing by the Local Planning Authority. The development shall then be carried out in accordance with that drawing.

Reason: In the interest of the special architectural or historic interest of that listed building.

- (21) No development shall take place, until details of facing materials and external finishes and colours in respect of the heritage hub buildings have been submitted to and approved by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reasons: In the interest of the special architectural or historic interest of the listed buildings

- (22) In respect of the 'office, store, house' building, no development shall commence until details of the new staircase shall be submitted to and approved in writing by the Local Planning Authority. The development shall then be implemented in accordance with the approved details.

Reasons: In the interest of the special architectural or historic interest of the listed building.

- (23) In respect of the 'Melting House', details of the metal grille windows shall be submitted to and approved in writing by the Local Planning Authority before development is commenced. The development shall then be implemented in accordance with the approved details.

Reasons: In the interest of the special architectural or historic interest of the listed building.

- (24) In respect of the 'West Crystallising House', drawings showing 1:5 scale existing and proposed eaves details and the extent and specification for any proposed wall frame and roof repairs shall be submitted to and approved in writing by the Local Planning Authority before development is commenced. The development shall then be implemented in accordance with the approved details.

Reasons: In the interest of the special architectural or historic interest of the listed building.

- (25) In respect of the 'Earth House', a detailed specification and schedule of works for the re-building of the north-east elevation and for structural repairs to the roof (which shall accord the repair principles in Section 6.0 of the Heritage Statement) shall be submitted to and approved in writing by the Local Planning Authority before development is commenced. The development shall then be implemented in accordance with the approved details.

Reasons: In the interest of the special architectural or historic interest of the listed building.

- (26) In respect of the 'Earth House' and the 'Refining House', a sample panel of brick-work for the north-east elevation of the 'Earth House' and the north-west elevation of the 'Refining House' shall be provided and approved in writing by the Local Planning Authority before development is commenced. The development shall then be implemented in accordance with the approved panel.

Reasons: In the interest of the special architectural or historic interest of the listed building.

- (27) Notwithstanding the information provided, the development of the Country Park shall not commence until details have been submitted to and approved in writing by the Local Planning Authority setting out a scheme of measures to minimise opportunities for anti-social behaviour and criminality to be carried out in the Country Park. The agreed measures shall then be installed before the Country Park is first opened to the public, and retained in perpetuity.

Reason: In the interests of minimising opportunities for crime and anti-social behaviour.

CONDITIONS FOR THE ENTIRE APPLICATION SITE OF PLANNING PERMISSION REF: SW/14/0257:

- (28) The development hereby approved shall be carried out in accordance with the following approved drawings:
- (i) Access plan(s): 705-12A, 13-008-15A, -16; and -17.
 - (ii) 705A-10A, -11 B, -12 A, -13 A, -14 A, -15 A, -16 A, -17 A, -18 A, -19 A, -20 A, -21 A, -22 A, -23 A, -24, and -30A; and
 - (iii) Maps 3,4,5 and 6 appended to the Access and Habitat Management Plan (August 2015)

Reasons: In the interests of proper planning and for the avoidance of doubt.

Pre Commencement Conditions

- (29) No development shall take place until a detailed reptile mitigation strategy has been submitted to, and approved in writing by, the Local Planning Authority. The development shall then be implemented in accordance with the agreed arrangements.

Reasons: In the interests of protecting the existing reptile populations within the site.

- (30) No development shall take place until a detailed invertebrate mitigation strategy has been submitted to, and approved in writing by, the Local Planning Authority. The development shall then be implemented in accordance with the agreed arrangements.

Reasons: In the interests of protecting the existing invertebrate populations within the site.

- (31) No development shall take place until a detailed bat mitigation strategy has been submitted to, and approved in writing by, the Local Planning Authority. The development shall then be implemented in accordance with the agreed arrangements.

Reasons: In the interests of protecting the existing bat populations within the site.

- (32) No development shall take place until a strategy for updating ecological surveys, where development is not implemented within two years of date of surveys.

Reasons: In the interests of protecting and encouraging biodiversity.

- (33) No development shall take place until a detailed mitigation strategy for all species has been submitted to, and approved in writing by, the Local Planning Authority. The development shall then be implemented in accordance with the agreed arrangements.

Reasons: In the interests of protecting and encouraging biodiversity.

- (34) No development of the scheme hereby approved shall take place until a Construction and Environmental Method Statement has been submitted to and approved in writing by the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period. This shall include details relating to:

- (i) The control of noise and vibration emissions from construction activities including groundwork and the formation of infrastructure, along with arrangements to monitor noise emissions from the development site during the construction phase;
- (ii) The loading and unloading and storage of plant and materials on site;
- (iii) The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- (iv) The control and suppression of dust and noise including arrangements to monitor dust emissions from the development site during the construction phase;
- (v) Measures for controlling pollution/sedimentation and responding to any spillages/incidents during the construction phase;
- (vi) Measures to control mud deposition off-site from vehicles leaving the site;

- (vii) The control of surface water drainage from parking and hard-standing areas including the design and construction of oil interceptors (including during the operational phase);
- (viii) The use if any of impervious bases and impervious bund walls for the storage of oils, fuels or chemicals on-site;
- (ix) The location and size of temporary parking and details of operatives and construction vehicle loading, off-loading and turning and personal, operatives and visitor parking;
- (x) Lighting strategy for the construction phase, designed to minimise light spillage from the application site; and
- (xi) Phasing of the development.

Reasons: To ensure the development does not prejudice conditions of residential amenity, highway safety and convenience, and local ecology, through adverse levels of noise and disturbance during construction.

- (35) No work shall commence on the development site until the off-site highway works indicated on drawings 13-008-16, 13-008-17 and 705-10A have been carried out in accordance with a design and specification to be approved in writing with the Local Planning Authority and to be fully implemented to the satisfaction of the Local Planning Authority.

Reason: In the interests of highway safety and convenience.

- (36) No development shall take place until a strategic landscaping scheme (to complement the other landscaping conditions imposed and to include, but not be limited to, the Ham Road and Oare Road frontages and the School Square area) for the development (including indigenous species chosen to enhance biodiversity) has been submitted to and approved in writing by the Local Planning Authority. These details shall include existing trees, shrubs and other features, planting schedules of plants, noting species, plant sizes and numbers where appropriate, size of tree pits, measures to prevent tree vandalism, means of enclosure, hard surfacing materials, and an implementation programme.

Reasons: In the interests of the visual amenities of the area and encouraging wildlife and biodiversity.

- (37) No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of:
- (i) archaeological field evaluation works in accordance with a specification and written timetable which has been submitted to and approved in writing by the Local Planning Authority; and
 - (ii) following on from the evaluation, any safeguarding measures to ensure preservation in situ of important archaeological remains and/or further archaeological investigation and recording in accordance with a specification and timetable which has been submitted to and approved in writing by the Local Planning Authority.

Reasons: To ensure appropriate assessment of the archaeological implications of any development proposals and the subsequent mitigation of adverse impacts through preservation in situ or by record.

- (38) No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of a programme of building recording in accordance with a specification and written timetable which has been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that historic building features are properly examined and recorded.

Post Commencement / General Conditions

- (39) The access details shown on the approved plans shall be completed prior to the occupation of any buildings hereby approved, and the access shall thereafter be maintained.

Reason: In the interests of highway safety.

- (40) Vegetation clearance in connection with the development hereby approved shall not take place during the bird breeding season, namely the months of March to August, unless otherwise agreed to in writing by the Local Planning Authority.

Reasons: To avoid bird wildlife disturbance during the bird breeding season of March to August.

- (41) Construction of the development hereby approved shall not commence until details of the proposed means of foul and surface water drainage have been submitted to and approved in writing by the Local Planning Authority, in consultation with Southern Water, Natural England and the Environment Agency. With regard to surface water drainage, the agreed details shall consist of a scheme using SUDS principles (and based upon a coherent SUDS Strategy for the entire site) and shall consist of a scheme that will limit runoff rates to those from the existing site and ensures that pollutants are contained within the areas to be developed, unless it has been demonstrated to the satisfaction of the Local Planning Authority that such a scheme cannot be delivered for the development hereby approved. The development shall then be implemented in accordance with the approved details.

Reasons: In the interests of achieving an acceptable scheme of foul and surface water drainage and in the interests of minimising flood risk and ground water contamination.

- (42) No development shall take place until an updated Access and Habitat Management Plan (AHMP) (to cover access, ecological and species monitoring), to include all green spaces – including the Country Park hereby approved - as proposed under the amended scheme, has been submitted to

and approved in writing by the Local Planning Authority. The update AHMP shall include a strategy for incorporating future results of the site breeding bird monitoring, invertebrate monitoring, reptile mitigation, bat monitoring into the AHMP. The requirements of AHMP shall then be complied with in perpetuity.

Reasons: In the interests of balancing ecological protection with the delivery of recreational access, and minimising adverse impacts on the Special Protection Area.

- (43) Prior to first dwelling hereby approved being occupied, a 10-year wintering bird monitoring strategy must be submitted to and approved in writing by the Local Planning Authority, and the strategy must provide details of the measures which will be implemented if the surveys identify a decline in bird population numbers. The monitoring must be carried out as detailed within the monitoring strategy and the results submitted to the Local Planning Authority.

Reason: In the interests of minimising any potential adverse impacts on wintering birds using the site and the adjoining Special Protection Area.

- (44) The details submitted in pursuance of condition (1) above shall be in accordance with a Development Brief that shall first have been agreed in writing by the Local Planning Authority and which shall include the following:

- (a) Details of the road layout for the site;
- (b) A comprehensive network of segregated pedestrian and cycle routes;
- (c) An overall landscape strategy for the application site;
- (d) An overall sustainable surface water drainage strategy for the application site (based on a network of open ditches and ponds);
- (e) A strategy for the architectural treatment of the buildings on the site, including elevational treatment, roof design and the palette of colours;
- (f) A strategy to maximise opportunities for biodiversity across all parts of the application site, including within the residential parcels;
- (g) A lighting plan for the site, to include details of the lighting columns, the type and luminance of the lighting units with glare shields and details of lux levels, both inside and outside the site;
- (h) A strategy for dwelling storey heights; and
- (i) A strategy for ensuring the sympathetic development of part of the site close to Ham Road and, in particular, safeguarding the setting of the Proof House and the Gate House.

Reasons: In the interests of promoting a consistent quality of development, sustainable development, ecological protection and enhancement, and of visual and landscape amenity.

- (45) The details submitted pursuant to condition (1) above shall include cross-sectional drawings through the site, of the existing and proposed site levels. The development shall then be completed strictly in accordance with the approved levels.

Reasons: In order to secure a satisfactory form of development having regard to the nature of the site.

- (46) Prior to each phase of development approved by this planning permission no development shall take place until a remediation strategy that includes the following components to deal with the risks associated with contamination of the site shall each be submitted to and approved, in writing, by the local planning authority:
1. A preliminary risk assessment which has identified:
 - all previous uses
 - potential contaminants associated with those uses
 - a conceptual model of the site indicating sources, pathways and receptors
 - potentially unacceptable risks arising from contamination at the site.
 2. A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
 3. The results of the site investigation and the detailed risk assessment referred to in (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
 4. A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these components require the express written consent of the local planning authority. The scheme shall be implemented as approved. Sufficient information has been provided to satisfy part 1 of the above condition.

Reasons: To ensure any possible land contamination related to historic site activities is addressed in line with current planning guidance on sustainable development. To protect controlled waters and comply with the NPPF: Paragraph 109 states that the planning system should contribute to and enhance the natural and local environment by preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of water pollution.

- (47) No occupation of each phase of development shall take place until a verification report demonstrating completion of works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved, in writing, by the local planning authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include any plan (a “long-term monitoring and maintenance plan”) for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as

identified in the verification plan. The long-term monitoring and maintenance plan shall be implemented as approved.

Reasons: To protect controlled waters and comply with the NPPF.

- (48) If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until the developer has submitted a remediation strategy to the local planning authority detailing how this unsuspected contamination shall be dealt with and obtained written approval from the Local Planning Authority. The remediation strategy shall be implemented as approved.

Reasons: To protect controlled waters and comply with the NPPF.

- (49) No infiltration of surface water drainage into the ground at the site is permitted other than with the express prior written consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to controlled waters. The development shall be carried out in accordance with the approval details.

Reasons: To protect controlled water and comply with the NPPF.

- (50) Piling or any other foundation designs using penetrative methods shall not be permitted other than with the express written prior consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to groundwater. The development shall be carried out in accordance with the approved details.

Reason: To protect controlled water and comply with the NPPF.

- (51) No development that may affect a tree or trees at the site shall take place until a tree protection plan and arboricultural method statement in accordance with the recommendations of BS 5837:2012 have been submitted to and approved in writing by the local planning authority. The method statement shall detail implementation of any aspect of the development that has the potential to result in the loss of or damage to trees, including their roots, and shall take account of site access, demolition and construction activities, foundations, service runs and level changes. It shall also detail any tree works necessary to implement the approved scheme.

Reason: To safeguard existing trees to be retained and to ensure a satisfactory setting and external appearance to the development.

- (52) All hard and soft landscape works shall be carried out in accordance with the approved details. Unless specified elsewhere, the works shall be carried out prior to the occupation of any part of the phase of the development to which they relate or in accordance with the programme agreed in writing with the Local Planning Authority.

Reasons: In the interests of the visual amenities of the area and encouraging wildlife and biodiversity.

- (53) Upon completion of the approved landscaping scheme, any trees or shrubs that are removed, dying, being severely damaged or becoming seriously diseased within five years of planting shall be replaced with trees or shrubs of such size and species as may be agreed in writing with the Local Planning Authority, and within whatever planting season is agreed.

Reasons: In the interests of the visual amenities of the area and encouraging wildlife and biodiversity.

- (54) The Country Park hereby approved shall not be first used until a scheme of road signage (to direct potential visitors to it) has been submitted to and approved in writing by the Local Planning Authority. The agreed signage shall then be installed within 28 days of the Country Park opening to the public, and the signs shall then be retained in perpetuity.

Reason: In the interests of ensuring that the existence and location of the Country Park are well known locally.

- (55) As an initial operation on site, adequate precautions shall be taken during the progress of the works to guard against the deposit of mud and similar substances on the public highway in accordance with proposals that shall have been submitted to, and approved in writing by, the Local Planning Authority.

Reason: In the interests of amenity and road safety.

- (56) During construction provision shall be made on the site, to the satisfaction of the Local Planning Authority and in accordance with details that shall first have been agreed in writing with them, to accommodate operatives' and construction vehicles parking, loading, off-loading or turning on the site.

Reason: To ensure that vehicles can be parked or manoeuvred off the highway in the interests of highway safety.

INFORMATIVES

- (1) The applicant should enter into a formal agreement with Southern Water to provide the necessary sewerage infrastructure required to service this development. Please contact Atkins Limited at Anglo St James House, 39A Southgate Street, Winchester, SO23 9EH, or 'southernwater.co.uk'
- (2) Environment Agency informatives: these have been provided in respect of foul and surface water drainage, fuel, oil and chemical storage, waste on site, and decommissioning underground storage tanks, and the details are set out in the Environment Agency letter dated 13 April 2015.
- (3) Kent Highways Services informative: It is the responsibility of the applicant to ensure, before the development hereby approved is commenced, that all

necessary highway approvals and consents where required are obtained and that the limits of highway boundary are clearly established in order to avoid any enforcement action being taken by the Highway Authority. The applicant must also ensure that the details shown on the approved plans agree in every aspect with those approved under such legislation and common law. It is therefore important for the applicant to contact KCC Highways and Transportation to progress this aspect of the works prior to commencement on site.

Council's approach to this application

The Council recognises the advice in paragraphs 186 and 187 of the National Planning Policy Framework (NPPF) and seeks to work with applicants in a positive and proactive manner by offering a pre-application advice service; having a duty planner service; and seeking to find solutions to any obstacles to approval of applications having due regard to the responses to consultation, where it can reasonably be expected that amendments to an application will result in an approval without resulting in a significant change to the nature of the application and the application can then be amended and determined in accordance with statutory timescales.

In this case the applicant was provided with the opportunity to submit amendments to the scheme to address concerns about a number of issues, including contamination and vehicular access. The applicant subsequently provided amendments/additional information that satisfied our concerns and those of technical consultees.

CONDITIONS FOR THE LISTED BUILDING CONSENT REF : SW/14/0301

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

Reasons: In pursuance of Section 18 of the Listed Building Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

- (2) No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of a programme of building recording in accordance with a specification and written timetable which has been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that historic building features are properly examined and recorded.

- (3) Notwithstanding the details shown on drawing 705A-30A, details of external lighting for the culture and heritage hub shall be submitted to and approved in writing by the Local Planning Authority. The development shall then be implemented in accordance with the approved details.

Reason: In the interests of safeguarding the setting of these listed buildings.

- (4) A sample panel of the proposed re-pointing for heritage cluster buildings shall be prepared for inspection and approved in writing by the Local Planning Authority. Any repointing or new brickwork shall then be implemented in accordance with the approved sample details.

Reason: In the interest of the special architectural or historic interest of the listed buildings.

- (5) In respect of the culture and heritage hub buildings, detailed drawings at a suggested scale of 1:1 and 1:10 of all new external and internal joinery work (including new window linings as appropriate) and fittings together with sections through glazing bars, frames and mouldings shall be submitted to and approved by the Local Planning Authority before any development takes place. The development shall be carried out in accordance with the approved details.

Reasons: In the interest of the special architectural or historic interest of the listed buildings.

- (6) In respect of the East Crystallising House, prior to the removal of the existing timber louvres, a detailed measured survey drawing shall be submitted to and approved in writing by the Local Planning Authority. The development shall then be carried out in accordance with that drawing.

Reason: In the interest of the special architectural or historic interest of that listed building.

- (7) No development shall take place, until details of facing materials and external finishes and colours in respect of the heritage hub buildings have been submitted to and approved by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reasons: In the interest of the special architectural or historic interest of the listed buildings.

- (8) In respect of the 'office, store, house' building, no development shall commence until details of the new staircase shall be submitted to and approved in writing by the Local Planning Authority. The development shall then be implemented in accordance with the approved details.

Reasons: In the interest of the special architectural or historic interest of the listed building.

- (9) In respect of the 'Melting House', details of the metal grille windows shall be submitted to and approved in writing by the Local Planning Authority before

development is commenced. The development shall then be implemented in accordance with the approved details.

Reasons: In the interest of the special architectural or historic interest of the listed building.

- (10) In respect of the 'West Crystallising House', drawings showing 1:5 scale existing and proposed eaves details and the extent and specification for any proposed wall frame and roof repairs shall be submitted to and approved in writing by the Local Planning Authority before development is commenced. The development shall then be implemented in accordance with the approved details.

Reasons: In the interest of the special architectural or historic interest of the listed building.

- (11) In respect of the 'Earth House', a detailed specification and schedule of works for the re-building of the north-east elevation and for structural repairs to the roof (which shall accord the repair principles in Section 6.0 of the Heritage Statement) shall be submitted to and approved in writing by the Local Planning Authority before development is commenced. The development shall then be implemented in accordance with the approved details.

Reasons: In the interest of the special architectural or historic interest of the listed building.

- (12) In respect of the 'Earth House' and the 'Refining House', a sample panel of brick-work for the north-east elevation of the 'Earth House' and the north-west elevation of the 'Refining House' shall be provided and approved in writing by the Local Planning Authority before development is commenced. The development shall then be implemented in accordance with the approved panel.

Reasons: In the interest of the special architectural or historic interest of the listed building.

- NB For full details of all papers submitted with this application please refer to the relevant Public Access pages on the council's website.
The conditions set out in the report may be subject to such reasonable change as is necessary to ensure accuracy and enforceability.

Appendices

Appendix 1 – Phasing plan: 'Oare – Phasing v4'

Appendix 2 – Habitats Regulations Assessment

Appendix 3 – Draft Heads of Terms (version 5)

Appendix 4 – Extract from the ‘Oare Road Addendum Note’

Appendix 5 – Design Panel letter, dated 6 January 2014

APPENDIX 1

APPENDIX 1

Oare - Phasing v4 – 18th May 2015**Works for each phase**

- Ground condition remediation for each phase;
- Foul & Surface drainage all in place for each phase
- Access for phase, plus construction access,
- Site and show-home compounds, wheel washing, etc.

Phase 1- c 85 units**Before 1st occupation:**

- Dog and people-proof fencing for all protected habitat areas
- Listed Buildings not in continuing use made safe, secure and where necessary structurally supported.
- Fencing off the later development areas and any working plant and machinery

During 1st Phase:

- Providing local POS and play equipment relevant to phase 1.
- Install the flood defense bund around the Listed Building Complex to provide them early protection and to provide the associated raised footpath routes to the park in replacement for temporary routes used to that point.
- Contributions to KCC education on a pro rata basis
- Providing a proportion of Affordable Housing
- Completing the Management Plan Structure 'Set-Up'

2nd Phase - before completion: - c 86-190 units

- Provide phase related POS and play equipment.
- Provision of car park by School
- Contributions to KCC education on a pro rata basis
- Restoration of the "Meal Room" building (to ensure facilities for the Faversham Sea Scouts are available if they are required.) This work to be done unless the Faversham Sea Scouts are no longer in occupation, in which case the building would fall within the works set out in phase 3.
- Habitat Creation Work - as set out in para 5 of the submitted Access & Habitat Management Plan

3rd Phase - before completion: - c191-265 units

- Contributions to KCC education on a pro rata basis
- Provide phase related POS and play equipment.
- Substantial work on the listed buildings from 245 occupations onwards with completion of the "Structurally Restored" phase (see below) before 310 house occupations (ie 20 before site completion to ensure compliance), and the Occupation Phase being completed as occupiers for each building are secured.

Structurally Restored Phase

APPENDIX 1

Undertake the Schedule of Works, submitted as part of the application entitled "Anticipated Schedule of Works for Restoration of the external fabric of the Listed Buildings" dated 27th October 2014 to the listed buildings (based on the approved drawings), to ensure that the buildings are watertight and structurally stable to ensure their long term retention until such time as occupants are secured for each building.

Occupation Phase

When occupants are found for the buildings additional works are to be undertaken to enable the listed buildings to be fully occupied, these are the remaining works not covered by the Schedule of Works set out on the approved drawings, subject to permitted alterations.

Parking/turning/servicing and landscaping to each building to be provided prior to the building to which it relates being occupied.

4th Phase - before completion: - c266-330 units

- Contributions to KCC education on a pro rata basis
- Provide phase related POS and play equipment.

Completion of all outstanding open space provision and ecological mitigation before 320 occupations.

APPENDIX 2

Planning Committee Report

Appendix 2: HABITATS REGULATIONS ASSESSMENT

Context

SPAs are protected sites classified in accordance with Article 4 of the EC Birds Directive. They are classified for rare and vulnerable birds and for regularly occurring migratory species. Article 4(4) of the Birds Directive (2009/147/EC) requires *Member States to take appropriate steps to avoid pollution or deterioration of habitats or any disturbances affecting the birds, in so far as these would be significant having regard to the objectives of this Article.*

For proposals likely to have a significant effect on a European site, the Conservation of Habitats and Species Regulations (2010) requires the Council to make an appropriate assessment of the implications for the site. Para. 119 of the NPPF states that *"The presumption in favour of sustainable development ... does not apply where development requiring appropriate assessment under the Birds or Habitats Directives is being considered, planned or determined."*

Given the scales of housing development proposed around the North Kent SPAs, the North Kent Environmental Planning Group (NKEPG) commissioned a number of reports to assess the current and future levels of recreational activity on the North Kent Marshes SPAs and Ramsar sites. NKEPG comprises Canterbury, Dartford, Gravesham, Medway and Swale local authorities, together with Natural England and other stakeholders. The following evidence has been compiled:

- Bird Disturbance Study, North Kent 2010/11 (Footprint Ecology).
- What do we know about the birds and habitats of the North Kent Marshes? (Natural England Commissioned Report 2011).
- North Kent Visitor Survey Results (Footprint Ecology 2011).
- Estuary Users Survey (Medway Swale Estuary Partnerships, 2011).
- North Kent Comparative Recreation Study (Footprint Ecology 2012).
- Recent Wetland Bird Surveys results produced by the British Trust for Ornithology.
- Thames, Medway and Swale Estuaries – Strategic Access Management and Monitoring Strategy (Footprint Ecology 2014).

In July 2012, an overarching report summarised the evidence to enable the findings to be used in the assessment of development. The report concluded (in summary):

- There have been marked declines in the numbers of birds using the three SPAs.
- Disturbance is a potential cause of the declines. The bird disturbance study provided evidence that the busiest locations support particularly low numbers of birds.
- Within the Medway, the areas that have seen the most marked declines are the area north of Gillingham, including the area around Riverside Country Park. This is one of the busiest areas in terms of recreational pressure.
- Access levels are linked to local housing, with much of the access involving frequent use by local residents.
- Bird disturbance study - dog walking accounted for 55% of all major flight observations, with a further 15% attributed to walkers without dogs along the shore.
- All activities (i.e. the volume of people) are potentially likely to contribute to additional pressure on the SPA sites. Dog walking, and in particular dog walking with dogs off leads, is currently the main cause of disturbance.
- Development within 6km of the SPAs is particularly likely to lead to increase in recreational use.

Natural England's advice to the affected local authorities is that it is likely that a significant effect

APPENDIX 2**Planning Committee Report**

will occur on the SPAs/Ramsar sites from recreational pressure arising from new housing proposals in the North Kent coastal area.

The agreed response between Natural England and the local authorities is to put in place strategic mitigation to avoid this effect – a 'strategic solution.' This provides strategic mitigation for the effects of recreational disturbance arising from development pressure on international sites and will normally enable residential development to proceed on basis of mitigation provided avoiding a likely significant effect.

This strategic approach is set out in the Thames, Medway and Swale Estuaries – Strategic Access Management and Monitoring Strategy (Footprint Ecology 2014). It will normally require the creation of on-site mitigation, such as the creation of open space suitable for dog walking and, secondly, via payment of a dwelling tariff for off-site impacts. The money collected from the tariff would be used by the North Kent Councils and its partners for mitigation projects such as wardening, education, diversionary projects and habitat creation. The policy context for such actions is provided by policies CP7 and DM28 of the ELP.

Associated information

The applicant's supporting ecological documents (including the Access and Habitat Management Plan, dated August 2015, and the 'The Swale Special Protection Area (SPA) and Ramsar Site: Impact Avoidance and Mitigation Strategy' (February 2014) contain information to assist the HRA. These documents have been considered, and it is clear that careful consideration has been given to the potential implications of the development for the SPA, and the information is considered – having had regard to the expert input from Kent County Council Ecology, Kent Wildlife Trust and Natural England - to be sufficient to allow the HRA to be undertaken. It is noted that the applicant is fully committed to a per-dwelling payment for off-site mitigation (amounting to £223.58 per dwelling) as recommended by The Thames, Medway and Swale Estuaries – Strategic Access Management and Monitoring Strategy (Footprint Ecology 2014). This would need to be required, together with appropriate triggers, by the Section 106 Agreement to accompany the planning permission.

As detailed in their letter of the 19 May 2014, Natural England has confirmed that a suite of strategic measures similar to those set out in the Thames, Medway and Swale Estuaries Strategic Access Management and Monitoring Strategy will provide appropriate mitigation. However, they consider it is up to the local authorities to ensure that appropriate measures are in place to allow the strategic mitigation to be delivered. This would include consideration of the appropriate tariff.

The Assessment of development on land at Oare Mineral Works, Faversham

The application site is located close to three access points onto the Swale SPA to the north of Faversham, in the vicinity of Oare village and the Saxon Shore Way long-distance public right of way. A mixture of footpaths and local roads make the SPA readily assessable on foot at these locations. In any event, recreational impacts are equally likely to occur as a result of visitors arriving by car.

This assessment has taken into account the significant proposal for on-site mitigation, namely the proposed Country Park. Whilst the coastal SPA is considered likely to be an on-going draw for residents seeking recreational activity, it is considered that Country Park – which will include infrastructure to make it user-friendly for informal recreation – will be very attractive to residents of the new development (and people already living in the wider area) and as such the open space provision within the proposed development will very largely discourage off-site recreation taking place in the SPA.

Conclusions

A precautionary approach has been taken, and consideration has been given to the substantial and well-thought-out on-site mitigation that is proposed, together with the applicant's commitment to pay the actual proposed tariff contained in the Thames, Medway and Swale

APPENDIX 2

Planning Committee Report

Estuaries – Strategic Access Management and Monitoring Strategy (Footprint Ecology 2014). This leads to the conclusion that the proposals would not give rise to likely significant effects on the SPA. On this basis the proposals can be screened out for purposes of the HRA, and as such a full Appropriate Assessment is not required.

APPENDIX 3**PLANNING OBLIGATIONS OARE LAKES – CONFIDENTIAL – v5****S106 of the T&CP Acts: Heads of Terms**

1. **Affordable Housing:** at 30% providing 99 affordable homes or apartments. 70:30 split in favour of affordable rented to provide 69 affordable rent dwellings and 30 shared ownership dwellings.

Phasing and delivery in line with supporting note on phasing.

The affordable dwellings will provide a good mix of dwelling types but it is recognised that the mix will not match the private units due to the large number of larger unit types on the development driven by the nature of the site.

Clustering to be applied and distributed across the site in groups of between 6 and 15 dwellings.

The number of affordable units provided within each phase will be between 29% and 31% affordable, ensuring that the total provision of affordable is 30% across the site. The 70:30 split in favour of affordable rented will also be applied where possible within each parcel.

2. **Off-site highway works:** S278 works including works to Oare Road, Ham Road and J5 M2.
3. **Play-space, Open Space and Sports facilities:** Delivery in line with supporting note on phasing, but all on site (or within applicant's control). To be managed by a Resident's Management Company

Provision of play equipment as required will be made within each phase before 75% of occupations are completed within that phase.

4. **Country Park Set-up and Management Scheme:** To be delivered according to supporting phasing programme and managed by Management Company.

The funding of capital works necessary to set up the country park to the standard envisaged in this Management Plan will be borne by Brett Aggregates Ltd or the housing developer in accordance with the phasing. (The costs are identified as being in the region of £193,000 inclusive of VAT). 20% of this funding to be made available before the first occupation, the balance before 50% of phase 2 is occupied. The site should be managed in accordance with the management plan, the funding of the management plan is a commercial rather than S106 matter.

The management of the country park is expected to cost in the region of £27,000 per annum inclusive of VAT.

Additional capital replacement works will be required on a rolling basis (averaging around £12,000 per annum inclusive of VAT)

APPENDIX 3

An Oare Lakes Country Park Management Company will be set up to manage the Country Park (which could be part of the residential management company who will manage the other open spaces on site) in accordance with the submitted management plan. The Country Park Management Company will be VAT registered.

The Country Park Management Company will have access to a capitalised sinking fund that will be provided with a pump-priming payment equivalent to the annual maintenance costs for the first 10 years by the developers through the S106 agreement (c£270,000 plus indexation (index TBC) from issue of consent to payment to fund). Contributions pro rata on a per unit occupied basis.

Each new residential unit at Oare Lakes will be subject to a charge on the property to pay an annual service charge to be set at a level determined by the Country Park Management Company to ensure that the required annual Country Park maintenance costs and capital replacement costs (and any administration costs) are met from the completed residential development. The Management Company shall ensure the proper collection of this service charge.

Any shortfall due to non-payment of the annual service charge will be recovered at the time of the sale of the relevant residential unit (if not recovered earlier).

If the Management Company should fail to manage and maintain the Country Park in accordance with the approved Management Plan the residents will be given the power to appoint a new Company to benefit from the income stream and undertake the management duties.

5. **Primary Education:** £1981.58 per house and £495.40 per applicable flat ('applicable' means: all dwellings except 1 bed of less than 56sqm GIA, and sheltered accommodation)
6. **Secondary Education:** £432.46 per house & £108.11 per applicable flat.
7. **Adult Education:** Financial contributions as required and fully justified by the Local Education Authority on a per plot basis £43.35 per household
8. **Libraries:** £230.09 per household
9. **Youth:** £55.55 per household
10. **Social Services:** £262.90 per household , plus 4 wheelchair accessible units as part of the affordable housing delivery

Note: We understand that following the introduction of the CIL Regulations 1st April 2015, where contributions for an infrastructure pot is required in the absence of a CIL charging schedule, where 5 or more contributions have already been received, the LPA are not permitted to accept further contributions. We believe this applies to items 5,6,7,8,9,10 and 16 of these heads of terms.

APPENDIX 3

11. **Listed Buildings Restoration:** Phasing and delivery detail in line with supporting note on phasing.

The proposed phasing secures the buildings safety for the future early in the implementation of the planning consent with protection from flood, weather proofing and structural support. The bulk of the most costly work is undertaken later in the scheme when funds have been raised via development and defers some of the less critical internal works to the point when an occupier has been secured for each building, allowing expenditure to be targeted with the specific occupation in mind.

12. **Withdrawal of Brett Operations**

Details and timing of the withdrawal Brett operations to be agreed. Brett will vacate much of the site soon after implementation, but some small areas of operation will need longer to be removed and so a “no houses within x distance of these uses until they are removed” approach will be required.

13. **Wheelie Bins**

Each of the dwellings and the commercial / community uses of the restored listed buildings, in accordance with the Council’s adopted SPD on Developer Contributions will require wheelie bins.

14. **Monitoring Charge**

A 5% *monitoring charge* is to be levied by Swale against the total financial developer contribution. 50% of the charge is to be paid upon occupation of the 50th unit and 50% on the 165th unit.

15. **Gypsy and Traveller Pitches**

Removed, please see revised planning statement

16. **North Kent Environmental Planning Group**

A payment of £230 per dwelling shall be made to be used by the North Kent Environmental Planning Group to provide supplementary mitigation for recreational impact of the development on the adjacent SPA.

APPENDIX 4

APPENDIX 4 : EXTRACT FROM
'OARE ROAD APPENDUM NOTE'

Oare Mineral Works, Faversham
New Oare Road Access Strategy

13-008
August 2014

2.0 USE OF EXISTING ACCESS

- 2.1 The site in its current form, as a quarry, is currently accessed to the north of the site and the access forms a junction with Oare Road / The Street and Western Link. During the original design the use of this access as a main site access for residential development was explored and this is revisited below in the current context.
- 2.2 The access currently serves the mineral works and is a narrow un-adopted road that in its current form would not be fit for use as a residential site access. In light of this, significant works would have to be undertaken to upgrade the carriageway to be to an adoptable standard. To achieve this, the road would have to be doubled in width, with footways and lighting installed. It is not clear that this arrangement could be achieved within the existing constraints and it is unlikely that KCC would adopt the road without such works being conducted.
- 2.3 A further constraint is the complex junction with Oare Road / The Street / Western Link. This junction would also require improvement works as detailed within the previously submitted Transport Assessment. *"Due to land constraints a roundabout of suitable capacity was not viable and therefore the only option would be a signalised scheme. Such an approach was not considered to be appropriate in local context and discussions with KHS as highway authority confirmed that this would not be a preferred outcome."* It is understood the KHS viewpoint remains the same on this issue.
- 2.4 Sections of the access road are located within flood zones 2 and 3, limited options in this area. To address this, significant compensating works would have to be undertaken to take the area out of the flood zone with potential impact on the ecologically sensitive areas of Oyster bed ponds.
- 2.5 Lastly, a residential scheme with an access orientated to the north would be inconsistent with the primary pedestrian and cycle desire line towards the south and the town centre. It is reasonable to conclude that with a vehicular access to the north, the propensity for mode shift to walk and cycle could be reduced. People have a tendency to view the vehicular route as the primary option and would, at least in the first instance when considering mode shift, envisage this route for walking or cycling, even where others may be available. Where this route is substantially away from the desire, it is likely to dissuade mode shift as car driver perceive long walking or cycle routes which are preferably undertaken on foot. Essentially an access further to the north provides a perception of remoteness and distance to all routes to, for instance the town, reducing potential mode shift.
- 2.6 In conclusion it is considered that the access in its current form is not fit for the purpose of serving a residential development and that the works required bringing this up to standard could be both undesirable and/or undeliverable, therefore further investigation has been made to other alternatives that respond to the consultation responses.

3.0 TRAFFIC ASSIGNMENT

- 3.1 It has been suggested that changing the location of the secondary access, from Oare Road to the existing access opposite the western link (discussed above), would affect the assignment of traffic from the proposed development. It is understood that comments received highlighted a perceived reduction in demand to south, past the primary school would results if the access were located further north.

APPENDIX 5

APPENDIX 5



South East Regional **Design Panel**

Mr Mick Drury
BDB
Church Farm
Ashford Road
CANTERBURY
Kent
CT4 7PP

Tel: +44(0)1634 401166 Fax: +44(0)1634 403302

the architecture centre
Historic Dockyard
Chatham
Kent
ME4 4TZ

6th January 2014

Email: info@kentarchitecture.co.uk
www.architecturecentre.org

Dear Mr Drury

OARE LAKES, FAVERSHAM

Thank you for inviting the Swale Design Panel to review the above project. Panel members visited the site before their meeting at Swale House, Sittingbourne on 5 December. We were grateful to you for showing us round the site and we should also like to thank Simon Beck of BDB for his presentation. It was helpful to hear the planning policy context from Jim Wilson of Swale Borough Council.

SUMMARY

Oare Lakes is a remarkable place with a fascinating history. Its future planning calls for a coherent and sensitive approach, starting with the landscape and the infrastructure. The design team have made a good start with a thorough analysis of the qualities of the area including the ecology.

We believe the project is on the right track, but the main challenge is to ensure that the new development will be fully part of Faversham and the adjacent communities, rather than be an appendage to them. This could be achieved by making the connections as strong as possible, and perhaps by relaxing the rather rigid separation between the residential and employment areas. We think the old gunpowder buildings could be given a more important role in the scheme, helping to shape the identity of the new place. Their future should be secured without delay.

The quality of the public realm and its management will be key to the long-term success of the development and should be addressed early on. We also consider the phasing of the project to be a critical issue and ensuring that the first parcels of development are built to an exemplary standard, to provide a benchmark for the wider scheme.

Our comments are as follows:

739-443 Oare Lakes, Faversham, Kent

1



APPENDIX 5

BACKGROUND

Oare Quarry is situated on tidal marshland between Faversham and the sea. The site is of considerable historic significance, being a monastic holding in the medieval period that subsequently became an important place of gunpowder manufacture. The surviving buildings of the once extensive gunpowder works are listed grade II and the site is also of archaeological interest. The listed buildings are vacant or in low-level storage use and in need of immediate attention.

The land at Oare has been used as a sand and gravel operation since the 1920s. The quarry is now exhausted, but material is imported into the site for processing. The profile of the landscape has changed considerably, with former excavations now serving as lakes and with artificial banks and mounds.

The site is allocated for housing and employment development in the emerging Swale local plan. The current minerals consent at Oare remains valid until 2042.

CONNECTIONS AND CIRCULATION

The entrances into the site seem to be rather restricted for such a large area, which may work against its successful integration with its surroundings. Whilst we understand the imperative of managing flood risk, we would hope that a more permeable layout with better connections from the west could be achieved.

The new development will bring considerable change to the character and geometry of the present lanes. A traffic impact study and management plan will be needed to ensure that these changes are achieved successfully.

LANDSCAPE AND PUBLIC REALM

A panorama of the open marshland landscape can be surveyed from a mound in the middle of the site; Faversham Church tower stands out as landmark. The site has been recognised for its ecological importance, not least for overwintering waders and other wildfowl. We support the principle of using the wildlife elements of the site as a buffer between the development and the safeguarded RAMSAR and Special Protection AREA. A formal SANG (Suitable Alternative Natural Greenspace) is not being sought by English Nature but will be built into the scheme.

Despite reclamation work the longstanding and extensive minerals operations have left much of the site heavily despoiled with landfill, quarry deposits and salt. These impose a substantial cost on the development of the area.

The site is quite exposed and windy and planting and landscape could ameliorate its effects. However, we do not think the barrier approach should be relied on as way of managing the microclimate; finer-grained solutions for the positioning of buildings could do more to provide shelter and reduce turbulence. Recent guidance on energy saving

739-443 Oare Lakes, Faversham, Kent

2

Regional
Panel
Swale



d:se

Design
Network!

APPENDIX 5

though landscape design could also be relevant in working up the project, including the orientation of buildings.

Protection against tidal flooding will be essential on this low-lying coastal site. The bund that is proposed to wrap around the site needs to be very carefully considered, but we agree with the team that it could be an interesting feature in its own right.

MIX OF USES

It is encouraging to see both housing and employment allocated for this site, but delivering the latter may be a challenge in this location. Rather than defined parcels we believe a mix of uses would do more for the vitality of the area and offer more varied architecture, perhaps incorporating live-work buildings along the green spine that connects to the town. The residential density seems low, so perhaps slightly more intensive development could strengthen the bond with the town as well as securing the viability of the social housing.

The landfill area is at the town end of the site and has in part driven the allocation of employment uses in this area. Whilst we understand the economic rationale behind this decision, we fear that the area could end up as little more than sheds or pavilions surrounded by tarmac, providing a very poor approach to the residential areas behind. An imaginative approach to landscape design would help, but the fundamental move should be to create a much more mixed development.

We believe the development could capitalise on the history of the gunpowder works, making it the heart of the development and a visitor attraction for Faversham. On our site visit we did not inspect the listed buildings closely, but it seems likely that their long-term future will depend on more than the light touch repair that is currently envisaged. Any prospective users will need spaces that are not only structurally sound but also reasonably energy efficient, well lit and ventilated and with modern services. Given the interest of the building group, we wonder whether it could serve as the hub of the community rather than a collection of low-key business uses. We would expect any planning consent to be tied in to the prompt repair and conversion of the listed buildings.

A softer, more indented edge to the development might help to assimilate it with its surroundings, rather than appearing to be an appendage. We see scope for exploiting long views from and across the site including those from the surrounding bund.

DELIVERY, PHASING

Phasing will clearly be a key concern and we understand that the site will be built out from east to west. Each phase needs to be reasonably self-supporting but it is also important that the first buildings and spaces are of the highest quality, to set a benchmark for the project as a whole.

The local planning authority will require a management agreement for public realm including unadopted highways. We understand that the scheme promoters are discussing management arrangements with third parties. A community land trust is an

739-443 Oare Lakes, Faversham, Kent

3

Regional
Panel
Swale



d:se

Design
Network!

APPENDIX 5

interesting model but we suggest that it will be important to draw businesses as well as residents into the agreement.

I hope you find these comments helpful and please keep us in touch with further progress. Do contact me if anything in this letter is unclear.

Yours sincerely



ROBERT OFFORD
Panel Manager

cc James Brett BDB
Simon Beck BDB
Julian Bore, Lloydbore Landscape & Ecology
Jim Wilson, Swale Borough Council
Peter Bell, Swale Borough Council

Panel members present: Allan Atlee (Chair), James McCosh, Luke Engleback, David Prichard

Geoff Noble (notes)

This review was commissioned by BDB on behalf of Brett Aggregates Ltd with the knowledge of Swale Borough Council.

CONFIDENTIALITY

Since the scheme was not the subject of a planning application when it came to the Panel, this letter is offered in confidence to the addressee and those listed as being sent copies. There is no objection to the letter being shared within respective practices/organisations. SERDP reserves the right to make the guidance known should the views contained in this letter be made public in whole or in part (either accurately or inaccurately). Unless previously agreed to remain confidential, this letter will be publicly available if the scheme becomes the subject of a planning application and to any public inquiry concerning the scheme. SERDP also reserves the right to make guidance available to another design review panel should the scheme go before them. If you do not require this letter to be kept confidential, please let us know.

739-443 Oare Lakes, Faversham, Kent

4

Regional
Panel
Swale



d:se

Design
Network!

2.15 REFERENCE NO - 14/505230/FULL			
APPLICATION PROPOSAL			
Variation of conditions 2 and 4 of planning permission SW/11/0496 to provide one additional mobile home on the site (3 statics and one touring caravan in total), and security lighting to the front entrance of the site.			
ADDRESS Jack Russell Place Halstow Lane Upchurch Kent ME9 7AB			
RECOMMENDATION GRANT			
SUMMARY OF REASONS FOR RECOMMENDATION			
The proposed additional caravan and lighting are acceptable in all respects			
REASON FOR REFERRAL TO COMMITTEE			
Parish Council objection			
WARD	Hartlip, Newington & Upchurch	PARISH/TOWN COUNCIL	Upchurch
		APPLICANT	Mrs Georgina Beaney
		AGENT	
DECISION DUE DATE	09/02/15	PUBLICITY EXPIRY DATE	05/05/15
		OFFICER SITE VISIT DATE	
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):			
App No	Proposal	Decision	Date
SW/08/0917	Change of use to residential - stationing of one touring caravan and two mobile homes. Erection of a stable block and a storage shed (open sides).	Approved	23/06/2009
SW/10/0433	Variation of condition 5 of planning permission SW/08/0917 to allow the storage of a 3.5tonne commercial vehicle on the site.	Approved	01/06/2010
SW/11/0496	Removal of condition (1) of permission SW/08/0917 to permit permanent occupancy of the site for Gypsy family.	Approved	24/06/2011

MAIN REPORT

1.0 DESCRIPTION OF SITE

1.01 Jack Russell Place is a parcel of land located within the open countryside and currently in use as gypsy and traveller site for one family. The site is occupied by a static caravan set approximately 40m into the site; and further to the rear lies a touring caravan; utility block; stables and other structures.

- 1.02 The site lies in open countryside between Lower Halstow and Upchurch, approximately one kilometre from the centre of Upchurch. Halstow Lane is designated as a 'rural lane' for the purposes of Development Plan policy, and the site is also located within the Coastal Zone and the Strategic Gap between the Medway Towns and Sittingbourne. It is not though in an area considered by the Environment Agency to be at risk of flooding.
- 1.03 The area is very rural in character, and despite the surrounding fields being subdivided into paddocks, this area generally retains an open appearance.

2.0 PROPOSAL

- 2.01 This application seeks to vary conditions and 4 of planning permission SW/11/0496 to provide one additional mobile home on the site (3 statics and one touring caravan in total), and security lighting to the front entrance of the site.
- 2.02 The proposed additional static caravan would be located at the rear of the site, adjacent to existing stables/sheds etc.
- 2.03 The proposed lighting would sit on top of the existing gate posts, and would be low level in nature.

3.0 PLANNING CONSTRAINTS

None

4.0 POLICY AND OTHER CONSIDERATIONS

National Planning Policy Framework (NPPF) and Planning Policy for Traveller Sites (PPTS) (Re-issued)

- 4.01 The national policy position comprises the National Planning Policy Framework (NPPF) and Planning Policy for Traveller Sites (PPTS). Both documents were released in 2012 but the PPTS was re-issued in August 2015 with amendments. Together they provide national guidance for Local Planning Authorities on plan making and determining planning applications for Gypsy and Traveller sites. A presumption in favour of sustainable development runs throughout both documents and this presumption is an important part of both the plan-making process and in determining planning applications. In addition there is a requirement in both documents that makes clear that Councils should set pitch targets which address the likely need for pitches over the plan period and maintain a rolling five year supply of sites which are in suitable locations and available immediately.

4.02 Whilst regard has been paid to all of the guidance as set out within the NPPF, consider that the following extracts from paragraph 7 are particularly pertinent:

“There are three dimensions to sustainable development: economic, social and environmental. These dimensions give rise to the need for the planning system to perform a number of roles:

- an economic role – contributing to building a strong, responsive and competitive economy, by ensuring that sufficient land of the right type is available in the right places and at the right time to support growth and innovation; and by identifying and coordinating development requirements, including the provision of infrastructure;
- a social role – supporting strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations; and by creating a high quality built environment, with accessible local services that reflect the community’s needs and support its health, social and cultural well-being; and
- an environmental role – contributing to protecting and enhancing our natural, built and historic environment; and, as part of this, helping to improve biodiversity, use natural resources prudently, minimise waste and pollution, and mitigate and adapt to climate change including moving to a low carbon economy.”

4.03 In relation to rural housing the NPPF (at paragraph 55) 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:
 - the essential need for a rural worker to live permanently at or near their place of work in the countryside; or
 - 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; or
 - the exceptional quality or innovative nature of the design of the dwelling. Such a design should:
 - be truly outstanding or innovative, helping to raise standards of design more generally in rural areas;
 - reflect the highest standards in architecture;
 - significantly enhance its immediate setting; and
 - be sensitive to the defining characteristics of the local area.

- 4.04 In relation to conserving and enhancing the natural environment the NPPF, at paragraph 109, states;

The planning system should contribute to and enhance the natural and local environment by:

- protecting and enhancing valued landscapes, geological conservation interests and soils;
- recognising the wider benefits of ecosystem services;
- minimising impacts on biodiversity and providing net gains in biodiversity where possible, contributing to the Government's commitment to halt the overall decline in biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures;
- preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of soil, air, water or noise pollution or land instability; and
- remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate.

Planning Policy for Traveller Sites (PPTS)

- 4.05 The PPTS was originally published in March 2012 but it was re-issued in August 2015 with minor changes. Whilst regard has been paid to all of the guidance as set out within the PPTS, its main aims now are:

"The Government's overarching aim is to ensure fair and equal treatment for travellers, in a way that facilitates the traditional and nomadic way of life of travellers while respecting the interests of the settled community." (para 3 PPTS)

To help achieve this, Government's aims in respect of traveller sites are:

- a. that local planning authorities should make their own assessment of need for the purposes of planning*
- b. to ensure that local planning authorities, working collaboratively, develop fair and effective strategies to meet need through the identification of land for sites*
- c. to encourage local planning authorities to plan for sites over a reasonable timescale*
- d. that plan-making and decision-taking should protect Green Belt from inappropriate development*
- e. to promote more private traveller site provision while recognising that there will always be those travellers who cannot provide their own sites*
- f. that plan-making and decision-taking should aim to reduce the number of unauthorised developments and encampments and make enforcement more effective*
- g. for local planning authorities to ensure that their Local Plan includes fair, realistic and inclusive policies*
- h. to increase the number of traveller sites in appropriate locations with planning permission, to address under provision and maintain an appropriate level of supply*

- i. to reduce tensions between settled and traveller communities in plan-making and planning decisions*
- j. to enable provision of suitable accommodation from which travellers can access education, health, welfare and employment infrastructure*
- k. for local planning authorities to have due regard to the protection of local amenity and local environment.” (para 4 PPTS)*

4.06 In terms of plan making the PPTS advice is that;

“Local planning authorities should ensure that traveller sites are sustainable economically, socially and environmentally. Local planning authorities should, therefore, ensure that their policies:

- a) promote peaceful and integrated co-existence between the site and the local community*
- b) promote, in collaboration with commissioners of health services, access to appropriate health services*
- c) ensure that children can attend school on a regular basis*
- d) provide a settled base that reduces the need for long-distance travelling and possible environmental damage caused by unauthorised encampment*
- e) provide for proper consideration of the effect of local environmental quality (such as noise and air quality) on the health and well-being of any travellers that may locate there or on others as a result of new development*
- f) avoid placing undue pressure on local infrastructure and services*
- g) do not locate sites in areas at high risk of flooding, including functional floodplains, given the particular vulnerability of caravans*
- h) reflect the extent to which traditional lifestyles (whereby some travellers live and work from the same location thereby omitting many travel to work journeys) can contribute to sustainability.” (para 13 PPTS)*

4.07 For sites in rural areas and the countryside the PPTS advice is that;

“When assessing the suitability of sites in rural or semi-rural settings, local planning authorities should ensure that the scale of such sites does not dominate the nearest settled community.” (para 14 PPTS)

4.08 In relation to the determination of planning applications the PPTS says that;

“Applications should be assessed and determined in accordance with the presumption in favour of sustainable development and the application of specific policies in the National Planning Policy Framework and this planning policy for traveller sites.” (para 23 PPTS)

“Local planning authorities should consider the following issues amongst other relevant matters when considering planning applications for traveller sites:

- a) the existing level of local provision and need for sites*
- b) the availability (or lack) of alternative accommodation for the applicants*
- c) other personal circumstances of the applicant*

- d) *that the locally specific criteria used to guide the allocation of sites in plans or which form the policy where there is no identified need for pitches/plots should be used to assess applications that may come forward on unallocated sites*
- e) *that they should determine applications for sites from any travellers and not just those with local connections”*

“However, as paragraph 16 [relating to Green Belts] makes clear, subject to the best interests of the child, personal circumstances and unmet need are unlikely to clearly outweigh harm to the Green Belt and any other harm so as to establish very special circumstances.” (para 24 PPTS). Members might like to note that the mini paragraph above was added in the 2015 re-issue of PPTS

“Local planning authorities should very strictly limit new traveller site development in open countryside that is away from existing settlements or outside areas allocated in the development plan. Local planning authorities should ensure that sites in rural areas respect the scale of, and do not dominate the nearest settled community, and avoid placing an undue pressure on the local infrastructure.” (para 25 PPTS). Members might like to note that the word “very” was added to this paragraph in the 2015 re-issue of PPTS.

“If a local planning authority cannot demonstrate an up-to-date 5year supply of deliverable sites, this should be a significant material consideration in any subsequent planning decision when considering applications for the grant of temporary permission. The exception to this is where the proposal is on land designated as Green Belt; sites protected under the Birds and Habitats Directives and / or sites designated as Sites of Special Scientific Interest; Local Green Space, an Area of Outstanding Natural Beauty, or within a National Park (or the Broads).” (para 27 PPTS). Members might like to note that the last sentence above was added to this paragraph in the 2015 re-issue of PPTS.

Finally, the definition of gypsies and travellers has been amended in the re-issued PPTS to remove the words “or permanently” from after the word “temporarily” in the following definition;

“Persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family’s or dependants’ educational or health needs or old age have ceased to travel temporarily, but excluding members of an organised group of travelling showpeople or circus people travelling together as as such.”

The implications for this change in definition has clouded the issue with regard to defining need. At this stage, given that the application relates to an additional caravan on an existing site, it is advised that the Council should consider the application in the context of the existing GTAA as set out below.

- 4.09 The Council has responded positively and quickly to the changes in the national policy position in respect of Gypsy and Traveller accommodation. The Local Development Framework Panel quickly supported the commissioning of a new Gypsy and Traveller Accommodation Assessment (GTAA), which was completed in June 2013 and identified a need for 82 pitches to be provided during the plan period (adjusted down from 85 pitches in reflection of those sites granted permanent permission whilst the document was under preparation). This need figure is incorporated within the draft Bearing Fruits Swale Borough Local Plan: Part 1 alongside a policy introducing provision for pitches on certain major development sites. An additional net 47 permanent pitches (some with personal use conditions) have also been approved up to March 2015, reducing the outstanding need to 35 pitches over the Plan period. A further number of pitches enjoy temporary permissions, including the current application site.
- 4.10 Shortly after publication of the GTAA in 2013 the Council began work on Part 2 of the Swale Borough Local Plan which will deal with site allocations for Gypsy and Traveller pitch provision only. This process began with a call for sites between September and December 2013, and the publication of an issues and options paper which was subject to public consultation (this finished on 25th April 2014).

Saved Policies of Swale Borough Local Plan 2008

- 4.11 Policy E1 (General Development Control Criteria) sets out standards applicable to all development, saying that it should be well sited appropriate in scale, design and appearance with a high standard of landscaping, and have safe pedestrian and vehicular access whilst avoiding unacceptable consequences in highway terms.
- 4.12 This site lies within the countryside where policy E6 (The Countryside) seeks to protect the quality, character and amenity of the countryside, and states that development will not be permitted outside rural settlements in the interests of countryside conservation, unless related to an exceptional need for a rural location.
- 4.13 Policy E19 (Achieving High Quality Design and Distinctiveness) requires development proposals to be well designed.
- 4.14 Policy RC7 (Rural Lanes) seeks to protect the physical features and character of rural lanes, of which Halstow Lane is one.
- 4.15 Policy H4 explains the Borough Council will only grant planning permission for the use of land for the stationing of homes for persons who can clearly demonstrate that they are gypsies or travelling showpersons with a genuine connection with the locality of the proposed site, in accordance with 1 and 2 below.
1. For proposals involving the establishment of public or privately owned residential gypsy or travelling showpersons sites:

- a) there will be a proven need in the Borough for the site and for the size proposed;
- b) the site will be located close to local services and facilities;
- c) there will be no more than four caravans;
- d) the site will be located close to the primary or secondary road networks
- e) in the case of a greenfield site there is no suitable site available on previously developed land in the locality;
- f) the site is not designated for its wildlife, historic or landscape importance;
- g) the site should be served, or capable of being served, by mains water supply and a satisfactory means of sewage disposal and refuse collection;
- h) there is no conflict with pedestrian or highway safety;
- i) screening and landscaping will be provided to minimise adverse impacts;
- j) no industrial, retail, commercial, or storage activities will take place on the site.
- k) use of the site will not give rise to significant adverse impacts upon residential amenity, or agricultural or commercial use, of surrounding areas; and
- l) the land will not be in a designated flood risk area.

2. Additionally to 1, for proposals for short term stopping places:

- m) there will be a planning condition to ensure that the length of stay for each caravan will be no longer than 28 days with no return to the site within 3 months.”

4.16 This policy was criticised by the Local Plan Inspector who saw it, as a criteria based rather than site allocations policy, as inconsistent with the then Circular 01/2006 - which itself has since been superseded by PPTS and its emphasis of a five year supply of sites - and the policy can only be of limited significance to this application.

Bearing Fruits 2031: 2014 Publication version of the Swale Borough Local Plan: Part 1

4.17 The Council’s Publication version of the draft Local Plan, entitled *Bearing Fruits 2031*, was published in December 2014 and is shortly due for examination.

4.18 Policy CP 3 of the draft Local Plan aims to provide pitches for gypsies and travellers as part of new residential developments. Policy DM10 sets out criteria for assessing windfall gypsy site applications

Site Assessment

4.19 Ordinarily, as Members will be aware, the site would be assessed for its suitability against a range of criteria. Thwese are designed to assist Members

and Officers in considering whether new sites are appropriately located etc. However – as this application relates to an *additional* caravan at an existing site with permanent planning permission, I have not carried out such an assessment here.

Five year supply position

- 4.20 The PPTS has since 2012 introduced a need for Council's to maintain a rolling five year supply of sites which are in suitable locations and available immediately. This is a relatively new requirement for Council's and the Council could only start attempting to meet this requirement following the commissioning and publication of the GTAA which provided the need figure and a base date. As such, the Council put measures into place to deal with the PPTS requirements very quickly, but have only recently started down the route of trying to maintain a rolling five year supply.
- 4.21 The GTAA sets out a target of 85 pitches to be provided by the year 2031, with a suggested provision of 35 pitches in the first five years (to 2018). Three pitches were approved during the course of the GTAA's production so the final target was in fact 82 pitches. Since the publication of the GTAA and up to the end of March 2015 a total of 47 permanent pitches have been approved in Swale almost exclusively without an appeal, of which 33 pitches had been implemented. Evidence to be presented to the Local Plan examination later this year shows that at the end of March 2015 the need for pitches identified from the GTAA thus stood at 82 pitches minus the 33 permanent pitches approved and implemented, including the personal permissions granted in the interim. This reduced the need to 49 pitches which, at an annualised rate of 4.6 pitches per year (23 pitches over five years) indicated that the Council has already provided a surplus of supply of 0.8 pitches over the full five year requirement. This is calculated by taking the two year annualised requirement of 9.2 pitches from the completions so far to show a current surplus of 23.8 implemented pitches over the two year requirement and already a surplus of 0.8 approved permanent pitches over the five year need after just two years. In addition to this there are a further 13 approved but unimplemented permanent pitches as at the end of March 2015, an overall surplus of 14 pitches. These mostly comprise extensions to, or more intensive use of, existing sites and are awaiting occupation. Since then two more wholly new permanent sites have been approved at Eastchurch and Newington. Planning permission for a further two fresh pitches is awaiting only the completion of a Section 106 Agreement on a large mixed use development site at Faversham. This is a very considerable achievement and indicates the Council's positive attitude to such development in the right location. Furthermore, the likelihood of significant pitch provision as part of major new mixed use developments is a key feature of the emerging Local Plan and we will shortly see if that policy forms part of the final Plan.
- 4.22 However, irrespective of the question of the five year supply, the question of whether any approved and unoccupied sites are available to individual appellants is also normally taken in to account by Inspectors. Here, the evidence suggest that they may consider that sites approved as expansions

of existing site are not readily available to appellants facing loss of their existing temporary site. This appears to confirm their decisions where the question of availability of alternative sites is crucial to their decision.

- 4.23 To conclude on this subject, it seems that there is no reason to see approved but unimplemented pitches as other than as part of a five year supply. Nor should potential ethnic grouping issues rule them out of consideration where this applies. However, there appears to be a question in Inspector's minds regarding whether such sites should be afforded full weight in relation to the prospects of them being suitable for a particular appellant, and whether they will wish to, or be able to, occupy such a site for reasons of ethnicity, or availability for other than families of the current site owners. I will deal with this question below.

5.0 LOCAL REPRESENTATIONS

- 5.01 Seven letters of objection have been received, the majority of which were submitted prior to the change in description of the application. The issues raised which are pertinent to the application (as amended) are as follows:

- permission should not be granted due to the problems surrounding the location;
- sight lines are inadequate
- the land is not suitable for any increase in dwellings as it is not on mains drainage;
- the site threatens the gap between the villages thus resulting in merging settlements;
- increase in light and noise pollution to nearby residents is unacceptable;
- and such an increase in use changes the character of the area;
- in the short distance of less than 1 tenth of a mile the lane which was once agricultural and grazing land now has 2 large static mobile homes and 7 seemingly permanent caravans, a variety of stables and out buildings, vehicles and a boat;
- this proposal to house and store more homes with flood lighting is inappropriate for this location and detrimental to the surrounding countryside;
- the lane is not suitable, being narrow and with several bends and would make the moving of mobile homes in and out of the access point hazardous;
- I object to the continued expansion of the flood plain and its surrounding areas and I am concerned that this will gradually become a larger site;
- it is unacceptable to grant more mobile homes to house other members of the family. I would not be able to build additional housing for my family, they would either have to live with me or move out and find their own accommodation;

- the increase in number from 2 to 5 [Members will note that this application proposes an increase from 3 to 5 caravans] is wholly unacceptable and too large for this site;
- any increase in emerging traffic is not acceptable and puts all road users at risk, whether on the road or leaving the site;
- There are no footpaths for pedestrians and so not an area suitable particularly for young children to access the local school on foot. Given the county's desire to see more children walk to school it seems perverse to consider growth in rural areas which put children in danger;
- Noise pollution from the site is also likely to be exacerbated given the number of dog kennels already on the site, it is not unreasonable to think that each family on site would also require its own kennel. [Members will note that no new dog kennels are proposed here]
- such an increase in caravans would result in an unacceptable change in the character of the area which residents of the village are not prepared to accept and is likely to have a negative impact on the value of properties in the area, a nearby property 'Blenmerrow' failed to sell after being on the market for a considerable time;
- Planning applications for permanent, residential housing on a neighbouring field were refused previously by Swale BC. Given this comprehensive list of problems, this application should be refused.
- Loss of high quality agricultural land;
- Failure to provide sufficient (or any) information to assess whether the proposal would have an acceptable impact on biodiversity and nature conservation interests;
- Upchurch has seen a large increase in the number of travellers who wish to settle in the area. The local school and GP services have not been expanded in order to cope with this influx of people and public services have suffered as a result.
- The grant of permission will only benefit the private interests of the applicant and not the public interest.

6.0 CONSULTATIONS

6.01 Upchurch Parish Council raise objection and comment as follows:

“Upchurch Parish Council strongly object to this application. Firstly, it is rather confusing when reading the applicants letter and then the application form. If this application is to site mobile homes on newly acquired land how does that relate to the request to vary conditions on the original site? is it not necessary to apply for change of use of that land in order to use it for residential? It is difficult to determine from the drawings supplied the 'before and after' layout as no one diagram illustrates the overall site and the 5 mobile homes. There appears to be additional brick wash rooms, breeze block stables and tourer caravans illustrated as well as additional 1.8 meter fencing. The combined diagrams seem more in line with the applicant's original letter outlining the proposed changes to the site but these are not reflected in the application form. Would not further variations in conditions or separate applications be required to meet these needs?”

In principle however, we have strong objections to the increase of mobile homes, which more than double the number originally permitted . It would result in a very densely populated site, not in keeping with the rural aspect of this area of the village. It would also result in Halstow Lane being dominated by mobile homes in a very concentrated area, taking the neighbouring properties into consideration. The volume of mobile homes suggest a substantial increase in residents and we would question the adequacy of amenities such as water and waste disposal and also parking facilities.

With regard to the lighting, the wording requests 'flood lighting security lighting'. By nature of this sort of lighting it is felt this would be very detrimental to, and not in keeping with, the rural aspect of the area. The diagram shows 2 lights on gate posts which would be very close to the road and may have a detrimental impact on highways as distracting to motorists on an otherwise unlit road. If the lighting is to be low level then we would question the benefit. The implications on highways of the lighting and potential increase in traffic access is a strong consideration."

7.0 BACKGROUND PAPERS AND PLANS

Plans, supporting information and decisions for SW/08/0917, SW/10/0433 and SW/11/0496.

Plans and supporting information for 14/505230/FULL.

8.0 APPRAISAL

- 8.01 This site already has permanent planning permission as a gypsy/traveller caravan site, including the stationing of three caravans (two static caravans and one touring caravan. The principle of such a use is already clearly established.
- 8.02 Whilst I note the objections raised on the basis of highway safety and convenience, the addition of an additional static caravan here would not have a significant impact on vehicle movements to and from the site, and it is notable that Kent Highway Services did not object to previous applications at the site. The intensity of the lighting is capable of being controlled by condition, such that it would not have a harmful impact on highway safety.
- 8.03 I also note the objections raised on the basis of loss of value to property. As Members will be aware, this is not in itself a material planning consideration.
- 8.04 I do not envisage harm to residential amenity arising from these proposals. The site is not located in close proximity to dwellings.
- 8.05 The site lies in an area previously identified as being a strategic gap between Sittingbourne and the Medway Towns. This designation stemmed from the Kent and Medway Structure Plan, which was superseded some time ago. It is no longer therefore relevant. In any case, the addition of one caravan, and

two lights to the front of the site is not of a scale that it would lead to the merging of settlements, nor harm to the rural character of the area.

- 8.06 I am mindful that Upchurch and Lower Halstow (and Newington) do have a significant number of gypsy/traveller sites located around them. However – the addition of one caravan to this existing site would not in my opinion add unacceptably to this.
- 8.07 The key issue here is the impact of the additional caravan and the proposed lighting on visual amenity, including on the rural lane, and the character and appearance of the countryside.

Impact on Visual Amenity and Rural Lane

- 8.08 The lighting, as controlled by the conditions below, would be of a low intensity that would not in my view have a pronounced impact on the undeveloped character of the area. It would not in my opinion harm the rural character of the lane, nor the visual amenities of Halstow Lane and the surrounding area.
- 8.09 The proposed additional caravan would be located to the rear of the site, and whilst it would be visible from various public vantage points, it would not be prominent and in any case would be seen in the context of the existing structures, including other caravans, which are already on site. In my view, it would have a limited impact on the visual amenities of the area, and would not cause substantial harm to the character and appearance of the area, nor the rural nature of Halstow Lane.

Other Matters

- 8.10 Members will note, as set out above, that the PPTS has recently been revised. The revisions noted do not have a substantial impact on the development the subject of this application, which is of course on an existing site with permanent planning permission.
- 8.11 Equally, the lack or otherwise of a five year supply is only relevant here if Members consider that the proposed caravan would in itself cause such material planning harm that planning permission should be refused. The approval of this additional caravans would contribute, albeit in a very limited manner, towards addressing the unmet need for pitches within Swale. This does not though amount to a reason for granting planning permission in itself. However – as I set out above, the proposed caravan (and the proposed lights) would have a limited impact such that planning permission should not in my opinion be refused.

9.0 CONCLUSION

- 9.01 The stationing of an additional static caravan here is acceptable as a matter of principle. The proposed additional caravan would not be prominent or obtrusive and would be seen in the context of the existing structures at the

site. The proposed lighting would not be materially harmful. Accordingly, I recommend that planning permission is granted.

10.0 RECOMMENDATION – GRANT Subject to the following conditions/

CONDITIONS to include

- (1) The site shall only be occupied by gypsies or travellers, as defined in paragraph 15 of ODPM Circular 01/2006.

Reason: In recognition of the terms of the application, and because an uncontrolled use of the land would be unacceptably detrimental to the character and amenities of the area.

- (2) No more than three mobile homes and one touring caravan shall be stationed on the site at any one time. The layout of the site shall accord with the approved block plan.

Reason: In recognition of the terms of the application, and because an uncontrolled use of the land would be unacceptably detrimental to the character and amenities of the area.

- (3) The site shall only be used for residential purposes and it shall not be used for any business, industrial or commercial use. In this regard no open storage of plant, products or waste may take place on the land, no vehicle over 3.5 tonnes and no more than one 3.5 tonne vehicle shall be stationed, parked or stored on the land.

Reason: In recognition of the terms of the application, and because an uncontrolled use of the land would be unacceptably detrimental to the character and amenities of the area.

- (4) No floodlighting, security lighting or other external lighting (save for the lighting expressly approved by this permission) shall be installed or operated at the site, other than in accordance with details that have first been submitted to and agreed in writing by the Local Planning Authority.

The lighting expressly approved by this permission shall be of an intensity which shall have been submitted to and approved in writing by the Local Planning Authority, and the source of the lighting hereby approved shall not be visible to users of the highway

Reason: In the interests of highway safety and convenience and preventing light pollution.

- (5) The access details shown on the approved plans shall be maintained in accordance with these details.

Reason: In the interests of highway safety and convenience..

- (6) Upon completion of the landscaping scheme approved under SW/11/0496, any trees or shrubs that are removed, dying, being severely damaged or becoming seriously diseased within five years of planting shall be replaced with trees or shrubs of such size and species as may be agreed in writing with the Local Planning Authority, and within whatever planting season is agreed.

Reason: In the interests of the visual amenities of the area and in pursuance of Policy E1 of the Swale Borough Local Plan 2008.

The Council's approach to this application:

In accordance with paragraphs 186 and 187 of the National Planning Policy Framework (NPPF), the Council takes a positive and proactive approach to development proposals focused on solutions. We work with applicants/agents in a positive and proactive manner by:

Offering pre-application advice.

Where possible, suggesting solutions to secure a successful outcome.

As appropriate, updating applicants/agents of any issues that may arise in the processing of their application.

In this instance:

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

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

The conditions set out in the report may be subject to such reasonable change as is necessary to ensure accuracy and enforceability.

PLANNING COMMITTEE – 24 SEPTEMBER 2015

PART 3

Report of the Head of Planning

PART 3

Applications for which **REFUSAL** is recommended

3.1 REFERENCE NO - 15/504839/FULL			
APPLICATION PROPOSAL Removal of existing timber windows and installation of new brown UPVC windows			
ADDRESS Tannery Court Kings Mill Close Sittingbourne Kent ME10 2AZ			
RECOMMENDATION – REFUSE subject to no further fresh issues being raised by 22 September 2015 and additional details of the fenestration			
SUMMARY OF REASONS FOR RECOMMENDATION/REASONS FOR REFUSAL Contrary to local plan policies for development within a Conservation Area			
REASON FOR REFERRAL TO COMMITTEE Councillor Coleman requests that the planning application is reported to the Planning Committee.			
WARD Milton Regis	PARISH/TOWN COUNCIL	APPLICANT Amicus Horizon AGENT	
DECISION DUE DATE 16/09/15	PUBLICITY EXPIRY DATE 16/09/15	OFFICER SITE VISIT DATE 01/09/15	
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):			
App No	Proposal	Decision	Date
SW/74/0213	Residential Development	Granted	31.01.74
SW/77/0663	Residential Development	Granted	25.10.77
SW/79/0626	Erection of 10 No 4 Person Houses, 3 No 4 Person Single Aspect Houses 4 No 2 Persons aged Persons Flats	Granted	29.11.79
SW/86/0836	Housing Development consisting of 20 no flats for the aged	Granted	17.3.87

MAIN REPORT

1.0 DESCRIPTION OF SITE

1.01 Tannery Court, Milton Regis is a residential development comprising of flats located in the Milton Regis High Street Conservation Area. The application site is within central Milton Regis, located at the southern end of the High Street. The site is bound by residential homes to the south and west, the High Street to the east and manufacturing workshops to the north.

- 1.02 Tannery Court is a relatively modern building (1970s) with a jettied first floor and a steeply pitched roof with dormer windows which are a clear reference to the medieval buildings and forms of Milton. Its design takes its inspiration from local vernacular architecture. The palette of materials includes local yellow stock bricks, render, clay tiles and timber casement windows, all clearly intended to reinforce local distinctiveness and reference the character of existing buildings in Milton Conservation Area.

2.0 PROPOSAL

- 2.01 This application is seeking permission for the removal of existing timber windows with replacement brown UPVC windows. The timber doors are also to be replaced with aluminium doors, although one would be composite material.
- 2.02 The proposed windows would be brown on the outside and white inside. The proposals include alterations to the design of the windows and doors. Horizontal subdivisions would be introduced where none existed and top lights added where traditional side hung casements currently prevail.
- 2.03 Members should be aware that the Council has given conservation and design advice to Amicus Horizon on replacement windows at Tannery Court over a period of 13 years. There is no question that the timber windows are reaching the end of their life and need to be replaced. Replacement with good quality high performance double-glazed timber windows and doors has been encouraged and would most likely not require planning permission.

3.0 PLANNING CONSTRAINTS

The site is located in the Milton Regis High Street conservation area.

4.0 POLICY AND OTHER CONSIDERATIONS

The National Planning Policy Framework (NPPF)

Paragraph 128 states: In determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance. As a minimum the relevant historic environment record should have been consulted and the heritage assets assessed using appropriate expertise where necessary. Where a site on which development is proposed includes or has the potential to include heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation.

Swale Borough Local Plan 2008

Policies E1 (General Development Criteria); E15 (Development affecting a Conservation Area) and; E19 (Design Criteria) .

In particular, Policy E15 sets criteria for development within a conservation area. Planning permission will be granted if it:

- a. responds positively to its conservation area appraisals where these have been prepared;
- b. retain the layout, form of streets, spaces, means of enclosure and buildings, and pay special attention to the use of detail and materials, surfaces, landform, vegetation and land use;
- c. take into account the current or likely resulting ambience provided by the mix of land uses or traffic
- d. remove features that detract from the character of the area and reinstate those that would enhance it; and
- e. retain unlisted buildings or other structures that make, or could make, a positive contribution to the character or appearance of the area.

5.0 LOCAL REPRESENTATIONS

5.01 The Ward Member, Councillor Katy Coleman, “called in” the application to be reported to the Planning Committee.

5.02 Three letters of support have been received from local residents. A summary of their comments is as follows:

- The proposed changes to the windows will enhance the look of the building in keeping with buildings in immediate surroundings
- As the age group of the residents living in Tannery Court range from 55 to 93, it will provide a better quality of life for all concerned
- Tannery Court is home to a large number of people on low incomes and double glazing is required to reduce fuel costs.
- The new windows would keep the draught, rain and noise out as well as keeping the heat in.

5.03 The deadline for comments on the site notice is 22.09.15 and this report is subject to the receipt of additional comments which will be reported at the meeting.

6.0 CONSULTATIONS

None

7.0 BACKGROUND PAPERS AND PLANS

7.01 Application papers and drawings referring to application reference 15/504839/FULL

- 7.02 Pre application advice was sought by the applicant for replacement UPVC windows and a response sent on 30/04/15 strongly recommending the use of good quality timber replacement windows which if they followed the general pattern of the existing ones would not require planning permission.

8.0 APPRAISAL

Principle of Development

- 8.01 The main consideration in the determination of this planning application is the impact of PVCu windows on a building which falls within the Milton Regis Conservation Area. The Council's prime consideration is its statutory duty under the Act to have special regard to the desirability of preserving or enhancing the character or appearance of Milton Conservation Area.

Visual Impact/Impact on Conservation Area

- 8.02 The character of Milton Conservation Area derives largely from its early development as a Medieval port. Traditional building forms, traditional building materials and traditional architectural details are fundamental to the special character of the conservation area. The few buildings in the conservation area which depart from using traditional building forms, materials and details are notable exceptions and tend to detract from the character of the conservation area.
- 8.03 The proposals involve the extensive use of brown and white uPVC windows and aluminium doors, with one composite door. As is always the case with uPVC, relatively slender and lightly detailed timber windows are replaced by sections which are substantially heavier and sometimes two or three times deeper than their timber equivalents. Therefore, I have asked the applicant to provide drawings of the existing sections and we are awaiting their response. I consider that the proposed fenestration designs will have a marked and detrimental effect on the architectural integrity of the elevations. Horizontal subdivisions are introduced where none existed and top lights added where traditional side hung casements currently exist. The texture, the stormproof detailing of the casements and the methods of construction all result in windows which will sit uncomfortably in a conservation setting.
- 8.04 The proposal to replace one timber door with a uPVC door with integral "Georgian" fanlight is a particularly inappropriate type of door for use in a conservation area in my view. The other timber doors would be replaced with brown and white aluminium doors. Whilst little detail of the proposed aluminium doors is provided in the application, I consider that their material and character will be a poor substitute for the existing timber doors because of their texture, construction and appearance.
- 8.05 It could be argued that the energy efficiency of the installation of the uPVC windows weighs in favour of the proposal. However, uPVC is an inherently unstainable material. The manufacturing relies on extracts from crude oil so it increases dependency on non-renewable resources. UPVC window

manufacture consumes eight times the energy used to manufacture a timber window and the production and disposal of uPVC releases hundreds of tonnes of dioxins and other highly toxic chemicals into the environment every year. It is still extremely difficult and uneconomic to recycle uPVC, it does not biodegrade and most goes to landfill.

- 8.06 Timber windows and doors which are manufactured from sustainably managed forests, on the other hand, have environmental benefits. Forests act as “carbon sinks” reducing greenhouse gasses and mitigating the effects of global warming. I am not therefore convinced that the introduction of uPVC windows would have significant benefits to the environment if considered as a whole process and any benefits that might be identified in terms of energy efficiency would not outweigh the harm identified above.
- 8.07 The applicant makes reference to a small house close to Tannery Court where uPVC windows were installed in recent years with planning permission. The windows in question replaced very poor “Tudor” style lead light windows and created a uniform appearance with adjoining properties. Permission was granted on that occasion because the development improved on the existing position. It certainly does not set a precedent for the replacement of the many windows and doors on this large and prominent building within the Milton Regis Conservation Area.

Other Issues

- 8.09 The proposed windows would not introduce any additional overlooking of surrounding properties.
- 8.10 The proposed windows and doors will have a marked effect on the character and appearance of Tannery Court and of the conservation area. The extensive use of uPVC and aluminium in place of timber will create a tension between the traditional design concept of Tannery Court and will cause harm to the character and appearance of the conservation area where traditional materials and details prevail. I conclude that the development fails the statutory test and as such permission should be refused.

9.0 CONCLUSION

- 9.01 This application for the removal of existing timber windows and installation of new brown UPVC windows is not considered acceptable, having a detrimental impact on the character and appearance of the Conservation Area. Crucially, the proposed windows and doors would fail to preserve or enhance the Milton Regis Conservation Area and would therefore fail the statutory test. I therefore recommend that permission be refused.

- 10.0 RECOMMENDATION** – REFUSE subject to the receipt of additional plans and no new fresh issues being raised closing date for representations is 22 September 2015 for the following reasons:

1. The proposals would be of a poor standard of design and of an inappropriate material, resulting in windows which would sit uncomfortably within the building and in the Milton Regis Conservation Area setting. As such, the proposal would be detrimental to, and would fail to preserve or enhance, the character and appearance of the Conservation Area contrary to policies E1, E15, E19 of the Swale Borough Local Plan 2008.

In accordance with paragraphs 186 and 187 of the National Planning Policy Framework (NPPF), the Council takes a positive and proactive approach to development proposals focused on solutions. We work with applicants/agents in a positive and proactive manner by:

Offering pre-application advice.

Where possible, suggesting solutions to secure a successful outcome.

As appropriate, updating applicants/agents of any issues that may arise in the processing of their application.

In this instance:

The application was considered to be fundamentally contrary to the provisions of the Development Plan and the NPPF, and there were not considered to be any solutions to resolve this conflict.

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

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

The conditions set out in the report may be subject to such reasonable change as is necessary to ensure accuracy and enforceability.

3.2 REFERENCE NO - 15/503633/FULL			
APPLICATION PROPOSAL Change of use of holiday caravan park to residential caravan park			
ADDRESS Red Lion Caravan Park London Road Dunkirk Kent ME13 9LL			
RECOMMENDATION- Refuse subject to outstanding comments from the Tourism Officer.			
SUMMARY OF REASONS FOR REFUSAL Contrary to local plan policies on permanent new residential accommodation in the countryside.			
REASON FOR REFERRAL TO COMMITTEE Parish Council support			
WARD Boughton & Courtenay	PARISH/TOWN COUNCIL Dunkirk	APPLICANT Mr Horace Gaskin AGENT RPS	
DECISION DUE DATE 02/10/15	PUBLICITY EXPIRY DATE 14/08/15		
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):			
App No	Proposal	Decision	Date
SW/81/0909	Change of use of land to parking of overnight caravans	Approved	04.12.1981
SW/84/1172	Toilets & shower and change of use of land to permanent caravan park	Approved	23.01.1985
SW/05/0662	Change of use from touring caravan site with caravan storage and maintenance to static caravan site and demolition of workshop and toilet block.	Refused	12.07.2005
SW/05/1246	Change of use from touring caravan site with caravan storage and maintenance to static caravan site and demolition of workshop and toilet block.	Refused but allowed at appeal	03.07.06
SW/11/0909	Change of use of land from a touring caravan park to a static holiday caravan site	Refused and dismissed at appeal	06.07.2012
SW/14/0601	Deletion of condition 2 which restricts the use of the manager's house on the site to a manager's only dwelling	Refused	03.11.2014
14/506434/FULL	Removal of condition 5 on planning permission SW/05/1246 - (APP/V2255/A/06/2008142 allowed on appeal dated 3/7/2006)	Refused at Planning committee	02.04.2015

1.0 DESCRIPTION OF SITE

- 1.01 The application site lies within the open countryside and in the Blean Woods Special Landscape Area. The land is currently approved as static holiday caravan park for 10 months use, with additional conditions to secure holiday use. The site is located on the north side of the Old London Road at the eastern end of Dunkirk. Currently located on the site are 10 twin-unit caravans which are accessed off a central access driveway which leads on to London Road. Mature trees border the site to the eastern and northern boundaries beyond which is open countryside. Adjoining the site to the west is the Red Lion Public House and motel.
- 1.02 Planning permission for change of use from a touring caravan and caravan storage/hire site to a static holiday caravan site was refused under SW/05/1246 and subsequently approved under appeal ref APP/V2255/A/06/2008142 in 2006. Planning conditions imposed on the appeal decision seek to ensure that the caravans are used exclusively for holiday use and not as permanent full time residential accommodation. I have attached the full appeal decision as Appendix 1 to this report so that Members can see the reasons behind the original decision and the full set of conditions. Conditions 3 to 5 inclusive are the pertinent conditions which Members will note from paragraphs 19 and 20 of the appeal decision that these conditions were imposed “in order to ensure that the site remains for tourist accommodation rather than permanent or semi-permanent residential accommodation having regard to the planning policies for the area”. Condition 5 was imposed specifically as the Inspector said that “a close down period would emphasise that the site is not appropriate for permanent residential accommodation and would be easily enforceable”.
- 1.03 Planning permission was recently refused earlier this year by Members for the removal of condition 5 of SW/05/1246 which sought to allow all year round occupancy of the site. The reason for refusal stated:
- ‘The site lies in a rural area outside of any built up area boundary as defined by the adopted Swale Borough Local Plan 2008, in a remote and unsustainable countryside location, and is considered to be unacceptable as a matter of principle contrary to the rural restraint policies, which seek amongst other things, to resist permanent residential accommodation in the countryside and contrary to policies E1, E6, H2 and B7 of the Swale Borough Local Plan 2008.’
- 1.04 Other decisions of note are the recent refusal by Members of an application to remove a condition restricting occupation of the manager’s house on the site, and an appeal decision in 2012 on adjacent land for the establishment of an additional static caravan park, the full appeal decision is appended as Appendix 2 to this item.

2.0 PROPOSAL

- 2.01 Planning permission is now sought for change of use of the holiday caravan park to a residential caravan park allowing full residential use on a permanent residential basis. No changes to the units or park layout are proposed as part of this application.
- 2.02 The agent has submitted a detailed covering letter setting out the justification for allowing the change of use. This letter is attached as Appendix 3 to this report.

3.0 SUMMARY INFORMATION

	Existing	Proposed	Change (+/-)
Site Area (ha)	00.40	00.40	0
No. of Residential Units	0	10	+10

4.0 PLANNING CONSTRAINTS

The Countryside and Special Landscape Area.

Potential Archaeological Importance

5.0 POLICY AND OTHER CONSIDERATIONS

- 5.01 Saved policies E1, E6, E9, B5, B6, B7 and RC3 of the adopted Swale Borough Local Plan 2008 are relevant and considered to be in compliance with the NPPF. These policies generally resist residential use in the countryside by policy B7 states that;

Policy B7

Seasonal occupancy period for holiday parks

A condition and/or suitable legal agreement will be imposed on any planning permission involving the creation of any new holiday caravan or chalet units, or the redevelopment of existing sites, preventing their use as a sole or main residence and limiting occupation to 1st March to 31st October in any year, and where sites are not at risk of flooding, to an 11 day Christmas/New Year period, namely 23rd December to 2nd January the following year. Additionally, on those sites known to be within a designated flood risk area, the Borough Council will require the provision of such flood warning measures as may be required by the Environment Agency.

The Borough Council will refuse proposals to extend the occupation period beyond these dates.

The National Planning Policy Framework

- 5.02 The NPPF is relevant in that it encourages LPAs to “support sustainable rural tourism and leisure developments that benefit business in rural areas...and which respect the character of the countryside” (para. 28).

Paragraphs 49 states that:

'Housing applications should be considered in the context of the presumption In favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.'

Paragraph 55 relating to delivering a wide choice of high quality homes states that:

'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:

- *the essential need for a rural worker to live permanently at or near their place of work in the countryside; or*
- *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; or*
- *the exceptional quality or innovative nature of the design of the dwelling. Such a design should:*

- *be truly outstanding or innovative, helping to raise standards of design more generally in rural areas;*
- *reflect the highest standards in architecture;*
- *significantly enhance its immediate setting; and*
- *be sensitive to the defining characteristics of the local area.'*

The recent National Planning Policy Guidance (NPPG) is also relevant. Para.007 states:

"When planning for tourism, local planning authorities should:

- *consider the specific needs of the tourist industry, including particular locational or operational requirements;*
- *engage with representatives of the tourism industry;*
- *examine the broader social, economic, and environmental impacts of tourism;*
- *analyse the opportunities for tourism to support local services, vibrancy and enhance the built environment; and*
- *have regard to non-planning guidance produced by other Government Departments.*

Local planning authorities may also want to consider guidance and best practice produced by the tourism sector."

6.0 LOCAL REPRESENTATIONS

6.01 I have received 10 letters of support making the following summarised comments. Seven of these letters are from addresses on the application site:

1. High quality static caravan homes that are well maintained
2. "We have lived at Red Lion Caravan Park for 2yrs now, although when we bought the home we were fully aware of the planning permission only being for 10 months residency, the position of the park and the number of homes here and how well looked after it is by everyone when looking at other sites this was the best one and just what we were looking for."
3. Offer affordable retirement homes of which there is a shortage in the local area
4. The majority of the homes are occupied by retired people
5. Finding alternative accommodation would cause major disruption to the lives of the residents
6. Risk to contents and security of the homes if left unoccupied for 2 months of the year
7. No visual impact from 12 months occupancy to the existing situation
8. Residents already pay council tax for their homes on the site
9. Residents have blended in well with the community
10. Close to local amenities and easy access- good bus routes
11. The residents support the local businesses
12. Mobile homes suitable for habitable accommodation during the winter months
13. The park homes have been designed for full residential accommodation
14. The homes look like bungalows and all have off road parking with nice gardens

7.0 CONSULTATIONS

7.01 Dunkirk Parish Council supports the application and makes the following summarised comments:

1. Any decision appears to rely on previous decisions and is therefore not considered on its own merits
2. The site, whilst outside of the village envelope, is next door to the only public house in Dunkirk, 20m from the farm shop and has a post box and a bus stop just outside the site entrance
3. There are a number of houses close by and other residents support this application
4. The site is extremely well kept
5. There is a need for homes in Dunkirk and the emerging Neighbourhood Plan is currently determining the level of this need
6. The Local Plan is out of date and the emerging plan will probably be found unsound
7. The application would provide housing numbers towards the 5 year shortfall
8. The proposal is in line with the guidance contained within the NPPF in paragraphs 47,48, 49 and 50

9. The homes would fulfil a local need and requirement
- 7.02 The County Archaeological Officer has no objection, and no condition is recommended.
- 7.03 Kent Highway Services have not responded to consultation.
- 7.04 The Council's Tourism Officer has not yet responded to consultation, I will update Members at the meeting.

8.0 BACKGROUND PAPERS AND PLANS

- 8.01 Application papers for applications SW/81/0909, SW/84/1172, SW/05/0662, SW/05/1246, SW/11/0909, SW/14/0601, 14/506434/FULL and 15/503633

9.0 APPRAISAL

- 9.01 In my view, the main consideration in the determination is the principle of the change of use from seasonal holiday park to a year round residential caravan park. Strictly speaking this is not a change of use, and the application ought to have been submitted as an application not to comply with the various conditions of the appeal decision. However, the applicant has been most insistent on this point and the working description of the application is as above.
- 9.02 The application site is an existing recently approved holiday park, with a corresponding relationship to policy B7 of the adopted Local Plan. As such it is recognised as a tourist venue, and there is broad local and national policy support for developments that support the operation of the business.
- 9.03 In the 2006 appeal decision the Inspector specifically stated that '*it seems to me that a close down period condition would emphasise that the site is not appropriate for permanent residential accommodation and would be easily enforceable*'. The conditions attached to this appeal decision clearly seek to ensure that the site remains for tourist accommodation rather than permanent or semi-permanent residential accommodation. I am fully of the opinion that to now allow permanent full residential use of the site would be contrary to the aims of Policy B7 and E6 of the Swale Borough Local Plan 2008.
- 9.04 Policy B7 is quite clear in that it seeks to prevent the use of holiday homes as a sole or main residence and clearly states that '*The Borough Council will refuse proposals to extend the occupation period beyond these dates*'. In my opinion the proposal is contrary to the aims of Policy B7 and will clearly result in permanent loss of any tourism potential at the site, a site which is high quality and extremely well located for the very substantial tourism attractions of Canterbury, the coast and Faversham.
- 9.05 Though in this case the applicants are now seeking a change of use to full residential use this application is really no different to the recently refused application 14/506434/FULL for the deletion of condition 5 (occupancy

restriction) of the appeal decision, a decision which Members took earlier this year. Members will also be aware of a subsequent appeal decision supporting such a decision at Parklands Village, Minster where loss of holiday stock was uppermost in that Inspector's mind, despite the reference to housing land supply being raised by the appellant in that case. That very recent appeal decision is attached as Appendix 4 to this report, and I would direct Members to paragraphs 14 to 26 of that decision.

- 9.06 Furthermore the pretext, at paragraph 3.94 to Policy B7 3.94 states that *“all units of accommodation on holiday parks will remain subject to a seasonal occupancy condition. This essentially reflects the fact that these parks are generally in rural areas where permanent residential use would be contrary to planning policies intended to prevent residential development within the countryside.*
- 9.07 Further to this, policies H2 and RC3 state that permission for new residential development will be granted for sites allocated as such on the Proposals Map, or lying within the defined built up area boundaries – this site falls into neither category. They continue on to state that, outside of these areas, residential development will only be permitted where it is wholly intended to meet an identified local need or agricultural dwellings, in accordance with the Council's other established policies.
- 9.08 Permitting year-round residential use on this site would set an undesirable precedent for all other sites across the borough and would effectively result in a number of dwellings being created in the designated countryside contrary to local and national planning policies.
- 9.09 In respect of housing in the Countryside, para 55 the NPPF states that *“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 (amongst other things):

- *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”.*

- 9.10 Following on from this Policy E6 of the Local Plan deals with the issue of rural restraint and explains that *“the quality, character and amenity value of the wider countryside of the Borough, will be protected and where possible enhanced.”* There is a presumption against development and proposals will only be permitted in specific circumstances.

- 9.11 As the site falls outside any defined built up area boundary in the Local Plan 2008 and is therefore under policy E6 and is treated as countryside for policy purposes. In the countryside policy E6 limits development to a number of specific circumstances, none of which apply here, furthermore it excludes the creation of new housing unless necessary to support a rural enterprise, justified as affordable units or to reuse an existing rural building, again none of which apply in this case.
- 9.12 In my view, therefore, there is a fundamental policy objection to residential development in this location and the development proposed and is therefore unacceptable. The adoption of the NPPF has changed the policy situation to a certain extent, but not to the degree that isolated and unsustainable sites within the countryside are now considered acceptable for housing. The thrust of the NPPF guides the Council towards reconsidering proposals for medium to large-scale developments that may otherwise be unacceptable, but which would contribute towards housing supply. This proposal, for 10 residential caravans, would not significantly contribute to the Council's housing allocations target and therefore should not be considered acceptable under the NPPF.
- 9.13 It is acknowledged that policy H2 of the Local Plan is vulnerable because the Council does not currently have a five year housing land supply. As such, new homes within the countryside are potentially acceptable where the development can be deemed to be sustainable. This is in line with the presumption in favour of sustainable development – the key principle of the NPPF. I do not find the applicant's almost total reliance on the issue of housing land supply to be overriding here, nor is it clear to me that the NPPF is suggesting that high quality tourist accommodation should be lost even if the housing supply question is of significance. This argument was not supported by the Inspector in the 2015 appeal decision in Minster at Appendix 4 to this report.
- 9.14 In my view, the site lies in an unsustainable location, which therefore renders it undesirable for residential use under the guidance of local and national policy. The proposal is therefore considered undesirable and contrary to policies E1, E6 and H2 of the Swale Borough Local Plan 2008, and to paragraph 55 of the National Planning Policy Framework. However, the site is well located to serve its approved tourism role and the 2013 appeal decision is evidence of pressure for further static caravan accommodation in this area.
- 9.15 I also note the letter of support received from the Parish Council which maintains that the site is well run/well managed and would contribute towards the local housing need and borough-wide housing numbers. I agree that the site is well managed but do not consider this a reason to divert from local planning policy to allow the change of use to permanent residential use. The proposal would only provide 10 residential caravans which would not contribute in any significant manner towards the borough-wide 5 year housing shortfall.

10.0 CONCLUSION

10.01 The proposal which seeks all year round residential use of the site is contrary to Policy B7 which specifically seeks to prevent their use as a sole or main residence. In my opinion there is no overriding reason to allow all year residential use on this site without compromising the nature of the site, i.e a tourist accommodation site which is not to be used as a residential site. Furthermore, a precedent would be set which may result in other sites coming forward for permanent residential use in the countryside. This change of use would conflict with the development plan aim of restricting undesirable development in rural areas and to protect the countryside for its own sake. I therefore recommend planning permission be refused.

11.0 RECOMMENDATION – REFUSE for the following reasons:

The site lies in a rural area outside of any built up area boundary as defined by the adopted Swale Borough Local Plan 2008, in a remote and unsustainable countryside location, and permanent residential use here is considered to be unacceptable as a matter of principle contrary to the rural restraint policies, which seek amongst other things, to resist permanent residential accommodation in the countryside. The proposal will also result in loss of high quality and well located holiday accommodation, and would in total be contrary to policies E1, E6, B5 and B7 of the Swale Borough Local Plan 2008.

Council's approach to the application

In accordance with paragraphs 186 and 187 of the National Planning Policy Framework (NPPF), the Council takes a positive and proactive approach to development proposals focused on solutions. We work with applicants/agents in a positive and proactive manner by:

Offering pre-application advice.

Where possible, suggesting solutions to secure a successful outcome.
As appropriate, updating applicants/agents of any issues that may arise in the processing of their application.

In this instance:

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

NB For full details of all papers submitted with this application please refer to the relevant Public Access pages on the council's website.
The conditions set out in the report may be subject to such reasonable change as is necessary to ensure accuracy and enforceability.

APPENDIX A



by Ray Yorke BA Dip TP MRTPI MRICS

an Inspector appointed by the Secretary of State for
Communities and Local Government

☎ 0177 372 8372
e-mail: enquiries@planning-inspectorate.gsi.gov.uk

Date: 3 July 2006

Appeal Ref: APP/V2255/A/06/2008142

Red Lion Caravan Park, Old London Road, Dunkirk, Faversham, Kent, ME13 9LL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr and Mrs S. Beaney against the decision of Swale Borough Council.
- The application (Ref SW/05/1246), dated 09 September 2005, was refused by notice dated 14 December 2005.
- The development proposed is described in the application as *use of land as a static holiday caravan site with service road and demolition of existing workshop and toilet block.*

Summary of Decision: The appeal is allowed and planning permission granted subject to conditions set out in the Formal Decision below.

Main Issue

1. I consider that the main issue in this case is the effect of the proposal on the character and appearance of the countryside which is designated as a Special Landscape Area (SLA).

Development Plan and other Planning Policies

2. The development plan for the area includes the Kent Structure Plan adopted 1996 (SP) and the Swale Borough Local Plan adopted 2000 (LP). SP Policy ENV1 protects the countryside for its own sake and resists development which will adversely affect it unless there is an overriding need. Policy ENV4 defines SLAs and says that long term protection will be given to these areas with priority given to the conservation and enhancement of natural beauty of the landscape over other planning considerations, whilst having regard to economic and social wellbeing. Policy RS1 expects development at villages and in the open countryside to be well designed and to be appropriate in such matters as location and appearance. Policy RS5 normally resists development in rural Kent, with certain exceptions which include a land use essentially demanding a rural location.
3. LP Policy G1 is a general policy relating to all development proposals which are expected, among other things, to avoid an unacceptable impact on the natural and built environment and to have a high standard of landscaping. Policy E9 takes a similar approach to SP Policy ENV1 in protecting the countryside for its own sake, but lists a number of exceptions. Policy E14 takes a similar approach to SLAs as SP Policy ENV4. Policy T6 seeks to impose restrictions on the period of occupation of new holiday caravans, or the redevelopment of existing sites. Policy T9 permits touring facilities at sites and defined holiday areas shown on the Proposals Map and well related to the main road network but subject to the criteria of Policy G1 and to accessibility criteria. The parties have not supplied me with relevant extracts from the Proposals Map.

APPENDIX A

Appeal Decision APP/V2255/A/06/2008142

4. National planning policy guidance is a material consideration in planning decisions. My attention has been drawn to PPS7: *Sustainable Development in Rural Areas* and to PPG21: *Tourism*.

Reasons

5. The appeal site is located within the countryside outside the confines of any village and within an SLA. There is a certain amount of development in the vicinity, including the Red Lion public house and modern motel development associated with it immediately to the west of the appeal site, modern commercial development opposite, and other sporadic development including some dwellings in the vicinity.
6. The existing site is well screened by mature landscaping along its eastern boundary and relatively well screened from the road by landscaping and by the appellants' dwelling and office building, which immediately adjoins the appeal site. There are oblique views into the site from the road towards the existing toilet block. Views of the site from the west are obscured by the public house and motel buildings. The proposal would involve the loss of a group of relatively young trees in the centre of the site and a slight reduction in the landscaping to the front of the site, but there would be scope to improve the landscaping on the western boundary.
7. Currently permitted uses at the appeal site include use as a touring caravan site and for caravan storage and hire, and the use of the workshop building to the rear of the site for the cleaning and maintenance of caravans. At the time of the site visit, there were seven touring caravans on the site, but 16 caravans were being stored on the western part of the site and a further 5 caravans were being stored at the northern end of the site within the compound associated with the workshop building.
8. The proposal would involve the removal of the toilet block close to the site entrance and the large workshop building to the rear of the site. The submitted plan shows that provision would be made for 10 twin unit static caravans, car parking and a service road generally on the line of the existing track. Removal of the toilet block would be likely to increase views into the site from the road to some extent.
9. The Council has not submitted a statement in relation to the appeal but the Council's officers' report expresses concern that the proposed use would be more suburban in appearance than the existing use of the site and would be harmful to the countryside because of its permanent nature. Whilst I accept that the use of the site by touring caravans will tend to fluctuate depending on the time of year, it seems to me that the other uses of the site particularly for caravan storage and the use of workshop would be likely to be of a more permanent nature. The appearance of the development could be improved by new landscaping and careful control of the materials for the service road and parking areas.
10. Twin unit static caravans would be larger than touring caravans and would be permanently located on the site. However, I have taken into account that the site is generally well screened from view, that there is existing development in the immediate vicinity, and that the proposal would involve the demolition of two buildings, including the visually unattractive workshop. It seems to me that the proposed use would not have a significantly greater effect on the character and appearance of the area than the existing authorised uses of the site.

APPENDIX A

Appeal Decision APP/V2255/A/06/2008142

11. I consider that provision of a small static holiday caravan site within this area of countryside would be consistent with SP Policy ENV1 and LP Policy E9 and that it would be appropriate in location consistent with SP Policies RS1 and RS5 in that the use essentially demands a rural location. It seems to me that it would not be likely to have an unacceptable effect on the natural environment and would not cause demonstrable harm to residential amenity consistent with LP Policy G1. In my view the proposal would also be consistent with SP Policy ENV4 and LP Policy E14 in that it would not adversely affect the SLA. I consider that it would also be consistent with national policy planning guidance in PPG21 which generally supports development in the countryside to meet the needs of visitors subject to criteria being met. Furthermore, I consider it would be consistent with the more recently issued PPS7 which recognises that in areas designated for their landscape qualities, there will be scope for tourism and leisure development, subject to appropriate control.
12. I conclude on this issue that the proposal would not be likely to have a significantly adverse effect on the character and appearance of the countryside and the SLA.

Other Considerations

13. The Council's officers' report expresses concern that the proposal will result in the loss of a touring caravan site and says that there are only a limited number of these within the borough. The report points out that there are a considerable number of static caravan places in the borough. However, I note that most of these are on the island of Sheppey rather than on the mainland, where the officers' report suggests there are few static sites.
14. Although I have noted the officers' comment regarding the relatively recent change of ownership of the site and what they consider to be a lack of marketing of the site as a touring caravan site, it seems to me that road access to the site has become less easy to find for those unfamiliar with the area following the construction of the new A2. This may have made the site less attractive for owners of touring caravans. In my view, the site would provide a small static holiday caravan site which might well appeal to those who do not wish to visit what are generally much larger sites at Sheppey.
15. The appellants consider that the present use of the site for touring caravans is uneconomic and they have submitted financial information in support of this argument. The Council has not commented on this information. I do not find this information fully convincing but in my view the question of the comparative financial viability as a touring caravan site or for the use proposed is not central to the main issue which I have discussed above.
16. The appellants have referred to the possibility of use of adjoining land in their ownership as a touring caravan site for up to 5 caravans for use by exempted organisations. However, this does not form part of the application the subject of this appeal and I have not therefore considered it.
17. My attention has been drawn to the planning history of some other sites including an appeal decision relating to a site in Yorkshire. The full circumstances of these other cases are not before me and I have determined this appeal on its own merits, having regard to relevant planning policies and other material considerations.
18. These other considerations do not lead me to a different conclusion than I have reached in respect of the main issue set out above.

APPENDIX A

Appeal Decision APP/V2255/A/06/2008142

Conditions

19. In framing conditions, I have had regard to the provisions of Circular 11/95: *The Use of Conditions in Planning Permissions*. The Council has not suggested any conditions but there appear to have been some discussions between the parties and in the officers' report regarding the period of occupancy. I have noted the appellants' comments regarding possible conditions. In addition to the standard time condition relating to the period in which the development may commence, I shall impose conditions to restrict the number of caravans that may be accommodated on the site to the number shown on the submitted plans and to restrict them to holiday purposes only, to require the site owner or operator to maintain a register of the permanent residential addresses of the owners/occupiers of the caravans and to limit the period of occupation. I impose these conditions in order to ensure that the site remains for tourist accommodation rather than permanent or semi-permanent residential accommodation having regard to planning policies for the area.
20. LP Policy T6 seeks to limit occupation of holiday caravans to 1st March to 31st October plus the Christmas period. However, it seems to me that Policy T6 is unduly restrictive and not consistent with the guidance in paragraph 9 of Annex B of PPG21. A 10 months period of occupation seems to me to be appropriate taking into account that guidance. The appellant has pointed out that in the Yorkshire appeal the inspector did not consider a close down period to be necessary in view of other conditions. However, it seems to me that a close down period condition would emphasise that the site is not appropriate for permanent residential accommodation and would be easily enforceable.
21. The officers' report expresses a preference for a 28 day limit of consecutive occupation and refers to the current restriction on touring caravans to a consecutive period of not more than 14 days. However, unlike touring caravans, static caravans would remain on the site for long periods of time, and it seems to me that enforcement of a 28 day limit would require intrusive checks on occupiers. In my view, the other conditions proposed would be adequate to ensure that the site is not used as permanent residential accommodation.
22. I shall impose a condition to restrict commercial and storage activities in the interests of the amenity of occupiers of the site and nearby residents. I regard conditions relating to the landscaping of the site and for approval of the materials to be used for the access road, parking areas and hardstandings as necessary to achieve a satisfactory appearance. A condition regarding foul and surface water drainage is also necessary to ensure proper provision. I shall impose a condition to require the removal of the existing workshop and toilet buildings in the interests of achieving a satisfactory development, and a condition to ensure the parking and turning areas are kept available for that purpose in the interests of highway safety and the amenity of the occupiers of the caravans.

Conclusion

23. For the reasons given above and having considered all other matters raised including the representations received from third parties, I conclude that the appeal should be allowed.

Formal Decision

24. I allow the appeal and grant planning permission for the use of land as a static holiday caravan site with service road and demolition of existing workshop and toilet block at Red Lion Caravan Park, Old London Road, Dunkirk, Faversham, Kent, ME13 9LL in

APPENDIX A

Appeal Decision APP/V2255/A/06/2008142

accordance with the terms of the application, Ref. SW/05/1246 dated 09 September 2005, and the plans submitted therewith, subject to the following conditions:-

1. The development hereby permitted shall be begun before the expiration of three years from the date of this decision.
2. Not more than ten caravans shall be accommodated on the site at any time.
3. The caravans on the site shall be occupied for holiday purposes only and shall not be occupied as a person's sole or main place of residence.
4. The site owners/operators shall maintain an up-to-date register of the names of all owners/occupiers of individual caravans on the site, and of their main home addresses, and shall make this information available at all reasonable times to the local planning authority.
5. No caravan shall be occupied at any time between 10 January and 10 March (inclusive) in any year.
6. No goods, commercial or trade vehicles, nor any trade or commercial plant, machinery, equipment, materials or stock shall be brought onto or stored on the site.
7. No development shall be carried out until full details of both hard and soft landscape works, including means of enclosure, hard surfacing, including the materials and method of construction of the service road, parking areas and any hardstandings for the caravans, trees and other landscaping to be retained, and proposed planting, together with a programme for their implementation, have been submitted to and approved in writing by the local planning authority. These works shall be carried out in accordance with the approved details prior to the occupation of any caravan on the site or as may be otherwise agreed in writing by the local planning authority.
8. The development hereby approved shall not be commenced until details of the works for the disposal of foul and surface water have been submitted to and approved in writing by the local planning authority. No caravan shall be occupied on the site until the approved works have been carried out.
9. No development shall be carried out until the existing workshop and toilet buildings have been demolished and all materials arising from the demolition have been removed from the site.
10. The areas shown on the submitted plans for parking and turning of vehicles shall be kept clear of obstruction and shall not be used other than for the parking and turning of vehicles in connection with the development hereby permitted.

RJ Yorke


INSPECTOR

APPENDIX B

UKP SCANNED

VK P

X



The Planning Inspectorate

Appeal Decision

Site visit made on 7 June 2012

by Elizabeth Lawrence BTP MRTPI
 an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 6 July 2012

Appeal Ref: APP/V2255/A/12/2169264
Red Lion Caravan Park, Old London Road, Dunkirk, Faversham, Kent, ME13 9LL.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr & Mrs S Beany against the decision of Swale Borough Council.
- The application Ref SW/11/0909, dated 14 July 2007, was refused by notice dated 9 September 2011.
- The development proposed is for the change of use of land from a touring caravan park to a static holiday caravan site with ancillary service road and bases.

Preliminary matters

1. Currently there is a hard surfaced access road, caravan hard-standings, a facilities/office building and two portacabins used for showers on the Appeal site. It would appear from the evidence submitted that these hard surfaces and structures were constructed and/or placed on the land in or around 2007, in association with the change of use of the land to a caravan site. However, neither the structures nor the hard surfaced areas benefit from planning permission, or a Certificate of Lawfulness. Accordingly for the purposes of this Appeal very little weight is give to their existence.

Decision

2. The appeal is dismissed.

Main Issue

3. The main issue is the effect of the proposal on the character and appearance of the surrounding rural area.

Reasons

4. Policy E1 of the Swale Borough Local Plan 2008 states that all development proposals are expected to accord with the policies and proposals of the Plan unless material considerations dictate otherwise. A proposal should respond positively by reflecting the positive characteristics and features of the site and the locality; protect and enhance the natural and built environments; and be both well sited and of a scale, design and appearance that is appropriate to the location, with a high standard of landscaping.

www.planningportal.gov.uk/planninginspectorate

PLANNING SERVICES

09 JUL 2012

APPENDIX B

Appeal Decision APP/V2255/A/12/2169264

5. The Appeal site is located outside any defined built-up area and within the Blean Woods Special Landscape Area (SLA). It is in an area where Policy E6 of the Swale Borough Local Plan states that development proposals will only be permitted in certain circumstances specified in the policy. It does not include the formation of new or the extension of existing static caravan parks. At the same time policy E9 states that within SLA the priority is the long term protection and enhancement of the quality of the landscape, whilst having regard to the economic and social well-being of communities.
6. The Appeal site is registered with the Camping and Caravan Club and is used as a touring caravan site for up to 5 caravans, in accordance with the Town and Country Planning (General Permitted Development) Order 1995 (GPDO). At the time of the Appeal site visit there were 5 caravans on the land and the Exempted camping adviser has confirmed that the site is relatively well used.
7. This indicates that the site helps meet the current demand for certificated touring caravan sites in the area and there is no evidence to suggest that vehicular access to the site is seen to be unduly difficult for visitors, or has an adverse impact on highway safety. It also indicates that the existing touring site supports local services and facilities and local employment. This is consistent with the rural economic policies and advice set out in the National Planning Policy Framework (NPPF) and the *Good Practice Guide on Planning for Tourism* produced by the Department for Communities and Local Government.
8. There is no evidence to suggest that the structures and hard surfaced areas are necessary for the operation of a certificated touring caravan site. Without this built development the site would have the appearance of an enclosed field, as shown on the aerial photographs submitted by the Council. Enclosed fields are an important characteristic of the SLA and in this instance the site contributes to the rural setting of the development to the south and provides a gentle transition between that development and the more open countryside to the north.
9. With the proposal the Appeal site would be intensively developed with 8 twin unit caravans that would be permanently sited and served by a permanent access road, parking spaces and paths. As a result the proposal would completely change the rural character and appearance of the site, having an urbanising effect. It would be totally out of keeping with its rural surroundings, the low key linear development along the north side of Old London Road and the landscape quality of the area. This is irrespective of whether or not the existing built development on the Appeal site is taken into account.
10. The physical and environmental differences between the use of the site for 5 touring caravans as opposed to 8 static caravans is significant due to the permanent built up nature of 8 static caravans and associated built infrastructure. This is illustrated by the existing static holiday caravan site immediately to the east, which due to its layout, boundary treatments, landscaping and the appearance of the twin units has the appearance of an intensively developed residential twin unit park. It appears domestic and suburban, when viewed from Old London Road, the public house, the countryside to the east and the Appeal site.

APPENDIX B

UKP SCANNED

Appeal Decision APP/V2255/A/12/2169264

11. The proposal would almost double the size of the existing static caravan site and would be far in excess of a small extension to it. The proposed additional static caravans would be visible from both Old London Road and the Public House garden area to the south. Due to its siting, layout and form the extended static holiday caravan site would fail to respect or relate to the positive rural characteristics and features of the site and locality. Both on its own and together with the existing static caravan site the proposed scheme would seriously detract from and would appear as a discordant feature within the surrounding built and natural environment. Accordingly the proposal would conflict with policies E6 and E9 of the Local Plan
12. Paragraph 3.91 of the Local Plan advises that there is a particular need for new high quality serviced holiday accommodation and cites guest houses, inns, bed and breakfast establishments and farmhouse accommodation as becoming increasingly popular, particularly in rural areas. Against this background policy B5 of the Local Plan states that existing tourist accommodation should be retained and that new serviced and self-catering accommodation will be permitted in accordance with the Local Plan. Policy E1 similarly requires new development to accord with the policies and proposals of the Plan unless material considerations indicate otherwise.
13. Policy B6 of the Local Plan goes on to specifically address holiday parks. It states that planning permission will not be granted for any new static holiday caravans and chalets outside the holiday park areas shown on the Proposals Map. Any upgrading or improvement of existing static holiday caravan and chalet sites should take place within existing site boundaries wherever possible. Schemes will not be permitted where they would result in an increase in the number of accommodation units, or where they would have an unacceptable impact on the local environment.
14. The proposal would amount to an extension of the existing static caravan park, as opposed to its upgrading or improvement. It would also result in additional units of accommodation and as stated above would have an unacceptable impact on the local environment. As such the proposal would be contrary to policies B5 and B6 of the Local Plan.
15. At the same time the scheme would result in the loss of the existing touring site and little empirical evidence has been submitted to demonstrate a need for additional static holiday caravans in the area. For instance whilst it is stated that the existing static caravan site caters for those seeking a higher degree of quiet and refinement away from the coast, little evidence has been submitted to demonstrate this. Whilst it is not a policy requirement to submit such evidence, given the conflict with policy and environmental harm that would result from the scheme, it would require strong evidence in the form of other material considerations to outweigh that harm and conflict.
16. The Appellant has referred to the appeal decision which relates to the existing static holiday site to the east. However it is clear from paragraph 10 of the Inspector's decision letter that in coming to his conclusions on the merits of the scheme he found that the proposed static caravan park would not have a significantly greater effect on the character and appearance of the area than the existing authorised uses on the site. At the same time the proposal involved the replacement of existing structures on "previously developed" land,

3

PLANNING SERVICES

09 JUL 2012

APPENDIX B

Appeal Decision APP/V2255/A/12/2169264

which is permitted under policy RC1(4) of the Local Plan. Likewise the approved development at the red Lion PH has taken place on a "previously developed" site and is not subject to policy B6.

17. Conversely the current Appeal scheme would not replace any structures or hard surfaces on the land that benefit from either planning permission or a Certificate of Lawfulness. It has not been demonstrated that the site is "previously developed" and the proposal would cause serious harm to the character and appearance of the area. As such the schemes are not directly comparable.
18. The Council's Local Development Framework is at an early stage and so currently little weight can be given to it. Notwithstanding this the extracts from the *Options Consultation and Ambitions for Swale: Swale's Sustainable Community Strategy* documents submitted by the Appellant would not weigh in favour of a scheme because it would harm the character and appearance of the surrounding area and the SLA, even if it could achieve Green Tourism Accreditation.
19. Finally I have taken into account the letters written in support of the scheme, which indicate that the scheme would help support local businesses and provide affordable homes. However the scheme is for static holiday caravans not permanent homes and it has not been demonstrated that the community benefits arising from the scheme would outweigh those resulting from the existing touring caravan site and the harm that would be caused to the character and appearance of the locality. As such these factors do not outweigh the concerns outlined above.
20. I conclude that the proposal would seriously and unacceptably detract from the character and appearance of the site, the surrounding rural area and the SLA. It would also conflict with policies RC1, E1, E6, E9, B5 & B6 of the Local Plan, the NPPF, the GPGPT and the emerging Local Development Framework. Collectively and amongst other things these policies and advice encourage tourism and its associated economic and social benefits, whilst seeking to respect and enhance the character and appearance of the built and natural environments.

Elizabeth Lawrence

INSPECTOR

APPENDIX C



20 Western Avenue, Milton Park, Abingdon, Oxfordshire OX14 4SH
 T +44 (0)1235 821888 F +44 (0)1235 834698 E rpsox@rpsgroup.com W rpsgroup.com

Our Ref: OXF9008

E-mail: nick.laister@rpsgroup.com
Direct Dial: 01235 838214
Date: 1 May 2015

Planning Services
 Swale Borough Council
 41 Stone Street
 Faversham
 Kent
 ME13 8PH



Submitted via: Planning Portal

Dear Sir/Madam,

**RE: CHANGE OF USE FROM STATIC HOLIDAY CARAVAN SITE TO PERMANENT RESIDENTIAL ACCOMMODATION
 RED LION CARAVAN PARK, LONDON ROAD, DUNKIRK, KENT ME13 9LL**

Please find enclosed a planning application for a proposed change of use from a static holiday caravan site to permanent residential accommodation at Red Lion Caravan Park, London Road, Dunkirk, Kent ME13 9LL.

The planning application is supported by the following documents:

- Completed Application Form;
- Supporting Letter (this Covering Letter);
- Location Plan
- Relevant Planning Application Fee: £3850.00

This application for planning permission has been submitted via the Planning Portal. The application fee of £3850.00 will be paid separately via a cheque sent under separate cover.

Description of Proposed Development

The proposal seeks full planning permission for a change of use from a static holiday caravan site to static residential caravan site on behalf of the owner, Mr Horace Gaskin. This will allow the existing caravan units to be occupied on a permanent residential basis for 12 months of the year. No changes to the units or park layout are proposed as part of this application. The existing ten (10) twin-units caravans will remain on the site and will continue to utilise the existing access route that leads to London Road.

The Site and Surroundings

This application relates to land located at London Road, Dunkirk, Kent ME13 9LL (Refer to Figure 1). The site is located within the administrative area of Swale Borough Council and adjacent to the village of Dunkirk.



RPS Planning & Development Ltd. Registered in England No. 02947164
 20 Western Avenue, Milton Park, Abingdon, Oxfordshire OX14 4SH
 A member of the RPS Group Plc.



APPENDIX C



20 Western Avenue, Milton Park, Abingdon, Oxfordshire OX14 4SH
 T +44 (0)1235 821888 F +44 (0)1235 834698 E rpsox@rpsgroup.com W rpsgroup.com

Our Ref: OXF9008

E-mail: nick.laister@rpsgroup.com

Direct Dial: 01235 838214

Date: 1 May 2015

Planning Services
 Swale Borough Council
 41 Stone Street
 Faversham
 Kent
 ME13 8PH



Submitted via: Planning Portal

Dear Sir/Madam,

**RE: CHANGE OF USE FROM STATIC HOLIDAY CARAVAN SITE TO PERMANENT RESIDENTIAL ACCOMMODATION
 RED LION CARAVAN PARK, LONDON ROAD, DUNKIRK, KENT ME13 9LL**

Please find enclosed a planning application for a proposed change of use from a static holiday caravan site to permanent residential accommodation at Red Lion Caravan Park, London Road, Dunkirk, Kent ME13 9LL.

The planning application is supported by the following documents:

- Completed Application Form;
- Supporting Letter (this Covering Letter);
- Location Plan
- Relevant Planning Application Fee: £3850.00

This application for planning permission has been submitted via the Planning Portal. The application fee of £3850.00 will be paid separately via a cheque sent under separate cover.

Description of Proposed Development

The proposal seeks full planning permission for a change of use from a static holiday caravan site to static residential caravan site on behalf of the owner, Mr Horace Gaskin. This will allow the existing caravan units to be occupied on a permanent residential basis for 12 months of the year. No changes to the units or park layout are proposed as part of this application. The existing ten (10) twin-units caravans will remain on the site and will continue to utilise the existing access route that leads to London Road.

The Site and Surroundings

This application relates to land located at London Road, Dunkirk, Kent ME13 9LL (Refer to Figure 1). The site is located within the administrative area of Swale Borough Council and adjacent to the village of Dunkirk.



RPS Planning & Development Ltd. Registered in England No. 02947164
 20 Western Avenue, Milton Park, Abingdon, Oxfordshire OX14 4SH
 A member of the RPS Group Plc.



APPENDIX C



The proposal site is currently occupied by The Red Lion Caravan Park, an existing static holiday caravan park. It is bounded to the south by Canterbury Road and accessed via a short access driveway. The eastern and northern boundaries are bordered by mature trees which shelter the application site from the elements and allow it to integrate with its surrounding settings more subtly. The caravan park comprises of ten (10) twin-unit caravans.

The site is located within the countryside to the east of Dunkirk Village and is in close proximity to a number of community services. The Red Lion public house and associated motel accommodation adjoins the application site to the west. A touring caravan site also operates on a small field to the west of Red Lion caravan park and directly to the rear of the public house. On the opposite side of the road are a few detached dwellings and a number of businesses including an agricultural and horticultural supply shop and local farm shop. The site lies to the east of the centre of Dunkirk village and is within easy walking distance of the local services established here such as Dunkirk Village School, a plant nursery, car sales and repairs and a bus stop. A footway runs along the northern side of Canterbury Road from the site to the main village services, providing safe and convenient pedestrian access.

From a planning perspective, the application site is within the built fabric of this settlement and the proposal would therefore be considered to support and strengthen the community. It will also be located on an existing previously-developed site.

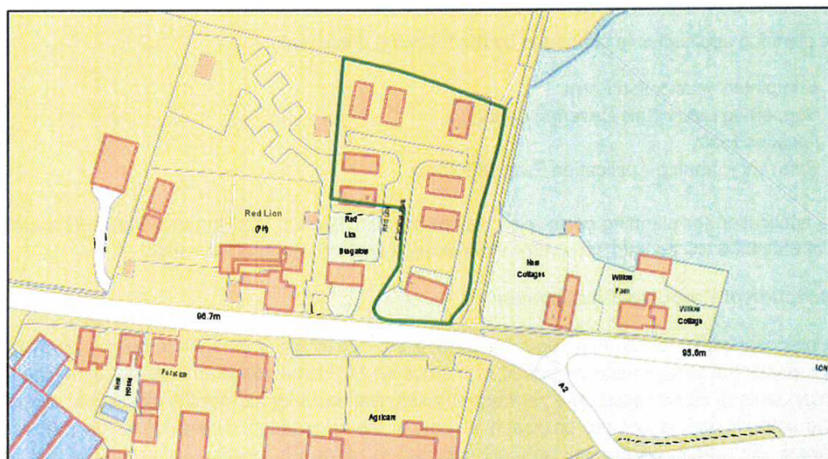


Figure 1: Location of Proposal Site

Source: Swale Borough Council Property Map

Planning History

Planning permission SW/05/1246 was granted on 3 July 2006 for "change of use from touring caravan site with caravan storage and maintenance to static holiday caravan site and demolition of workshop and toilet block" under appeal reference APP/V2255/A/06/2008142 in July 2006 and was subject to a number of conditions, in particular the following:

APPENDIX C

RPS

3. *"The caravans on the site shall be occupied for holiday purposes only and shall not be occupied as a person's sole or main place of residence.*
4. *The site owners/operators shall maintain an up-to-date register of the names of all owners/occupiers of individual caravans on the site, and of their main home addresses, and shall make this information available at all reasonable times to the local planning authority.*
5. *No caravan shall be occupied at any time between 10 January and 10 March (inclusive) in any year".*

More recently, a planning application (LPA ref 14/506434/FULL) was submitted to Swale Borough Council on 11 December 2014 for the removal of condition 5, on planning permission SW/05/1246. This was refused by the local planning authority on 02 April 2015 for the following reason:

- (1) *"The site lies in a rural area outside of any built up area boundary as defined by the adopted Swale Borough Local Plan 2008, in a remote and unsustainable countryside location, and is considered to be unacceptable as a matter of principle contrary to the rural restraint policies, which seek amongst other things, to resist permanent residential accommodation in the countryside. And contrary to policies E1, E6, H2 and B7 of the Swale Borough Local Plan 2008".*

Planning Policies

National Planning Policy Framework

The National Planning Policy Framework (NPPF) was published on 27 March 2012 and is the Government's statement of planning policy and guidance which provides the basis against which development plan policies and development control decisions should be made by all local planning authorities in England.

The fundamental role of the NPPF is to deliver sustainable development. Paragraph 28 places a focus on supporting a prosperous rural economy by promoting *"...the retention and development of local services and community facilities in villages, such as local shops, meeting places, sports venues, cultural buildings, public houses and places of worship"*.

Paragraphs 47 and 49 of the National Planning Policy Framework (NPPF) state that:

47. *"To boost significantly the supply of housing, local planning authorities should:*
 - *Use their evidence base to ensure that their Local Plan meets the full, objectively assessed needs for market and affordable housing in the housing market area, as far as is consistent with the policies set out in this Framework, including identifying key sites which are critical to the delivery of the housing strategy over the plan period;*
 - *Identify and update annually a supply of specific deliverable sites sufficient to provide five years worth of housing against their housing requirements....."*
49. *Housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites".*

In accordance with the NPPF, Swale Borough Council are required to have a five year housing land supply plan and to be able to specifically allocate areas for development to deliver new homes. The latest published Annual Monitoring Report 2012-13 (published April 2014) indicated that the Borough

APPENDIX C

RPS

had failed to demonstrate a five year supply of land for housing at that time. The next Annual Monitoring Report for the period 2013-2014 is due to be published in May 2015 and is currently therefore unavailable. However, the data within that Report will be taken from the Kent County Council Housing Information Audit for Swale. This was published in October 2014 and looks at the period 2013/14. It represents the most up to date Council assessment of the housing land supply within the Borough, as confirmed in a telephone conversation with Alan Best from your Planning Policy department. The Audit indicates clearly that, based on either the Sedgefield or Liverpool method of calculation, the Borough fails to demonstrate a five year supply of land for housing, being just 3.66 using the Liverpool method, and just 3.17 using the Sedgefield method.

Clearly therefore the Council continue to fail to be able to demonstrate the requisite supply of housing land as required by the NPPF. In accordance with Para 49 of the Framework therefore, housing control policies within the local development plan cannot be considered up-to-date. Consequently, this application must principally be determined in accordance with paragraph 14 of the NPPF, which promotes the *"presumption in favour of sustainable development"*. Such a presumption must endure for applications where the policies of the development plan are out of date, unless any effects of the proposal will significantly and demonstrably outweigh the benefits of the proposal, or other policies in the NPPF indicate that permission should be restricted. Neither is considered to be the case here. The site lies close to the village of Dunkirk with its associated facilities and easy and convenient pedestrian access to the village exists along Canterbury Road, where bus stops also allow access to bus services to Canterbury and Faversham. The proposal is therefore consistent with and supported by the NPPF, being sustainable development that, rather than being in conflict with other policies in the Framework, will *"widen opportunities for home ownership and create sustainable, inclusive and mixed communities"* (Paragraph 50). Indeed, the proposal will assist the Council in meeting its supply of housing land and therefore addressing the undersupply that currently exists.

Paragraph 55 of the NPPF states that housing should be located in rural areas where it will support and enhance or maintain the vitality of rural communities. The proposal site is located on the eastern side of Dunkirk Village and borders the Red Lion Public House and a number of other small rural based businesses. The change of use of the static holiday caravan site to permanent residential use would mean that future occupants could reside permanently on the site, establishing a permanent home which would in turn benefit the local community as it would support local businesses and promote a more established and longer term use for the site.

The proposed development is therefore considered to be in line with the principles set out in the NPPF, being sustainable and resulting in permanent residential use that will help support and maintain the local economy. It will also not have any visual impact as alterations or extensions are not proposed as part of the application. As such the proposal is considered to comply with national planning policy.

Local Development Plan

Any proposed development must be judged against the relevant Development Plan and other government planning policy and guidance. Section 70(2) of the Town and Country Planning Act 1990 and Section 38(6) of the Planning and Compulsory Purchase Act 2004 together require that planning applications should be determined in accordance with the statutory Development Plan unless material considerations indicate otherwise. For the purposes of this application the Development Plan comprises the Swale Borough Local Plan Adopted February 2008. A number of these policies have been 'saved' following a direction by the Secretary of State in 2010. However, all precede the NPPF

APPENDIX C

RPS

There are currently no identified area action plans for the village of Dunkirk, and no site specific policy exists within the Local Plan. Other policies relevant to the proposal within the Local Plan are limited in number and, due to the lack of a five year supply of housing land, all policies within the Plan that relate to the supply of housing are considered out of date in accordance with Para 49 of the NPPF. Policy H2 of the Plan does not therefore apply.

Policy RC3 of the Swale Borough Local Plan supports the provision of rural housing if "...the proposal should be of a form, scale and design that respects and where possible enhances the character of the settlement and its surrounding landscape" and that "...has the support of the local Parish Council". The proposal is for an existing site where the built form will remain and will not be changed as the existing caravan units are permanent.

Section 4.78 of the Local Plan makes an allowance for windfall sites and states that "during the plan period some housing proposals will come forward for sites not allocated in the Local Plan, which will be acceptable. It is normal practice for an allowance to be made for such windfall sites, which will count against the Structure Plan housing target. Section 3.107 states that "when formulating housing proposals for either an allocated or windfall site, the objective should be to promote a sustainable residential environment, including the use of sustainable construction techniques, and to ensure the efficient use of land". The proposal is considered to be consistent with this outcome.

Local Parish Council

Dunkirk Parish Council made representations to the planning application (SW/05/1246) in support of the removal of condition 5, which stated that:

"Dunkirk Parish Council support this application for removal of condition 5. .

This provides clear evidence of local support for the use of the caravans on site all year round.

Dunkirk Parish Council is currently in the process of producing the draft *Boughton and Dunkirk Neighbourhood Plan*. The local parish council issued questionnaires to every household in the locality during 2014 and are utilising this information to assist with preparing the plan.

The designated area for the neighbourhood plan has been approved by Swale Borough Council and is illustrated by the blue line in Figure 2 below. The application site lies within the designated area. The draft neighbourhood plan is at a very early stage as there exists no policy formation or strong lead from the public surveys as to the nature, location or context of future development within the area. The local parish council have only recently agreed a designated area for development and have yet to advise of future dates for the next stage in preparing the plan. Until the proposed plan and its potential aspirations and policies have been subject to local consultation, little weight can be attributed to the neighbourhood plan, in accordance with the guidance contained within National Planning Guidance and Paragraph 216 of the NPPF.

APPENDIX C

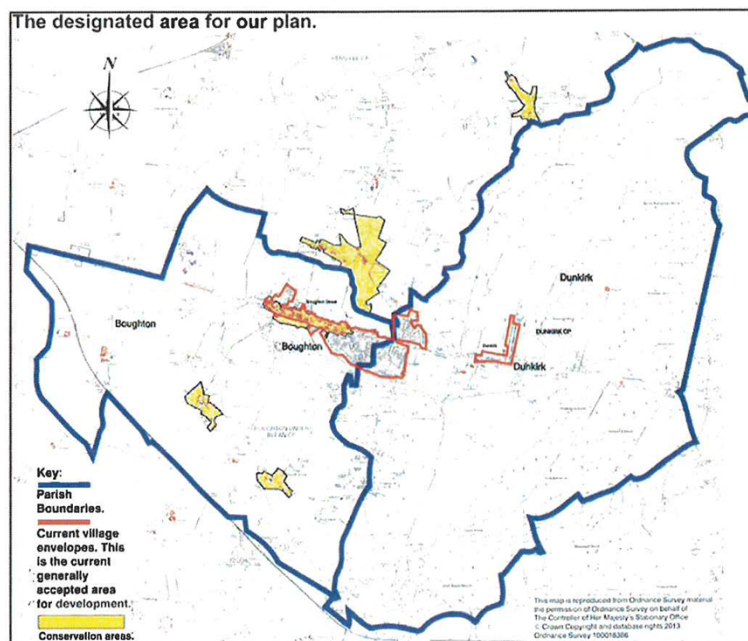


Figure 2 : Designated Area for Draft Boughton and Dunkirk Neighbourhood Plan

Source: <http://www.boughtonanddunkirkneighbourhoodplan.org.uk/about-the-plan>

Conclusion

This application to Swale Borough Council seeks full planning permission for the change of use of Red Lion caravan park from a static holiday caravan site to a static caravan site for permanent residential occupation.

Taking account of the lack of a five year housing land supply, and the absence of any draft or adopted neighbourhood plan, the presumption in favour of sustainable development applies. The site is considered to lie within the village of Dunkirk, enabling easy pedestrian access to local facilities and infrastructure, as well as bus services to nearby settlements. The site is considered to be sustainable. In addition, the Parish Council have previously indicated their support for the site being occupied on a year-round basis.

It is therefore considered that the proposal is in line with the National Planning Policy Framework and relevant local planning policies and should be approved.

APPENDIX C



I trust that the information provided is sufficient to enable you to consider the application, however should you require any further details or clarification please do not hesitate to contact me.

Yours Sincerely

A handwritten signature in black ink, appearing to read 'Nick Laister'.

Nick Laister
Senior Director

cc.

APPENDIX D



Appeal Decision

Hearing held on 9 June 2015

Site visit made on 9 June 2015

by **L Gibbons BA (Hons) MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 28 July 2015

Appeal Ref: APP/V2255/A/14/2223765

Parklands Village Residents Association, Parklands Village, The Broadway, Minster on Sea, Sheerness ME12 2DH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land carried out without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mrs M Mace (Parklands Village Residents Association) against the decision of Swale Borough Council.
 - The application Ref SW/13/1546, dated 16 December 2013, was refused by notice dated 14 February 2014.
 - The application sought planning permission for proposed construction of 160 holiday cottages without complying with a condition attached to planning permission Ref SW/87/1191, dated 17 February 1988.
 - The condition in dispute is No 2 which states that: *The chalet hereby permitted shall not be occupied between 2nd January and March 1 in any year.*
 - The reason given for the condition is: *As the area is considered unsuitable for permanent residential development.*
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. The Council refer to Policies CP1 and DM5 of the Swale Emerging Local Plan (Bearing Fruits) 2013. The Bearing Fruits document has been the subject of consultation and the Examination will begin in September 2015. The Council requested that significant weight should be given to these policies and I note that there was a very limited number of objections to Policy DM5 in particular. Given the stage that it has reached and noting that there were potentially significant objections to the rest of the document, I have given this only moderate weight.
3. The grounds of Appeal refer to a 'fall-back position' being open to the occupiers of Parklands Village to locate caravans on a temporary basis on the appeal site during the months of January and February. At the Hearing, the appellant confirmed that they were no longer intending to pursue this fall-back position. I have dealt with the appeal on this basis.

APPENDIX D

Appeal Decision APP/V2255/A/14/2223765

Background and Main Issues

4. Parklands Village consists of 76 terraced and semi-detached single storey properties and they were built on the basis of planning permission for 160 holiday cottages which was granted for a larger site in 1988. Part of the land relating to the planning permission remains undeveloped. The properties were occupied from 2003.
5. The appeal site has a planning history which includes enforcement appeals relating to 58 of the properties and a planning appeal which were dismissed in 2010. The Council explain that the development was always intended for holiday accommodation to help improve the quality and quantity of that type of accommodation on the Isle of Sheppey. There is no limit on a maximum stay, so the accommodation could be occupied for the full 10 months. The planning permission and legal agreement requires the gates to be locked and services to be switched off during January and February, although I understand that services remain switched on.
6. The appellant is seeking to remove the disputed condition to allow 12 months occupancy. The Parklands Village Residents Association (PVRA) argues that Parklands Village has never been occupied as holiday accommodation, and that the standard of construction of the properties which are brick built suggests that the accommodation was only ever intended to be for permanent use. Whilst I accept that the occupants may have bought the properties on the basis that they could live there permanently, it remains the case that this is not what the planning permission or condition allows. Taking the above historical background into account, the main issues are:
 - a) Whether permitting the properties to be used as permanent residential accommodation would represent an unacceptable flood risk to the occupiers;
 - b) The effect of removing the condition on the stock of holiday accommodation and the tourist economy of the Borough; and,
 - c) Whether there are any other material considerations which mean that the appeal should be determined other than in accordance with the development plan.

Reasons*Flood risk*

7. Paragraph 100 of the National Planning Policy Framework (the Framework) states that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk. The appeal site is located within Flood Zone 3a; these areas have a high probability of flooding. The site is at risk from flooding from tidal and fluvial flooding. At the Hearing, the Environment Agency (EA) confirmed that the sea defences have been improved significantly and that the new shingle embankment is much higher than the original embankment. The Scrapsgate Drain flows to the south-east of the appeal site out to the sea and although the drain is cleared and managed on a regular basis, should this overflow, the appeal properties would not be defended from this.
8. The Flood Risk Assessment (FRA) submitted with the planning application classifies the properties as 'vulnerable' on the basis of their brick construction

APPENDIX D

Appeal Decision APP/V2255/A/14/2223765

and that they were already in use as permanent residential accommodation. The EA do not agree with the conclusions in the FRA. Table 2 of the Framework's Technical Guidance states that 'Caravans, mobile homes and park homes intended for permanent residential use' can only be considered as highly vulnerable. The EA acknowledges the method of construction of the properties which were built to the relevant building regulations at that time, would be more robust than caravans located on sites adjacent. However, at the Hearing the EA confirmed that it would be unable to consider them as anything other than holiday accommodation in line with the 1988 planning. Based on the evidence before me, I therefore agree that there is no basis on which to apply the Exception Test as set out in the FRA.

9. The FRA indicates that as the primary source of flooding is tidal with improved sea defences the properties are therefore well protected and in addition that the highest tides are in March and September when the properties are already occupied. At the Hearing, the EA disagreed with this assessment and argued that the greatest risk is in the winter months, where low pressure can result in storm surges that may result in sea levels significantly higher than usual. The EA also indicated that due to recent modelling undertaken by them, spending on defences would be needed in future years, although I note nothing is planned immediately.
10. I note that the appellant refers to 1 in 6 homes being subject to flood risk. I acknowledge that the current occupiers of Parklands Village, who spoke at the Hearing, accept the risk associated with flooding and that their houses and lives are insured against flood risk. However, this may not be applicable to future occupiers either in terms of acceptance of risk or future levels of insurance.
11. I understand that there is now no Island flood siren warning system in place. The appellant refers to the occupiers of Parklands Village having signed up to the EA's Floodline Service, and although I was not provided with a copy, I understand that Minster Parish Council has produced an Evacuation Plan. In addition, the PVRA have developed a Flood Evacuation Plan and this is managed by the local occupiers themselves. The plan includes amongst other things, the provision of information on flooding to occupiers, sandbags to each property and vehicles to help move people off the site in case of flooding. The residents are also aware of who within Parklands Village would need some help to move out. I also accept that the Abbey Motel which some of the occupiers stay at during the winter months is also in the same Flood Zone, although I note this is slightly closer to higher ground and Flood Zone 1, than the appeal site.
12. The FRA states that the site could be affected by a breach in the Island's sea defences to a level which could result in approximately 2 metres of internal flooding within the properties. Despite their brick built construction, the buildings are single storey with eaves heights of around 2 metres and are not specifically designed to be flood resilient. Access to the loft of the properties via a pull down ladder is possible. However, there is no means of escape from the roof or proper ventilation within the roofspace and the EA confirmed that this would not be suitable as a safe refuge in the event of flooding. Notwithstanding the mitigation measures and plans in place, human failings and errors can and do occur, including failures in technology, illness, accidents,

APPENDIX D

Appeal Decision APP/V2255/A/14/2223765

delayed departure and an understandable natural personal reluctance to move out rapidly.

13. I accept that the site did not flood in January 1953 when there was an example of severe flooding in the East of England, nor did it flood in recent winter months. Nevertheless, the risk of the tidal defences being overtopped or breach during an extreme tidal event remains. Having regard to the comments of the EA and the vulnerability of the occupiers, some of whom I was advised have health and mobility difficulties, I consider that to remove the condition would cause unacceptable risk from flooding to the occupiers of Parklands Village and it would be contrary to the provisions of the Framework in relation to flood risk.

Holiday accommodation and the tourist economy

14. The supporting text at paragraph 5.1.20 of the Bearing Fruits document refers to tourism being an important part of the local economy of Swale Borough. The Borough's principle tourism assets are referred to and this includes holiday parks and the Isle of Sheppey. Policy CP1 of Bearing Fruits amongst other things seeks to safeguard the Borough's tourism assets and Policy DM5 seeks to resist the permanent occupancy of caravans and chalets. Policy B5 of the LP seeks to retain existing tourist facilities, including holiday accommodation. Policy B7 of the LP relates to seasonal occupancy periods for holiday parks.
15. I accept that the properties have never been marketed as holiday homes and were purchased as freehold residences, although the majority of the occupiers at the Hearing were aware of the condition restricting the occupancy period when they purchased the property. The appellant also refers to the closure of the ferry link from Sheerness to Holland (the Olau Line) and that the properties were built after this and would have never have supported the tourism industry as a result. However, there is no doubt that the properties were only permitted as holiday homes and not permanent dwellings, nor is there any evidence before me to suggest that they could not be used as holiday accommodation.
16. I note that the number of bed spaces within the Borough which could be provided would be more than other tourist resorts such as Blackpool. At the Hearing I was referred to recent meetings between the local Member of Parliament for Sittingbourne and Sheppey and local caravan park owners. Although I have not been provided with details of the meetings, I understand that matters under discussion included occupancy rates, users of the properties not being holiday makers and the lack of entertainment facilities at some holiday parks making them a poor offer to tourists.
17. The brick built method of construction and appearance of the properties does differ from the neighbouring holiday accommodation at Meadow View for example, which are more akin to caravans and which are more common on the island. I understand that there are over 50 operational holiday parks on the Isle of Sheppey and the appellant indicates that the appeal site would only make a small contribution in terms of bed spaces. Nevertheless, whilst the layout also appears to be more akin to that within a residential development, the appearance and construction of the properties also makes a high quality contribution to the tourism offer on the Isle of Sheppey.

APPENDIX D

Appeal Decision APP/V2255/A/14/2223765

18. I have been referred to park home developments at Leysdown, Pilgrims Retreat, Maidstone and Four Horseshoes Park, Graveney which are now occupied during 12 months of the year and which I understand are not built to the same type of construction as the appeal site. There was some discussion at the Hearing about what factors led to the change in the occupancy condition, some of the examples were clearly affected by the failure of the Council to take enforcement action, which is not the case here. I have not been provided with any further details in relation to the other examples in order to be able to make a comparison between them and the appeal proposal. As such, I am unable to give this weight in considering the proposal before me.
19. I was referred to a lack of any recent assessment of the tourism need within the Borough and that the Council's policy towards tourism has been in a similar form for a number of years. Nevertheless, the Council's strategy and policies in respect of tourism, including holiday parks remains in place and I have not been provided with detailed evidence to suggest that these are no longer appropriate.
20. The Council refer to the potential effect of removing the condition to allow 12 month occupation on other places which provide holiday accommodation. Taking into account the numbers of holiday parks within the area even if they are not constructed in the same manner as those within the appeal site, I agree with the Council that this would be likely to lead to further pressure for the removal of occupancy conditions at other holiday parks, which the Council would find very difficult to resist. This would undermine the Council's well established tourism strategy and the contribution that holiday parks on the Island make to the local economy.
21. For the reasons given above, I conclude that the removal of the condition would have an unacceptable effect of the stock of holiday accommodation and tourist economy within the Borough. It would be in conflict with Policies B5 and B7 of the LP and would be contrary to emerging policies CP1 and DM5 of the LP.

Other material considerations

22. Paragraph 47 of the Framework indicates that in order to boost significantly the supply of housing, local planning authorities should ensure that they meet their full and objectively assessed needs for market and affordable homes. At the Hearing the Council confirmed that it was not able to demonstrate a five year supply of housing land, with a shortfall of 831 dwellings amounting to approximately 3.5 years supply. This would be a substantial and significant shortfall. The appellant argues that the Local Plan is out of date and that the accommodation in use as permanent residences is sustainable development.
23. The Framework identifies three dimensions to sustainable development – economic, social and environmental. The appellant refers to the lack of accommodation for the elderly and retired people within the Borough, including a waiting list for people for bungalow type accommodation. The proposal would bring a benefit in terms of meeting the social role by assisting in the supply of housing, including for smaller homes. I also accept that the occupiers of Parklands Village use the local facilities and spend money locally. The properties are also subject to Council Tax. The appeal site is within walking distance of shops and services and bus stops.

APPENDIX D

Appeal Decision APP/V2255/A/14/2223765

24. In social terms, the appellant also refers to the properties being vulnerable to crime if the appeal site was closed during the months of January and February, and I accept that this would be of a serious concern to the occupiers. However, I have not been provided with any evidence to indicate that this would be a significant risk.
25. Whilst I note that the occupiers may be spending money over a longer period of time, it is not clear that the contribution would be more to the local economy than that gained through the use of the properties as holiday accommodation for 10 months. In addition, the proposal would be contrary to the Council's tourism strategy and would have a negative impact on the tourism economy. In respect of the environmental role, there is a significant risk in terms of flooding. I conclude that the adverse impacts of the proposal would significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework as a whole.

Conclusion

26. I have taken account of the effect on occupiers of the need to move from their homes during the winter months. I accept that some occupiers find it very difficult to move off the site during January and February for reasons of ill health for example and that others may choose to stay on the site. I also note that other occupiers of the appeal site do move away at this time. At the Hearing, there was discussion that if the appeal were to be dismissed, this would interfere with the occupiers right to a home, which comes within Article 8 of the European Convention on Human Rights. The right to a home is a qualified right where interference is permissible including in respect of public safety or the economic well-being of the country. Having regard to my significant concerns for public safety relating to flood risk and the effects on the tourism economy, I conclude that the interference that arises from the occupancy condition is limited and proportionate and does not amount to a violation of the human rights of the occupiers.
27. For above reasons and having regard to all matters raised, I conclude that the appeal should be dismissed.

L. Gibbons

INSPECTOR

APPENDIX D

Appeal Decision APP/V2255/A/14/2223765

APPEARANCES

FOR THE APPELLANT

Mrs M Mace	Parklands Village Residents Association
Mrs J Roullier	Parklands Village Residents Association
Mr J Burke	Constituency Manager for Gordon Henderson, Member of Parliament, Sittingbourne and Sheppey
Mr M Wood	Parklands Village Residents Association (Flood Committee)
Mrs P Abela	Parklands Village Residents Association (Chair)

FOR THE LOCAL PLANNING AUTHORITY

Mr M Goddard	Planning Consultant acting on behalf of Swale Borough Council
Mr J Byne	Flood Risk Officer, Environment Agency
Ms G Mitri	Planning Adviser, Environment Agency

INTERESTED PERSONS

Mrs M Brett
 Mr C McMahon
 Mr R Wickwar
 Mrs S Sage
 Mr A Wisdon
 Mr Hubbard
 Mrs M Crain
 Mrs M Hooper
 Mrs Baker
 Mr R Salt
 Mr V Guyver
 Mr J Pieri

DOCUMENTS AND PLANS SUBMITTED AT THE HEARING

- 1 Statement to the Hearing by Gordon Henderson, Member of Parliament
supplied by Mr J Burke

APPENDIX D

Appeal Decision APP/V2255/A/14/2223765

- 2 Statement to the Hearing by Mrs M Mace and Mrs J Roullier supplied by the appellant
- 3 Parklands Village Flood Evacuation Plan supplied by Mr Wood on behalf of the Parklands Village Residents Association
- 4 Flood Map – Defences (Minster) supplied by the Environment Agency

PLANNING COMMITTEE – 24 September 2015

PART 5

Report of the Head of Planning

PART 5

Decisions by County Council and Secretary of State, reported for information

- **Item 5.1 – Bowl Reed, Oad Street, Borden**

APPEAL DISMISSED

Observations

A good decision where the Inspector agreed with the overall need to protect the open countryside from harmful development.

This page is intentionally left blank



Appeal Decision

Site visit made on 2 September 2015

by Mr Kim Bennett BSc Dip TP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 08/09/2015

Appeal Ref: APP/V2255/D/15/3006059

Bowl Reed, Oad Street, Borden, Sittingbourne, Kent ME9 8JX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr Nick Ratcliffe against the decision of Swale Borough Council.
- The application Ref 14/501628/FULL, dated 10 July 2014, was refused by notice dated 15 December 2014.
- The development proposed is the erection of new single storey garages.

Decision

1. The appeal is dismissed.

Procedural Matter

2. The appeal site visit was organised on the basis of an access required site visit. Although the appellant was advised of the date of the visit and that it would be during the morning, there was no one at the premises when I called. However I was able to view the proposed siting of the garages through the entrance gates and could adequately assess the proposal without having to enter the site itself. I accordingly proceeded on the basis of an unaccompanied site visit.

Main Issue

3. The main issue is the effect of the proposal on the character and appearance of the site and the surrounding area.

Reasons

4. Bowl Reed comprises a large detached two storey dwelling set in a large plot to the south west of Borden. It stands in open countryside with the embankment of the M2 motorway immediately to the south. The dwelling is set back from the road and the front boundary comprises a mixture of railings with brick piers, a wall and mature trees. On the south western side of the dwelling there are two detached garages with hipped roofs. There is a further residential property opposite, but otherwise there is no other built development in close proximity.
5. The site was the subject of a previous proposal for a three bay garage in approximately the same position as currently proposed. Planning permission

Appeal Decision APP/V2255/D/15/3006059

was refused and subsequently dismissed on appeal in December 2013¹, the Inspector finding that the garages would create an unduly dominant and discordant addition which would undermine the character and appearance of the site. The appellant considers that the reduction in scale of the proposal from a three bay to two bay garage would overcome the reasons for dismissing the previous appeal.

6. However, whilst I acknowledge the reduction in scale, the proposed building would still be a sizable structure which would be accentuated by its large roof area. It would be clearly apparent when approaching the site from the east where it would be seen in conjunction with the other two outbuildings above the railings and wall. There would also be filtered views through the trees from the opposite direction which would be more so during the winter months when leaf cover is reduced. My colleague determining the previous appeal considered that the proposed garages would consolidate the front area with a significant built form because of the size and close relationship it would have with the existing outbuildings. I consider that the same harm would occur with the current proposal as well, notwithstanding its reduced size, which would be at odds with the essentially open character of a dwelling and outbuildings within a wholly open countryside setting.
7. Although I acknowledge that there is a need for garden machinery on such a large site, it seems to me that the two large existing buildings should be of sufficient size to fulfil that purpose and any additional need is not outweighed by the harm that would occur given the countryside location. I also do not consider that the building would provide any significant noise attenuation from the adjacent motorway, but even if it did, it would also be an insufficient reason to justify an additional large building. I note that the area is apparently already used for parking but that would be of a more transient nature and appearance and the harm would not be the same as a permanent building. Finally, I have also been referred to other examples of garages nearby and close to the carriageway, and I made a point of viewing those at the time of my site visit. However the full circumstances of those cases are not before me and I am not aware of any particular site circumstances or other site issues which might have existed. They have not therefore been decisive in my findings above.
8. For the above reasons the proposal would harm the character and appearance of the area. It would therefore be contrary to Policies E1, E6, E19 and E24 of the Council's Local Plan 2008 in that the development would not be appropriate to its location, it would not deliver high quality design which promotes and reinforces local distinctiveness, it would not be in scale in relation to the surroundings and would not protect and enhance the countryside. Accordingly the appeal should be dismissed.

Kim Bennett

INSPECTOR

¹ Appeal Ref APP/V2255/D/13/2208505