

## AGENDA

### PLANNING COMMITTEE MEETING

Date: Thursday, 27 April 2017

Time: 7.00 pm

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

Membership:

Councillors Mike Baldock, Cameron Beart, Bobbin, Andy Booth (Vice-Chairman), Roger Clark, Richard Darby, Mike Dendor, James Hall, Mike Henderson, James Hunt, Ken Ingleton, Nigel Kay, Samuel Koffie-Williams, Peter Marchington, Bryan Mulhern (Chairman), Prescott and Ghlin Whelan.

Quorum = 6

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	Pages
1. Fire Evacuation Procedure	
<p>The Chairman will advise the meeting of the evacuation procedures to follow in the event of an emergency. This is particularly important for visitors and members of the public who will be unfamiliar with the building and procedures.</p> <p>The Chairman will inform the meeting whether there is a planned evacuation drill due to take place, what the alarm sounds like (i.e. ringing bells), where the closest emergency exit route is, and where the second closest emergency exit route is, in the event that the closest exit or route is blocked.</p> <p>The Chairman will inform the meeting that:</p> <p>(a) in the event of the alarm sounding, everybody must leave the building via the nearest safe available exit and gather at the Assembly points at the far side of the Car Park. Nobody must leave the assembly point until everybody can be accounted for and nobody must return to the building until the Chairman has informed them that it is safe to do so; and</p> <p>(b) the lifts must not be used in the event of an evacuation.</p> <p>Any officers present at the meeting will aid with the evacuation.</p> <p>It is important that the Chairman is informed of any person attending who is disabled or unable to use the stairs, so that suitable arrangements may be made in the event of an emergency.</p>	

2. Apologies for Absence and Confirmation of Substitutes

3. Minutes

To approve the Minutes of the Meeting held on 30 March 2017 (Minute Nos. 1282 - 1289) as a correct record.

4. 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.

(c) Where it is possible that a fair-minded and informed observer, having considered the facts would conclude that there was a real possibility that the Member might be predetermined or biased the Member should declare their predetermination or bias and then leave the room while that item is considered.

**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**

5. Deferred Items

1 - 27

To consider the following application:  
16/507706/FULL – Doubleday Lodge, Glebe Lane, Sittingbourne, Kent,  
ME10 4JW

Members of the public are advised to confirm with Planning Services prior to the meeting that this application will be considered at this meeting.

Requests to speak on this item must be registered with Democratic Services ([democraticservices@swale.gov.uk](mailto:democraticservices@swale.gov.uk) or call us on 01795 417328) by noon on Wednesday 26 April 2017.

6. Report of the Head of Planning Services

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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](mailto:democraticservices@swale.gov.uk) or call 01795 417328) by noon on Wednesday 26 April 2017.

7. Exclusion of the Press and Public

To decide whether to pass the resolution set out below in respect of the following items:

That under Section 100A(4) of the Local Government Act 1972, the press and public be excluded from the meeting for the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in Paragraphs 1, 2, 3, 4, 5, 6, and 7.

1. Information relating to any individual.
2. Information which is likely to reveal the identity of an individual.
3. Information relating to the financial or business affairs of any particular person (including the authority holding that information).  
See note below.
4. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and any employees of, or office holders under, the authority.
5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.
6. Information which reveals that the authority proposes
  - (a) To give under any enactment a notice under or by virtue of which requirements are imposed on a person; or
  - (b) To make an order or direction under any enactment.
7. Information relation to any action in connection with the prevention, investigation or prosecution of crime.

8. Report of the Head of Planning Services

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To consider the attached report (Part 6).

## Issued on Tuesday, 18 April 2017

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](http://www.swale.gov.uk)

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**PLANNING COMMITTEE – 27 APRIL 2017**

**DEFERRED ITEM**

Report of the Head of Planning

**DEFERRED ITEMS**

Reports shown in previous Minutes as being deferred from that Meeting

<b>DEF ITEM 1 REFERENCE NO - 16/507706/FULL</b>		
<b>APPLICATION PROPOSAL</b> Demolition of former residential care home building and erection of 21 new dwellings, associated new access road, car parking and amenity areas		
<b>ADDRESS</b> Doubleday Lodge Glebe Lane Sittingbourne Kent ME10 4JW		
<b>RECOMMENDATION</b> Grant subject to a Section 106 agreement.		
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b> The development of this site for housing would involve the loss of a care home for the elderly. Whilst this is regrettable, KCC took the decision to close it in January 2014. The site has been vacant since September 2014 with alternative care homes found for existing residents. Its use for housing would go some way towards meeting the housing needs of the Borough. In addition, the scheme would offer much needed affordable housing. These factors weigh heavily in favour of the development. The density, layout and design of the scheme has been carefully considered and amendments provided to address officers' concerns. The scheme is now considered to offer a good quality environment for the future residents of the scheme, whilst protecting the residential amenities of the existing properties that are adjacent to the site. The proposal would be of a good design that would add to the visual amenities of the area. The parking provision would be adequate in number and layout. Other considerations such as contaminated land, drainage and ecology are adequately dealt with. The developer has agreed to pay the various development contributions that are required for this scheme.		
<b>REASON FOR REFERRAL TO COMMITTEE</b> Section 106 agreement		
<b>WARD</b> Roman	<b>PARISH/TOWN COUNCIL</b>	<b>APPLICANT</b> Stonechart Property Ltd <b>AGENT</b> Ubique Architects
<b>DECISION DUE DATE</b> 13/02/17	<b>PUBLICITY EXPIRY DATE</b> 30/01/17	<b>OFFICER SITE VISIT DATE</b> 02.12.16
<b>RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):</b> There is no relevant planning history for this site.		

**MAIN REPORT**

**1.0 INTRODUCTION**

- 1.01 Members will recall that this application was reported to the Planning Committee on 2<sup>nd</sup> March 2017. This report is appended (appendix B) and includes full details of the application site, the proposal, planning constraints, local representations, consultations, policies, background papers, appraisal, conclusion and the appended Habitats Regulations Assessment.
- 1.02 Members discussed all aspects of the application and resolved to approve the development subject to the conditions in the report (with a slight amendment to condition 21), the obligations within the Section 106 agreement and also subject to securing 30% affordable rented accommodation on the application site (6 units). The

application presented to Members had sought to secure 10% (2 units) affordable rented housing through the Section 106 agreement but Members considered that this was insufficient, especially considering that the scheme would provide 100% of the dwellings as affordable at the outset (90% of which would not be secured through the S.106). Officers were therefore tasked with seeking a higher level of affordable rented accommodation on the site and have been in negotiations with the developer since the meeting. In response, the developer has submitted a Viability Assessment to consider all of the costs of the scheme, including the Section 106 contributions, in order to present a case for the provision of 10% affordable rented accommodation on the site as originally proposed. Officers have commissioned an independent review by CBRE of this Viability Assessment and we have received their report which will be discussed below.

- 1.03 It is important to draw Members' attention to the fact that the printed minutes (appendix A) of the 2<sup>nd</sup> March Planning Committee meeting have not included specific reference to 'affordable rented' accommodation, instead referring to Member's resolution to ensure that 30% affordable housing is secured on site. This is a drafting error as confirmed by Democratic Services and I have checked with the Member who proposed the addendum that it was his wish that the 30% affordable housing should be entirely affordable rented accommodation. Negotiations have continued on this basis.

## 2.0 DISCUSSION

- 2.01 National Planning Policy Guidance - Viability, notes that viability can be important where planning obligations or other costs are being introduced. In these cases decisions must be underpinned by an understanding of viability, ensuring realistic decisions are made to support development and promote economic growth. The guidance states that where the viability of a development is in question, local planning authorities should look to be flexible in applying policy requirements wherever possible. Where an applicant is able to demonstrate to the satisfaction of the local planning authority that the planning obligation would cause the development to be unviable, the local planning authority should be flexible in seeking planning obligations. This is particularly relevant for affordable housing contributions which are often the largest single item sought on housing developments. These contributions should not be sought without regard to individual scheme viability. The financial viability of the individual scheme should be carefully considered in line with the principles in this guidance.

- 2.02 Paragraph 173 of the NPPF states:

*"...To ensure viability, the costs of any requirements likely to be applied to development, such as requirements for affordable housing, standards, infrastructure contributions or other requirements should, when taking account of the normal cost of development and mitigation, provide competitive returns to a willing land owner and willing developer to enable the development to be deliverable."*

- 2.03 The applicant is arguing that the delivery of this housing development would be unviable if they have to increase the amount of affordable rented accommodation on site. The applicant is offering to provide 10% (2 units) affordable rented accommodation with the remaining 90% (19 units) being provided as shared ownership. My understanding is that the applicant will be building the development and it will then be taken over by Moat Housing Association who will pay the applicant a set amount for the shared ownership properties and a separate, much reduced, amount for the affordable rented properties. In this case, the likely difference between the amounts paid by Moat for a shared ownership, compared to affordable rented, is in the

region of £135,000. As such, on this factor alone it is clear to see that an increase in the number of affordable rented properties on the site would have a significant impact on the viability of the scheme.

- 2.04 Members are reminded of the contributions that the developer has agreed to pay under the Section 106 agreement. For ease of reference these are repeated below:

SAMM SPA recreational disturbance - £223.58/dwelling: -	£4,694.42
Bins - £92/dwelling: -	£1,932.00
KCC Primary education: -	£49,580.16
KCC Secondary education: -	£49,555.80
Libraries: -	£1,008.33
NHS: –	£18,144.00
Off-site open space contribution - £861/dwelling: -	£18,081.00
 Sub Total: -	 £142,095.71
 Monitoring and administration fee: -	 £7,104.79
 <b>Total: -</b>	 <b>£149,200.50</b>

- 2.05 The applicant is still fully committed to paying the total amount of Section 106 contributions.

- 2.06 The submitted Viability Assessment is clear that the cost of the development, including the above Section 106 contributions, with the developer taking a very modest 6% profit on the scheme, means that any increase in affordable rented affordable housing would result in an unviable scheme with a deficit in the region of £442,000. CBRE have considered the submitted Viability Assessment, carefully examining the costs and other assumptions. They have undertaken their own appraisal of the scheme concluding that there would be a deficit of circa £570,800 if 6 affordable rented units and 15 shared ownership units are provided on site. CBRE have also considered the scheme with the 2 no. affordable rented units and 19 shared ownership units (including the full Section 106 contributions) and have found that there would be a deficit of £20,106 and would therefore only be “marginally viable”. As such, CBRE conclude that:

*“the applicant’s proposal of 2 no. affordable rented units and 19 no. shared ownership units together with a S106 contribution of £149,200 to be reasonable. We would recommend that SBC proceeds on this basis.”*

- 2.07 Members are reminded that the emerging planning policy DM8 (Bearing Fruits 2031) requires sites within Sittingbourne to provide 10% affordable housing. This is based on the most up-to-date evidence compiled for the Local Plan Examination. Members should be clear that the adopted policy H3 of the Local Plan 2008 (requires 30% affordable housing on site of 15 or more units) is considered to be out of date and should therefore be given very limited weight. In comparison, Officers consider that emerging policy DM8 (10% affordable housing on sites of 15 or more units) should be given significant weight. I consider that it is therefore reasonable to apply 10% to this scheme given the advanced stages of the emerging local plan as well as the evidence submitted in the form of the Viability Assessment as detailed above.

- 2.08 With both the status of the emerging policy DM8 and the evidence in respect of the Viability Assessment I consider that it would be unreasonable for Members to insist on

a higher percentage of affordable rented housing on this site. Should Members insist on this and should the applicant appeal against non-determination of this application, or appeal against a refusal on affordable housing grounds, the Council would be highly vulnerable to an award of costs against us. Members are reminded of the references to the NPPG and NPPF above (paras. 2.01 and 2.02) and the Government's acknowledgment that where the viability of an individual scheme is demonstrated to be at risk, Local Planning Authorities should be flexible in their approach.

- 2.09 Members are urged to consider the benefits of this scheme which would bring about much needed housing to the Borough. Moreover, the scheme will initially be provided by Moat Housing Association as a 100% affordable housing scheme. This must be given some significant weight.

### **3.0 CONCLUSION**

- 3.01 The proposed development would provide much needed housing within the built-up area of Sittingbourne. Members will also note that the site is within reasonable walking distance of the town centre. It is therefore considered to be sustainable development on a sustainable site. The loss of the elderly care home is regrettable but the site has been vacant for in excess of two years. In deciding to close the site, KCC were able to demonstrate that there was sufficient care home provision elsewhere within the Borough. I consider that the proposal would not therefore disadvantage the local community through the loss of the care home. Moreover, I consider that the need for affordable housing weighs strongly in favour of the proposal. The proposal has been amended to address concerns regarding the quality of the design and the impact on adjacent dwellings. I consider that the scheme would be of a good quality design that would not lead to material harm to residential amenities. The scheme would be likely to increase on-street parking in Glebe Lane but I consider that this road can accommodate some additional on-street parking and would not materially harm the amenities of local residents in this respect. The applicant has committed to the payment of the developer contributions as set out above and I have no concerns in respect of drainage, contaminated land and ecology.

- 3.02 The applicant has demonstrated through the submission of a Viability Assessment that increasing the number of affordable rented units on site would be unviable. Moreover, the provision of 10% affordable rented units on site would comply with emerging policy DM8 which can be given significant weight. I therefore consider that planning permission should be granted for this development.

- 4.0 RECOMMENDATION – GRANT** Subject to the signing of a Section 106 agreement to include all the measures set out at Paragraph 2.04 above, securing 10% affordable rented accommodation and 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 drawings: to be completed.

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



3. 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 fronting on a highway without the consent in writing of the Local Planning Authority.

Reason: In the interests of residential amenity.

4. Details in the form of cross-sectional drawings through the site, of the existing and proposed site levels shall be submitted to and approved in writing by the Local Planning Authority before work commences (with the exception of demolition) and the development shall be completed strictly in accordance with the approved levels.

Reason: In order to secure a satisfactory form of development having regard to the sloping nature of the site.

5. No demolition or 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.

Reason: In the interests of residential amenity.

6. The development shall be carried out in accordance with the submitted Code of Construction Practice, Site Waste Management Plan and on site car parking plan (for contractor parking during construction) submitted on 7<sup>th</sup> February 2017. The construction of the development shall be carried out in accordance with BS5228 Noise Vibration and Control on Construction and Open Sites and the Control of dust from construction sites (BRE DTi Feb 2003) unless previously agreed in writing by the Local Planning Authority.

Reason: In the interests of residential amenity.

7. The area shown on the submitted plan – namely Proposed Site Plan, no.005 Revision N 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. In addition, the parking to the front of Blocks A and B shall be allocated so that each dwelling within these blocks has at least one of these parking spaces. Such land and access thereto shall be provided (and allocated where necessary) 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.

8. Lighting shall be provided to the parking areas as shown on the approved plans, the details of which shall be submitted to the Local Planning Authority for approval in writing. The approved details shall be implemented prior to the first use of the parking area.

Reason: In the interests of highway amenity.

9. Prior to the occupation of the dwellings hereby approved, details of a covered secure cycle parking facility shall be submitted to the Local Planning Authority for approval in writing and the approved facility shall be provided prior to the occupation of the dwellings 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.

10. Prior to the demolition of any building a detailed bat mitigation strategy must be submitted to the Local Planning Authority for approval. The bat mitigation strategy must include the following:

- Bat Emergence survey (following best practice guidelines)
- Details of the bat roosting features to be incorporated in to the site and buildings
- Building plans demonstrating the bat roosting features will be incorporated in to the site
- Methodology of soft strip of the building (map showing the areas where an ecologist needs to be present for the works)
- Time of year the works to be carried out
- Follow up monitoring

The works must be implemented as detailed within the approved mitigation strategy.

Reason: In the interest of ecology and biodiversity.

11. Prior to occupation a lighting design strategy for biodiversity shall be submitted to and approved in writing by the Local Planning Authority. The strategy shall:

- a) Identify those areas / features on site that are particularly sensitive for bats and that are likely to cause disturbance in or around their breeding sites and resting places or along important routes used to access key areas of their territory, e.g., for foraging.
- b) Show how and where external lighting will be installed (through the provision of appropriate lighting contour plans and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent the above species using their territory or having access to their breeding sites and resting places.

All external lighting shall be installed in accordance with the specifications and locations set out in the strategy, and these shall be maintained thereafter in accordance with the strategy. Under no circumstances should any other external lighting be installed without prior to consent from the Local Planning Authority.

Reason: In the interests of ecology and biodiversity.

12. The biodiversity enhancements as set out on page 30 of the submitted Preliminary Ecological Appraisal shall be implemented on site prior to the occupation of the 1<sup>st</sup> of the dwellings hereby approved.

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

13. Prior to the commencement of development (with demolition being permitted to commence) 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.

14. No development (with demolition being permitted to commence) 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, the pergola to unit 12, hard surfacing materials, and an implementation programme.

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

15. 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 and encouraging wildlife and biodiversity.

16. 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.

17. Prior to the commencement of development (with demolition being permitted to commence) hereby approved, 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 shall be implemented in accordance with the approved details.

Reason: In the interest of visual amenity.

18. Development shall not commence (with the exception of demolition) until a detailed sustainable surface water drainage strategy been submitted to (and approved in writing by) the local planning authority. The detailed drainage scheme shall demonstrate that the surface water generated by this development (for all rainfall durations and intensities up to and including the climate change adjusted critical 100yr storm) can be accommodated and disposed of within the curtilage of the site. The sizing and functionality of the system shall be determined through site-specific infiltration testing.

Reason: To ensure that the principles of sustainable drainage are incorporated into this proposal and to ensure ongoing efficacy of the drainage provisions.

19. No building hereby permitted shall be occupied until details of the implementation, maintenance and management of the sustainable drainage scheme have been submitted to and approved in writing by the local planning authority. The scheme shall be implemented and thereafter managed and maintained in accordance with the approved details. Those details shall include:
- i) a timetable for its implementation, and
  - ii) a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the sustainable drainage system throughout its lifetime.

Reason: To ensure that the principles of sustainable drainage are incorporated into this proposal and to ensure ongoing efficacy of the drainage provisions.

20. No infiltration of surface water drainage into the ground is permitted other than with the express written consent of the local planning authority (in consultation with the Environment Agency); this 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.

Reason: To protect vulnerable groundwater resources and ensure compliance with the National Planning Policy Framework.

21. Prior to the commencement of development (with the exception of demolition) hereby approved, full details of the method of disposal of foul waters shall be submitted to and approved by the Local Planning Authority. The approved details shall be implemented before the first use of the development hereby permitted.

Reason: In order to prevent pollution of water supplies.

22. The trees shown on the plans hereby approved as "existing trees to be retained" shall be retained and maintained to the satisfaction of the planning authority. Any trees removed, dying, being severely damaged or becoming seriously diseased within five years of the date of this permission shall be replaced with trees or shrubs of such size and species as may be agreed with the Local Planning Authority.

Reason: In the interests of visual amenity.

23. All trees to be retained must be protected by barriers and ground protection at the recommended distances as specified in BS5837: 2012 'Trees in relation to design, demolition and Construction - Recommendations' before any equipment, machinery or materials are brought on to the site and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed, nor fires lit, within any of the area fenced in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavation be made, without the written consent of the Local Planning Authority.

Reason: To safeguard the existing trees to be retained and to ensure a satisfactory setting and external appearance to the development.

## INFORMATIVES

1. The applicant is advised to consider the contents of Southern Gas Networks comments dated 30<sup>th</sup> November 2016 and the Southern Water letter of 14<sup>th</sup> December 2016.
2. Adequate and suitable measures should be carried out for the minimisation of asbestos fibres during demolition, so as to prevent airborne fibres from affecting workers carrying out the work, and nearby properties. Only contractors licensed by the Health and Safety Executive should be employed. Any redundant materials removed from the site should be transported by a registered waste carrier and disposed of at an appropriate legal tipping site.

### 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 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.

## APPENDIX A

**Appendix A – Printed minutes for Planning Committee 2<sup>nd</sup> March 2017****2.6 REFERENCE NO - 16/507706/FULL  
APPLICATION PROPOSAL**

Demolition of former residential care home building and erection of 21 new dwellings, associated new access road, car parking and amenity areas

**ADDRESS** Doubleday Lodge Glebe Lane Sittingbourne Kent ME10 4JW

**WARD** - Roman

**PARISH/TOWN COUNCIL APPLICANT** Stonechart Property Ltd

**AGENT** Ubique Architects

The Senior Planning Officer reported that comments from KCC Highways and Transportation had been received. They requested conditions requiring that parking was allocated for the properties fronting onto Glebe Lane, and also that cycle parking was provided for each property. The Senior Planning Officer advised that conditions (7) and (9) already covered these matters.

The Senior Planning Officer stated that Members were asked to consider the slight variation of condition (21) which referred to the method of disposal of foul waters. She proposed that it was amended to allow demolition to take place before the submission of details was required. This was in-line with the wording of a number of the other conditions for this application and would allow the site to be cleared soon after the application was determined. The Senior Planning Officer advised that the site was currently a health and safety hazard and attracted anti-social behaviour, and removing the building and securing the site would help to address this problem.

The Chairman moved the officer recommendation to approve the application and this was seconded.

Mr Roger Spencer, an Objector, spoke against the application.

In response to a request from the speaker to remove the beech hedging along their boundary, the Senior Planning Officer reported that she had spoken to the applicant's agent about this matter. They had advised that they would try to avoid the removal of the hedge, but if this was necessary they would consider erecting a 1.8 metre closeboarded fence, rather than a wall.

The Lawyer – Team Leader (Planning) suggested that management of the hedge could be included within a landscape condition if approved.

Members considered the application and raised the following points: welcomed KCC Highways and Transportation request for parking; welcomed the affordable housing; the hedging should be retained; needed to ensure the height of the buildings was adequately conditioned and monitored; and half of the properties should be for social rent and half for equity share.

Councillor Mike Henderson moved the following addendum: That 30% affordable housing be provided. This was seconded by Councillor Andy Booth. On being put to the vote the addendum was agreed.

A Member requested that if officers were not able to secure 30% affordable housing, the application should be reported back to Committee.

***Resolved: That application 16/507706/FULL be delegated to officers to approve subject to conditions (1) to (23) in the report, (where necessary) tidy up the conditions to vary condition (21), to allow demolition to take place before the submission of details was required, to include a landscape management condition, such condition to ensure the management of hedging and, with further delegated powers being given to officers to secure a Section 106 Agreement to include contributions towards primary and secondary education, libraries, off-site open space, NHS, bins, Special Protection Area mitigation and 30% affordable housing (if less than 30% then report back to Committee) and a monitoring and administration fee.***

**APPENDIX B**

<b>2.6 REFERENCE NO - 16/507706/FULL</b>		
<b>APPLICATION PROPOSAL</b> Demolition of former residential care home building and erection of 21 new dwellings, associated new access road, car parking and amenity areas		
<b>ADDRESS</b> Doubleday Lodge Glebe Lane Sittingbourne Kent ME10 4JW		
<b>RECOMMENDATION</b> Grant subject to further comments from Kent Highways and Transportation on the amended plans, and a Section 106 agreement seeking contributions towards primary and secondary education, libraries, open space improvement, NHS, bins a monitoring fee and SAMM.		
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b> The development of this site for housing would involve the loss of a care home for the elderly. Whilst this is regrettable, KCC took the decision to close it in January 2014. The site has been vacant since September 2014 with alternative care homes found for existing residents. Its use for housing would go some way towards meeting the housing needs of the Borough. In addition, the scheme would offer much needed affordable housing. These factors weigh heavily in favour of the development. The density, layout and design of the scheme has been carefully considered and amendments provided to address officer's concerns. The scheme is now considered to offer a good quality environment for the future residents of the scheme, whilst protecting the residential amenities of the existing properties that are adjacent to the site. The proposal would be of a good design that would add to the visual amenities of the area. The parking provision would be adequate in number and layout. Other considerations such as contaminated land, drainage and ecology are adequately deal with. The developer has agreed to pay the various development contributions that are required for this scheme.		
<b>REASON FOR REFERRAL TO COMMITTEE</b> Section 106 agreement		
<b>WARD</b> Roman	<b>PARISH/TOWN COUNCIL</b>	<b>APPLICANT</b> Stonechart Property Ltd <b>AGENT</b> Ubique Architects
<b>DECISION DUE DATE</b> 13/02/17	<b>PUBLICITY EXPIRY DATE</b> 30/01/17	<b>OFFICER SITE VISIT DATE</b> 02.12.16
<b>RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):</b> There is no relevant planning history for this site.		

**MAIN REPORT**

**2.0 DESCRIPTION OF SITE**

1.01 The application site totals 0.41 ha and lies within a residential area, bounded to the north, south and west by existing dwellings, predominantly terraced, and flats. The front of the site faces onto Glebe Lane and there are currently two vehicular accesses onto this road. Rectory Playing Field (6.04ha) lies a walking distance of 130 m to the west of the application site. There is a difference in ground levels of approximately 3m from the northwest corner to the southeast corner which represents a gradual fall across the site from west to east. The site is currently occupied by a large two storey care home with single storey projections to the front. This building is sited close to the north and west boundaries of the site. The building has been boarded-up and the site is overgrown with evidence of trespass and vandalism.

**APPENDIX B**

1.02 The front of the site is roughly the same ground level as the adjacent property - 40 Glebe Lane and the houses opposite. The application site is though at a lower level than the properties to the rear at Wadham Place by 2m. There are a number of mature Larch, Birch and Ash trees within the site, along its boundaries as well as Beech hedges.

**2.0 PROPOSAL**

2.01 The proposal is to demolish the existing derelict care home and erect 21 no. 2.5 storey 3 bedroom dwellings. The applicant is in partnership with Moat Housing and as such, all of the dwellings are intended to be affordable with 2 as affordable rented and 19 shared ownership. Each dwelling would have a reasonably sized rear garden and there would be 38 parking spaces in total (1.8 spaces per dwelling). The layout would consist of five separate blocks of terraced properties, blocks A-E. Blocks A and B would front onto Glebe Lane, either side of the new central access into the site. Fourteen parking spaces would be provided to the front of these blocks in groups of 2 and 3 interspersed with hedges and trees. Block C, a row of three terraced properties, is to the rear of block B, orientated northeast-southwest, at right-angles to block B. Blocks D and E are to the rear of block A and are orientated east-west, to match the orientation of blocks A and B. The parking for blocks C-E is provided off-plot in groups/parking courts. All properties are similarly designed with simple architecture, brick work, cladding and rendering and modestly sized flat roof rear dormers to the rear roof slopes.

2.02 The scheme has been amended by increasing distance between the dwellings and existing neighbouring properties. The amendments have resulted in the loss of one of the dwellings so the scheme has reduced from 22 to 21 units. Additional landscaping has been introduced to the parking areas and efforts made to improve the appearance of the hard-surfaced area. The architect has added different finishing materials to the elevations and has changed the design of the canopies to add interest to the appearance of the dwellings. Where possible, existing trees and hedges are to be retained.

**3.0 SUMMARY INFORMATION**

	<b>Existing</b>	<b>Proposed</b>	<b>Change (+/-)</b>
Approximate Ridge Height (m)	Approx. 8m	8.8m	+800mm
Approximate Eaves Height (m)	Approx. 6m	4.8m	-1.2m
No. of Storeys	2	2.5	+0.5
Net Floor Area	1035m <sup>2</sup>	883m <sup>2</sup>	-152m <sup>2</sup>
Parking Spaces	Approx. 15	38	+23
No. of Residential Units	N/A	21	21
No. of Affordable Units	N/A	21	21

**4.0 PLANNING CONSTRAINTS**

There are no planning constraints for this site.



**APPENDIX B****5.0 POLICY AND OTHER CONSIDERATIONS**

- 5.01 The National Planning Policy Framework (NPPF): paras 7 (three dimensions of sustainable development), 8, 11 (presumption in favour of sustainable development), 12, 14, 17 (core planning principles), 32 (sustainable transport), 34, 47 (delivering a wide choice of high quality homes), 49, 50, 55, 56 (good design), 58, 69 (healthy communities), 131, 159 (housing), 162 (infrastructure), 186 (decision taking), 187, 196 (determining applications); 197, 204 (planning obligations) & 216 (weight to emerging policies).
- 5.02 National Planning Policy Guidance (NPPG): Design; Natural environment; Housing and Economic Development needs assessment; Planning Obligations; Use of planning conditions; Water supply, waste water and water quality land affected by contamination.

Development Plan:

- 5.03 The Swale Borough Local Plan 2008 saved policies SP1 (sustainable development), SP2 (environment), SP4 (housing), SP7 (community services and facilities), SH1 (settlement hierarchy), E1 (general development criteria), E11 (biodiversity and geological interests), E12 (designated biodiversity and geological conservation sites), H2 (new housing), H3 (affordable housing), T1 (safe access), T3 (parking), T4 (cyclists and pedestrians), C3 (open space on new housing developments) & C1 (community services and facilities).
- 5.04 The emerging Swale Borough Local Plan “Bearing Fruits” – ST1 (sustainable development), ST2 (targets for homes and jobs), ST3 (settlement strategy), ST4 (meeting local plan development targets), ST5 (Sittingbourne area strategy), CP3 (high quality homes), CP4 (good design), CP6 (community facilities and services to meet local needs), DM7 (vehicle parking), DM8 (affordable housing), DM14 (general development criteria), DM17 (open space, sports and recreation provision), DM21 (water, flooding and drainage), DM28 (biodiversity and geological conservation) & IMP1 (implementation and delivery plan).

Supplementary Planning Documents

Developer Contributions (2009)

**6.0 LOCAL REPRESENTATIONS**

- 6.01 Four representations have been received from local residents. A summary of their comments is as follows:
- The site should be redeveloped as a residential home for the elderly;
  - The extra traffic would be too much for this small road;
  - Overlooking of gardens;
  - Noise and mess during construction;
  - There is currently an overbearing beech hedge within the site that is not maintained. The owners of no. 26 Wadham Place ask for a wall along their boundary instead;
  - Anything on this site will be an improvement on its current state;

**APPENDIX B**

- Potential overshadowing;
- Not enough parking, causing on-street parking problems for existing residents.

**7.0 CONSULTATIONS**

- 7.01 The Environmental Services Manager has no objection to the proposal subject to conditions to restrict hours of construction, to minimise the risks from asbestos and, to require the submission of a code of construction practice.
- 7.02 The NHS Strategic Estates Advisor asks for a contribution of £19,008 (based on the original scheme of 22 units) towards the Chestnuts Practice.
- 7.03 KCC Ecology note that there is a low risk of bats being present within the existing building to be demolished and recommended a condition to ensure the submission of a detailed bat mitigation strategy informed by an up to date valid bat surveys. They also ask for a condition to control details of external lighting in order to protect bats. Informatives advising the applicant of the protection of breeding birds are recommended. Biodiversity enhancements are also recommended.
- 7.04 The Greenspaces Manager requests that £861 per dwelling is sort for contributions towards improving capacity and play value of the play facilities at Rectory Playing Field. He also notes that there is no open space provision on the application site but that it is within walking distance of Rectory Playing Field.
- 7.05 The Environment Agency has no comment.
- 7.06 Southern Water note that a foul sewer is in the vicinity of the site and provide advice on the distances necessary for development, soakaways and tree planting. They also note that there is a communication pipe within the site. They confirm that they can provide sewage disposal to the development and recommend an informative to alert the applicant to the need for their consent to connect to the sewage system. There is no need for additional infrastructure but ask for a condition to require the submission of a drainage strategy dealing with surface water disposal and also foul sewage. Long-term maintenance of the SUDs is necessary.
- 7.07 KCC Development Contributions Team seek contributions towards primary and secondary education and libraries (details set out at para 9.13 below). They also recommend that Broadband is provided for the site and recommend an informative to encourage this.
- 7.08 Kent Highways and Transportation are satisfied with the overall level of parking provision for the site but are concerned that there could be overspill onto Glebe Lane which could lead to an impact on highway amenity for local residents. They note that on-street parking would be displaced by the new drives at the front of the site. In order to address these concerns, they recommended that one space per dwelling is allocated for blocks A and B so that each dwelling has a parking space immediately in front of them. They also ask that suitable lighting is provided to the parking areas. They also query the width of some of the spaces where they are next to fences, walls or hedges. They ask for secure cycle parking for each property and details of bin storage.

**APPENDIX B**

- 7.09 The Head of Housing considered that the mix of affordable housing proposed – 2 social rented and 20 shared ownership is acceptable (the scheme has since been amended to 21 units with 2 social rented and 19 shared ownership).
- 7.10 Kent Police have considered the commitment of the developer to achieve ‘secure by design’ and therefore have no immediate concerns regarding the proposal.
- 7.11 UK Power Networks have no objection to the proposal.
- 7.12 Natural England note that the site lies within 6km of the SPAs and Ramsar sites. They consider that subject to payment of the SAMM contribution, the site can be screened out as not having a likelihood of significant effects on the designated sites.
- 7.13 Southern Gas Networks provide information about safe digging practices close to gas pipes that may be close to the site.
- 7.14 Lower Medway Internal Drainage Board note that the site is outside of their district but seek to ensure that surface water runoff is attenuated to no more than 5l/s with on-site storage provided to accommodate the 1 in 100 year rainfall event.
- 7.15 KCC Flood Risk and Drainage are generally satisfied with the majority of the drainage strategy. However, they recommend that there should be no discharge to foul sewage. They recommend a condition to require a details surface water drainage strategy to preclude discharge to foul sewage. Also, a condition to require details of the implementation, maintenance and management of the SUDs. Lastly a condition to prevent surface water drainage into ground without the permission of the LPA (in consultation with the EA) due to the risk to controlled ground waters.

**8.0 BACKGROUND PAPERS AND PLANS**

- 8.01 Existing and proposed plans and elevations; Tree Constraints Plan; Drainage Strategy & Maintenance Statement; Contaminated Land Report; Tree Report; Planning, Design and Access Statement; Details of KCC’s decision to close the care home; Ecology Survey; Minerals Assessment; Ecology Assessment Update.

**9.0 APPRAISAL****Principle of Development**

- 9.01 The application site lies within the built-up area boundary and is surrounded by residential properties. The development of this site for housing would be in line with the aims and objectives of the Development Plan and National Policy in so far as much needed affordable housing is being provided on a brownfield site. The loss of the care home facility should though be considered against policy C1 of the Swale Borough Local Plan 2008 which seeks to retain existing community facilities and services. This policy states:

*“The Borough Council will not permit proposals that involve the loss, or change of use, of a local community facility, where this would be detrimental to the social well being of the community, unless a suitable and equivalent replacement facility is to be provided both in a location and period of time as agreed by the Borough Council. Before agreeing to its loss or change of use, the Borough Council will require evidence that the current use is no longer needed and is neither viable, nor likely to become viable.”*

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- 9.02 The applicant has submitted information about the closure of Doubleday Lodge care home. This details the circumstances under which KCC decided to close the facility which was primarily as a consequence of low occupancy and also its inability to meet the national minimum standards of the Care Standards Act 2000. KCC carried out a public consultation on the closure of the home in September 2013 and the decision to close the home was made at the KCC Social Care & Public Health Committee on 16<sup>th</sup> January 2014. The care home would have required significant investment to bring it up to standard and it was noted that there was adequate capacity to relocate the existing residents in existing homes nearby. The new care home – Regis Gate in Milton Regis, Sittingbourne was considered to provide a much better quality of accommodation to meet the needs of existing and future residents. At the time KCC are quoted in a local newspaper as stating that *“within 10 miles of the home (Doubleday Lodge) there are 15 care homes, with 629 beds, and 153 more care home beds are planned in the area.”* The minutes of the committee meeting referred to above noted that Officer’s considered that *“better value for public money could be achieved by purchasing equivalent services from the independent sector”*.
- 9.03 KCC have now sold the site to private developers and it is therefore highly unlikely that the use of the site will be for a care home once again. I am of the view that the applicant has demonstrated that a suitable replacement facility has been provided in line with policy C1 of the adopted local plan. Indeed, all residents were relocated over 2 years ago and the new care home at Milton Regis offers 45 bedrooms. Doubleday lodge offered 36 bedrooms but in 2013, there were only 2 permanent residents and 8 short-term (respite) residents. An extract from the committee report by KCC referred to above is as follows:
- “Respite (short term) residents: Data from Swift (KCC Case management systems) indicate that for the period 1 December 2012- 30 November 2013, there have been a total of 68 short term (respite) placements in the home (an average of between 1-2 people per week Respite bed days total 2,690 over the same period. Most people have had one period of stay during this year (76%) and have stayed for between 1-2 weeks (26 out of 68 or 38%). On this basis, it is estimated that KCC would need to secure three respite beds within the Swale area to replace the existing provision. All residents have been referred from either Swale or Canterbury case management teams.*
- KCC has secured the use of one short term bed for respite at the new Extra Care Housing development at Wyllie Court/Regis Gate, Sittingbourne. This facility will be opening in September 2014.*
- Two additional respite beds will be secured via a competitive tendering process to secure high quality, best value services. From a soft market testing exercise undertaken by Strategic Commissioning in November 2013, there is sufficient interest from care homes within a five mile radius of Doubleday Lodge to indicate that KCC would not face barriers to securing these services. There are two other residential care homes in Swale that offer short term services of which case managers promote the use of. Kiln Court is seven miles away from Doubleday Lodge and Blackburn Lodge is eleven miles away. These beds could be used should there be no interest from the market in Sittingbourne to provide short term beds as a contingency arrangement.”*
- 9.04 Balanced against the loss of the care home is the significant need for houses, in particular affordable housing, in the Borough. This brownfield site will go some way towards reducing pressure from greenfield sites being developed for housing. I therefore consider that the proposed development is acceptable in principle.

**APPENDIX B****Visual Impact**

- 9.05 The housing surrounding the application site is of a medium-high density and the architecture is of a simple, typically suburban design. It is my view that the proposed development at a density of 51 d/ha, would sit comfortably within this environment. The elevations of the dwellings have been amended to improve the detailing to the front and side elevations as they were considered to be too bland. The gable ends and terraced form would reflect the properties opposite and adjacent to the site. Although dormer windows are not a common feature of the street scene, the proposed dwellings would have dormers to the rear roof slopes meaning that they would not be prominent features when viewed from the Glebe Lane. The proposed dormers would be of a size that would sit comfortably within the roof slopes in my view and their flat roof design would not be offensive to the overall architectural design of the dwellings. Exact finishing materials are to be agreed but the drawings indicate that brickwork, cladding and render would be predominant which would be appropriate for this residential area in my view.
- 9.06 The scheme has been amended to increase the amount of soft landscaping within the the public areas, including the parking bays which would be interspersed with street trees. I also note that many of the existing trees are to be retained as part of the development. The Tree Survey indicates that there are no category A trees (best quality) within the site but that there are a number of category B and C trees (trees of moderate to low quality respectively). The submitted tree constraints plan shows that although a number of lower grade trees and 3 category B trees would be removed from the site, 9 category B trees would be retained. These include Larch, Birch and Ash trees. The comments of the Tree Consultant are awaited and will be reported at the meeting. The retained trees would add to the amenity value of the area, support ecology and biodiversity and would also offer some level of privacy between the application site and the surrounding residents. The amended scheme also introduced a more varied hard-surface to the access and parking areas in an attempt to improve the appearance somewhat. I consider that overall, the amendments to the scheme have improved the environment within which the future residents would live. The development would be of a good design that would assimilate well into the existing suburban environment and would certainly be a vast improvement on the appearance of the site as it currently stands.

**Residential Amenity**

- 9.07 Very careful consideration has been given to the impact of the development on the existing surrounding residents, of which there are 12 whose boundaries adjoin the application site as well as the flats that are adjacent to the southern boundary. In addition, the different site levels meant that section drawings were required to adequately assess the relationship between the proposed and existing dwellings. Following the submission of the section drawings the scheme was amended to address a number of instances where there would have been overlooking, overshadowing and an overbearing effect. The unit adjacent to no. 40 Glebe Lane was taken out of the scheme and blocks D and E moved forward within the site. I am now confident that the scheme provides adequate separation distances of 21m for back to back relationships and avoids any harmful overlooking as a consequence. The separation distance also now ensure that instances of harmful overshadowing are avoided. I also consider that there would be no instances of an overbearing effect.

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- 9.08 As well as assessing the impact of the proposal on existing surrounding properties, I have considered the relationships between the dwellings within the scheme. Flank to rear distances of 11m are now met and where I had identified overlooking from unit 11 into the rear garden of unit 12, the amended plans show a pergola to be positioned to the rear of unit 12 thereby creating a private area immediately to the rear of this property. There may be some overlooking into the development from the existing flats to the south of the site but I do not consider that this would be materially harmful to the residents of block C or unit 11 (the most affected), noting that some overlooking from the flats would be unavoidable if this site is to be developed and also the presence of tall trees that are to be retained along the southern boundary. Tree planting would be provided within the rear garden of unit 11 along the southern and western boundaries and there would be a tree within the rear garden of unit 12. This planting will help to protect the private amenity space to these properties.
- 9.09 It must also be acknowledged that the two storey element of Doubleday Lodge would have overlooked the surrounding properties to some extent and, at points, this building is closer to the neighbouring properties than the current dwellings would be. I therefore consider that for nos. 37, 39 and 41 Wadham Place in particular, the new development would offer more privacy than before. I note the request of no. 26 Wadham Place to remove the beech hedge along their boundary and replace it with a wall. I have asked the applicant to consider this but do not consider that difficulties with maintaining the hedge is a material planning concern.
- 9.10 The proposed dwellings would all have reasonably sized gardens, some with larger than average gardens for this area and all of which would have a depth of no less than the standard 10m. The internal spaces provided within the proposed dwellings would offer a good living environment in my view.

**Highways**

- 9.11 I note the concerns of local residents in respect of potential for overspill of parking from this development onto Glebe Lane. Being realistic, I do not disagree with this conclusion. However, the key consideration here is whether on-street parking would be increased by this development to the extent that there would be significant harm to the amenity of local residents. Quite a high number of properties along Glebe Lane do not have frontage parking but have access to a garage court or parking to the rear. This has the advantage of a number of cars being able to park on the street without blocking driveways. Glebe Lane is also fairly wide and able to cope with cars parked on the street. As such, it is my view that there is good capacity to accommodate on-street parking along Glebe Lane. I note that Kent Highways and Transportation do not object to the proposal but ask that the parking that comes directly off Glebe Lane is allocated so that there is at least one space per dwelling for blocks A and B. I have recommended a suitably worded condition to address this. I have also imposed a condition requiring the provision of cycle parking for each property. The site is also a 10/15minute walk (0.8mile) from the town centre/East Street and therefore, close enough to local amenities to enable a reduced reliance on the car.
- 9.12 The parking provision and layout within the site is considered to be adequate and I note the comments from Kent Highways and Transportation in this respect. The applicant has amended the scheme to increase the width of the parking bays where they are adjacent to fences, wall and hedges as was requested. I therefore consider that the development would cause no material harm to highway safety and amenity.

**APPENDIX B****Developer Contributions**

- 9.13 The applicant is required to pay the following contributions which have been adjusted to account for the reduction in the number of proposed dwellings:

SAMM SPA recreational disturbance	£223.58/dwelling: -£4,694.42
Bins	£92/dwelling: -£1,932.00
KCC Primary education	£49,580.16
KCC Secondary education	£49,555.80
Libraries	£1,008.33
NHS	£18,144.00
Off-site open space contribution	£861/dwelling: - £18,081.00
Sub Total	£142,095.71
Administration fee - 5% of total contributions	£7,104.79
<b>Total</b>	<b>£149,200.50</b>

- 9.14 The applicant has agreed to pay these contributions as well as committing to securing 10% affordable housing (2 social rented) through the Section 106 agreement. Although, Members will have noted that the scheme is being provided in partnership with Moat Housing who will be securing all of the dwellings as affordable. Members may wonder why we are not securing all 21 of the dwellings as affordable through the Section 106. This is because the emerging planning policy DM8 (Bearing Fruits 2031) only requires sites within Sittingbourne to provide 10% affordable housing. I consider that it is therefore reasonable to apply 10% to this scheme given the advanced stages of the emerging local plan noting that the development would actually be providing 100% affordable housing at least initially.
- 9.15 I am content that the above contributions meet the tests for planning obligations as set out at paragraph 204 of the NPPF and that a section 106 Agreement is the best mechanism for addressing the SAMM contribution, the details of which are set out with the appended Habitat Regulations Assessment.

**Other issues**

- 9.16 With regards to surface water drainage, KCC ask for a condition that would prevent all surface water from discharging to the foul sewer. The applicant is resisting such a condition stating that if the development does need to resort to this form of drainage, the permission would be rendered undeliverable. KCC point out that the condition could be varied under such circumstances. It is my view that there would have to be material and demonstrable harm arising from surface water drainage to foul sewers for such an imposition to be reasonable. I have no evidence that this would be the case here and Members will also note that Southern Water do not require this. As such, I am inclined to apply a condition that would encourage other forms of drainage but that does not prevent drainage to foul sewers.
- 9.17 The potential for contamination on the site has been assessed and the Head of Environmental Services has no concerns in this respect.
- 9.18 A Minerals Assessment has been submitted with the application as the site has potential for brickearth. This concludes that the site is too small to be a viable extraction site, the mineral has been sterilised and lies within a residential area which

**APPENDIX B**

would make it difficult to extract from. The site also lies within the built up area boundary and is therefore compliant with Policy DM7 of the Kent Minerals and Waste Local Plan.

- 9.19 An Ecology Survey has been submitted with the application. This concludes that there is low potential for protected species at the site but that it is possible that bats might be present within the existing building. KCC Ecology acknowledge this and given the very low potential for this, accept that further survey work can be carried out after the permission is issued with appropriate mitigation put in place if necessary. I have included all of the conditions suggested by KCC Ecology below.
- 9.20 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.* An Appropriate assessment is appended with details of the likely impact of the development on the SPA and the applicant's agreement to pay the Strategic Access Management and Monitoring Strategy.

**10.0 CONCLUSION**

- 10.01 The proposed development would provide much needed housing within the built-up area of Sittingbourne. Members will also note that the site is within reasonable walking distance of the town centre. It is therefore considered to be sustainable development on a sustainable site. The loss of the elderly care home is regrettable but the site has been vacant for in excess of two years. In deciding to close the site, KCC were able to demonstrate that there was sufficient care home provision elsewhere within the Borough. I consider that the proposal would not therefore disadvantage the local community through the loss of the care home. Moreover, I consider that the need for affordable housing weighs strongly in favour of the proposal. The proposal has been amended to address concerns regarding the quality of the design and the impact on adjacent dwellings. I consider that the scheme would be of a good quality design that would not lead to material harm to residential amenities. The scheme would be likely to increase on-street parking in Glebe Lane but I consider that this road can accommodate some additional on-street parking and would not materially harm the amenities of local residents in this respect. The applicant has committed to the payment of the developer contributions as set out above and I have no concerns in respect of drainage, contaminated land and ecology.
- 10.02 I therefore consider that planning permission should be granted for this development subject to the conditions set out below and a Section 106 to include all matters set out at paragraph 9.13 above.

**11.0 RECOMMENDATION – GRANT** Subject to the signing of a Section 106 agreement to include all the measures set out at Paragraph 9.13 above and the following conditions:

11. 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.



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12. The development hereby approved shall be carried out in accordance with the following approved drawings: to be completed.

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

13. 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 fronting on a highway without the consent in writing of the Local Planning Authority.

Reason: In the interests of residential amenity.

14. Details in the form of cross-sectional drawings through the site, of the existing and proposed site levels shall be submitted to and approved in writing by the Local Planning Authority before work commences (with the exception of demolition) and the development shall be completed strictly in accordance with the approved levels.

Reason: In order to secure a satisfactory form of development having regard to the sloping nature of the site.

15. No demolition or 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.

Reason: In the interests of residential amenity.

16. The development shall be carried out in accordance with the submitted Code of Construction Practice, Site Waste Management Plan and on site car parking plan (for contractor parking during construction) submitted on 7<sup>th</sup> February 2017. The construction of the development shall be carried out in accordance with BS5228 Noise Vibration and Control on Construction and Open Sites and the Control of dust from construction sites (BRE DTi Feb 2003) unless previously agreed in writing by the Local Planning Authority.

Reason: In the interests of residential amenity.

17. The area shown on the submitted plan – namely Proposed Site Plan, no.005 Revision N 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. In addition, the parking to the front of Blocks A and B shall be allocated so that each dwelling within these blocks has at least one of these parking spaces. Such land and access thereto shall be provided (and allocated where necessary) 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.

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18. Lighting shall be provided to the parking areas as shown on the approved plans, the details of which shall be submitted to the Local Planning Authority for approval in writing. The approved details shall be implemented prior to the first use of the parking area.

Reason: In the interests of highway amenity.

19. Prior to the occupation of the dwellings hereby approved, details of a covered secure cycle parking facility shall be submitted to the Local Planning Authority for approval in writing and the approved facility shall be provided prior to the occupation of the dwellings 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.

20. Prior to the demolition of any building a detailed bat mitigation strategy must be submitted to the Local Planning Authority for approval. The bat mitigation strategy must include the following:

- Bat Emergence survey (following best practice guidelines)
- Details of the bat roosting features to be incorporated in to the site and buildings
- Building plans demonstrating the bat roosting features will be incorporated in to the site
- Methodology of soft strip of the building (map showing the areas where an ecologist needs to be present for the works)
- Time of year the works to be carried out
- Follow up monitoring

The works must be implemented as detailed within the approved mitigation strategy.

Reason: In the interest of ecology and biodiversity.

21. Prior to occupation a lighting design strategy for biodiversity shall be submitted to and approved in writing by the Local Planning Authority. The strategy shall:

- a) Identify those areas / features on site that are particularly sensitive for bats and that are likely to cause disturbance in or around their breeding sites and resting places or along important routes used to access key areas of their territory, e.g., for foraging.
- b) Show how and where external lighting will be installed (through the provision of appropriate lighting contour plans and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent the above species using their territory or having access to their breeding sites and resting places.

All external lighting shall be installed in accordance with the specifications and locations set out in the strategy, and these shall be maintained thereafter in accordance with the strategy. Under no circumstances should any other external lighting be installed without prior to consent from the Local Planning Authority.

Reason: In the interests of ecology and biodiversity.

22. The biodiversity enhancements as set out on page 30 of the submitted Preliminary Ecological Appraisal shall be implemented on site prior to the occupation of the 1<sup>st</sup> of the dwellings hereby approved.

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

23. Prior to the commencement of development (with demolition being permitted to commence) 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.

24. No development (with demolition being permitted to commence) 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, the pergola to unit 12, hard surfacing materials, and an implementation programme.

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

25. 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 and encouraging wildlife and biodiversity.

26. 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.

27. Prior to the commencement of development (with demolition being permitted to commence) hereby approved, 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 shall be implemented in accordance with the approved details.

Reason: In the interest of visual amenity.

28. Development shall not commence (with the exception of demolition) until a detailed sustainable surface water drainage strategy been submitted to (and approved in writing by) the local planning authority. The detailed drainage scheme shall

**APPENDIX B**

demonstrate that the surface water generated by this development (for all rainfall durations and intensities up to and including the climate change adjusted critical 100yr storm) can be accommodated and disposed of within the curtilage of the site. The sizing and functionality of the system shall be determined through site-specific infiltration testing.

Reason: To ensure that the principles of sustainable drainage are incorporated into this proposal and to ensure ongoing efficacy of the drainage provisions.

29. No building hereby permitted shall be occupied until details of the implementation, maintenance and management of the sustainable drainage scheme have been submitted to and approved in writing by the local planning authority. The scheme shall be implemented and thereafter managed and maintained in accordance with the approved details. Those details shall include:
- i) a timetable for its implementation, and
  - ii) a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the sustainable drainage system throughout its lifetime.

Reason: To ensure that the principles of sustainable drainage are incorporated into this proposal and to ensure ongoing efficacy of the drainage provisions.

30. No infiltration of surface water drainage into the ground is permitted other than with the express written consent of the local planning authority (in consultation with the Environment Agency); this 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.

Reason: To protect vulnerable groundwater resources and ensure compliance with the National Planning Policy Framework.

31. Prior to the commencement of development hereby approved, full details of the method of disposal of foul waters shall be submitted to and approved by the Local Planning Authority. The approved details shall be implemented before the first use of the development hereby permitted.

Reason: In order to prevent pollution of water supplies.

32. The trees shown on the plans hereby approved as "existing trees to be retained" shall be retained and maintained to the satisfaction of the planning authority. Any trees removed, dying, being severely damaged or becoming seriously diseased within five years of the date of this permission shall be replaced with trees or shrubs of such size and species as may be agreed with the Local Planning Authority.

Reason: In the interests of visual amenity.

33. All trees to be retained must be protected by barriers and ground protection at the recommended distances as specified in BS5837: 2012 'Trees in relation to design, demolition and Construction - Recommendations' before any equipment, machinery or

## APPENDIX B

materials are brought on to the site and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed, nor fires lit, within any of the area fenced in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavation be made, without the written consent of the Local Planning Authority.

Reason: To safeguard the existing trees to be retained and to ensure a satisfactory setting and external appearance to the development.

### INFORMATIVES

3. The applicant is advised to consider the contents of Southern Gas Networks comments dated 30<sup>th</sup> November 2016 and the Southern Water letter of 14<sup>th</sup> December 2016.
4. Adequate and suitable measures should be carried out for the minimisation of asbestos fibres during demolition, so as to prevent airborne fibres from affecting workers carrying out the work, and nearby properties. Only contractors licensed by the Health and Safety Executive should be employed. Any redundant materials removed from the site should be transported by a registered waste carrier and disposed of at an appropriate legal tipping site.

#### 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 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.

**APPENDIX B****APPENDIX: 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.

## APPENDIX B

Natural England's advice to the affected local authorities is that it is likely that a significant effect 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 Emerging Local Plan.

### Associated information

The applicant's ecological appraisal dated June 2016 contains information to assist the HRA. Importantly, it clarifies that the applicant is willing to commit to contributions towards the strategic mitigation noted above.

Natural England's letter to SBC dated 3<sup>rd</sup> August 2016 has also been considered; in particular that they have raised no objections subject to contributions towards strategic mitigation.

### The Assessment of Doubleday Lodge, Glebe Lane, Sittingbourne

The application site is located 2.2km to the south The Swale Special Protection Area (SPA) and 5km from the Medway Estuary and Marshes SPA. Therefore, there is a medium possibility that future residents of the site will access footpaths and land within these European designated areas.

Natural England consider that providing the development contributes towards the SAMP, the development is unlikely to have a significant effect on the internationally designated site either alone or in combination.

This assessment has taken into account the availability of other public footpaths close to the site. Whilst these would no doubt supplement many day-to-day recreational activities, there would be some leakage to the SPA. However, the commitment of the applicant to contribute £223.58 per house to address SPA recreational disturbance towards through strategic mitigation in line with recommendations of the Thames Medway and Swale Estuaries SAMP as detailed above, will off-set some of the impacts. This mitigation will include strategies for the management of disturbance within public authorised parts of the SPA as well as to prevent public access to privately owned parts of the SPA.

### Conclusions

Taking the above into account, the proposals would not give rise to significant effects on the SPA/SAC. At this stage it can therefore be concluded that the proposals can be screened out for purposes of Appropriate Assessment.

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## SWALE BOROUGH COUNCIL

### PLANNING SERVICES

Planning Items to be submitted to the Planning Committee

**27 APRIL 2017**

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**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

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ABBREVIATIONS: commonly used in this Agenda

CDA Crime and Disorder Act 1998

GPDO The Town and Country Planning (General Permitted Development) (England) Order 2015

HRA Human Rights Act 1998

SBLP Swale Borough Local Plan 2008

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## INDEX OF ITEMS FOR PLANNING COMMITTEE – 27 APRIL 2017

- Minutes of last Planning Committee Meeting
- Deferred Items
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### Deferred Items

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### Part 2

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2.2 Pg 33 – 37	17/500701/FULL	SELLING	Woodbine House, 12 Selling Court
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### Part 3

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<b>5.6</b> <b>Pg 166 – 173</b>	<b>16/505861/OUT</b>	<b>NEWINGTON</b>	<b>Land at Ellen’s Place, High Street</b>
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**PLANNING COMMITTEE – 27 APRIL 2017**

**PART 2**

Report of the Head of Planning

**PART 2**

Applications for which **PERMISSION** is recommended

<b>2.1 REFERENCE NO - 17/501100/FULL</b>			
<b>APPLICATION PROPOSAL</b> Conversion of integral garage to habitable room with insertion of rooflights and alteration from garage door to fenestration.			
<b>ADDRESS</b> 43 Horselees Road Boughton Under Blean Kent ME13 9TE			
<b>RECOMMENDATION</b> - Approve			
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b> The application would not harm residential or visual amenity			
<b>REASON FOR REFERRAL TO COMMITTEE</b> Parish Council objection			
<b>WARD</b> Boughton And Courtenay	<b>PARISH/TOWN</b> Dunkirk	<b>COUNCIL</b>	<b>APPLICANT</b> Mr Robert James <b>AGENT</b> Jason Davies Architectural Services
<b>DECISION DUE DATE</b> 04/05/17	<b>PUBLICITY EXPIRY DATE</b> 31/03/17		
<b>RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):</b>			
<b>App No</b>	<b>Proposal</b>	<b>Decision</b>	<b>Date</b>
SW/08/0989	Demolition of existing property and erection of 8 new semi-detached dwellings, with integral garages and associated gardens and landscaping	Granted	05/02/2008
<b>At 41A Horselees Road – attached to current application property</b>			
16/500288/FULL	Conversion of existing integral garage to dining room	Granted	11/03/2016

**1.0 DESCRIPTION OF SITE**

- 1.01 43 Horselees Road is a three- bedroom brick built semi-detached dwelling with an integral garage located in the built up area boundary of Boughton. The property is one of a row of eight dwellings that were granted planning permission in 2008.
- 1.02 The property has access directly off Horselees Road by way of a driveway. There is now hardstanding to the full width of the property frontage (over 6m) providing off road parking for two cars. To the rear is private amenity space.

- 1.03 The area is characterised by residential properties, mainly detached and semi-detached dwellings with off-street parking and landscaped gardens to the front of properties. On the other side of the road, the properties are mainly terraced homes with small front gardens.
- 1.04 The original planning permission here contains a condition (6) that states that the areas shown as garages shall be kept available for such use and that no development should preclude vehicular access to the garages. The grounds for the condition were amenity and preventing on-street parking and inconvenience to road users. Hence this application to install a wall and window where the garage door currently stands is necessary.
- 1.05 The adjacent attached property 41A has converted its garage in almost precisely the same manner as is now proposed. That matter was considered and approved by Members in March 2016 when Dunkirk Parish Council opposed that application, including by them addressing Members at the Planning Committee meeting..

## **2.0 PROPOSAL**

- 2.01 This application seeks permission for the conversion of the existing integral garage to a habitable room. The application allows the Council to consider the potential consequences (if any) of this conversion arising from any changes that have happened in the area since the permission was first granted.
- 2.02 The existing integral garage measures 2.6 metres wide x 5.5 metres in length. The external garage door would be removed and replaced with a new window constructed of brown UPVC. The external walls below the new window would be constructed of a brick plinth to match the existing brickwork. Two rooflights are proposed within the roofspace.
- 2.03 The proposed garage conversion would provide additional ground floor space in the kitchen to accommodate a dining room. An internal wall separating the kitchen and integral garage would be removed.
- 2.04 Two off-road parking spaces would remain in front of the garage. The area of hardstanding measures approximately 7.0m x 6.0m.

## **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) and T3 (Vehicle Parking on New Developments) of the Swale Borough Local Plan 2008.

Supplementary Planning Documents (SPD): Supplementary Planning Guidance entitled "Designing an Extension – A Guide for Householders". The Council's SPD on extension and alterations explains that "Extensions or conversion of garages to extra accommodation, which reduce available parking space and increase parking on roads is not likely to be acceptable. Nor is the provision of all car parking in the front garden a

suitable alternative as the position is unlikely to be suitable for a garage and will create a poor appearance in the streetscene.”

## 5.0 LOCAL REPRESENTATIONS

None

## 6.0 CONSULTATIONS

- 6.01 Dunkirk Parish Council objects to the application, referring to the narrowness of Horselees Road caused by parked cars, concerns over visitor parking and stating:

*“We do not wish to see the loss of any further off-road parking spaces within the parish.*

*The road is suitable for two car widths, but one of them is taken up with parked cars, day and night.*

*We have real concerns with the number of parked cars on Horselees Road. There are two spaces on the drive and we would also question where any visitors will park.*

*Driving in either direction you need to try and look about 200 metres to see oncoming cars. Someone needs to give way at either end of the parked cars as it is rarely possible to pull in and allow vehicles to pass.*

*It has been noted that cars pull on to the private driveways of the properties on the southern side of Horselees Road (including the application site) to allow vehicles to pass.*

*We have concerns that it is increasing difficult for emergency services vehicles to negotiate the streets within the parish.*

*We would recommend that they (particularly Kent Fire and Rescue) are consulted. A line needs to be drawn and we request that this application is refused.”*

- 6.02 Kent Highways and Transportation have confirmed that the proposal did not warrant their involvement.

## 7.0 BACKGROUND PAPERS AND PLANS

- 7.01 Application papers and drawings referring to application reference 17/501100/FULL

## 8.0 APPRAISAL

- 8.01 The main considerations in the determination of this planning application concern the impact that the loss of the garage as a parking space would have upon the character and the appearance of the streetscene, and upon highway safety and convenience.

- 8.02 The proposed conversion would result in the loss of the property’s only single garage. The question then is what impact will that have on the streetscene and on parking provision at the property. Almost the entire frontage of the property is already hardsurfaced, whereas originally some soft landscaping was indicated, with one parking space in front of the garage. The condition therefore protected one of only two parking spaces then available to this property. However, the new enlarged hardstanding to the front now provides off-road parking for two cars which is what the

current parking standard for a three bedroom dwelling in a village location requires (see IGN3 from KCC). Parking spaces should normally be 2.5m wide, although between walls it is recommended by Kent Highways that this width should be enlarged to 2.7m. Here the area in front of the garage is 6.0m wide which more than complies with this guidance for two spaces. The approval of this application in the current circumstances (since the enlarged hardstanding and extra parking space has been created) is not now likely to result in any erosion of soft landscaping to the front of the property or impact on the streetscene, as can sometimes be the case with garage conversions. Therefore the proposal would not lead to new parking or visual amenity problems in the area as cars can already be expected to be parked across the entire frontage of the property on the existing hardstanding. As such, I see no prospect of the Council being able to defend a refusal of this application at appeal – past experience has made this clear.

- 8.03 The parking provision available to the applicants will be the same two spaces as originally anticipated, and there will be no additional on-street parking potential due to the driveway for the property being adequate for the parking needs of the property. Nor do I find that the conversion of this garage will negatively affect the streetscene as the property's entire frontage is already paved over and used for parking.
- 8.04 I do not consider that impact on the visibility along Horselees Road to be a sustainable reason for refusal of the application. Kent Highways are satisfied that there would be no resulting harm to highway safety and convenience.
- 8.05 The application does introduce a window facing the highway in place of the existing garage door. The size and design of this window is in keeping with the other front windows and as such, I consider that the proposal is acceptable in relation to its impact upon neighbouring amenities.

## 9.0 CONCLUSION

- 9.01 This application for the conversion of an existing integral garage to a habitable room is considered acceptable and I therefore recommend that permission be granted. I do not consider that there are grounds to refuse this application and that the Council's very recent approval of the same conversion on the adjacent attached house would make any refusal of permission here perverse and untenable.

## 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.

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

Reason: In the interests of visual 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.

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<b>2.2 REFERENCE NO - 17/500701/FULL</b>			
<b>APPLICATION PROPOSAL</b> Erection of detached double garage with room over.			
<b>ADDRESS</b> Woodbine House, 12 Selling Court, Selling ME13 9RJ			
<b>RECOMMENDATION</b> Approve			
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b> The proposed garage accords with the relevant policies within both the Swale Borough Local Plan 2008 and the emerging Local Plan Bearing Fruits 2031.			
<b>REASON FOR REFERRAL TO COMMITTEE</b> Parish Council and Neighbour Objection			
<b>WARD</b> Boughton And Courtenay	<b>PARISH/TOWN COUNCIL</b> Selling	<b>APPLICANT</b> Mr And Mrs Arnold <b>AGENT</b> Blink Architecture	
<b>DECISION DUE DATE</b> 04/05/17	<b>PUBLICITY EXPIRY DATE</b> 06/03/17		
<b>RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):</b>			
<b>App No</b>	<b>Proposal</b>	<b>Decision</b>	<b>Date</b>
16/507483/FULL	Erection of detached double garage with room over and a new front boundary wall with access gate.	Refused	20/12/2016

**1.0 DESCRIPTION OF SITE**

- 1.01 Woodbine House is a detached property located within the small cul-de-sac of Selling Court within the Kent Downs Area of Outstanding Natural Beauty. There is parking to the front of the property with amenity space to the rear. Selling Court comprises a number of individually designed modern detached properties spaciouly set amongst mature trees, with a mixture of open lawns and mature hedgerows to the fronts.
- 1.02 This property, approved in 1980 (application SW/80/0969) with an integral double garage to the left front, appears to have had its original integral garage converted to habitable accommodation some years ago (there was no restrictive condition on the original planning permission and there are no records of approval for the conversion) and now only has parking space to the front, although this front garden is of generous dimensions, and features mature trees.
- 1.03 The previous recent application sought to erect a high wall and gates across the open-plan site frontage and proposed a taller garage in the same position as the current application. My decision then was to refuse that application due to the impact of the wall and gates on the character of the estate, and to recommend a reduced height for the garage.

**2.0 PROPOSAL**

- 2.01 The proposed double garage would be located to the front left of the main property, screened by mature planting. The garage is reduced in height compared to the

previous application and the previously proposed wall is not part of the application now.

- 2.02 The proposed garage would measure 6.05m in width, 5.9m in depth, 2.4m to the eaves and would have an overall height of 5m. The materials would include red/brown brickwork, plain clay roof tiles, timber door, sectional garage door, black powder coated steel staircase and UPVC windows.
- 2.03 A room in the roof space of the garage that would be accessed via the external staircase is also proposed, with a small circular feature window to the side elevation and three rooflights to the front elevation.

### **3.0 PLANNING CONSTRAINTS**

Area of Outstanding Natural Beauty KENT DOWNS

Tree Preservation Order: Land at Selling Court, Selling

### **4.0 POLICY AND OTHER CONSIDERATIONS**

Development Plan – The Swale Borough Local Plan 2008 saved policies:

E1 (General Development Criteria)  
 E9 (Landscape)  
 E19 (Design)  
 E24 (Alterations and Extensions)

Emerging Local Plan – “Bearing Fruits 2031”:

CP4 (Requiring good design)  
 DM14 (General development criteria)  
 DM16 (Alterations and extensions)  
 DM24 (Conserving and enhancing valued landscapes)

### **5.0 LOCAL REPRESENTATIONS**

- 5.01 Four letters of objection have been received. They can be summarised as follows:

- The property has been rented out for the last three to four years
- There appears to be a self contained flat upstairs with its own entrance
- The motivation for development is likely to be able to create a separate dwelling for rent
- Will the room above the garage be used for a commercial use?
- Tenant leaves dustbins on the pavement all week
- Front lawn is covered with leaves
- Existing garage has already been incorporated in to the house – it could be converted back
- Proposed garage too big and tall for the site
- The proposed garage is in front of the building line
- The proposed garage would be built backing on to a neighbouring hedge
- Lack of parking will ensue
- Overlooking of neighbours
- The property should not be allowed to increase further in size
- Loss of neighbours' property value

5.02 A letter has been received from the applicant (from an address in Herne Bay) in response to the above points, and to comments from the Parish Council (see below). The letter can be summarised as follows:

- In 2007 when we purchased the property the integral garage was converted into additional residential space, our needs have since changed and it is not practical to undo the internal infrastructure to convert it back
- There is no self contained flat
- Independent gardening contractors ensure tidy gardens
- Although currently living elsewhere, the property will again one day become our family home
- It is irrelevant that the house is rented
- A number of houses at Selling Court have been extended considerably over the years
- The large garage the Parish Council refers to disappeared in 2006
- The current application has been resubmitted following amendments suggested
- The new garage will not interfere with neighbours or harm the character of the area

## **6.0 CONSULTATIONS**

6.01 Selling Parish Council has made the following comments:

- Development is out of keeping with the surrounding buildings
- Absentee owner might be developing for gain only
- There is already a large double garage on site
- Everyone is against the development

## **7.0 BACKGROUND PAPERS AND PLANS**

7.01 All plans and documents relating to 17/500701/FULL. And 16/507483/FULL

## **8.0 APPRAISAL**

8.01 The site lies within the built up area of Selling, where extensions and alterations to dwellings are generally acceptable, subject to them being of a high standard of design and sitting comfortably within the street scene and not giving rise to any serious amenity concerns in accordance with the above policies. The site also lies within the Kent Downs Area of Outstanding Natural Beauty and so development within this area must preserve and where possible, enhance the surrounding area.

8.02 Saved policy E19 and policy DM24 of the emerging Local Plan expects development to be of a high quality design. The Council considers that high quality design, whether large or small proposals should be the aim for all development. A previous application at the site was refused due to the boundary wall and gate being unacceptable and it was suggested by an informative that the proposed garage should be reduced in height. This current application has reduced the overall height of the garage and also brought down the height of the eaves. The proposed garage would use materials found elsewhere in the street and would also be largely screened from view by the mature hedgerow and trees to the front of the property, which are protected by a TPO. The proposed garage in my view would preserve the quality and character of the AONB and would not have an adverse impact on the street scene.

- 8.03 The plot is generous and the proposed garage is of a suitable scale and height for its location and would still leave enough space to the front of the property for the parking of at least 4 cars, therefore not giving rise to any on street parking issues. The room above the garage would not cause any overlooking issues as there are no windows to the rear elevation which backs on to the neighbouring boundary. Three rooflights are proposed to the front elevation that would overlook the additional parking area to the front of Woodbine House, and a side window that would look out on to the street, again screened by the mature hedgerow. No windows would face towards neighbours
- 8.04 Although the original garage has been converted in this case there is adequate room to erect a garage in the front garden area here without it appearing intrusive. Selling Court is an exclusive estate but its generous nature and houses are all different, meaning that the proposed garage will not stand out against a uniform streetscene, but rather will add to the variety and gradual development of the estate where most properties continue to be improved over the years to suit changing modern lifestyles.

## 9.0 CONCLUSION

- 9.01 Overall the proposal complies with the saved policies within the Swale Borough Local Plan 2008 and the emerging Local Plan Bearing Fruits 2031 with the proposed garage preserving the quality and character of the wider AONB setting. As such I recommend that planning permission should 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 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 permitted shall not be carried out otherwise than in complete accordance with the approved plans and specifications.

Reason: In the interests of residential amenity

- (3) The ground floor area of the garage hereby approved 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 any order revoking or re-enacting that Order) or not, shall be carried out on the land or in such a position as to preclude vehicular access thereto.

Reason: In the interests of the 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 application was the result of previous advice and was considered 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.

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<b>2.3 REFERENCE NO - 16/506316/FULL</b>			
<b>APPLICATION PROPOSAL</b> Erection of 3 two storey terraced dwellings and 2 two storey semi-detached dwellings with on plot parking and associated works, as amended by drawings DSGD/16/01C, DSGD/16/04A and DSGD/14/H01A.			
<b>ADDRESS</b> The Old School London Road Dunkirk Kent ME13 9LF			
<b>RECOMMENDATION GRANT SUBJECT TO:</b> further views of the Parish Council and adjoining residents (closing date 25 April 2017) and to further consideration of the options for increasing the size of the rear garden to Plot 2.			
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b> Proposal is in accordance with national and local planning policy.			
<b>REASON FOR REFERRAL TO COMMITTEE</b> Parish Council objection			
<b>WARD</b> Boughton And Courtenay	<b>PARISH/TOWN COUNCIL</b> Dunkirk	<b>APPLICANT</b> Mr A Preston <b>AGENT</b> Lee Evans Planning	
<b>DECISION DUE DATE</b> 12/10/2016	<b>PUBLICITY EXPIRY DATE</b> 25/042017		
<b>RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):</b>			
<b>App No</b>	<b>Proposal</b>	<b>Decision</b>	<b>Date</b>
16/500539/FULL and 16/500540/LBC	Change of use of school to dwelling	Approved	24/06/2016
SW/14/0416, 7, 8 & 9	Conversion of grade II listed school building and former school house to two residential dwellings	Approved	09/06/2014

**1.0 DESCRIPTION OF SITE**

- 1.01 The site forms part of the grounds surrounding the old village school (built 1844), which closed in 2008. The former school is a grade II listed building and has since been converted to two residential dwellings under planning permission and listed building consent approvals SW/14/0416, 7, 8 and 9 and later approvals 16/500539/FULL and 16/500540/LBC in relation to just the school itself.
- 1.02 The part of the site that is the subject of this proposal is to the north east of the former school grounds, on a part of the site which was originally given over to a grassed play area. The site is to the front of an area of woodland which the proposal will not affect.
- 1.03 This part of Dunkirk village is formed around the school, church and vicarage which established the settlement here in the mid nineteenth century following the Battle of Bossenden Wood. The location is therefore one of long established development that formed the core of what is now known as Dunkirk. The current application site is situated within the built-up area boundary of Dunkirk as now defined in the Swale Borough Local Plan 2008 (and in the emerging Local Plan) and is situated between the old school building and a long row of bungalows, so forming a natural infill plot within the established original confines of the village.

**2.0 PROPOSAL**

- 2.01 The proposal is to construct five new properties; three terraced houses and two semi-detached houses. All five properties would have associated private amenity and parking spaces. Most have a garden wider than the houses but plot 2 has a rather

short rear garden (some 6m in depth) and as a mid-terraced unit, its garden is only the same width as the house.

- 2.02 The proposed properties would be set back from the highway, and accessed by a re-aligned access point, which provides better sight lines than the present access. The properties would be set in two parallel rows of development; the two semi-detached houses to the front, with the terrace of three behind. All the properties would face towards the highway. This pattern reflects the nature of the adjacent site where two bungalows sit one behind the other, and provides more space between the new houses and the former school than a single row of dwellings would do.
- 2.03 Each property would be allocated two parking spaces, with four separate visitor parking spaces.
- 2.04 The properties have been designed in order to complement the slightly neo-Gothic styling of the school building, with the use of low eaves heights, steeply pitched roofs, high gables and prominent barge boards, etc. The use of traditional materials is also incorporated, in order to produce a minimal impact upon the adjacent listed building.
- 2.05 The application is accompanied by a Design and Access Statement (including a Heritage Assessment), and an Ecology Statement which concludes that the site is host to protected species in the form of slow worms, reptiles and grass snakes for which mitigation proposals have been suggested. I have recommended an appropriate condition.
- 2.06 The application has been amended to bring the semi-detached houses slightly further forward on the site to achieve at least minimum overlooking distance between the two rows of houses, and the access arrangement has been altered to overcome an identified highway safety issue. I have recently re-consulted the Parish Council; and adjoining residents on these minor changes and I will report any further views to the meeting (closing date 25 April 2017).
- 2.07 I am still considering what potential there is to improve the garden to plot 2, perhaps by detaching the end unit (plot 1) and I will report the outcome of my discussion with the applicant to the meeting.

### 3.0 SUMMARY INFORMATION

	Existing	Proposed	Change (+/-)
Site Area (ha)	0.195	0.195	-
Approximate Ridge Height (m)	N/A	8 metres	+ 8 metres
Approximate Eaves Height (m)	N/A	4.7 metres	+ 4.7 metres
No. of Storeys	None	2	2
Parking Spaces	None	14	+14
No. of Residential Units	None	5	+5

### 4.0 PLANNING CONSTRAINTS

Adjacent to grade II listed building.

### 5.0 POLICY AND OTHER CONSIDERATIONS

- 5.1 The National Planning Policy Framework (NPPF): Paragraphs 14 and 49 (Presumption in favour of sustainable development); 55 (sustainable development in rural areas); 111 (use of brownfield land); 129 and 131 (significance of heritage asset) and 133 (impact of development on heritage assets).

Swale Borough Local Plan 2008: Saved policies E1 (General Criteria), E14 (Listed Buildings), E19 (Design Criteria), H2 (New Housing) and T3 (Parking).

Policies DM7, DM14, DM14, DM24 and DM26 of the emerging Swale Borough Local Plan 'Bearing Fruits 2031.'

## 6.0 LOCAL REPRESENTATIONS

- 6.01 One email neither supporting nor objecting to the proposal has been received from a Dunkirk resident. The points raised therein may be summarised as follows:

- I do not object to a dwelling, but five is too many for the site
- Bungalows would be better close to the old school
- Road safety is important and this site is on a hill and a slight bend

## CONSULTATIONS

- 7.01 Dunkirk Parish Council unanimously object to this application and has written a lengthy illustrated letter of objection to the proposal. The points contained therein may be summarised as follows and relate to the application as first submitted prior to the access alterations now negotiated:

- The Parish Council supported conversion of the old school but this scheme reduces the area of garden associated with the former school house and will lead to vehicular conflict within the site
- The scheme leaves room for access to further development
- *'Whilst the Neighbourhood Plan is yet to propose any sites as allocations, it should be noted that this site was not submitted to the Neighbourhood Plan Group for consideration. It should be further noted that SBC has decided that only the NP can allocate sites within the parishes of Boughton under Blean and Dunkirk.'*
- The highway adjacent is on an uphill bend and traffic is '*notoriously fast*', despite a flashing 30mph sign
- Proposed visibility splay is inadequate to cater for the expected increase in traffic using the access
- Traffic issues including existing congestion problems through The Street, Boughton, and at Brenley Corner
- Area comprises very low density housing at present and this development at 8m tall (with potential for loft conversions) is out of scale and form with its surroundings
- Application shows considerable amount of hardsurfacing, possibly leading to drainage problems
- Trees and hedges at rear of site must be preserved
- Within a special landscape area
- Close to a scheduled ancient monument
- Does not complement the existing built environment
- Effect on overstretched local amenities and services
- Adverse effect on the setting of the listed building
- Housing targets are now being met and a single bungalow would be a preferred form of development

- 7.02 Kent Highways and Transportation originally raised objection due to poor sight lines from the access, but following the receipt of an amended drawing now raise no objection, subject to conditions noted below.

## **8.0 APPRAISAL**

- 8.01 The key issues to consider in this case are those of preserving the character and setting of the listed building, the principle of development, site layout, the effect of the proposal on local services, and highway issues.
- 8.02 In terms of the principle of development, I note that the proposal site is within the established built-up area boundary where saved policy H2 suggests new housing ought to be acceptable in principle. The National Planning Policy Framework (NPPF) states that, in such cases, the presumption must be in favour of development, unless other material considerations suggest otherwise.
- 8.03 The effect of the proposal on the character and setting of the adjacent listed building must next be considered. Firstly, it must be remembered that the nearest part of the proposed development from the listed building would be a distance of twenty-eight metres away, thus significantly reducing the effect of the proposal on the character and setting of the building. The design of the proposed buildings is also sympathetic to the listed building, utilising similar materials and similar design features such as the use of high gables. I do not believe that the proposal would have an unacceptably adverse impact on the character and setting of the listed building.
- 8.04 The site layout is largely driven by trying to maintain the setting of the former school, with woodland behind. Hence the new development is set to one side in two rows. The impact of this is that the depth of the site (with woodland behind) is only just big enough for two rows of dwellings. Hence, whilst the front row of houses has adequate garden depths, and the 21m minimum distance between rows of houses is achieved, the rear row is very close to the rear boundary of the site. The end units have wide gardens that compensate for this, also meaning that their gardens are not all to the north of the relevant house. However, the central rear unit (plot 2) has a small north facing rear garden which will not get much sunlight. I am therefore seeking to explore with the applicant the scope for improving this unit's amenity area and will update members at the meeting.
- 8.05 In terms of the potential effect of the proposal on local services and amenities, it is important to bear in mind that the proposal is for only five properties. Five extra properties within the area is unlikely to have a noticeably adverse effect on local services and amenities and, as such, I do not believe that the proposal would have an unacceptably adverse effect on local services and amenities.
- 8.06 In terms of highway safety and convenience, I was initially concerned by the drawings received, as these appeared to show an access point which, albeit existing, did not have the requisite sight lines required for a development of five houses. These concerns were echoed by both Kent Highways and Transportation and the Parish Council. These concerns were passed on to the agent, who has now submitted new drawings showing the access moved slightly westward. Kent Highways and Transportation consider this proposal for an amended access point to be acceptable, and I am content to accept their expert advice in this matter.

8.07 For completeness I have notified the Parish Council and immediate neighbours of the latest changes and I will update members at the meeting if any further comments are received.

## 9.0 CONCLUSION

9.01 I therefore recommend that the proposal be approved, subject to the outcomes of my discussions regarding plot 2 and to strict conformity with the conditions included below.

**10.0 RECOMMENDATION – GRANT** Subject to the further views of the Parish Council and adjoining residents (closing date 25 April 2017), to further consideration of the options for increasing the size of the rear garden to Plot 2 and 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) Except as provided for by condition (3) below the development to which this permission relates must be carried out in accordance with approved drawings DSGD/16/01C, DSGD/16/02, DSGD/16/03, DSGD/16/04A and DSGD/14/H01A.

Reason: For the avoidance of doubt.

(3) Notwithstanding the provisions contained within condition (2) above, no development beyond the construction of foundations shall take place until an amended drawing showing the eastern side elevations to Plots 3 and 5 showing first floor windows matching in size to those shown on the same side elevations at ground floor level on drawing no. DSGD/16/04/A have been submitted to and approved in writing by the Local Planning Authority, and works shall be implemented in accordance with the approved details.

Reason: In the interest of visual amenity.

(4) No development beyond the construction of foundations shall take place until details of the external finishing materials to be used on the development hereby permitted have been submitted to and approved in writing by the Local Planning Authority, and works shall be implemented in accordance with the approved details.

Reason: In the interest of visual amenity.

(5) Adequate underground ducts shall be installed before any of the buildings hereby permitted are occupied to enable telephone services and electrical services to be connected to any premises within the application site without resource to the erection of distribution poles and overhead lines, and notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) no distribution pole or overhead line shall be erected other than with the express consent of the Local Planning Authority.

Reason: In the interests of residential amenity

(6) 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.

- (7) No development beyond the construction of foundations shall take place until full details of the method of disposal of foul and 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.

Reason: In order to prevent pollution of water supplies

- (8) Unless otherwise agreed in writing with the Local Planning Authority no trees shall be removed from the site.

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

- (9) No development beyond the construction of foundations 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.

- (10) 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.

- (11) 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.

- (12) No development beyond the construction of foundations shall take place until detailed drawings at a suggested scale of 1:5 of all new external joinery work and fittings together with sections through glazing bars, frames and mouldings have been submitted to and approved by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: In the interest of preserving or enhancing the character and appearance of the surrounding area

- (13) The areas shown on approved drawing DSGD/16/01C as parking spaces 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) (England) Order 2015 (as amended) (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 dwellings 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.

- (14) The sight lines shown on drawing DSGD/14/H01A shall be provided prior to the occupation of the properties hereby permitted and thereafter maintained clear of any structure, tree, plant or other obstruction which exceed 0.6 metres above carriageway level within the approved sight lines.

Reason: In the interests of highway safety.

- (15) No development shall take place, including any works of demolition, until a Construction 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. The Statement shall provide for:
- i. the parking of vehicles of site operatives and visitors
  - ii. loading and unloading of plant and materials
  - iii. storage of plant and materials used in constructing the development
  - iv. the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
  - v. wheel washing facilities
  - vi. measures to control the emission of dust and dirt during construction
  - vii. a scheme for recycling/disposing of waste resulting from demolition and construction works

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

- (16) No development shall take place before details of cycle storage (2 cycles per dwelling) shall have been submitted to and approved in writing by the Local Planning Authority. The development shall then be carried out in complete accordance with these approved details.

Reason: In the interests of amenity and to ensure that the details are correct before development commences.

- (17) The first five metres of the access leading from the public highway to the development hereby permitted shall be of a bound material.

Reason: In the interests of highway safety and convenience.

- (18) No development shall take place (including any demolition, ground works, site clearance) until an Ecological Design and Management Strategy (EDMS) for the development site has been submitted to and approved in writing by the Local Planning Authority. Upon approval, the details submitted shall be implemented in full accordance with these approved details.

Reason: In the interests of biodiversity.

- (19) Upon completion, no rearward extension other at ground floor level, or any alteration to the rear roof slopes, shall be carried out to the proposed properties marked as Plots 4 and 5' on drawing no. DSGD/16/01C.whether permitted by Classes A or B of Part 1 of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking and re-enacting that Order) or not.

Reason: To avoid mutual loss of privacy to/from dwellings to the north,

### **Habitat Regulations Assessment**

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

The application site is located within 6km of the Swale Special Protection Area (SPA) and Ramsar site both of which are 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. NE also advises 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 goes on to state 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); 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, NE have acknowledged that the North Kent Councils have yet to put in place the full



measures necessary to achieve mitigation across the area and that questions relating to the cumulated impacts on schemes of 10 or less will need to be addressed in on-going discussions. This will lead to these matters being addressed at a later date to be agreed between NE and the Councils concerned.

- 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 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 dwellings proposed but in the longer term the mitigation will be secured at an appropriate level, and in perpetuity.

#### **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.

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<b>2.4 REFERENCE NO - 17/500660/FULL</b>			
<b>APPLICATION PROPOSAL</b> Continuation of use of temporary car park created during building works as an overflow car park now that building works are complete (retrospective).			
<b>ADDRESS</b> Iwade School, School Lane, Iwade, Kent, ME9 8RS			
<b>RECOMMENDATION</b> – Grant subject to conditions			
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b> The proposal would not give rise to unacceptable harm to visual amenity or highway safety and convenience.			
<b>REASON FOR REFERRAL TO COMMITTEE</b> Parish Council objection.			
<b>WARD</b> Bobbing, Iwade And Lower Halstow	<b>PARISH/TOWN COUNCIL</b> Iwade	<b>APPLICANT</b> Iwade County Primary School <b>AGENT</b> N/A	
<b>DECISION DUE DATE</b> 06/04/17	<b>PUBLICITY EXPIRY DATE</b> 06/04/17		
<b>RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):</b>			
<b>App No</b>	<b>Proposal</b>	<b>Decision</b>	<b>Date</b>
15/510695/COUNTY	Submission of details of a landscaping scheme	No objection	21/01/16
15/509841/SUB	Submission of details of hard landscaping	No further action	N/A
15/509679/SUB	Submission of details of a traffic management plan	Approved	10/12/15
15/5089163/COUNTY	Submission of details of a travel plan	No further action	09/11/15
15/500126/SUB	Submission of details of materials, reptile impacts and a construction management strategy	No objection	04/03/15
14/500739/R3REG	Two storey extension, new access, parking and hard and soft landscaping	No objection	30/10/14

**MAIN REPORT**

**1.0 DESCRIPTION OF SITE**

- 1.01 The site forms Iwade Primary School which has been extended following the approval of the County applications referenced above. As the school is now an academy, planning control sits with Swale Borough Council.
- 1.02 The school fronts School Lane, School Mews and Meadow Close to the south, east and south west with playing fields to the north and north west. The surrounding area is primarily residential in nature.

1.03 The specific area which this application relates to fronts directly onto School Lane and Meadow Close and has been in use as a car park for over 2 years while building works took place. This was informally agreed with Kent County Council at the time. It was previously a grassed area.

1.04 The car parking area has 2 large well established willow trees within it.

## **2.0 PROPOSAL**

2.01 The proposal seeks planning permission for the permanent retention of this space for car parking, providing approximately 15 additional spaces to those created as part of the previous extensions.

2.02 The surface was laid with a geogrid filled in with white stones and gravel, and this is proposed to remain as is.

2.03 Access is via a dropped kerb from within the school site and this is proposed to remain as is.

2.04 No further physical changes are proposed.

## **3.0 PLANNING CONSTRAINTS**

3.01 Potential Archaeological Importance

## **4.0 POLICY AND OTHER CONSIDERATIONS**

4.01 The National Planning Policy Framework (NPPF) and The National Planning Practice Guidance (NPPG): The NPPF and NPPG are relevant in that they encourage good design and seek to minimise serious amenity concerns.

4.02 Development Plan: Saved policies E1, E10, E19, and T3 of the adopted Swale Borough Council Local Plan 2008 and policies CP 4, DM 7, DM 14 and DM 29 of the emerging Swale Borough Council Local Plan Bearing Fruits 2031 are relevant in that they relate to general development criteria and design, parking and trees.

4.03 National Planning Policy Framework (NPPF)

4.04 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.”

4.05 The 12 month period noted above has now expired, as such, it is necessary for a review of the consistency between the policies contained within the Swale Borough Local Plan 2008 and the NPPF.

4.06 This has been carried out in the form of a report agreed by the Local Development Framework Panel on 12 December 2012. Saved policies E1, E10, E19, and T3 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.

## **5.0 LOCAL REPRESENTATIONS**

5.01 The Parish Council and surrounding neighbours were sent notification of the application. A site notice was also erected to the front of the site on School Lane. No neighbour representations were received, however Iwade Parish Council objected to the proposal for the following summarised reasons:

- No detail around the surfacing of the car park
- No soft landscaping proposed to soften the view
- Land is adjacent to protected species
- There should be a barrier between the cars and pathway used by children, such as a hedge
- A condition should be imposed restricting staff parking from School Lane or the village centre

## **6.0 CONSULTATIONS**

6.01 Kent County Council Archaeology confirmed that no measures are required in connection with the proposal.

6.02 Kent County Council Highways and Transportation had no objection to the proposal.

6.03 Kent County Council Ecology confirmed that no ecological measures are required in connect with the proposal.

## **7.0 BACKGROUND PAPERS AND PLANS**

7.01 The applications referenced above all relate to the recent extensions and alterations at the school.

## **8.0 APPRAISAL**

8.01 The application site is located within the defined built up area boundary of Iwade in which the principle of development is acceptable subject to the other relevant policy considerations outlined below.

### **Visual Amenity**

8.02 The parking of cars over a previously grassed area visible in the street scene undoubtedly gives rise to some visual harm. I consider therefore, whether the existing, large willow trees within the area mitigate this harm somewhat, and whether the additional parking space is justified.

8.03 The school currently has approximately 40 parking spaces (not counting the area which is the subject of this application) for the full-time equivalent of 60 staff. The number of staff is expected to further increase over the coming years. According to the Kent Vehicle Parking Standards, the maximum provision of parking spaces for primary schools should be 1 space per staff, plus 10%, which in this case would amount to a guided number of around 66 spaces at present.

8.04 The current parking provision is therefore below this guidance. Given this, the undesirability of on-street parking around the surrounding roads and the potential for the future increase in staffing numbers, I believe there is a strong justification in

favour of allowing the retention of this area of parking which adds around 15 spaces, for a total of 55.

- 8.05 The 2 willow trees on the site are very large, well established, and attractive. I believe they significantly soften the view of the parked cars and provide significant visual mitigation without the need for further landscaping.
- 8.06 Taking into account the need for parking space and the visual mitigation in place, I consider the impact upon visual amenity to be acceptable without the need for further measures in this regard.

#### **Highway Safety/Convenience**

- 8.07 KCC Highways and Transportation had no objection to the proposal. I believe the continued use of this parking area would help prevent additional and undesirable on-street parking in the surrounding roads. The Parish Council suggested a condition restricting staff from parking on these roads. While it is hoped that this would be the case, such a condition would not be enforceable and therefore fails the tests set out within the NPPF and cannot be imposed.
- 8.08 The Parish Council considers the need for an internal barrier (such as a hedge) separating the parking area from the pathway which children use. The school has confirmed that as per its own travel arrangements, cars are restricted from moving around the site during the periods in which children arrive and leave. Furthermore, car parking around the rest of the site is also adjacent to the footpaths which children could use. I consider that the arrangements already in place do not give rise to concern in this regard and that such a barrier is not necessary.

#### **Other Matters**

- 8.09 I consider the Parish Council's comments in terms of protected species (Great Crested Newts) near to the site. I believe this relates more to the fields and pond to the rear of the school, from which this part of the site is clearly separated. Nonetheless, I consulted with KCC Ecology who confirmed that the measures implemented as part of the previous extensions were acceptable and that no further measures are required in connection with this proposal.
- 8.10 I consulted with the Council's Tree Consultant in relation to the 2 large Willow trees which are on the site and surrounded by the parking area. He states that he would have had concern as to the impact of the surfacing upon these trees, had the application not been made retrospectively. However, it has now been in place for over 2 years and the trees appear to be in good condition with no apparent damage. He concluded that it, in his professional opinion, it would now be **more harmful** to the trees to remove the surface than to leave it in place. Accordingly, he raises no objection but requests a condition to prevent the surface being changed without the prior agreement of the Council in the future, to safeguard these trees. He also requests a condition that the trees be retained and that any pruning must not be carried out without the prior written approval of the Council. In the unfortunate event that the trees do become diseased or dying he requests a condition that they should be suitably replaced with the prior written agreement of the Council. I will impose such conditions below.

## 9.0 CONCLUSION

9.01 Taking into account all of the above, I believe the provision of much needed parking space, and the mitigation provided by the existing willow trees, outweighs the visual harm of the proposal, which is acceptable in all other aspects, subject to the conditions below. I therefore recommend that planning permission be granted.

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

### CONDITIONS

(1) The existing permeable geogrid surface of the car park shall remain intact and no changes to its surface area/makeup shall take place without the prior written approval of the Local Planning Authority.

Reason: In the interests of safeguarding the existing trees to be retained and in the interests of visual amenity.

(2) No trees within the car park area shall be cut down, uprooted or destroyed, nor shall any retained tree be pruned in any manner, be it branches, stems or roots, without the written prior approval of the Local Planning Authority. All tree works shall be carried out in accordance with the British Standard 3998: 2010 'Tree Works – Recommendations'. If any tree within the car park area becomes diseased or dying, a replacement tree shall be planted and that tree shall be of such size and species, and shall be planted at such a time and in a position to be agreed in writing with the Local Planning Authority.

Reason: In the interests of safeguarding the existing trees to be retained and in the interests of visual 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 application was acceptable as submitted and no further assistance was required.

The application was considered by the Planning Committee where the applicant 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.

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<b>2.5 REFERENCE NO - 17/500947/FULL</b>			
<b>APPLICATION PROPOSAL</b> Erection of a rear conservatory			
<b>ADDRESS</b> 1 Hever Place, Sittingbourne, ME10 1HE .			
<b>RECOMMENDATION</b> Approve			
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b> Proposed conservatory is of an appropriate scale and design, and would not give rise to any serious amenity issues for neighbouring residents or harm the character or appearance of the wider area.			
<b>REASON FOR REFERRAL TO COMMITTEE</b> Contrary to the written representation of a Councillor.			
<b>WARD</b> Homewood	<b>PARISH/TOWN COUNCIL</b>	<b>APPLICANT</b> Mr Hugh Horsfield And Ms Sue McKie <b>AGENT</b> Rupert Elliott Consulting	
<b>DECISION DUE DATE</b> 26/04/17	<b>PUBLICITY EXPIRY DATE</b> 28/03/17		
<b>RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):</b>			
<b>App No</b>	<b>Proposal</b>	<b>Decision</b>	<b>Date</b>
17/500948/FULL	Retrospective consent for conversion of garage into bedroom and shower room for disabled person.	Approved	06/04/2017
Permission was required by virtue of condition (ii) of SW/94/0910 (see below). The conversion did not give rise to any serious amenity issues and retrospective consent was granted.			
SW/94/0910	Reserved matters approval following grant of outline permission (as below).	Approved	08/12/94
Condition (ii) of the approval removed PD rights for alterations and extensions under Classes A, B, C, or D of the GPDO due to the nature of the site and the surrounding dwellings on existing estates to the front and rear.			
SW/91/1019	Outline permission for erection of dwellings.	Approved	16.02.92
Condition (iv) restricted the use of the garages and parking areas.			

**1.0 DESCRIPTION OF SITE**

1.01 1 Hever Place is a detached house situated on a modern housing estate within the built up area of Sittingbourne. It is set back from the highway with parking and soft landscaping to the front, and a good-sized rear garden. The garage to the property has recently been converted to a bedroom and shower room for a disabled person, as per the application ref. above. That application was supported by a letter from the applicant's doctor.

- 1.02 Hever Place is the continuation of Berkeley Court and forms a cul-de-sac at the southern end. The surrounding dwellings are generally all of a similar scale and design to the application property. The neighbouring dwelling immediately to the north, 54 Berkeley Court, is set back approximately 5m from the front of the no.1 (and other neighbouring dwellings) due to the position of a turning head in the road. The neighbour to the south, 2 Hever Place has a single storey rear extension projecting roughly 1m beyond the rear of no.1.
- 1.03 The reserved matters application for the wider estate, at condition (ii), removed permitted development rights for alterations and extensions to the property.

## **2.0 PROPOSAL**

- 2.01 The application seeks permission for the erection of a rear conservatory. This would project 4m to the rear x 5.3m wide x 3.7m tall to the ridge. It will be constructed of glass and uPVC framing set above a brick dwarf wall, and sit approximately 4m from the common boundary with no.54 ( to the north) and 1m from the common boundary with no.2 (to the south).
- 2.02 The proposal would fall within the scope of permitted development rights for the property, but permission is required because condition (ii) of SW/94/0910 removed PD rights for the whole estate.

## **3.0 PLANNING CONSTRAINTS**

- 3.01 None.

## **4.0 POLICY AND OTHER CONSIDERATIONS**

- 4.01 The National Planning Policy Framework (NPPF) and National Planning Policy Guidance (NPPG) encourage developments that would not give rise to any serious amenity concerns.
- 4.02 Saved policies E1 (general development criteria), E19 (good design) and E24 (alterations and extensions) of the adopted Swale Borough Local Plan 2008 are relevant, and encourage householder extensions within the built up area, subject to consideration of amenity and visual impacts.
- 4.03 These policies are mirrored by DM14 and DM16 of the emerging Swale Borough Local Plan 'Bearing Fruits 2031.'
- 4.04 The Council's adopted Supplementary Planning guidance entitled "Designing an Extension" states that single storey rear extensions close to the common boundary should have a maximum rear projection of 3m, but that "*leaving a gap to the boundary with your neighbour may offset this requirement slightly.*"

## **5.0 LOCAL REPRESENTATIONS**

- 5.01 The adjacent neighbours at no. 54 Berkeley Court, Cllr Truelove and his wife, comment as follows:

*"We have no objection in principle to the conservatory and we appreciate the need for the residents. However we would have preferred it if the conservatory were planned to extend 3 metres rather than 4 metres, as the full 4 metres will obscure much of our outlook from our kitchen window."*

5.02 No other comments received.

## **6.0 CONSULTATIONS**

6.01 None.

## **7.0 BACKGROUND PAPERS AND PLANS**

7.01 The application is accompanied by full drawings, and the historic applications noted above are relevant.

## **8.0 APPRAISAL**

8.01 The property lies within the built up area where householder extensions are acceptable as a matter of principle, subject to amenity considerations as set out below.

8.02 The conservatory is to the rear and would not be prominent in any views from public areas due to the layout of the dwellings along the road. As such it would have very little impact upon the character of the area. The conservatory itself is of a relatively standard design and would sit comfortably on the house and within the context of the rear gardens, in my opinion.

8.03 The conservatory is of an appropriate scale and design and will thus have very limited impact upon residential amenity in my opinion. It would be set approximately 1m from the boundary with no.2, which features a small rear extension itself and would therefore not project significantly beyond the rear of that property.

8.04 The conservatory would be set roughly 4m from the boundary with no.54, who have expressed concern about the rear projection and its impact on their flank kitchen window. I have stood within the kitchen of no.54 and note that their flank window does indeed face directly on to the application site, but the kitchen is also served by large French doors extending almost the entirety of the back kitchen wall. I therefore consider that the intervening distance combined with the relatively low height of the conservatory and the primary kitchen windows to the rear of no.54 would minimise any serious impacts for those neighbouring residents. I would also note that there is no right to a view across another's property.

8.05 At the time of the site visit the footings had been dug for the conservatory as the applicant did not realise permission would be required (because, as above, the conservatory would have been PD if rights had not been removed by the 1994 permission). This should not have any impact upon the determination of the application, however, and the applicants have not done any further work since being alerted to the need for consent.

## **9.0 CONCLUSION**

9.01 The proposed conservatory is similar to countless others approved across the Borough on a regular basis. It would not give rise to any serious amenity concerns or significantly harm the character or appearance of either the property or the wider area. I note local concern, but do not consider this justifies a refusal of permission.

9.02 Taking the above into account I recommend that planning permission should be granted.

**10.0 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 bricks to be used in the construction of the dwarf wall of the conservatory hereby permitted shall match those on the existing building in terms of type, colour and texture.

Reason: In the interests of visual 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 application was acceptable as submitted and no further assistance was required, and 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.

<b>2.6 REFERENCE NO - 16/508446/FULL</b>			
<b>APPLICATION PROPOSAL</b> Erection of a detached dwelling			
<b>ADDRESS</b> Land North Of 40 The Street, Iwade Kent ME9 8SJ			
<b>RECOMMENDATION – Grant Subject to conditions</b>			
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b>			
<p>The principle of a dwelling on this site is established under a previous permission for a dwelling of very similar scale and design. The conservatory addition is not considered to cause any adverse impacts.</p> <p>Whilst the use of the dwelling to provide a level of care for residents has raised objections, there are circumstances when this can still fall under the definition of a dwelling, and the application has been made on the basis that the use will be as a dwelling.</p> <p>The development would not conflict with the development plan and should be approved.</p>			
<b>REASON FOR REFERRAL TO COMMITTEE</b>			
The application has been referred to committee as it is contrary to the views of the parish council, and has also been referred to committee by Cllrs Stokes and Baldock			
<b>WARD</b> Bobbing, Iwade And Lower Halstow	<b>PARISH/TOWN COUNCIL</b> Iwade	<b>APPLICANT</b> Richard Beale Holdings Ltd <b>AGENT</b> Surveying & Sustainability Services	
<b>DECISION DUE DATE</b> 10/03/17	<b>PUBLICITY EXPIRY DATE</b> 02/03/17		
<b>RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):</b>			
<b>App No</b>	<b>Proposal</b>	<b>Decision</b>	<b>Date</b>
SW/06/1355	Development of 27 dwellings & ancillary buildings, a new car park adjacent to All Saints Church, refurbishment of listed barn for community use, provision of open space, creation of wetlands habitat & transfer/provision of burial ground.	Granted	24/03/09
<i>The above residential development has now been built out and occupied – with the exception of the plot now subject to the current application.</i>			

**MAIN REPORT**

**1.0 DESCRIPTION OF SITE**

1.01 The application site relates to a plot of land to the north of No 40 The Street. It falls within the built confines of Iwade and formed part of the residential development that has been built immediately next to the site – this plot being the only one that was not built. The plot is generally flat, with close boarded fencing to the side boundary with No 40 and the rear boundary, and lower ranch style fencing to the front and north boundary.

1.02 The site lies immediately next to open countryside to the north of the plot.

- 1.03 A dropped kerb and hardstanding to the site entrance has already been provided, presumably as part of the original housing development.

## **2.0 PROPOSAL**

- 2.01 This application seeks planning permission to erect a dwelling on the plot. The dwelling would be an L shaped two storey building, with a conservatory filling in the recess at the rear. 5 bedrooms are proposed in total, with one located on the ground floor.
- 2.02 The dwelling would measure just under 8 metres in height to the ridge line. The front elevation would be 9.6 metres wide, and the depth of the building would extend up to 12.2 metres. The building would be sited around 2 metres to the north of the dwelling at No 40, and would be set slightly further back from the front building line of this property.
- 2.03 A double garage is proposed to the north side of the dwelling.
- 2.04 Other than the conservatory to the rear of the building, the proposed dwelling is virtually identical in scale, design and form to the dwelling permitted on the site under application SW/06/1355.

## **3.0 PLANNING CONSTRAINTS**

Within built confines of Iwade  
 Within SSSI Consult / Impact Risk zone  
 Potential Archaeological Importance

## **4.0 POLICY AND OTHER CONSIDERATIONS**

- 4.01 The National Planning Policy Framework (NPPF): Paragraphs 7 (three dimensions to sustainable development), 14 (presumption in favour of sustainable development), 17 (core planning principles), 50 (delivery of wide choice of high quality homes to meet needs of various groups), 56 (good design)
- 4.02 The adopted Swale Borough Local Plan: Policies SP1 (sustainable development), E1 (general development criteria), E11 (protecting biodiversity), E19 (achieving high quality design), H2 (providing for new housing), H5 (Housing allocations – Iwade), T1 (safe access to new development), T3 (vehicle parking), AAP1 (Iwade)
- 4.03 The emerging Swale Borough Local Plan – Bearing Fruits 2031 – Policies ST1 (sustainable development), ST3 (Swale settlement strategy), ST5 (the Sittingbourne area strategy), CP3 (delivering a wide choice of homes), CP4 (good design), DM6 (managing transport demand and impact), DM7 (vehicle parking), DM14 (general development criteria), DM28 (biodiversity)

## **5.0 LOCAL REPRESENTATIONS**

- 5.01 11 letters have been received raising the following comments / concerns –
- It is unclear whether the application is for a detached house or another use
  - The layout appears to be for a care home facility
  - The block plan shows the house too small
  - Concerns regarding parking
  - The existing planning permission is for a dwelling, not a care home business
  - Impact upon sewage
  - The proposal would impact upon highways sight lines

- Noise / disturbance arising from care home use
- Potential staff would cause parking difficulties
- Loss of privacy to neighbours
- Impact on house prices
- This is a commercial development
- The occupants could be of an unsavoury disposition

## 6.0 CONSULTATIONS

### Iwade Parish Council

6.01 Iwade Parish Council objects to this application on the following grounds:

- Parking provision is not shown.
- Parking on the street is not possible. At present existing parked vehicles restrict the highway down to one lane and often there are head on conflicts when vehicles try to pass each other; traffic calming build outs add to this issue.
- Safety of vehicles entering and exiting this site due to the road layout.
- Would query the site boundary and dimensions as shown on the application.
- The Parish Council requests a site meeting so that members of Swale's Planning Committee can look at highway and parking issues. A representative from the Parish Council would like to be present at this meeting.

### Kent County Council Highways

6.02 Comments are awaited.

### Natural England

6.03 Advise that the application relates to proposals for a new dwelling within the zone of influence (6km) of the Thames Estuary and Marshes, Medway Estuary and Marshes, and The Swale Special Protection Areas (SPAs) and Wetlands of International Importance under the Ramsar Convention (Ramsar Sites). These proposals may be screened out as not having a likelihood of significant effects on the designated sites.

### KCC Archaeology

6.04 No comments received

## 7.0 BACKGROUND PAPERS AND PLANS

7.01 This application has been submitted with floor plans and elevations of the dwelling as approved, and as now proposed. There were discrepancies with the scale of the plans (as pointed out by objectors) that have now been resolved. Following discussions with the agent, further information relating to the proposed use has been received, and can be summarised as follows –

- The property is to be occupied by up to four young adults living as a family unit, sharing meals and activities throughout the day
- It is anticipated that two staff will be present on site at any given time
- The occupants will typically be young adults with learning difficulties and autism
- Parking provision is not expected to exceed two vehicles, unless additional support staff are required.

## 8.0 APPRAISAL

### **Principle of Development**

- 8.01 The site lies within the built confines of Iwade where new residential development is generally held to be acceptable. The land also benefits from permission for a dwelling to be erected on the site under planning permission SW/06/1355, and this can be implemented at any time.
- 8.02 Iwade is recognised under Policy ST3 as a rural local service centre, where development within the built confines or at allocated sites is appropriate.

### **Whether the Application is for a Dwelling or Care Home**

- 8.03 Some confusion has arisen during the course of this application regarding the proposed use of the building. This originally stemmed from information originally submitted with the application, which sought a Class C2 use for the development. However, this reference was removed from the description of the development on the request of the applicant, and from this point the application has been considered on the basis that it would be used as a dwelling.
- 8.04 For the benefit of Members, the definition of uses of a building or land stem from the Town and Country Planning (Use Classes) Order 1987 (as amended). A dwelling falls under Class C3 of the Order and is defined as follows –
- “Use as a dwellinghouse (whether or not as a sole or main residence) by—*  
*(a) a single person or by people to be regarded as forming a single household;*  
*(b) not more than six residents living together as a single household where care is provided for residents; or*  
*(c) not more than six residents living together as a single household where no care is provided to residents (other than a use within Class C4).*
- 8.05 Members will note that Class C3 (b) does allow for situations where not more than six residents live together as a single household, where care is provided for residents. There is considerable case law on this subject, and the judgement of when occupation of a dwelling by persons in care may or may not stray into a C2 (care home) use appears finely balanced. The key issues to consider are largely centred around two points. Firstly, whether a building is set out with the facilities that would be expected with a single household. Secondly, whether the nature of occupation is similar to how a single household would operate – such as shared preparation and eating of meals, and division of household tasks, and the living relationships that occupants would have with each other.
- 8.06 In this instance, the layout of the building is now shown to be essentially as you would expect for a dwelling. The only missing facility is a family bathroom, and it is noted that each bedroom would have an en-suite, and a further communal toilet facility would be provided on the ground floor. In my opinion, the layout of the building, together with the considerable amount of floorspace on the ground floor that would be shared rooms, is closely associated to that expected within a “conventional” dwelling.
- 8.07 The way in which residents (and staff) would interact and use the property is difficult to establish, not least because the “household” does not yet exist. Nonetheless, from the case law upon this subject, it is possible for a group of people in need of care to live as a household. The applicant asserts that the property would be occupied as a dwelling and not as a C2 care facility, and this application is being considered as a C3 dwelling. If any potential occupation of the dwelling was materially different to the C3 use class definition, then planning permission would be required for this.



- 8.08 I would conclude on this matter that the application has been made for use as a C3 dwelling and should be determined on this basis, and that this can include occupation by up to six residents where care is provided, as long as they live as a single household. It will be for the applicant (or owner) to ensure that this is the case.

### **Visual Impact**

- 8.09 Policies E1 and E19 of the adopted plan, and CP4 and DM14 of the emerging plan seek to ensure that new developments are well sited and appropriate in scale, design and appearance.
- 8.10 The erection of a dwelling on this existing plot would “round off” development on the east side of the road. The building would face onto The Street with an active frontage and the scale and form of the building would relate well to its surroundings. The siting of the garage on the north side of the building would allow for the development to step down as it meets the boundary with open countryside to the north. In my opinion, the building would fit well onto a natural development plot and would not be at odds with the character / appearance of the area. I consider this would accord with the above policies
- 8.11 Notwithstanding the above, the dwelling (minus the conservatory) could be erected in the same form and design under the terms of the planning permission granted under SW/06/1355. This represents a significant fall-back position even if Members disagreed with my assessment in the above paragraph.

### **Residential Amenity**

- 8.12 Policies E1 of the adopted plan and DM14 of the emerging plan state that new developments should cause no significant harm to amenity.
- 8.13 The closest neighbouring property is No 40 to the south of the site. The proposed dwelling would be built in close proximity to this dwelling (around 2 metres). There are no habitable windows in the flank wall to No 40 that would be affected by the development. In addition, the front building line would be set marginally behind the line of No 40. The proposed conservatory addition to the rear would project beyond the rear of No 40, but this would be limited and would also be offset by the design of the conservatory, which cuts away from the boundary. The layout and design of windows within the building follow those previously permitted, albeit that some overlooking from side windows may occur.
- 8.14 Parts of the building would also face towards properties to the rear of the site, but this would be at distances of between 15 and 20 metres and would not result in any direct overlooking relationships.
- 8.15 I do not consider that the proposal would lead to any undue impacts on surrounding properties when compared to the existing permitted development for the site, and on this basis I do not consider that the development would be unacceptable.

### **Highways**

- 8.16 Policies T1 and T3 of the adopted plan and DM6 / DM7 of the emerging plan seek to ensure that developments are sustainably located, and that safe access and acceptable levels of car parking are provided for development

- 8.17 Comments from Kent County Council Highways are awaited, and I hope to report these to Members at the meeting. However I note that the access and parking arrangements are shown to be identical to those in the approved scheme, and I do not consider that any undue highways safety or convenience impacts would arise.
- 8.18 The site is in a sustainable rural service centre, with services and facilities nearby.
- 8.19 I note that a number of residents have raised concern regarding the implications of parking if the dwelling provides residential care. The site plan shows parking for at least 4 vehicles at the front of the property, together with garaging as well. This exceeds the requirement for 2 spaces under the Kent County Council Interim Guidance Note for parking, and I do not consider that the Council could justify a requirement for a greater quantum of parking than is currently shown.
- 8.20 In my opinion, the development would comply with the above policies.

### **Landscaping**

- 8.21 There is no landscaping of significance on the existing site. No landscaping is shown on the proposed plans, but this can be secured via planning condition.

### **Other Matters**

- 8.22 The site is currently overgrown and may have some ecological value. Although permission exists for development of a house on the site, this was subject to conditions to protect / mitigate against any impacts on wildlife. Usually, an ecological scoping survey would be required prior to determination of the application. However given the terms of the existing permission on the land, I consider that in this particular instance it would not be reasonable to require a survey at this stage. I would recommend that a condition is applied to undertake a scoping survey, together with any further surveys that may be required and subsequent mitigation.
- 8.23 Although the site falls within a zone of influence relating to the Swale SPA, SSSI and Ramsar site, it falls below the threshold where contributions would be required to mitigate any impacts. For completeness, a Habitats Regulations Assessment is attached to this report.

## **9.0 CONCLUSION**

- 9.01 The site already benefits from permission to erect a dwelling on the site of very similar scale and form to the proposal. The key objection to this scheme appears to arise from the proposed use of the building – and Members will note my comments above that this application has been made as a proposal for a C3 dwelling. Whilst this definition can extend to include households where care is provided, the planning use is still considered as a residential dwelling, and this use is appropriate in this location.
- 9.02 My recommendation is therefore to grant planning permission.

## **10.0 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. No development shall take place 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.

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

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 shall be implemented in accordance with the approved details.

Reason: In the interest of visual amenity.

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.

Reason: In the interests of the visual amenities of the area and encouraging wildlife and biodiversity and to ensure that such matters are agreed prior to the commencement of development.

5. 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.

6. 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.

7. The area shown on the submitted plan 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) (England) Order 2015 (as amended) (or any order revoking or re-enacting that Order) or not, shall be carried out on the land so shown (other than the erection of a private garage or garages) 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 or garaging of cars is likely to lead to car parking inconvenient to other road users.

8. 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 in writing by the Local Planning Authority.

Reason: To ensure that features of archaeological interest are properly examined and recorded.

9. No development approved by this permission shall be commenced prior to a contaminated land assessment (and associated remediation strategy if relevant), being submitted to and approved in writing by the Local Planning Authority, comprising:
  - a) A desk study and conceptual model, based on the historical uses of the site and proposed end-uses, and professional opinion as to whether further investigative works are required. A site investigation strategy, based on the results of the desk study, shall be approved by the Local Planning Authority prior to any intrusive investigations commencing on site.
  - b) An investigation, including relevant soil, soil gas, surface and groundwater sampling, carried out by a suitably qualified and accredited consultant/contractor in accordance with a Quality Assured sampling and analysis methodology.
  - c) A site investigation report detailing all investigative works and sampling on site, together with the results of analyses, risk assessment to any receptors and a proposed remediation strategy which shall be of such a nature as to render harmless the identified contamination given the proposed end-use of the site and surrounding environment, including any controlled waters.

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

10. Before any part or agreed phase of the development is occupied, all remediation works identified in the contaminated land assessment and approved by the Local Planning Authority shall be carried out in full (or in phases as agreed in writing by the Local Planning Authority) on site under a quality assured scheme to demonstrate compliance with the proposed methodology and best practice guidance. If, during the works, contamination is encountered which has not previously been identified, then the additional contamination shall be fully assessed and an appropriate remediation scheme agreed with the Local Planning Authority.

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

11. Upon completion of the works identified in the contaminated land assessment, and before any part or agreed phase of the development is occupied, a closure report shall be submitted which shall include details remediation works undertaken, 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 land contamination is adequately dealt with.

12. Before development commences, an ecological scoping survey (ESS) together with any further surveys recommended by the ESS shall be submitted to and approved in writing by the Local Planning Authority to establish the presence of any protected species on the site, and the mitigation measures required to offset any ecological impacts identified within the survey(s). The development shall be carried out in full accordance with the approved details.

Reason: In the interests of wildlife and biodiversity.

#### INFORMATIVES

1) For the avoidance of doubt, this permission has been granted for a dwelling under Class C3 of the Town and Country Planning (Use Classes) Order 1987 (as amended) and for no other use.

#### Habitats Regulations Assessment

This HRA has been undertaken without information provided by the applicant. The application site is located approximately 400m from The Swale Special Protection Area and Ramsar site which is a European designated site, 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. NE also advises that where the proposal is not necessary for the management of the European sites and that subject to a financial contribution to strategic mitigation, proposals are unlikely to have significant effects on these sites and can therefore be screened out from any requirement for further assessment. It goes on to state 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); 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 birds by cats.
- Based on past 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 may cost 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, NE have acknowledged that the North Kent Councils have yet to put in place the full measures necessary to achieve mitigation across the area and that questions relating to the cumulated impacts on schemes of 10 or less will need to be addressed in on-going discussions. This will lead to these matters being addressed at a later date to be agreed between NE and the Councils concerned.

- 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 Borough Council is of the opinion that Natural England's suggested approach of seeking developer contributions on minor developments 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 is acceptable to officers as a common route forward. Swale Borough 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 as this is for a single dwelling, 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.

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.

<b>2.7 REFERENCE NO - 17/500436/FULL</b>			
<b>APPLICATION PROPOSAL</b> Erection of a four bedroom detached dwelling with integral garage and associated parking and access (resubmission of 16/506927/FULL).			
<b>ADDRESS</b> Corner Plot Range Road Eastchurch Kent ME12 4DU			
<b>RECOMMENDATION</b> Grant Subject to conditions			
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b> The Council does not currently have a five year supply of housing land and the site was found by the Inspector to be in a sustainable location and the benefits of one additional dwelling outweigh any harm caused to the countryside. Furthermore, the proposal would not unacceptably harm the residential amenities of future occupiers of the two properties approved under 14/506821/FULL and the additional dwelling would not cause any significant harm to residential or visual amenities.			
<b>REASON FOR REFERRAL TO COMMITTEE</b> Parish Council and local objections			
<b>WARD</b> Sheppey East	<b>PARISH/TOWN COUNCIL</b> Eastchurch	<b>APPLICANT</b> Mr Lee Marshall <b>AGENT</b> Kent Design Partnership	
<b>DECISION DUE DATE</b> 02/05/17	<b>PUBLICITY EXPIRY DATE</b> 17/03/17		
<b>RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):</b>			
<b>App No</b>	<b>Proposal</b>	<b>Decision</b>	<b>Date</b>
16/506927/FULL	Erection of a 4 Bedroom detached dwelling with integral garage and parking space and revised scheme from previously approved application 14/506821/FULL.	Refused	10.01.2017
14/506821/FULL	Erection of pair of 3 bedroom semi-detached houses with associated garages and car parking	Refused but allowed on Appeal (PINS ref: 3135783)	Application refused on 12.08.2015. Appeal allowed on 28.01.2016

**MAIN REPORT**

**1.0 DESCRIPTION OF SITE**

- 1.01 Range Road is L shaped and the application site occupies the corner plot where the road turns at 90 degrees. The site is comprised of a pair of semi detached dwellings which have recently been constructed under 14/506821/FULL (referred to above and appeal decision attached as an appendix to this report).
- 1.02 Two storey residential dwellings are located to the north of the application site. Playing fields are immediately adjacent to the west with two storey residential development further to the west along Range Road. To the east lies open

countryside. The surrounding area in general is dominated by the Sheppey prison cluster which is situated to the south and south west.

## 2.0 PROPOSAL

- 2.01 This application seeks planning permission for the erection of a 4 bedroom detached dwelling with parking to the front and private amenity space to the rear. The application also proposes to reduce the private amenity space associated with both the dwellings recently constructed, and to amend the parking layout of one of the properties allowed on appeal (details above) and which form part of the application site.
- 2.02 The proposed dwelling would have a pitched roof with frontward projecting gable. The property would have an attached garage with a bedroom in the roofspace. The depth of the property would range between 11.7m and 8.1m with the width ranging between 5.7m and 8.9m. The eaves height of the garage would be 2.8m on the front elevation and 3.8m on the rear, with a ridge height of 6.2m. The main dwelling would have an eaves height of 5.4m. The ridge height of the front projecting gable would measure 8m with the main ridge measuring 8.5m.
- 2.03 A parking space is indicated to the front of the dwelling with private amenity space to the rear measuring 13m in depth at its longest point, 7.5m at its shortest point and 13m in width. A 2m high brick wall with a 300mm trellis is proposed along the common boundary with plots 1 and 2 separating the private amenity spaces.
- 2.04 The proposed property will result in the reduction of the private amenity space of the dwellings recently constructed on this site on plot 1 from 20m to 10.1m in depth and on plot 2 from 15.6m to 10.1m in depth. The proposed garage of the dwelling on plot 2 (under 14/506821/FULL) will be omitted and two parking spaces for this property will be provided adjacent to the additional property now being proposed.

## 3.0 PLANNING CONSTRAINTS

- 3.01 Potential Archaeological Importance

## 4.0 POLICY AND OTHER CONSIDERATIONS

- 4.01 The NPPF at paragraph 14 states that central to the NPPF is *“a presumption in favour of sustainable development.”*

*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.”*

- 4.02 At paragraph 49 the NPPF 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.”*



### Development Plan

- 4.03 Policies SP1 (Sustainable Development), SP2 (Environment), SP4 (Housing), SP5 (Rural Communities), SH1 (Settlement Hierarchy), E1 (General Development Criteria), E6 (The Countryside), E19 (Achieving High Quality Design and Distinctiveness), RC3 (Helping to Meet Rural Housing Needs), H2 (Providing for New Housing), T1 (Providing Safe Access to New Development) and T3 (Vehicle Parking for New Development) of the adopted Swale Borough Local Plan 2008
- 4.04 Policies ST1 (Delivering Sustainable Development in Swale), ST2 (Development Targets for Jobs and Homes 2011-2031 2014-2031), ST3 (The Swale Settlement Strategy), CP3 (Delivering a Wide Choice of High Quality Homes), CP4 (Requiring Good Design) and DM14 (General Development Criteria) of The Emerging Swale Borough Local Plan 'Bearing Fruits 2031' Proposed Main Modifications 2016.

## **5.0 LOCAL REPRESENTATIONS**

- 5.01 A site notice was displayed close to the site and neighbouring properties were sent a consultation letter. Three responses were received, raising objections on the following summarised grounds:
- If this application is approved then it will set a precedent for similar proposals;
  - Would all residents be able to build houses in their back garden?;
  - The roads are in a poor state and unable to cope with additional traffic;
  - The proposed property would not be in keeping with other properties in the road;
  - The proposed property would overlook the rear gardens of No.s 11-16 Range Road giving rise to loss of privacy, the 2m fence would not overcome this;

## **6.0 CONSULTATIONS**

- 6.01 **Eastchurch Parish Council** *“objects to this application and wishes to make the following points: There are very minor variations on the new application and the Committee see no reason to change the original objections to the application. It is still an over intensification of the site and still contradicts the original planning conditions and the comments of the Planning Inspector on appeal.”*
- 6.02 **Natural England** state that *“The comments provided in our previous response apply equally to this resubmission and the proposed amendments to the original application are unlikely to have significantly different impacts on the natural environment than the original proposal.”*

The previous comments were as follows:

*“It is the Council’s responsibility to ensure that the proposals fully adhere to the agreed approach within the Thames, Medway and Swale Estuaries Strategic Access Management and Monitoring Strategy (SAMM) to mitigate for additional recreational impacts on the designated sites and to ensure that adequate means are in place to secure the mitigation before first occupation. Subject to the above, Natural England is happy to advise that the proposals may be screened out as not having a likelihood of significant effects on the designated sites.”*

- 6.03 **KCC Archaeology** state *“my comments remain the same as for the previous application at this site:*

*The proposed development is located within the area of the former First and Second World War airfields at Eastchurch which are of historical significance. An aerial photograph of 1946 indicates the presence of an airfield structure of unknown nature on the site or close to it.*

*It is possible that archaeological remains may be encountered during the proposed groundworks and I would recommend that provision is made for an archaeological watching brief."*

## **7.0 BACKGROUND PAPERS AND PLANS**

- 7.01 Application papers and correspondence relating to planning reference 17/500436/FULL, 16/506927/FULL and 14/506821/FULL.

## **8.0 APPLICANTS SUPPORTING COMMENTS**

- 8.01 A Design and Access Statement has been submitted with the application which sets out, amongst other details, the planning history of the site and the layout and design of the proposal.

## **9.0 APPRAISAL**

- 9.01 I firstly draw the attention of Members towards the previous application for one dwelling on the site which was reported to 5<sup>th</sup> January 2017 Planning Committee meeting under 16/506927/FULL with a recommendation for approval. It was resolved that the application be refused for the following two reasons:

- 1) The proposal to introduce an additional dwelling onto the plot would cause unacceptable harm to the character and appearance of the streetscene and would constitute over-intensive development giving rise to significantly harmful levels of overlooking and an overbearing impact upon neighbouring properties. This would be contrary to policies E1 and E19 of the Swale Borough Local Plan 2008.
- 2) The introduction of an additional dwelling onto the application site would by virtue of reducing the rear private amenity space of the property on plot 2 to 9.4m in depth cause unacceptable harm to the amenities of the future occupiers of this dwelling and would be contrary to policies E1 and E19 of the Swale Borough Local Plan 2008.

- 9.02 Further to the above, this new application as now submitted has been amended to alter the rear gardens of the existing properties on plot 1 and 2 so that they are both 10.1m in depth and to erect a brick wall on the rear boundary of plots 1 and 2 / side boundary of the proposed dwelling at a height of 2m with a 300mm trellis on top. The remainder of this appraisal sets out my view on the acceptability of this revised application.

### **Principle of Development**

- 9.03 In planning policy terms the site lies outside of the built up area boundary and is therefore in the countryside. In regards to this the Council cannot currently demonstrate a five year supply of housing land and because of this the Council's policies in relation to the supply of housing are to be considered out of date, as set out in paragraph 49 of the NPPF. In addition to this I also give significant weight to the appeal decision which granted planning permission on this site (see reference

above) for two dwellings, i.e. those recently constructed. I have attached this appeal decision as an Appendix for ease of reference. Although since the appeal decision was made, the Council's emerging Local Plan has been re-examined in public, the Councils claimed five year housing land supply has yet to be confirmed. Therefore, the appeal decision was made in a very similar policy context regarding the Council's lack of a five year housing supply.

- 9.04 In accordance with the requirements of paragraph 14 of the NPPF, the approach adopted has been to assess the proposal against the NPPF's requirements to grant permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework or taken as a whole. The appeal decision found that the site met the three roles of sustainable development, economic, social and environmental. The circumstances of the surrounding area remain predominately the same as when the appeal decision was made and I also note that the Inspector, in terms of sustainability found that there would be no adverse impacts arising from the development. On this basis I take the view that an additional dwelling would provide benefits in terms of the contribution towards housing supply which would outweigh what is in my view the very limited harm of the proposal. As a result I find no reason as to why a different stance should be taken from the Inspector's conclusions regarding the sustainability of the site and therefore I am of the view that the principle of development is accepted.

#### **Visual Impact**

- 9.05 I appreciate that the properties in the immediate vicinity of the application site are semi detached in nature. Although, the property proposed would be detached I consider it would be of a comparative scale to surrounding dwellings with a pitched roof and side facing gables. Therefore I am of the view that the style and design of the property itself would not be so significantly out of keeping with the surrounding development as to be unacceptable.
- 9.06 The application also proposes a change to the layout of the dwellings allowed on appeal. The result of this is that the parking arrangement for the dwelling labelled as plot 2 (occupying the very corner plot) has been amended to omit the garage and provide two independently accessible spaces adjacent to the newly proposed property. I also take into account that a parking space is shown in the frontage of the additional dwelling. The result of this would be that the parking layout for these two dwellings would be prominent in the streetscene from public vantage points. In terms of this, I again turn to the Inspector's appeal decision where it was found that frontage parking in this location would not cause unacceptable harm to visual amenities or the streetscene. This was in part due to the frontage parking that is common within other residential properties close to the application site. Furthermore, I note the large area of public open space that abuts the site and that there is an area of landscaping indicated within the frontage of the newly proposed property. As a result I do not believe that the revised parking area for one of the dwellings already granted planning permission, or the parking layout of the newly proposed property would cause significant harm to visual amenities or the streetscene.

#### **Residential Amenity**

- 9.07 The frontage of the detached property would be turned 90 degrees from the properties previously approved and now in situ on this site. The result of this is the flank wall of the garage would be 10.1m from the rear of the property labelled as plot 2. In terms of separation, the Council would usually expect a flank to rear distance of

11m for two storey properties. In this case I note that the ridge height of the proposed garage is limited to a maximum of 6.2m, whilst the full two storey element of the proposed property would be 13.4m away from the rear of the closest dwelling – Plot 2. As a result I believe that due to the separation distance between the two storey element and the closest dwelling that the additional property would not have an unacceptably overbearing impact upon the future occupiers of this neighbouring dwelling.

- 9.08 The first floor rear elevation of the property would be 23m away from the area directly to the rear of No.11 Range Road. In this case I take into account that the rear windows would not be angled towards this part of the neighbouring private amenity space and the detached garage to the rear of plot 1 would also heavily disrupt the views available towards No.11. As a result I believe that the scheme would not introduce levels of overlooking that would be significantly harmful. Views from the new property towards the rear of plot 1 would be extremely limited due to the configuration of these dwellings and therefore I do not believe that the proposal would introduce the possibility of harmful levels of overlooking or a significant loss of privacy.
- 9.09 Of the surrounding properties, the most direct view of the rear private amenity space of the newly proposed dwelling would be from the recently constructed property on Plot 1. The upper level windows of this property would be 16.5m away from the central part of the rear garden. In terms of this current application a 2m high brick wall with a 300mm trellis along the common boundary between plot 1 and the proposed property has been indicated. The application as now submitted also includes a drawing showing vision splays from the rear of the properties on plots 1 and 2 which shows that a number of the views will be blocked by the wall and trellis. The result of this is that in my opinion, due to the only available views being side on, combined with the distance as set out above and the wall / trellis proposed I consider that the layout of these properties would not cause significant levels of overlooking or loss of privacy to future occupiers.

### **Other Matters**

- 9.10 Due to the change in layout, the properties allowed on appeal would have their private amenity space reduced. However, due to an amended layout from the previously refused application they would still be 10.1m in depth and therefore in my opinion sufficiently sized for the dwellings that they serve. As a result I am of the view that this overcomes the second reason for refusing the application as set out above. I also note that aside from the garage only one parking space is indicated for the additional property for which permission is now sought. Notwithstanding the garage, I consider that there is enough space for two vehicles to be parked within the curtilage of the dwelling and as a result the development would in my view not give rise to unacceptable harm to highway safety or amenity.
- 9.11 Although the majority of points raised by the objections received have been discussed in the appraisal above, of those that are outstanding I respond as follows. In terms of setting a precedent, applications for residential units within the curtilage of dwellings would be judged on their merits and as such I do not believe this application would set a precedent. Finally, I do not consider that the highway in the vicinity of the application site is in such a poor state that the introduction of 1 additional dwelling would cause such significant harm that this would substantiate a reason for refusal.

### **Impact upon SPA and Ramsar sites**

9.12 I have for completeness set out a Habitat Regulations Assessment below. This confirms that whilst mitigation could be provided by way of developer contributions, this is not considered appropriate for developments under 10 dwellings. The cost of mitigation will be met by developer contributions on developments over 10 dwellings. In view of this it is not considered that the development will have a harmful impact on the special interests of the SPA and Ramsar sites.

**10.0 CONCLUSION**

10.01 Due to the Council’s housing policies being out of date as a result of the current five housing land supply position, the benefits that the development would bring in terms of a welcome, albeit limited contribution to the housing land supply in a sustainable location would outweigh the very limited harm that this proposal would cause. I also give significant weight to the Inspector’s decision in allowing the appeal for two dwellings on this site.

10.02 In addition I believe that the proposed dwelling would not unacceptably harm residential or visual amenities and the altered layout would still provide adequate private amenity space and parking provision for the previously approved dwellings on the site. I believe that both reasons for refusing the previous application would be difficult to defend at appeal due to the points as set out in the discussion above. I therefore recommend that planning permission is granted.

**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 permitted shall take place in accordance with the following drawings: 16-51-06 (received 26<sup>th</sup> January 2017); 16-51-07 (received 26<sup>th</sup> January 2017); 16-51-08 (received 26<sup>th</sup> January 2017); and 16-51-09 (received 6<sup>th</sup> February 2017).

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

3. No development beyond the construction of foundations shall take place 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 in accordance with the approved details prior to the first use of any dwelling.

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

4. The materials to be used in the construction of the external surfaces of the development hereby approved shall match those as stated on the application form.

Reason: In the interests of visual amenities.

5. No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of a watching brief to be undertaken by an archaeologist approved by the Local Planning Authority so that the excavation is observed and items of interest and finds are recorded.

The watching brief shall be in accordance with a written programme and specification which has been submitted to and approved by the Local Planning Authority.

Reason: To ensure that features of archaeological interest are properly examined and recorded and to ensure that such matters are agreed before work is commenced.

6. No development beyond the construction of foundations 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.

7. 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.

8. 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.

9. No construction activities shall take place, other than between 0730 to 1900 hours (Monday to Friday) and 0790 to 1300 hours (Saturday) with no working activities on Sunday or Bank Holiday.

Reason: In the interests of residential amenity.

10. The area shown on the submitted plan as vehicle 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) (England) Order 2015 (as amended) (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 dwellings approved under 14/506821/FULL and the dwelling 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 in a manner detrimental to highway safety and amenity.

11. The garage hereby approved 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 (as amended) (or any order revoking or re-enacting that Order) or not, shall be carried out on the land or in such a position as to preclude vehicular access thereto.

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 in a manner detrimental to highway safety and amenity.

12. Prior to the occupation of the dwelling hereby approved, the wall and trellis along the common boundary with plots 1 and 2 (as indicated on drawing no.16-51-08) shall be erected and shall thereafter remain in perpetuity.

Reason: In the interests of residential amenities.

### **Habitats Regulations Assessment**

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

The application site is located approximately 3km north of The Swale Special Protection Area (SPA) and Ramsar site which are 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. NE also advises that the proposal is not necessary for the management of the European sites and that subject to a financial contribution to strategic mitigation, the proposal is unlikely to have significant effects on these sites and can therefore be screened out from any requirement for further assessment. It goes on to state 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); 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 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 may cost 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, NE have acknowledged that the North Kent Councils have yet to put in place the full measures necessary to achieve mitigation across the area and that questions relating to the cumulated impacts on schemes of 10 or less will need to be addressed in on-going discussions. This will lead to these matters being addressed at a later date to be agreed between NE and the Councils concerned.
- 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 minor developments 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 is acceptable to officers as a common route forward. Swale Borough 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 dwellings proposed but in the longer term the mitigation will be secured at an appropriate level, and in perpetuity.

### **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.

## APPENDIX A




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## Appeal Decision

Site visit made on 5 January 2016

by **Andrew Owen MA MRTPI**

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

Decision date: 28 January 2016

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**Appeal Ref: APP/V2255/W/15/3135783**

**Land adjacent to 11 Range Road, Eastchurch, Sheerness, Kent ME12 4DU**

- 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 Lee Marshall against the decision of Swale Borough Council.
  - The application Ref 14/506821/FULL, dated 22 December 2014, was refused by notice dated 12 August 2015.
  - The development proposed is a pair of 3 bedroom semi detached dwellings with associated garages and parking.
- 

### Decision

1. The appeal is allowed and planning permission is granted for a pair of 3 bedroom semi detached dwellings with associated garages and parking at land adjacent to 11 Range Road, Eastchurch, Sheerness, Kent ME12 4DU in accordance with the terms of the application, Ref 14/506821/FULL, dated 22 December 2014, subject to the conditions listed in the attached Schedule.

### Main Issues

2. The main issues in this appeal are the effect of the proposal on the character and appearance of the area and whether the development would constitute sustainable development.

### Reasons

#### *Character and Appearance*

3. The site is within a small settlement dominated by three prisons forming the Sheppy prison cluster and also including a fire station and around 70 dwellings. It effectively comprises an undeveloped corner plot as it faces Range Road to its south and east. The adjacent development to the north is a row of two-storey, semi-detached properties and the dwellings to the west are of a similar form, design and appearance. There is a playing field to the rear of the site, Swaleside prison car park to the south and a paddock opposite. The paddock and the car park are visually separated from the site by bushes and hedgerows of around five metres in height and hence contribute little to the visual context of the site. As a result the site relates more strongly to the neighbouring residential development than to the rural land opposite. Consequently the development would have little impact on the character or appearance of the countryside.
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## APPENDIX A

Appeal Decision APP/V2255/W/15/3135783

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4. The dwellings on Range Road are of a regular form, scale and appearance being exclusively semi-detached, two-storey properties constructed of red or yellow brick and accompanied in parts by hanging tiles or weatherboarding. The development would reflect this form and scale and would incorporate weatherboarding at first floor level. The building would differ from the adjacent units by being marginally higher, incorporating dormers and having half hipped roofs. However these differences would not result in the development appearing incongruous in its setting.
5. The garage to the rear of plot 1 would be detached from the main house and would front the part of Range Road that runs parallel to the south boundary of the site. The garage would be largely screened from views from the west by the boundary fence and by a large tree that is positioned just beyond the south west corner of the site. The driveway in front of this garage would project forward of the rest of the development and would be visible in the street scene. However even when a car is parked on here, the driveway would not appear unduly prominent in the street scene. Indeed many of the other properties along Range Road have driveways forward of the dwelling. As such, in this respect the development would also not appear incongruous in its setting.
6. Consequently the development would not harm the character and appearance of the area, including the countryside, and would comply with Policy E1 of the Swale Borough Local Plan (SBLP) which seeks to ensure development is appropriate to its location, and Policy E19 of the SBLP which requires development to be of a high quality design.

*Sustainable Development*

7. It is not disputed that the Council cannot demonstrate a five year supply of housing land. In such circumstances, paragraph 49 of the National Planning Policy Framework advises that relevant policies for the supply of housing should not be considered up to date. Policies H2 and RC3 of the SBLP relate to the provision of housing and so should not be considered up to date. Policy E6 of the SBLP relates to development generally in the countryside and should also be considered out of date in so far as it relates to housing supply. As such, I can give these policies only limited weight.
8. The presumption in favour of sustainable development is set out in Paragraph 14 of the Framework. It adds that where relevant policies are out of date, planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the Framework as a whole, or where specific policies in the Framework indicate development should be restricted.
9. The Framework identifies three dimensions to sustainable development: economic, social and environmental, and states that planning needs to perform roles in all three dimensions. It is necessary to consider the proposal in terms of all three roles to establish whether it constitutes sustainable development.
10. The site is located outside the defined settlement of Eastchurch, being approximately ¾ mile from the settlement boundary and around 1 mile from the village centre and the goods and services available there. Church Road, which links the Sheppy prison cluster to the village centre, does have a footway along its length and some lighting and so provides a safe pedestrian access to the village centre. Furthermore, on Church Street there is a bus stop around

**APPENDIX A**

Appeal Decision APP/V2255/W/15/3135783

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300 metres from the site which is served by three bus services providing links to the village centre and larger towns further afield. Accordingly because of the site's accessibility to goods, services and public transport links, the provision of housing in this location would support the well-being of the village and help to perform the social role in sustainable development.

11. The prison cluster dominates the context of the site, and the appellant has commented that the neighbouring houses were originally built to house prison staff and their families. It is not unreasonable to consider that the prisons could provide employment opportunities for future residents of the dwellings which would be accessible by walking or cycling. Furthermore there may also be a short term gain for the local economy during the construction period. Consequently, the development would contribute to the local economy and fulfil the economic role.
12. As set out above, the immediate area has a primarily domestic character and therefore no harm would be caused to the character or appearance of the countryside as a result of the development. As such the development would protect the countryside and the environmental role would be met.
13. In terms of complying with specific policies in the Framework, Paragraph 55 advises that isolated homes in the countryside should be avoided. However due to the size of the settlement within which the site is located and the links to the village centre, I do not consider that the development would be isolated.
14. In summary, there would be no adverse impacts arising from the proposed dwelling, there would be benefits when considered against the Framework as a whole and there are no specific policies in the Framework which indicate that development should be restricted. For all the above reasons, I find that the proposed dwelling would constitute sustainable development as defined in the Framework. The development would also accord with Policy H2 of the SBLP which supports sustainable forms of development, and Policy E6 of the SBLP which requires development to protect the character of the countryside.

**Conditions**

15. I have considered the conditions put forward by the Council against the requirements of the national Planning Practise Guidance and the Framework. Where necessary and in the interests of clarity and precision, I have altered the conditions to better reflect this guidance.
16. In addition to the standard timescale condition, I have attached conditions for the avoidance of doubt, to protect the character and appearance of the area, in the interests of sustainable development, in the interests of highway safety and in the interests of the residential amenity of neighbouring residents. Some conditions require compliance prior to the commencement of development so that the effects of the development are properly mitigated for.

**Conclusions**

17. For the reasons given above, and taking account of all other considerations, I conclude that the appeal should be allowed and planning permission granted subject to the conditions in the attached Schedule.



**APPENDIX A**Appeal Decision APP/V2255/W/15/3135783

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**Schedule of Conditions**

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 14.48.01B, 14.48.02B and 14.48.03A.
- 3) No development shall take place until samples of the materials to be used in the construction of the external surfaces of the building hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 4) No development shall take place until details have been submitted to and approved in writing by the local planning authority which set out what measures have been taken to ensure that the development incorporates sustainable construction techniques such as water conservation and recycling and energy efficiency. Such measures shall be carried out as approved.
- 5) 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 and these works shall be carried out as approved before the occupation of the development. These details shall include existing trees, shrubs and other landscape features; schedules of plants noting species (which shall be native species), plant sizes and proposed numbers/densities where appropriate, means of enclosure, hard surfacing materials and an implementation programme.
- 6) If within a period of five years from the date of the planting of any tree or shrub that tree or shrub, or any tree or shrub planted in replacement, is removed, uprooted, destroyed, dies, or becomes, in the opinion of the local planning authority, seriously damaged or defective, another tree or shrub of the same species and size as that originally planted shall be planted in the same place, unless the local planning authority gives its written approval to any variation.
- 7) No dwelling shall be occupied until the garages and vehicle parking and manoeuvring areas have been provided within the site in accordance with drawing No 14.48.01B.
- 8) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification), the garages, vehicle parking and manoeuvring areas shall be kept available for vehicle parking and manoeuvring at all times.
- 9) Construction works shall not take place outside 0730 hours to 1900 hours Mondays to Fridays and 0730 hours to 1300 hours on Saturdays nor at any time on Sundays or Bank Holidays, unless with the prior written approval of the Local Planning Authority.
- 10) No development shall take place until a programme for the suppression of dust during the construction of the development has been submitted to and approved in writing by the local planning authority. The approved Statement shall be adhered to throughout the construction period unless any variation has been approved by the local planning authority.

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<b>2.8 REFERENCE NO - 16/508492/REM</b>			
<b>APPLICATION PROPOSAL</b>			
Application for approval of reserved matters pursuant to planning permission SW/08/1127 for provision of public open space adjacent to Sheppey Way, and landscaping details.			
<b>ADDRESS</b> Coleshall Farm, Ferry Road, Iwade, ME9 8QY.			
<b>RECOMMENDATION</b> Grant			
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b>			
The application seeks approval of reserved matters for the provision of public open space on the Coleshall Farm residential development. Local objections are noted but, further to receipt of an amended drawing, it is not considered that there would be any serious amenity concerns arising from the proposals, and officers believe this to be a good scheme with substantial benefits for the village as a whole.			
<b>REASON FOR REFERRAL TO COMMITTEE</b>			
Parish Council objection.			
<b>WARD</b> Bobbing, Iwade And Lower Halstow	<b>PARISH/TOWN COUNCIL</b> Iwade	<b>APPLICANT</b> Persimmon Homes South East	
<b>DECISION DUE DATE</b> 14/04/17	<b>PUBLICITY EXPIRY DATE</b> 17/02/17		
<b>RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):</b>			
<b>App No</b>	<b>Proposal</b>	<b>Decision</b>	<b>Date</b>
15/508514/FULL	Demolition of existing building and erection of 6 No. 4-bed detached houses and 2 No. 3-bed semi-detached houses with garaging, access and landscaping.	Approved	06.01.17
Full permission for a small extension to the wider estate on land occupied by former agricultural buildings, adjacent to the stream.			
15/505910/REM	Approval of Reserved Matters including details of access, appearance, landscaping, layout and scale for the erection of 86 dwellings pursuant to outline application SW/08/1127	Approved	05.11.15
Reserved matters approval for the erection of 86 dwellings on land to the north of the spine road, further to grant of the original outline permission as below.			
14/504557/REM	Reserved Matters permission including details of access, appearance, landscaping, layout and scale for the erection of 43 dwellings pursuant to outline application SW/08/1127	Approved	16.03.15
Reserved matters approval for the erection of 43 dwellings on land immediately to the north of the current application site, further to grant of the original outline permission as below.			
SW/11/1537	Approval of all reserved matters, pursuant to outline permission SW/08/1127, for erection of	Approved	08.03.12

	187 dwellings on part of the site.		
Reserved matters consent for erection of the largest area of the Coleshall Farm estate, including the new sports pitches and play area adjacent to School Lane.			
SW/08/1127	Outline planning permission for development of housing, employment up to 3000sqm, public open space and pavilion (up to 110sqm), with access from School Lane and Sheppey Way, including roads, cycle paths, footpaths, stream crossings, landscaping and ancillary works.	Approved	06.06.11
This application granted outline permission for development of the wider Coleshall Farm site, including the parcel of land subject to the current application. The decision notice is appended to this report. Para. 2.1 of the S106 requires provision of the Public Open Space prior to occupation of the 280 <sup>th</sup> dwelling on site, which is approaching.			

**MAIN REPORT**

**1.0 DESCRIPTION OF SITE**

- 1.01 Application site is a vacant parcel of land at the northeastern corner of the wider Coleshall Farm residential development, immediately west of Sheppey Way, and south of the Iwade medical centre and 5 to 13 Monins Road.
- 1.02 The land has, until now, been used as a storage and utility area in association with the neighbouring construction works. As such it contains various stockpiles of materials, equipment, a number of soil bunds, and various other associated temporary trappings. It extends to approximately 1.2ha, and measures approximately 128m x 98m.
- 1.03 The land is allocated under SW/08/1127, and also reserved by the associated S106 agreement, as public open space to serve the new residential development.

**2.0 PROPOSAL**

- 2.01 This application seeks approval of reserved matters, pursuant to the original outline permission (SW/08/1127), for provision of public open space.
- 2.02 The site will remain largely open in the centre with tree planting (total 37, with a mix of Lime, flowering Cherry, Alder, and Hornbeam), and areas of longer grass and bulb planting around the perimeter. A post and rail fence will be erected along the Sheppey Way boundary (and an area of existing planting adjacent to the medical centre will be retained), a low knee-rail style fence erected along the internal estate boundaries, and a new native species defensive hedge is to be planted along the rear boundaries of the dwellings on Monins Road. Two formal pedestrian access points and one vehicle access point (with secure removable bollards to prevent unauthorised access) are shown from the spine road.
- 2.03 Members should note the intention here is to provide open informal recreation space rather than formal recreation areas / sports pitches, as have been provided at the School Lane end of the site.



### 3.0 SUMMARY INFORMATION

	Existing
Site area	1.2ha
Site area for recreation ground (at School Lane end)	1.4ha (inc 400sqm LEAP)

### 4.0 PLANNING CONSTRAINTS

- 4.01 The site is within an area of Potential Archaeological Importance, but as very limited ground works are required this is not a significant concern.

### 5.0 POLICY AND OTHER CONSIDERATIONS

- 5.01 A particular consideration is that this open space is required under the terms of the outline planning permission for the wider estate, ref. SW/08/1127. The S106 agreement accompanying that permission requires this area to be provided before occupation of the 280<sup>th</sup> dwelling.
- 5.02 In terms of the development plan, the National Planning Policy Framework (NPPF) and National Planning Practice Guidance (NPPG) both encourage creating healthy, inclusive communities with opportunities for recreation and interaction. Para. 70 of the NPPF encourages Councils to *“plan positively for the provision and use of shared space, community facilities...and other local services to enhance the sustainability of communities and residential environments.”* Para. 73 continues to note that access to open spaces and recreation opportunities *“can make an important contribution to the health and well-being of communities.”*
- 5.03 The adopted Swale Borough Local Plan 2008, at policy C3, requires provision of both informal open space (*“casual kick-about areas”*) and formal sports pitches. This is supported and echoed by policy DM17 of the emerging Local Plan, Bearing Fruits 2031.
- 5.04 Policy E1 of the 2008 Plan and DM14 of the emerging Plan aim to ensure that all developments are of an appropriate scale, design, and appearance, and do not give rise to any serious amenity concerns.

### 6.0 LOCAL REPRESENTATIONS

- 6.01 Two letters of objection received from local residents, raising the following summarised concerns:
- A close-boarded fence should be provided along the northern site boundary with the dwellings on Monins Road in the interest of security;
  - No vehicle parking provision will add to local parking congestion;
  - Limited pedestrian access;
  - Measures to prevent vehicle access *“seem weak;”*
  - Planting scheme *“seems to offer very little to encourage the nurture of wildlife”;*
  - The landscaping drawing referred to in the submission has not been provided; and
  - *“The application makes no reference to the site's ultimate ownership, permitted usage or enforcement. Please can this be clarified.”*

## 7.0 CONSULTATIONS

### 7.01 Iwade Parish Council objects:

*“The Parish Council is disappointed that no consideration has been given to the privacy and security of the six properties (the existing 1.2m post and wire fencing does not provide this) on Monins Road that adjoin the site's northern boundary (including Iwade Health Centre). A 1.8m close-boarded fence exists between the site and the only property constructed by the developer that adjoins it. It is reasonable to assume that this was deemed appropriate by the developer for the privacy and security of this property at 2 Grass Emerald Crescent; the Parish Council believes the same courtesy should be extended to the Monins Road properties that adjoin the site.*

*Concern over vehicle parking for those visiting this 'public open space'. With the ease of access directly to this site across its already damaged existing 1.2m post and wire fence, Iwade Heath Centre's car park will be an obvious choice for visitors parking cars. This car park is already insufficient for the Heath Centre's parking needs, resulting in overflow parking on Monins and adjacent roads, that regularly causes blocked vehicular access as a result. We therefore believe it essential that the boundary between the site and Iwade Health Centre be secured to discourage direct access, the use of this car park and adjacent residential roads for parking by visitors to the site.*

*Pedestrian access to the site is very limited. Visitors walking to this 'public open space' from the direction of Iwade village centre must currently walk to the first available pedestrian access on Peach Blossom Drive. As such, it is highly likely that they will try to gain access either via the site's currently unsecured boundary with Iwade Heath Centre or by climbing the 1.2m high timber post and rail fence proposed along the site's boundary with Sheppey Way. To prevent this consideration needs to be given to a pedestrian access point located to the south of the retained existing hedgerow, to coincide with the vehicle calming chicane on Sheppey Way.*

*Measures to prevent unauthorised vehicle access to the site seem weak. The proposed fencing is easily demountable, particularly the 0.6m timber knee-rail fencing proposed along the site's boundary with Peach Blossom Drive and Grass Emerald Crescent.*

*The proposed planting scheme seems to offer very little to encourage the nurture of wildlife on the site; wild flower, mixed shrub and small tree planting along the site's northern boundary would encourage wildlife and would act as a buffer to provide some additional security and privacy to the adjoining properties.”*

7.02 The Council's Greenspaces manager initially raised some issues for further investigation, including provision of sturdy boundary treatments; provision of a vehicle access; strengthening the hedgerow planting along the northern boundary with residential properties; design of the pedestrian accesses; increased tree planting; provision of bulb or wildflower planting to introduce seasonal colour; and rubbish / dog waste bin provision. Further to receipt of the amended layout he has no objections, but has requested a minor alteration to the extent of the long grass areas to facilitate mowing. This is discussed further below.

7.03 I await comments from KCC Highways and Transportation, and will update Members at the meeting.

## **8.0 BACKGROUND PAPERS AND PLANS**

8.01 The historic applications noted above are particularly relevant.

## **9.0 APPRAISAL**

9.01 As noted at 5.01 above the provision of this open space is a particular requirement of the original outline permission. It will also bring considerable benefits to the village in terms of enhanced recreation opportunities and landscape improvement, and I therefore consider it acceptable in principle.

9.02 Members should note that an amended drawing has been received further to officer's and the Greenspaces Manager's comments. This, in my opinion, shows a vastly improved scheme over the original drawing (which showed a largely open grass area with regimented trees along the perimeter) and is as described at section 2 above.

9.03 The amended scheme shows areas of longer grass, bulb planting, and mixed native species trees in a loose arrangement around the site perimeter. This will, in my opinion, result (after a bedding in period) in a very attractive park of similar layout and appearance to the Faversham recreation ground – Members may know of that park, and be aware of the bulb planting and longer grass along the site frontage, and mature native trees along the edges, which together provide a variety of different habitats for wildlife and character areas for the public. Lime, flowering Cherry, Alder, and Hornbeam trees are proposed, which are all native species and grow to be large, impressive trees. These will provide colour, shade, and varied wildlife habitats, and I have informally discussed the planting scheme with the Council's Tree Consultant, who did not raise any concerns.

9.04 I note concerns in regards to site security for the dwellings along Monins Road, but do not consider a close-boarded fence to be the best solution. Such a fence would be incongruous, in my opinion, and open to vandalism and disrepair. Officers have negotiated with the developer to provide a double thickness native species hedge in this area instead, including thick, thorny and flowering species (such as Dog Rose, Blackthorn / Sloe, Holly, and Dogwood) that should present an effective barrier to everything but wildlife. Residents may choose to erect a fence behind this, on their own land. I would also note that security is likely be no worse than at present while the area is part of a building site and largely unsecured.

9.05 I also note but do not share concerns in respect of vehicle parking. This is an area of informal open space that will most likely attract local people, dog walkers, and children, and not formal sports provision that would attract a large number of people (like football pitches on a Saturday morning, for example). Visitors are therefore unlikely to commute here by car. I would again refer Members to the Faversham recreation ground, and also the Albany recreation ground in Sittingbourne, which only attract a need for parking when formal sports matches are scheduled. In this particular instance though the formal sports pitches are at the other side of the estate, adjacent to School Lane, with dedicated parking and access.

9.06 I also disagree with concerns that pedestrian access is limited. There is a pedestrian footpath on both sides of the spine road through the estate, and a pedestrian footpath along Sheppey Way that links the site to the rest of the village.

9.07 Overall, and further to receipt of the amended drawing, I consider this to be a good scheme that will provide a very attractive, usable outdoor space for all residents of Iwade. Once matured the proposed trees, hedgerow, and bulb planting will bring colour, visual interest, and wildlife to the area; will considerably soften the visual impact of the new housing estate in views from Sheppey Way; and will provide a safe play space for local children. All residents, and especially those with dwellings facing onto the open space, stand to benefit from this scheme.

## 10.0 CONCLUSION

10.01 The application seeks approval of reserved matters for the provision of public open space on the Coleshall Farm residential development. I note local objections but, further to receipt of the amended drawing, I do not consider that there would be any serious amenity concerns arising from the proposals, and consider this to be a good scheme with substantial benefits for Iwade as a whole.

10.02 Taking all of the above into account I recommend that planning permission should be granted.

## 11.0 RECOMMENDATION – GRANT Subject to the following conditions:

1. The development shall be carried out in accordance with drawing 412\_DR\_001.

Reason: For the avoidance of doubt.

2. All planting as shown on drawing no 412\_DR\_001 shall be carried out within the next available planting season following the approval of this application. Any trees or shrubs 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.

Reason: To ensure planting settles in properly, and in the interest of amenity.

3. All new trees to be planted shall be protected by suitable fencing in accordance with details to be submitted and agreed by the Local Planning Authority prior to planting.

Reason: To ensure planting settles in properly, and in the interest of 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/agent was advised of minor changes required to the application and these were agreed, and 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.

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<b>2.9 REFERENCE NO - 16/506166/FULL</b>			
<b>APPLICATION PROPOSAL</b> Retrospective demolition of former Working Men's Club. Erection of 9 no. dwelling houses and 1 no. maisonette together with car ports for garaging.			
<b>ADDRESS</b> Newington Working Mens Club, High Street, Newington, Kent, ME9 7JL.			
<b>RECOMMENDATION</b> GRANT, subject to receipt of further comments from Kent Highways & Transportation; and the completion of a S106 agreement to secure SPA mitigation and wheelie bin contributions.			
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b> Proposal provides ten new dwellings in a sustainable, previously developed, urban location and would not give rise to any serious amenity concerns. Residential development of site has also previously been approved at appeal.			
<b>REASON FOR REFERRAL TO COMMITTEE</b> Parish Council objection, and application requires a S106 agreement to secure financial contributions towards SAMMS and wheelie bin provision.			
<b>WARD</b> Hartlip, Newington And Upchurch	<b>PARISH/TOWN</b> Newington	<b>COUNCIL</b>	<b>APPLICANT</b> Mr Paul Giles <b>AGENT</b> Mr Darren Stoneman
<b>DECISION DUE DATE</b> 06/01/17	<b>PUBLICITY EXPIRY DATE</b> 18/11/16		
<b>RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):</b>			
<b>App No</b>	<b>Proposal</b>	<b>Decision</b>	<b>Date</b>
SW/11/0906	Application to renew permission granted at appeal under SW/06/0115 (see below).	Approved.	16.08.2012
The application recognised the position established by the previous Inspector (see below) and recommended approval subject to the Inspector's conditions, and an additional condition to require rooms fronting on to the High Street to be mechanically ventilated from the rear.			
SW/10/0393	Amendment to planning application SW/06/0115, consisting of an amendment to the mews block to provide two additional flats giving a total of six flats in the mews block and 8 dwellings in the front block.	Refused, and dismissed at appeal.	09.08.2010
The application was refused primarily on the basis that the additional units would significantly intensify vehicle parking within the courtyard, to the detriment of the development as a whole and particularly harmful to the amenity of the flats (and bedroom windows) facing out onto the courtyard.			
SW/06/0115	Demolition of existing building and residential redevelopment to provide 1 x one bed and 11 x two bed apartments together with all associated parking and garages.	Refused.	24.07.2007
The application was refused primarily on the grounds that it would result in a worsening of air quality for the occupants at 45 to 51 High Street, in particular the EU 2010 limit for NO <sub>2</sub> .			

However the subsequent appeal decision dated 16 October 2008 was allowed by the Inspector who commented that *“the benefits associated with the proposal, most particularly the re-use of previously developed land, addition to housing stock, and adoption of a built form that would contribute to enhance of the Conservation Area...outweigh the element of conflict with Policy E2 and of likely harm related to predicted rises in NO<sub>2</sub> concentration at localised positions on the High Street.”*

## MAIN REPORT

### 1.0 DESCRIPTION OF SITE

- 1.01 Application site is the former Newington Working Men’s Club situated on the A2 within the centre of Newington. The site is roughly rectangular with a small area at the back wrapping around to the rear of neighbouring properties and formerly housed a detached single storey building but this was demolished last year (this is discussed further below) and the land cleared. The site now comprises an empty parcel of bare land with construction fencing fronting the highway and various garden fences and other boundary treatments on the other sides.
- 1.02 The area features a mixture of residential and commercial properties, with residential units to the east, south, and north; a flat above the post office to the west; and local shops and services beyond the post office to the west. Land levels generally rise up to the south here, so that the dwellings to the rear are roughly 2m higher than the application site.
- 1.03 The site lies within the Newington High Street conservation area and there are a number of listed buildings within the immediate vicinity, including no.56 immediately to the east and 45-49a inclusive to the north, across the A2.

### 2.0 PROPOSAL

#### Background

- 2.01 I would firstly draw Members’ attention to the demolition of the former Working Men’s Club building, which took place in June last year. As the 2011 planning permission for the site had expired demolition of the structure would have required a Demolition Notification, which should have been submitted to the Council prior to works being carried out. This was not submitted, however, and the building was demolished very swiftly and before the Council could take action to prevent total demolition. A number of local residents submitted numerous and sustained complaints to the Council regarding demolition and the subsequent site clearance, particularly with regards to the potential for asbestos on site.
- 2.02 However the **only** action the Council could have taken was to have the structure re-built as-was, but as it was in very poor condition (officers had visited the site some months prior and noted this in particular), and planning permission had been granted for redevelopment of the site (*including* demolition of the existing structures), in 2006 and 2011. Officers therefore did not see any merit in this course of action. Other matters such as the clearance of asbestos, safety practices for workers on site, and the removal and disposal of material following demolition and site clearance fall to be considered under other legislation and as such lie within the remit of the Environment Agency and the Health & Safety Executive, who each pursued the elements within their respective control.



- 2.03 Whilst I fully understand that the unauthorised demolition and subsequent site clearance works have been an emotive issue for local residents, Members should be clear that those activities have no bearing on the consideration of this application, and it should be assessed solely on its own planning merits.

Proposed Scheme

- 2.04 The application seeks retrospective consent for demolition of the former club buildings, and full planning permission for the erection of 9no. houses and 1no. maisonette with associated parking and amenity space.
- 2.05 The development will be arranged with 6 units fronting on to the A2 – a terrace of 3 houses, the maisonette situated above the vehicle access, and then 2 more terraced houses, viewed from left (east) to right (west) – and a terrace of 4 houses to the rear. In between the two rows of dwellings will be the gardens for the frontage units and a shared parking court. The gardens for the rear units back on to the southern site boundary.
- 2.06 The houses in the frontage block will stand approximately 8.6m tall (roughly the same height as the existing neighbouring buildings) and the maisonette (situated centrally, above the vehicle access) will stand approximately 9m tall to top of parapet and 10m to top of the recessed roof ridge. The block as a whole will be roughly 27m wide and a maximum of 9.7m deep. External materials are shown as a mixture of facing brick and render, each of the houses would have a small front garden and low wall abutting the pavement edge, and rear gardens would be a minimum of 9.2m deep (maximum 13m).
- 2.07 The rear block sits approximately 27m from the rear of the frontage block. It will stand a maximum of 8.7m tall x 17.3m wide x a maximum of 11m deep (including single storey rear projection on 3 of the units). Rear gardens are in excess of 10m deep. The garden to the easternmost unit (unit 7) wraps around to the side so that it would be a maximum of 9.5m deep from the rear elevation, but 19m at the longest point including the side area. The garden for the westernmost unit (unit 10) wraps around to the rear of the existing neighbouring plot.
- 2.08 A parking court with 2 tandem spaces per dwelling is provided between the two blocks, accessed from the A2 via an underpass under the maisonette unit. Open-fronted parking barns are provided along the side boundaries, but a car port to the rear of no.46 was removed at officer’s request due to concerns about the amenity of those neighbours.
- 2.09 The density of development would be 66 dwellings per hectare.

**3.0 SUMMARY INFORMATION**

	<b>Proposed</b>
Site Area	0.15ha
Maximum Ridge Height	8.6m (houses) 10m (maisonette)
Approximate Eaves Height	5m
Approximate Depth	9.7m (frontage) 11m (rear block)
Parking Spaces	22 (inc. 2 visitors)
No. of Residential Units	10

No. of Affordable Units	0
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#### 4.0 PLANNING CONSTRAINTS

- 4.01 The site lies within an area of Potential Archaeological Importance, and the Newington High Street Conservation Area. There are also a number of listed buildings adjacent to the site.

#### 5.0 POLICY AND OTHER CONSIDERATIONS

- 5.01 Paragraph 46 of the NPPF requires Local Planning Authorities (LPA) to have an up-to-date five year housing supply. Swale currently, until publication of the Local plan Inspector's findings, can't demonstrate a five-year housing supply and thus policy H2 of the Local Plan is not considered to comply with the provisions of the NPPF in terms of restricting housing supply. However that does not have a huge bearing on the determination of the current application as the site lies within the built up area boundary; planning permission has previously been granted for residential development of the site; and the site lies within the built up area boundary where residential development is acceptable in principle.
- 5.02 NPPF paragraphs 109 and 110 encourage developments that would minimise pollution, including air pollution. Para. 111 encourages *"the effective use of land by re-using land that has been previously developed."*
- 5.03 National Planning Practice Guidance (NPPG) also provides general guidance in relation to development. It encourages the provision of housing within sustainable areas, subject to consideration of issues such as local and residential amenity, highways, contamination, noise, and ecology, amongst others.
- 5.04 Policies SP1 (sustainable development), SP4 (Housing), E1 (general development criteria), E9 (Landscape), E14 (listed buildings), E15 (conservation areas), E19 (design), H2 (new housing), T3 (vehicle parking), and T4 (cyclists and pedestrians) of the adopted Swale Borough Local Plan 2008 are all relevant in the consideration of the application.
- 5.05 In support of the above, policies ST1 (sustainable development), ST2 (housing targets), ST3 (settlement strategy), ST4 (meeting housing targets), CP2 (promoting sustainable transport), CP3 (delivering a choice of high quality homes), CP4 (good design), CP8 (historic environment), DM7 (parking), DM8 (affordable housing), DM14 (general criteria), DM19 (sustainable design and construction), DM21 (water use), DM32 (listed buildings), and DM33 (conservation areas) of the emerging Swale Borough Local Plan 'Bearing Fruits 2031' are also relevant, and can be given substantial weight further to the recently-closed Local Plan inquiry.

#### 6.0 LOCAL REPRESENTATIONS

- 6.01 14 letters of objection have been received from 7 separate addresses, raising the following summarised concerns:
- There is a right of way to the side of no.44 that runs through the application site, which development would block off and prevent vehicle access to the rear of the property [NB: I have received representations from the applicant's solicitors that there is no right of way. This is, ultimately, however, a private legal matter];
  - 10 units is over-intensive development [NB: 12 units approved at appeal];
  - Impact on highway safety and amenity;

- Lack of vehicle sight lines;
- Inadequate parking provision;
- No access for service vehicles;
- Previous club use has been abandoned and traffic movement considerations must take existing nil use of site into account;
- Overlooking, loss of light, and loss of privacy for neighbouring residents;
- Noise and disturbance from parking area;
- Scheme is contrary to policy;
- Poor design, unsympathetic and harmful to the area;
- Construction traffic may block A2;
- Noise, disturbance, and dust during construction;
- Loss of view;
- Noise, disturbance, and health and safety concerns during demolition, and potential for asbestos within the former buildings;
- Where was asbestos disposed of?
- Impact on air quality due to canyon effect;
- Creation of a 'wind tunnel' along the High Street, buildings should be set back further to prevent this;
- No air survey submitted;
- No contamination survey submitted;
- Potential loss of trees [NB: a mature tree was removed from the site frontage at the same time as the club building was demolished. This is discussed further below];
- Impact on property values;
- Vibration from vehicles on the A2 will be amplified;
- 'Right to light' for properties across the A2 [NB: this is a private legal matter, and in any case the separation between the two will be a minimum of 11m, which I consider acceptable];
- Wheelie bins obstructing pavement;
- Impact on local drainage;
- Should be examined cumulatively with Pond Farm and other local developments; and
- Developer has not discussed the proposals with local residents.

## 7.0 CONSULTATIONS

### 7.01 Newington Parish Council objects, commenting:

*“The proposed housing is not unattractive and demonstrates a wish to reflect the streetscape of the Newington Conservation area. However the development is over-intensive, with the volume of occupancy excessive for the space available. Parking facilities are insufficient both in number and in size of each space. Guidelines appear not to have been followed and evidence shows that even these guidelines do not meet real needs or actual use in similar sites where three vehicles, often one being a large van, are the norm per unit. In Newington there would be no parking available on the High Street and so would simply push the problem to the already congested village car park and Church Lane.*

*The Parish Council is puzzled that the plans submitted and approved in 2011 show clear access to the rear of the property immediately adjacent to west of the application site. Locally it is understood that, historically, this neighbouring landowner had vehicular access which has been impeded since the access to the car park was blocked. Current plans show the red outline boundary following the wall of the old post office on the location plan; the block plan suggests a footway of unspecified width. We suggest that these details should be clarified before the application can be fully considered.*

*Should this application not be rejected by the Case Officer we ask it go to the Planning Committee and that they should note that despite a 2008 decision by the Planning Inspectorate attaching strict conditions to any demolition and a unilateral undertaking signed by the applicant in 2012 agreeing to a month's written notice of intended demolition, that the demolition was undertaken without any regard to this in June 2016. Whilst outside the 4 year limit, the applicant was well aware of the distress caused to nearby residents. Regardless of this and the requirement for a condition survey (from Case Officer, 13 October 2016) the applicant resumed work on the site in November, protests about which involved the Borough Council, Health & Safety Executive and MP. The Parish Council believes this shows contempt for the planning process and the residents of Newington."*

- 7.02 The Environment Agency has no comments.
- 7.03 The County Flood Risk Officer has no objections subject to a condition requiring drainage details to be provided, as set out below.
- 7.04 Southern Water has no objection subject to a standard informative, as set out below.
- 7.05 The LMIDB have no comments.
- 7.06 Natural England note that the development has the potential to impact upon the SSSI, but raise no objection subject to securing the standard SAMMS mitigation payment of £223.58 per dwelling (through an appropriately worded S106 agreement). They also recommend securing biodiversity enhancements within the development, which are secured by condition set out below.
- 7.07 The Council's Environmental Health Manager notes that *"there are potential Air Quality issues at this location and the position of the new dwellings, as there is currently an AQMA in place here and building these properties would reinforce the 'canyon' effect of the narrow High Street further. I note that a previous application to build residential properties was refused for Air Quality reasons, though this was later overturned on appeal. An air quality assessment therefore should be carried out at this locality. It is also a noisy location with the busy A2 High Street immediately in front of these new properties and therefore a traffic noise assessment should be carried out to see whether mitigation measure are feasible to reduce excessive noise."* Ultimately, however, he raises no objections subject to the provision of such surveys by way of the conditions set out below.
- 7.08 Kent Highways & Transportation raised a number of items that required amending, including the sizing of the proposed parking spaces, the position of the underpass stairs, and the provision of cycle parking. As noted elsewhere their further comments in light of the amended plans are awaited.
- 7.09 UK Power Networks have no objection.
- 7.10 Southern Gas Networks set out requirements for safe development in proximity to pipelines, which I have included as an informative, below.
- 7.11 The County Archaeologist notes that, due to the location of the site, there is potential for archaeological remains within the area, and recommends the standard condition set out below to secure a programme of works.

- 7.12 Kent Police raise a number of concerns in respect of Secured By Design (SBD), including that the maisonette stairs in the underpass should be enclosed, and that a raised footpath should be provided through the underpass. Amended drawings have been received to show the stairs enclosed, but there is not sufficient room to provide a footpath *and* requisite vehicle passing space.
- 7.13 Kent County Council do not request any financial contributions towards local services as the number of units is not more than 10 and the floor space of the development is below 1000sqm, thus the scheme does not exceed revised Government guidance thresholds for seeking such monies. (Members should also be aware that this guidance expressly precludes us from requesting financial contributions towards standard items such as open space maintenance / play equipment, healthcare, etc. but does not preclude standing charges such as the SAMMS payments and wheelie bin charge.)

## 8.0 BACKGROUND PAPERS AND PLANS

- 8.01 The application is accompanied by a full suite of drawings and an ecological survey. A basic contamination survey was submitted during the course of the application, following demolition of the old club building.
- 8.02 The above-noted historic applications are also relevant, particularly SW/06/0116 and SW/11/0906. Of particular note, further to these applications, is the appeal decision in relation to the refusal of SW/06/0116 – a full copy is appended to this report but I consider it relevant to refer to particular extracts here, given the above objections:

- “4. The Conservation Area is characterised by development along High street that is close to the back of pavement. The existing buildings on the appeal site that served as the working men’s club are of no intrinsic interest and are set well back within the site. As a result they make no positive contribution to the character of the Conservation Area and the proposal to demolish them does not in itself raise any Conservation Area related issues...*
- 5. The proposed residential development was refused on the basis that it would result in a localised worsening of air quality...*
- 6. The development proposal in itself is not a significant direct contributor to potential air pollution in the vicinity of the appeal site. The concern raised is that with a new building filling the present gap...existing pollution...will be less able to dissipate.*
- 7. The complication in this case is that re-establishment of a street frontage, while creating a canyon effect in relation to movement of air, is regarded by the Council’s conservation advisers as an essential feature of a scheme for development on this site in a manner that achieves enhancement of the Conservation Area. ...I share the view of the Council’s conservation advisers that re-establishing a street frontage is an important design objective for development of this site.*
- 9. The study of impact on air quality that has been carried out predicts localised increases in N02, notably across the road at 45-51 High Street. This is a material consideration in this appeal but as advised in paragraph 26 of PPS23 [now superseded by the NPPF] “the overall aim of planning and pollution control is to ensure the sustainable and beneficial use of land”.*

11. *In this case, I consider that the benefits associated with the proposal, most particularly the re-use of previously developed land, addition to housing stock and adoption of a built form that would contribute to enhancement of the Conservation Area...outweigh the element of conflict with Policy E2 and of likely harm related to predicted rises in N02 concentrations at localised positions on the High Street.*

13. *The owner of the High Street property, used as a post office, immediately to the west of the site has raised certain matters. These include some, concerning rear access, that turn on claimed property rights that are disputed by the appellant. I consider that the proposed layout is satisfactory in relation to the matters raised involving planning considerations, including a satisfactory relationship in terms of neighbour's privacy and amenity."*

## 9.0 APPRAISAL

### Principle of Development

- 9.01 I would again reiterate that the various issues surrounding demolition of the former buildings and accompanying health and safety concerns are not relevant to the determination of the proposal at hand, and refusal on such grounds would be wholly unreasonable and leave the Council entirely open to an award of costs against it at appeal, in my opinion.
- 9.02 The application site lies within the built up area boundary, where residential development is acceptable in principle under the local policies and national guidance noted above. The grant of permission at appeal under SW/06/0116 and the subsequent renewal of that consent in 2011 also firmly establish the principle of development here.
- 9.03 Furthermore the development would contribute a modest but not insignificant number of dwellings towards the Council's five year supply target, and on previously developed land within a sustainable urban location close to local shops, services and public transport links. In these regards I have no serious concerns surrounding the principle of residential development here.

### Visual Impact / Implications for Character and Appearance of Conservation Area

- 9.04 I consider the proposed development to be of an acceptable scale and design. I have discussed the scheme with the Council's Conservation and Design officer, who notes that while *"the proposal is substantial in its built form, arrangement, and general architectural detailing it does compliment the evolved character and appearance of the village centre."* The proposed frontage block (subject to conditions in respect of materials, construction and joinery details, as below) would sit comfortably within the context of the area and would not seriously detract from the character of the conservation area or harm the setting of the neighbouring listed buildings, in my opinion. The proposed design would be traditional, and I note the previous Inspector's comment that *"re-establishing a street frontage is an important design objective for development of this site."*
- 9.05 The rear block and car ports are, to my mind, similarly acceptable, but have a much lesser impact upon the character of the area due to their position than the scheme previously allowed on appeal..

- 9.06 Members may care to note that the overall footprint of development is substantially less than that approved under the 2006 appeal (as above), which included a large L-shaped rear block wrapping along the rear and western side boundaries. The reduction in footprint will have a consequently reduced visual impact, and also a lesser impact upon the residential amenities of neighbouring properties (discussed below).

#### Residential Amenity

- 9.07 I consider that each of the proposed new dwellings would provide a good standard of amenity for future occupants – they all have good internal dimensions, and garden sizes are good overall (as set out at paras.2.05 to 2.07 above).
- 9.08 I do not consider that the development would give rise to any serious amenity issues for neighbouring residents. The frontage block would be located almost in line with the existing buildings fronting the A2 and therefore would not seriously overshadow front or rear windows or amenity spaces. There would remain a meaningful gap between proposed buildings and existing flank windows on neighbouring properties and I do not consider that there would be any serious loss of light such as to justify refusal of planning permission.
- 9.09 The rear block is positioned a minimum 15.5m from 17 Brookes Place, which is the closest dwelling to the rear and sits side-on to the application site. The Council's minimum flank-to-rear distance is 11m. However, 17 Brookes Place features a large window in the side elevation of a rear extension which would be a minimum of 18m from the rear elevation of the rear block. The Council normally applies a 21m rear-to-rear distance which would be appropriate in this instance due to potential overlooking. I am not seriously concerned, however, as this appears to be a secondary window to the room, with a further large window on the rear elevation of the extension that would provide light and an outlook if a blind were installed to minimise potential for overlooking. Furthermore there is a change in levels of around 2m between the application site and no.17's garden which would help to mitigate overlooking from the rear windows of the proposed new block. I therefore consider that the development would not be likely to give rise to serious overlooking or loss of amenity for the residents of no.17.
- 9.10 I have also had regard to the previous approvals for development of the site, which would have had a similar impact and were agreed by the planning Inspector, giving weight to my considerations above.

#### Highways

- 9.11 I appreciate local concern in regards to parking provision, but would note that the plans were amended shortly after receipt of the Parish Council comments, and now show parking spaces of appropriate size provided at a rate of 2 per dwelling in accordance with the adopted Kent Vehicle Parking Standards plus 2 additional parking spaces. I await further comment from Kent Highways & Transportation and will update Members at the meeting, but do not have any serious concerns in this regard.
- 9.12 I also requested that the amended drawings remove the car port that was shown to the rear of no.46, which I considered would have been harmful to the amenity of the occupants thereof. This has been done and I am no longer concerned in this respect.

#### Landscaping

- 9.13 The site layout, whilst acceptable in my opinion, leaves little room for landscaping outside of the rear garden areas but I do not necessarily consider this to be an issue given the prevailing character of the area comprises properties fronting hard against the pavement edge, with little or no frontage landscaping at all within this section of the High Street. Small front gardens are provided for each property – it is unlikely that these areas will make a significant contribution towards greening the site, but their presence will be noticeable given the lack of front gardens elsewhere in the immediate area. However, the rear garden areas are all of a good size and planting therein will make a contribution towards biodiversity enhancement and soft landscaping. I have recommended the standard landscaping condition below, which will help officers to secure an appropriate level of planting within the garden areas.
- 9.14 The above notwithstanding, however, I note that a mature Rowan tree was removed from the site frontage during demolition and clearance works. This is regrettable, but was also a part of the previous scheme for redevelopment of the site and I therefore do not give significant weight to its loss overall.

#### Air Quality

- 9.15 The site lies within an AQMA and air quality is a particular issue for local residents and the Council. I fully appreciate their concerns, but note the balancing of issues carried out by the inspector in considering the appeal against SW/06/0116 (and referred to at 8.02 above) which was refused solely on grounds of air quality:

*“In this case, I consider that the benefits associated with the proposal, most particularly the re-use of previously developed land, addition to housing stock and adoption of a built form that would contribute to enhancement of the Conservation Area... outweigh the element of conflict with Policy E2 and of likely harm related to predicted rises in NO2 concentrations at localised positions on the High Street.”*

- 9.16 The Inspector considered that the issue of air quality could effectively be dealt with by condition, which I have set out below in an updated form recommended by the Council’s EHO manager. In this regard, whilst I note local concern I do not consider that the Council could effectively refuse the scheme on the grounds of air quality, nor could officers defend an appeal on such grounds having had such a clear judgement issued on the matter previously.
- 9.17 I do not consider that 10 units would contribute significantly to air quality levels within the AQMA. Members will recall the proposals for 124 dwellings on land at 99 High Street, Newington (ref. 16/501266/FULL), which was reported last month, and for which the submitted air quality report identified negligible impact upon the AQMA. The Council’s Environmental Health Manager agreed with the findings of that report. The development the Working Men’s Club site is 10x smaller than the 99 High street proposals. Furthermore, the Council’s Environmental Health Manager has confirmed that the local nitrous oxide levels monitored by a continuous analyser stationed to the front of the Co-op, a short distance from the application site, have *never* exceeded the maximum allowed level.
- 9.18 I therefore do not consider that there are any reasonable grounds on which to justify a refusal based on air quality.

#### Affordable Housing



- 9.19 The emerging Local Plan requires affordable housing provision at a rate of 40% on developments of 10 units or more within this area. However, para.31 of the NPPG states (my emphasis in bold):

*“There are specific circumstances where contributions for affordable housing and tariff style planning obligations (section 106 planning obligations) should not be sought from small scale and self-built development. This follows the order of the Court of Appeal dated 13 May 2016, which give legal effect to the policy set out in the written ministerial statement of 28 November 2014 and should be taken into account.*

*These circumstances are that;*

- *contributions should not be sought from developments of 10-units or less, and which have a maximum combined gross floorspace of no more than 1,000 square metres (gross internal area)”*

- 9.20 The Written Ministerial Statement (WMS) of 28 November 2014 on Small Scale Developments by Brandon Lewis, Minister for Housing and Planning also states that :

*“Due to the disproportionate burden of developer contributions on small-scale developers, for sites of 10-units or less, and which have a maximum combined gross floor space of 1,000 square metres, affordable housing and tariff style contributions should not be sought.*

*...*

*By lowering the construction cost of small-scale new build housing and home improvements, these reforms will help increase housing supply. In particular, they will encourage development on smaller brownfield sites and help to diversify the house building sector by providing a much-needed boost to small and medium-sized developers, which have been disproportionately affected by the Labour Government’s 2008 housing crash.”*

- 9.21 The Local Plan (“10 units or more”) therefore conflicts with the WMS (“10 units or less”) on whether or not affordable housing should be provided on this site. Weight must be afforded to *both* policy documents, but in this instance I see no particular reason as to why greater weight should be afforded to the Local Plan – with *particular* regard to the fact that the wording of the emerging Local Plan policy DM8 has very recently been amended to “11 dwellings or more” in light of comments from the Maidstone Borough Council’s Local plan Inspector. I therefore consider that the WMS should, in this instance, take priority over the Local Plan, and that no affordable housing contributions should be sought.

- 9.22 I also consider that refusal of permission on the grounds of affordable housing provision (or other traditional S106 contributions) would leave the Council open to an indefensible appeal.

#### Other Matters

- 9.23 I note objections in regards to right of access to rear of no.46, and have received representations from both that neighbour’s solicitor and the applicant’s solicitor alleging favour for their respective clients. Of particular note is a letter dated 21 May 2008 in which the applicant’s solicitor states that *“there is no right of way referred to either in the Conveyance or in the Deed of Exchange and, additionally, that in the Deed of Exchange your client [no.46] covenants to construct a six ft high wall around the land acquired.”* My understanding of the situation, therefore, is that there is no formal right

of access across the application site, and the neighbouring resident at no.46 enjoyed access by informal agreement from the previous landowner (when there was a car park adjacent to his property and thus means of vehicle access). In any instance, however, this amounts to a private legal matter that does not have a bearing on the determination of this application.

- 9.24 I note local concerns in regards the potential for asbestos from demolition of the former club buildings. However, having visited the site post-demolition I note that the land has been cleared to an approximate depth of 500mm, removing all topsoil and all demolition spoil (other than a small area of bricks that have been used to infill a hole). Any asbestos that may or may not have been present within the buildings has thus been removed from the site, and its disposal is a matter for the EA and HSE to consider under separate legislation.
- 9.25 As noted above KCC do not request any financial contributions as the scheme does not exceed the minimum floor space for developer contributions as set out by recent Government legislation. Contributions are required, however, towards maintenance and mitigation of the SPA (in accordance with the Council's standing agreements with Natural England and amounting to £223.58 per dwelling) and for the provision of wheelie bins (amounting to £920). I therefore request that Members give me delegation to enter into a S106 agreement to secure such funds, which amount to a total of £3155.80.

## 10.0 CONCLUSION

- 10.01 There has been a significant level of local interest in this site, and objections to this application. However, I consider that many of the issues raised have been influenced by the way in which demolition of the old club building and subsequent site clearance works were carried out, and these should not have a bearing on Member's deliberations on this application.
- 10.02 It is clear from the previous Inspector's decision that residential development of this site, at this scale and density, and in this form, is acceptable. In evaluating the current proposals I do not disagree with the Inspector's findings, and consider this scheme to represent acceptable development, in a sustainable location, of a good design, and with minimum impact on adjoining residential amenities.
- 10.03 Taking the above into account I recommend that planning permission should be granted.

**11.0 RECOMMENDATION – GRANT** Subject to receipt of further comments from Kent Highways & Transportation; the completion of a S106 agreement to secure SPA mitigation and wheelie bin contributions; and 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) No development shall take place until an Air Quality Assessment, undertaken by a competent person in accordance with current guidelines and best practice, has been submitted to and agreed in writing by the Local Planning Authority. Any mitigation measures proposed by such an assessment shall be implemented in full unless otherwise agreed in writing by the Local Planning Authority.

Reason: To minimise the impact upon local air quality.

- (3) No development shall take place until a survey has been carried out to establish traffic noise levels affecting the site and predictions shall be made of any future traffic noise level increase over the next 15 years. The survey shall be carried out in accordance with a written protocol, details of which shall be submitted to and approved by the Local Planning Authority before the survey is carried out.

A report giving:

- (a) the results of the survey,
- (b) the predictions of noise levels,
- (c) details of the design measures that will be used to mitigate against traffic noise, and
- (d) details of the building specifications of the dwellings which will be used to achieve a maximum internal noise level within any of the dwellings of 35dB(A) with windows closed

shall be submitted to and approved by the Local Planning Authority prior to the commencement of the development. The approved measures shall be implemented in full prior to the first occupation of any of the buildings hereby permitted.

Reason: To minimise impacts to future residents from road noise.

- (4) 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.

Reason: To ensure that features of archaeological interest are properly examined and recorded.

- (5) All windows on the front façade of the block fronting onto the High Street shall be non-openable only. Before the development is occupied a scheme of mechanical ventilation to be fitted in each dwelling to draw air from the rear façade to the front rooms shall be submitted to and approved in writing by the Local Planning Authority. The scheme to be approved shall also include details of long-term maintenance.

Reason: In the interests of residential amenity.

- (6) (i) No development shall take place until a detailed sustainable surface water drainage scheme for the site has been submitted to (and approved in writing by) the local planning authority. The detailed drainage scheme shall demonstrate that the surface water generated by this development (for all rainfall durations and intensities up to and including the climate change adjusted critical 100yr storm) can be accommodated and disposed of without increase to flood risk on or off-site. The drainage scheme shall also demonstrate that silt and pollutants resulting from the site use can be adequately managed to ensure there is no pollution risk to receiving waters.

(ii) No building hereby permitted shall be occupied until details of the implementation, maintenance and management of the sustainable drainage scheme have been submitted to and approved in writing by the local planning authority. The scheme shall be implemented and thereafter managed and maintained in accordance with the approved details. Those details shall include:

- i) a timetable for its implementation, and
- ii) a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the sustainable drainage system throughout its lifetime.

(iii) No infiltration of surface water drainage into the ground is 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 controlled waters. The development shall be carried out in accordance with the approval details.

Reason: To ensure that the principles of sustainable drainage are incorporated into this proposal, to ensure ongoing efficacy of the drainage provisions, to protect vulnerable groundwater resources and ensure compliance with the National Planning Policy Framework.

- (7) No development shall take place until details of facing materials, facing bricks and roofing tiles to be used on the development hereby permitted, including details of mortar mix and jointing details, have been submitted to and approved in writing by the Local Planning Authority, and the development shall thereafter be implemented in accordance with these approved details.

Reason: In order to secure an appropriate design and preserve or enhance the character and appearance of the conservation area

- (8) The brickwork on the development hereby permitted shall be laid in Flemish bond unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interest of preserving or enhancing the character and appearance of the conservation area.

- (9) No development shall take place until detailed drawings, at a scale of 1:5, of all new external joinery work and fittings together with sections through glazing bars, frames and mouldings, have been submitted to and approved in writing by the Local Planning Authority before any development takes place. The development shall be carried out in accordance with the approved details.

Reason: In order to secure an appropriate design and preserve or enhance the character and appearance of the conservation area

- (10) No development shall take place until constructional details, at a scale of 1:5, of the eaves, ridges, gable bargeboards, and verges to be used on the development hereby permitted 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.

Reason: In order to secure an appropriate design and preserve or enhance the character and appearance of the conservation area

- (11) No development shall take place until constructional details of the dormer windows and High Street frontage boundary walls and railings hereby permitted have been submitted to and agreed in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the agreed details.

Reason: In order to secure an appropriate design and preserve or enhance the character and appearance of the conservation area

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

Reason: In the interests of residential amenity.

- (13) 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.

- (14) 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.

- (15) No development shall take place until a scheme of biodiversity enhancements, such as bat boxes, bird nesting boxes, or other improvements, has been submitted to and approved in writing by the Local Planning Authority. The enhancements shall be implemented as agreed and thereafter retained in perpetuity.

Reason: In the interest of enhancing biodiversity.

- (16) 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 and to ensure that such matters are agreed prior to the commencement of development.

- (17) No meter boxes, vents, ducts, grilles or trickle vents shall be installed on the High Street elevation without the prior written approval of the Local Planning Authority.

Reason: In order to preserve or enhance the character and appearance of the conservation area

- (18) During construction provision shall be made on the site to accommodate operatives' and construction vehicles loading, off-loading or turning, and parking for site personnel

/ operatives / visitors. Such parking shall be provided prior to the commencement of the development.

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

- (19) No construction or demolition work shall take place on the site on any Sunday or Bank Holiday, nor on any other day except Monday to Friday between 0730 - 1900 hours and Saturday between 0730 – 1300 hours, unless with the prior written approval of the Local Planning Authority.

Reason: In the interests of residential amenity.

- (20) 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 to be submitted to, and agreed in writing by the Local Planning Authority. Such proposals shall include washing facilities by which vehicles will have their wheels, chassis and bodywork effectively cleaned and washed free of mud and similar substances.

Reason: To prevent mud on the highway and in the interests of highway safety and convenience and in pursuance of policies E1 and T3 of the Swale Borough Local Plan 2008.

- (21) The vehicle parking spaces shown on the approved drawings shall be provided, surfaced and drained before the dwellings hereby permitted are first occupied, and shall thereafter 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 1995 (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. No doors, gates, or other means of enclosure shall be installed to the front of the car ports hereby permitted unless otherwise agreed in writing by the Local Planning Authority

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

- (22) Before the dwellings hereby approved are first occupied, a properly consolidated and surfaced access (not loose stone or gravel) shall be constructed, details of which shall have been submitted to and approved by the Local Planning Authority.

Reason: To prevent dangerous materials on the highway and in the interests of highway safety and amenity.

- (23) Upon completion, no further development, whether permitted by Classes A, B, C or D or E of Part 1 of Schedule 2 Town and Country Planning (General Permitted Development) Order 1995 or not, shall be carried out without the prior permission in writing of the Local Planning Authority.

Reason: In order to preserve or enhance the character and appearance of the conservation area

**INFORMATIVES**

- (1) A formal application for connection to the public sewerage system is required in order to service this development. To initiate a sewer capacity check to identify the appropriate connection point for the development, Please contact Southern Water, Sparrowgrove House, Sparrowgrove, Otterbourne, Hampshire S021 2SW (Tel: 0330 303 0119) or [www.southernwater.co.uk](http://www.southernwater.co.uk).
- (2) Please note privately owned gas pipes or ones owned by other gas transporters may be present in this area and information regarding those pipes needs to be requested from owners. There should be no mechanical excavations taking place above or within 0.5m of a low/medium pressure system or above or within 0.3m of an intermediate pressure system. You should, where required, confirm the position using hand dug trial holes and follow safe digging practices in accordance with HSE publication HSG47 “Avoiding Danger from Underground Services.” For further information please contact Southern Gas Networks (0800 9121722).
- (3) 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.

Across the county there are pieces of land next to private homes and gardens that do not look like roads or pavements but are actually part of the road. This is called ‘highway land’. Some of this land is owned by The Kent County Council (KCC) whilst some are owned by third party owners. Irrespective of the ownership, this land may have ‘highway rights’ over the topsoil.

Information about how to clarify the highway boundary can be found at <http://www.kent.gov.uk/roads-and-travel/what-we-look-after/highway-land> 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.

**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.

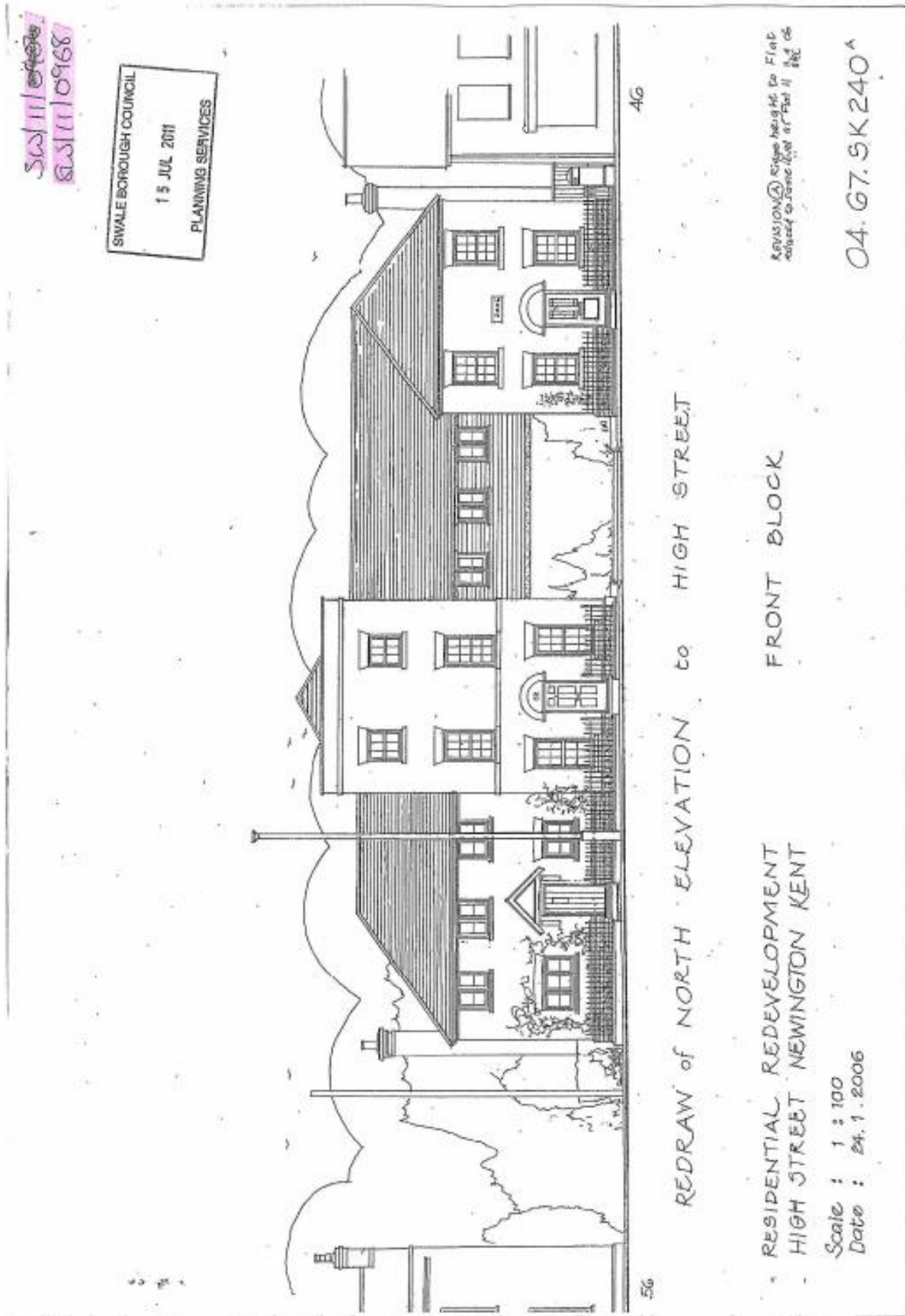
As appropriate, updating applicants/agents of any issues that may arise in the processing of their application.

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





**APPENDIX B**



**Appeal Decisions**

Site visit made on 6 October 2008

by **S E Gibbs MA MRTPI MSocSc**

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

The Planning Inspectorate  
4/11 Eagle Wing  
Temple Quay House  
2 The Square  
Temple Quay  
Bristol BS1 6PN

☎ 0117 372 6372  
email: enquiries@pins.gov.uk

Decision date:  
16 October 2008

**Appeal Ref: APP/V2255/E/08/2067356**

**Newington Working Men's Club, High Street, Newington, Sittingbourne, ME9 7JL**

- The appeal is made under sections 20 and 74 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant conservation area consent.
- The appeal is made by Huntcourt International Ltd against the decision of Swale Borough Council.
- The application Ref SW/06/0116, dated 12.12.2005, was refused by notice dated 24.07.2007.
- The demolition proposed is of the former working men's club building.

**Appeal Ref: APP/V2255/ A/08/2061894**

**Newington Working Men's Club, High Street, Newington, Sittingbourne, ME9 7JL**

- 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 Huntcourt International Ltd against the decision of Swale Borough Council.
- The application Ref SW/06/0115, dated 12.12.2005, was refused by notice dated 24.07.2007.
- The development proposed is residential development to provide 1 one bedroom and 11 two bedroom apartments together with associated parking and garaging.

**Decisions:**

1. I allow the appeal ref APP/V2255/E/08/2067356 and grant Conservation Area consent for demolition of the existing building at the Newington Working Men's Club, High Street, Sittingbourne, ME9 7JL.
2. I allow the appeal ref APP/V2255/A/08/2061894 and grant planning permission for 1 one bedroom and 11 two bedroom apartments together with associated parking and garaging at the Newington Working Men's Club, High Street, Sittingbourne, ME9 7JL in accordance with the terms of the application, Ref SW/06/0115, dated 12.12.2005, and the amended plans dated 24 January 2006, subject to the Schedule of Conditions set out at Annex A to this letter.

**Main issue**

3. The key consideration in this appeal is whether the effect of the proposal on air quality along the High Street is a matter of such significance and causing such harm that permission should be withheld notwithstanding other positive attributes of the scheme, including re-use of previously developed land and potential for enhancement of a Conservation Area.

**SWALE BOROUGH COUNCIL**

Appeal Decisions APP/V2255/E/08/2067356 & A/08/2061894

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### Reasons

4. The Conservation Area is characterised by development along High Street that is close to the back of pavement. The existing buildings on the appeal site that served as the working men's club are of no intrinsic interest and are set well back within the site. As a result they make no positive contribution to the character of the Conservation Area and the proposal to demolish them does not in itself raise any Conservation Area related issues. The Council's concern in relation to the demolition consent has been solely to ensure that there is a valid permission in place for redevelopment of the site before the existing buildings are cleared. I conclude that if I decide that planning permission should be granted for the proposed redevelopment of the site, then a consent for demolition should be granted.
5. The proposed residential development was refused on the basis that it would result in a localised worsening of air quality with a breach in the EU limit value for 2010 for NO<sub>2</sub>. This was regarded as contrary to Policy E2 in the (now adopted) Swale Borough Local Plan 2008, Policy QL1 of the Structure Plan and to advice in PPS23.
6. The development proposal is not in itself a significant direct contributor to potential air pollution in the vicinity of the appeal site. The concern raised is that with a new building filling the present gap along a section of High Street existing pollution associated with traffic on the A2 will be less able to dissipate. Monitoring along the High Street shows raised concentrations of NO<sub>2</sub>, which is a recognised feature of heavily trafficked and congested roads flanked by lines of closely spaced buildings: the so-called canyon effect.
7. The complication in this case is that re-establishment of a street frontage, while creating a canyon effect in relation to movement of air, is regarded by the Council's conservation advisers as an essential feature of a scheme for development on this site in a manner that achieves enhancement of the Conservation Area. While acknowledging that local residents who have written objecting to the proposed form of development take a different position, I share the view of the Council's conservation advisers that re-establishing a street frontage is an important design objective for development on this site.
8. In examining the planning merits of the appeal proposals, I have had regard to guidance given in PPS23, and particularly in Appendix 1G within Annex1 which is titled "Air Quality as a Material Consideration in Development Control Decisions". Paragraph 1G.2 recognises the danger of applying controls in a manner that would sterilise development and emphasises that not all planning applications should be refused if the development would result in deterioration of local air quality.
9. The study of impact on air quality that has been carried out predicts localised increases in NO<sub>2</sub>, notably across the road at 45-51 High Street. This is a material consideration in this appeal but as advised in paragraph 26 of PPS23 "the overall aim of planning and pollution control is to ensure the sustainable and beneficial use of land".
10. In light of this advice, I consider that the implications of the proposed development for air quality should not be taken in isolation but considered along with the consequences of the proposal as judged against a full range of

Appeal Decisions APP/V2255/E/08/2067356 & A/08/2061894

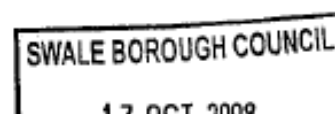
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planning objectives. Equally the proposal is not to be judged solely against policy in the Development Plan relating to air quality, in this case Policy E2, but against the whole range of the Development Plan's policies, including the design and conservation objectives of Policy QL6 of the Structure Plan, and Policies E1 and E15 of the Swale Borough Local Plan 2008.

11. In this case, I consider that the benefits associated with the proposal, most particularly the re-use of previously developed land, addition to housing stock and adoption of a built form that would contribute to enhancement of the Conservation Area satisfy a range of policies in the Development Plan, including Structure Plan Policy QL6 and Local Plan Policies E1 and E15. Furthermore, in my judgement these benefits, rooted in the Development Plan outweigh the element of conflict with Policy E2 and of likely harm related to predicted rises in NO<sub>2</sub> concentrations at localised positions on the High Street.
12. I have considered other matters raised as objections by third parties. In addition to proposing an open frontage to High Street, it is suggested that the village would suffer from not being able to use the appeal site for public parking. I could see that there is limited public parking adjacent to High Street but do not accept this to be a matter of such significance as to constitute a strong argument for refusing permission for the proposed housing development on the appeal site.
13. The owner of the High Street property, used as a post office, immediately to the west of the site has raised certain matters. These include some, concerning rear access, that turn on claimed property rights that are disputed by the appellant. I consider that the proposed layout is satisfactory in relation to the matters raised involving planning considerations, including a satisfactory relationship in terms of neighbour's privacy and amenity.
14. I have received a signed Unilateral Undertaking, dated 9 July 2008, which covers contributions to youth and community facilities and to library facilities. Kent County Council's e-mailed letter of 15 July withdraws objections previously lodged on the basis of a need for such contributions.
15. I have examined the Council's suggested conditions which address many areas where further details are to be submitted for approval. I consider that the conditions put forward in relation to hard and soft landscape details and measures for attenuation against traffic noise are appropriate to impose. There is also a basis for applying contamination conditions and some of the conditions controlling architectural detailing on the High Street frontage but, taking account of the information given on the amended plans dated 24 January 2006, not to the full extent of the conditions put forward. I have amended the proposed conditions so that they do not go beyond what is necessary for a grant of permission to be made.
16. Having given consideration to the full range of policies in the Development Plan and weighed competing planning objectives, I conclude that planning permission should be granted subject to the attached Schedule of Conditions and consent for demolition of buildings in a Conservation Area should be given.

*Simon E Gibbs*

Inspector



Appeal Decisions APP/V2255/E/08/2067356 & A/08/2061894

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Annex A to Appeal APP/V2255/A/08/2061894

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) Development shall not begin until an investigation to assess the nature and extent of any contamination on the site has been completed. The investigation shall accord with a scheme that has been previously submitted to and approved in writing by the Local Planning Authority and shall identify the extent of any contamination and the measures to be taken to avoid risk to the environment when the site is developed.
- 3) Development, other than that required to carry out remediation, shall not begin until measures to deal with contamination of the site have been implemented and a verification report demonstrating the effectiveness of the remediation carried out has been submitted to the Local Planning Authority.
- 4) The commencement of the development shall not take place until a survey has been carried out to establish traffic noise levels affecting the site. The survey shall be carried out in accordance with a written protocol, details of which shall be submitted to and approved by the Local Planning Authority before the survey is carried out. A report giving:-
  - (a) the results of the survey,
  - (b) the predictions of noise levels,
  - (c) details of the design measures that will be used to mitigate against traffic noise, and
  - (d) details of the building specifications of the dwellings which will be used to achieve a maximum internal noise level within any of the dwellings of 35dB(A) (Fast) with windows closed,shall be submitted to and approved by the Local Planning Authority prior to the commencement of the development. The approved measures shall be implemented in full prior to the first occupation of any of the buildings hereby permitted.
- 5) No construction or demolition work shall take place on the site on any Saturday, Sunday or Bank Holiday, nor on any other day except Monday to Friday between 0730 - 1900 hours and Saturday between 0730 - 1300 hours, unless with the prior written approval of the Local Planning Authority.
- 6) No impact pile driving shall take place in connection with the construction of the development except on Monday to Friday between 0900 - 1700 hours.
- 7) Development shall not begin 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 in writing by the Local Planning Authority. The measures approved shall be employed throughout the period of demolition and construction unless any variation has been approved by the Local Planning Authority.
- 8) No burning of waste or refuse shall take place on site.

Appeal Decisions APP/V2255/E/08/2067356 & A/08/2061894

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- 9) Notwithstanding the provisions of the Town and Country Planning General Development Order 1995 (or any revoking and re-enacting that Order) the use of the garages hereby permitted shall be limited to the domestic and private needs of the occupiers and shall not be used for any business or other purpose whatsoever other than the parking of vehicles and associated uses.
- 10) The area allocated for parking and/or turning on plan 04.67.SK20B shall be kept clear of obstruction and shall not be used other than for the parking of vehicles in connection with the development hereby permitted unless with the approval in writing of the Local Planning Authority.
- 11) The development hereby permitted shall not be carried out otherwise than in complete accordance with the approved plans and specifications.
- 12) Development shall not begin until details of facing materials, facing bricks and roofing tiles to be used on the development have been submitted to and approved in writing by the Local Planning Authority.
- 13) Development shall not begin until full details of both hard and soft landscape works have been submitted to and approved in writing by the Local Planning Authority and these works shall be carried out as approved. These details shall include any existing features that are to be retained, schedules of planting, noting species, plant sizes and numbers where appropriate, means of enclosure, hard surfacing materials and an implementation programme. The works shall be carried out in accordance with the agreed implementation programme.
- 14) Upon completion of the approved landscaping scheme, any trees or shrubs 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.
- 15) The brickwork to the development hereby approved shall be laid in Flemish bond unless otherwise agreed in writing by the Local Planning Authority.
- 16) Details of brick arches, roof eaves and verges, dormer windows, roof lights, decorative roof vent features, joinery (including door and window reveals) and of porch and front railing/dwarf walls shall be submitted to and approved by the Local Planning Authority before the development is begun.
- 17) Manufacturers' details for the roof lights shall be submitted to and approved by the Local Planning Authority before the development is begun.
- 18) No meter boxes, vents, ducts, grilles or trickle vents shall be installed on the High Street elevation without the prior written approval of the Local Planning Authority.
- 19) Upon completion, no further development, whether permitted by Classes A, B, C or D or E of Part 1 of Schedule 2 Town and Country Planning (General Permitted Development) Order 1995 or not, shall be carried out without the prior permission in writing of the Local Planning Authority.

**OWALE BOROUGH COUNCIL**

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<b>2.10 REFERENCE NO - 16/508231/REM</b>			
<b>APPLICATION PROPOSAL</b>			
Approval of Reserved Matters (Part layout and landscaping being sought) related to internal access roads/spurs, following planning permission 15/510589/OUT - Outline application for access matters reserved for construction of Business Park (Use Classes B1(B), B1(C), B2 and B8) (research and development, light industrial, general industrial and storage or distribution) (up to a maximum of 46,600sqm), including associated accesses (including alterations to existing northern relief road), parking and servicing areas, landscaping, bunds, surface water storage areas, and related development.			
<b>ADDRESS</b> Eurolink V Land North Of Swale Way Sittingbourne Kent ME9 9AR			
<b>RECOMMENDATION</b> – That planning permission is GRANTED			
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b>			
This reserved matters application relates solely to the access and spur roads serving the development, the design and layout of which are acceptable and in accordance with the terms of the outline planning permission. The details are in accordance with the development plan.			
<b>REASON FOR REFERRAL TO COMMITTEE</b>			
This application has been referred to committee by Cllr Hall			
<b>WARD</b> Lynsted	Teynham And	<b>PARISH/TOWN</b> Tonge	<b>COUNCIL</b> Trenport
		<b>APPLICANT</b> Investments Limited	<b>AGENT</b> Vincent And Gorbing
<b>DECISION DUE DATE</b> 23/03/17		<b>PUBLICITY EXPIRY DATE</b> 03/02/17	
<b>RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):</b>			
<b>App No</b>	<b>Proposal</b>	<b>Decision</b>	<b>Date</b>
17/500454	Approval of Reserved Matters for the erection of a building for Class B8 Use (Access, Appearance, Landscaping, Layout and Scale being sought) pursuant to 15/5105890/OUT - Outline application for access matters reserved for construction of Business Park (Use Classes B1(B), B1(C), B2 and B8) (research and development, light industrial, general industrial and storage or distribution) (up to a maximum of 46,600sqm), including associated accesses (including alterations to existing northern relief road), parking and servicing areas, landscaping, bunds, surface water storage areas, and related development – Under consideration	Under consideration	
16/508262	Non material amendment to outline scheme to make variation to approved access	Approved	01/02/17
15/510589	Outline application for access matters reserved for construction of Business Park (Use Classes B1(B), B1(C), B2 and B8) (research and development, light industrial, general industrial and storage or distribution) (up to a maximum of 46,600sqm), including associated accesses (including alterations to existing northern relief road), parking and servicing areas, landscaping, bunds, surface water storage areas, and related development	Approved	11/11/16

SW/13/021 5	Construction of business park (use classes B1(B), B1(C), B2 and (B8), [research and development, light industrial, general industrial and storage or distribution], (up to a maximum of 43,000sqm), including associated accesses (including alteration to existing northern relief road), parking and servicing areas, landscaping, bunds, surface water storage area, and related development.	Approved	06/01/14
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## MAIN REPORT

### 1.0 DESCRIPTION OF SITE

- 1.01 The Eurolink V site is located to the north east of Sittingbourne and on the north side of Swale Way. It occupies an area of around 19 hectares. The land is relatively flat and open and consists mainly of grassland and scrubland. Most of the site comprises former brick-earth workings which have been restored to a lower level than natural ground level. As a result, there are more abrupt changes in levels at the site boundaries.
- 1.02 The East Hall residential estate is located to the south and west of the site, on the opposite side of Swale Way. Eurolink IV is to the west and north. A listed farmhouse and stables are located to the east of the site, together with a golf driving range. A new residential development (namely Parcels F,G and H) is under construction to the south of the site which also forms part of the wider East Hall residential development.
- 1.03 In the vicinity of the application site there are areas designated on account of their ecological importance: the SSSI, SPA and Ramsar site are located close to the application site – a minimum of 260 metres to the north-east of the ‘Employment Development Area’ and much closer to the area where ecological/landscape enhancements are proposed. There are also wetlands areas to the north and north west of the site.
- 1.04 The site is allocated in the emerging plan under policy MU2 (land at NE Sittingbourne) as part of a mixed use development (including land to the south of the application site for housing). The policy allocates the site for 43,000 sqm of “B” Use Class employment uses.

### 2.0 PROPOSAL

- 2.01 Outline planning permission has been granted for the development of a business park on the site under outline planning permission 15/510589. The outline permission consents to the construction of up to a maximum of 46,600 sqm of built form, together with associated parking, servicing, landscaping, water storage areas and other related works.
- 2.02 Whilst the emerging policy set a quantum of 43,000 sqm floorspace, this figure was partly informed by the need to construct a flood mitigation bund to the north and north east of the site. However the Environment Agency subsequently advised that the bund was not required for floor mitigation. The bund was reduced in size, and this allowed for a greater quantum of floorspace to be provided on the site to 46,000 sqm.
- 2.03 The outline permission under 15/510589 has secured the principle of such development on this site. The permission includes 37 conditions, and a copy of the decision notice is attached as Appendix 1. Reserved matters applications are required



to be submitted to secure the detailed layout, scale, design and landscaping of the site. This can sometimes be via a single reserved matters submission, or by a series of reserved matters applications covering different parts of the site.

- 2.04 The terms of the outline planning permission require the following information to be submitted with any reserved matters application –
- Details relating to scale, layout, appearance and landscaping (condition 1)
  - Details of existing and proposed site levels, including cross-sections (Condition 8)
  - A limitation on building heights (condition 12)
  - Details of lighting columns and luminance levels (condition 13)
  - Details of parking within each plot or part of the site (condition 16)
- 2.05 For the purposes of this application, which is restricted to the layout, appearance and landscaping of the access and spur roads only, conditions 12 and 16 do not apply.
- 2.06 In addition to the above, condition 4 of the outline permission requires the reserved matters to be submitted in accordance with the strategic site layout plan, which sets out the main access into the site from the roundabout on Swale Way, together with boundary landscaping and landscaping on the main access road into the site. The condition also requires the development to be in accordance with the Development Brief submitted with the outline scheme. This brief sets a number of parameters for the detailed development, including the allocation of an area of 12.54Ha as the Employment Development Area, 1.47 Ha for landscape buffers and 4.02 Ha as a Landscape / wildlife mitigation / water attenuation area.
- 2.07 The Brief sets out that the Employment Development Area will contain an access from the roundabout on Swale Way, which will accommodate a cycleway, drainage features and landscaping, and would be approximately 40 metres in width. It would be a formal avenue set in mown grass with linear swales, the swales being 1m deep, defined by gabion walls and hedges and containing a mix of aquatic and marginal plants.
- 2.08 This reserved matters application has been made solely for the layout, appearance and landscaping of the main access and spur roads within the Employment Development Area.
- 2.09 The access into the site would be from the roundabout on Swale Way. The reserved matters show that a road would lead from Swale Way to another roundabout within the site. The road between the two roundabouts has been designed as a tree-lined avenue with a cycle path on one side and a pavement, and swales / natural drainage features on either side. The road layout would then split at the roundabout in a north west and south east direction. This would also be tree and hedge lined, with pedestrian and cycle accessways. These spur roads would provide direct access to the units to be constructed within the development.
- 2.10 The details submitted include levels and cross sections of the roadways, details of lighting columns, and reference to compliance with the strategic site layout drawings and Development Brief, all of which are required as part of a reserved matters application under conditions 4, 8 and 13 of the outline scheme.

### 3.0 PLANNING CONSTRAINTS

Environment Agency Flood Zone 2  
 Environment Agency Flood Zone 3  
 A High Pressure Gas Pipe crosses the north of the site  
 SSSI consult zone  
 Adjacent listed buildings are sited to the east of the site.  
 Within built up area of Emerging Plan  
 Within a proposed mixed use allocation under the Emerging Plan

### 4.0 POLICY AND OTHER CONSIDERATIONS

The National Planning Policy Framework (NPPF)

- 4.01 The NPPF has at its core the presumption in favour of sustainable development, and describes three dimensions to this term: economic, social and environmental.
- 4.02 Paragraph 12 asserts that the Development Plan remains “the starting point for decision making.”
- 4.03 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”.
- 4.04 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.”
- 4.05 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.”
- 4.06 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.”
- 4.07 The conservation and enhancement of the natural environment is discussed at Paragraphs 109 to 125.
- 4.08 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.”
- 4.09 Paragraphs 126 to 141 deal with ‘conserving and enhancing the historic environment’.

#### **Development Plan:**

- 4.10 **The adopted Swale Borough Local Plan:** The following policies are relevant to the determination of the application:

Policy E1 - General development Criteria;  
 Policy E12 - Site designated for their importance to biodiversity and geological conservation;

Policy T3 - Vehicle Parking for New Development; and  
 Policy T8: Sittingbourne Northern Relief Road.

**4.11 The Emerging Swale Borough Local Plan “Bearing Fruits”** - The following policies are relevant to the determination of the application:

ST1 - Delivering sustainable development in Swale  
 Policy MU 2 Land at north-east Sittingbourne specifically states: *Planning permission will be granted for mixed use development comprising 43,000 sqm of ‘B’ use class employment uses, a minimum of approximately 106 dwellings, together with 31.1 ha of open space, flooding, biodiversity and landscape enhancements on land in North-East Sittingbourne as shown on the Proposals Map.*  
 CP1- building a strong and competitive economy  
 CP4 – requiring Good Design  
 DM6 – Managing Transport Demand  
 DM14 – General development Criteria  
 DM28 – Biodiversity and geological conservation

**5.0 LOCAL REPRESENTATIONS**

5.01 The application has been referred to committee by Cllr Hall on the basis that consideration must be given to the points raised by local residents (see below).

5.02 A site notice has been displayed by the site and 246 letters sent to surrounding properties.

5.03 A total of 9 representations have been received, raising the following concerns –

- Additional traffic on Swale Way
- Additional pollution in the area and worsening of air quality
- The Northern relief road has not been completed
- The land should be used for housing
- Buses and lorries park on Swale Way, causing access difficulties for residents
- The wetland area and local wildlife will be adversely affected
- Concern over the type of businesses that may locate to the site
- Disruption during construction
- Lack of landscaping
- Impact upon residents of the East Hall estate
- Swale Way is the only road in and out of the site and a second road should be provided (such as opening the bus lane on Oak Rd)
- Increased noise and light pollution

**6.0 CONSULTATIONS**

**KCC Highways and Transportation**

6.01 The proposed road layout and alignment is consistent with previously approved permission for this site. The provision of a shared cycleway/footway is included which serves each plot of the development aiding sustainable access.

6.02 Track drawings have been provided to demonstrate that an articulated vehicle can access the site and negotiate the proposed roundabout and turning head which are acceptable. Detailed proposals for each land parcel will need to demonstrate internal turning for HGV's as and when applications come forward.

- 6.03 As stated under comments provided for planning applications 15/510589 and 16/508262, the limit of public adoption by the Highway Authority will be to the limit of the spur to the new arm of the roundabout at Great East Hall Way/Swale Way.
- 6.04 As well as the additional arm onto the Swale Way roundabout, the scheme proposal includes the extension of the existing footway/cycleway and revision of the roundabout splitter island to provide a crossing point. Such alterations to the public highway will need to be carried out through the Section 278 Agreement process, for which separate approval must be gained.
- 6.05 Consequently, I have no objection to the proposals, subject to a condition requiring the implementation of the highway works prior to the use of the development site commencing. I am satisfied that no other conditions attached are required beyond those already attached to the outline approval granted under application 15/510589.

#### **KCC Ecology**

- 6.06 No objection raised to the proposed lighting plan for the spur / access roads.

#### **SBC Tree Consultant**

- 6.07 No objections to proposed landscaping details

### **7.0 BACKGROUND PAPERS AND PLANS**

- 7.01 The application includes a number of details plans showing the layout of the access roads and landscaping, cross sections and levels details, and details of lighting.

### **8.0 APPRAISAL**

#### **Principle of Development**

- 8.01 The site benefits from outline planning permission for a major business park development, and Members will be aware that such permission clearly establishes the principle of the development.
- 8.02 The only matters for consideration under this particular reserved matters application are the layout, appearance and landscaping of the access and spur roads, and whether they comply with the terms of the outline permission.

#### **Visual Impact**

- 8.03 The main access into the site is via the roundabout on Swale Way and the Development Brief under the outline application sets out that this access road would be designed as a landscaped corridor with swales and drainage features to each side, before splitting into two spur roads in a north west and south east direction.
- 8.04 The reserved matters application shows the detail of the landscaping and margins for the access road. The access would also provide pedestrian and cycle routes into the site, as well as swales and shrub planting on either side. The main visual feature will be rows of trees on either side of the road, creating a tree lined approach to the business park. This corridor, incorporating the main access, pavements and cyclepaths, landscaping and swales would measure 40 metres in width, in accordance with the Development Brief approved as part of the outline permission.

- 8.05 The spur roads would also benefit from tree and hedge planting on either side of the road, and these in turn would lead to the access points into the business units.
- 8.06 The submitted details include levels and cross sections for the access and spur roads. These show that the roads would generally be built at a level of between 0.3 and 1.2 metres above existing land levels. This is partly driven by the surface water drainage strategy and need to connect to the ditch on the north east boundary of the site, at a controlled rate in accordance with the strategy, and also by the nature of the existing ground levels that fall from west to east. The levels are also determined by the existing road level at the roundabout onto Swale Way, which is at a higher level than the application site.
- 8.07 The Development Brief specified that site levels would need to be changed to address the site topography and the potential for large building footprints, and that such levels changes would be limited to +/- 1 to 2 metres. The levels for the access and spur roads would accord with these parameters.
- 8.08 The reserved matters also include details of the lighting columns and luminance levels for the access and spur roads. These would be 10 metres in height and use LED lighting, which are dark sky friendly with no upward light. The lighting is shown to be dimmed to 50% from midnight to 6am. The height would be commensurate with existing street lighting on Swale Way. In addition, Members will note that the nearest dwellings, at East Hall Farm, would be in excess of 100 metres from the nearest part of this development.
- 8.09 I am satisfied that the layout and design of the access and spur roads would provide an attractive landscaped entrance into the site, and that this would be in accordance with the parameters of the outline planning permission.

### **Residential Amenity**

- 8.10 The impact of a large scale business park on surrounding residential properties, including those at East Hall and at West Tonge Farm was considered acceptable as part of the assessment of the outline planning application. This included matters relating to traffic generation on Swale Way.
- 8.11 Consideration of the current reserved matters application is restricted to the layout and design of the access and spur roads, and lighting to these roads. There is no reason to suggest that the design of this part of the development would lead to any unacceptable adverse impacts on neighbouring properties, that would not have been considered under the outline permission.

### **Highways**

- 8.12 Kent County Council Highways have provided detailed comments in paragraphs 6.01 to 6.05 above. Members will note that the layout of the access and spur roads is acceptable and provides an appropriate internal layout for the site, and that the pavements and cycle paths provide safe options for other means of travel.

**Landscaping**

- 8.13 The Council’s Tree Consultant has considered the detailed information provided with the application for landscaping of the access corridor and spur roads, and considers the species, size and density of planting to be appropriate.

**Other Matters**

- 8.14 Ecology – the County Ecologist is satisfied that the level of lighting from the access corridor and spur roads would not have an adverse impact upon ecology or biodiversity.
- 8.15 Members will note the list of concerns raised by objectors under paragraph 6.02 of the report. Many of these relate to matters of principle that have been assessed at outline stage. This includes traffic generation, noise and air quality impacts, ecology impacts and amenity impacts. Members will again note that such impacts that were considered acceptable under the outline planning application, cannot be re-considered again at reserved matters stage.

**9.0 CONCLUSION**

- 9.01 This application for reserved matters covers a small part of the detailed development of this proposed business park, limited to the appearance, layout and landscaping of the access corridor and spur roads only. I consider the details to be in accordance with the terms of the outline planning permission, and no specific issues arise in the detail of the reserved matters that would be in conflict with the development plan.
- 9.02 On this basis, I would recommend that permission should be granted for the reserved matters.

**10.0 RECOMMENDATION – GRANT** Subject to the following conditions

- 1) The development shall be carried out in accordance with the following approved plans: ITL 11264-GA-002, 2102-004E, 2102-007C, 363525/2008/001, 36352/2008/SK002 Rev C, and 36352/2008/003.

Reason: In the interests of proper planning

- 2) No plot or building shall be occupied until the vehicular, pedestrian and cycle access leading from Swale Way to that plot or building has been completed and landscaped in accordance with the approved plans.  
Reason: In the interests of highways safety.

- 3) Upon completion of the landscaping as shown on the approved plans, 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.

INFORMATIVES

1) This development must be carried out in accordance with the above conditions and the conditions and terms of outline planning permission 15/510589.

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**

Mr Chris Hall  
 C/O Vincent & Gorbing  
 FAO: Mr Richard Lewis  
 Vincent & Gorbing  
 Sterling Court  
 Norton Road  
 Stevenage  
 Hertfordshire  
 SG1 2JY



11 November 2016

**PLANNING DECISION NOTICE**

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<b>APPLICANT:</b>	Mr Chris Hall
<b>DEVELOPMENT TYPE:</b>	Large Maj Retail Distribution/ Servicing
<b>APPLICATION REFERENCE:</b>	15/510589/OUT
<b>PROPOSAL:</b>	Outline application for access matters reserved for construction of Business Park (Use Classes B1(B), B1(C), B2 and B8) (research and development, light industrial, general industrial and storage or distribution) (up to a maximum of 46,600sqm), including associated accesses (including alterations to existing northern relief road), parking and servicing areas, landscaping, bunds, surface water storage areas, and related development.
<b>ADDRESS:</b>	Eurolink V Land North Of Swale Way Sittingbourne Kent ME9 9AR

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The Council hereby **GRANTS OUTLINE** planning permission subject to the following Condition(s):

- (1) Details relating to the layout, scale and appearance of the proposed building(s), and proposed landscaping, on any plot or part of the site, shall be submitted to and approved by the Local Planning Authority before any development on that plot or part of the site is commenced.
- 

**MKPS – Working in Partnership with:** Swale Borough Council  
**Please Note:** All planning related correspondence for SBC should be sent to:  
 Mid Kent Planning Support, Maidstone House, King Street, Maidstone ME15 6JQ  
 Email: [planningsupport@midkent.gov.uk](mailto:planningsupport@midkent.gov.uk)  
 Access planning services online at: [www.swale.gov.uk](http://www.swale.gov.uk) or submit an application via [www.planningportal.gov.uk](http://www.planningportal.gov.uk)



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 five years beginning with the date of the grant of outline planning permission.

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 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.

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 details submitted pursuant to condition (1) shall be in accordance with Strategic Site Layout drawing 7519 A120 B and the Development Brief (Revised) January 2016.

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

- (5) The details submitted pursuant to condition (1) shall show no more than a cumulative total of 46,600 square metres gross external floor space, and this floor space shall be provided within the 'Employment Development Area' identified on drawing title 'Eurolink V: Development parameters' (drawing reference 4536/602E).

Reason: In the interests of highways safety and convenience, and residential amenity.

- (6) None of the built development hereby approved shall be first occupied until a landscape bund to the north and north-east site boundaries and a landscape buffer to the east and south site boundaries have been provided, and these shall be as shown indicatively on Eurolink V: Development Parameters' (drawing reference 602E) and with minimum specification as follows:
- Bund - width 10 metres and height to 2 metres AOD.
  - Bund (eastern end near West Tonge Farm) 30 metres wide and 6.06 metres AOD.
  - Buffer - width 10 metres.

Reason: In the interests of visual, landscape and residential amenity.

- (7) The details submitted pursuant to condition (1) shall show the servicing yards positioned such that they do not project closer to Swale Way, on the west site boundary, than the building elevation closest to that boundary, and along the southern site boundary such that they do not project closer than the nearest building to the 'Corridor Reserved For The Northern Relief Road' as shown on 'Eurolink V Illustrative Site Layout' (A010 Revision P5).

Reason: In the interests of visual and landscape amenity.

- (8) The details submitted pursuant to condition (1) above shall include cross-sectional drawings through the plots or part of the site, of the existing and proposed site levels. The development shall then be completed strictly in accordance with the approved site levels ("the Approved Site Levels").

Reason: In order to secure a satisfactory form of development having regard to the nature of the site.

- (9) Each of the buildings hereby approved shall be constructed to BREEAM 'very good' standard or an equivalent standard: prior to the commencement of each of the buildings that comprise the development, certification shall be submitted to and approved by the Local Planning Authority demonstrating how the 'very good' rating is to be achieved and prior to the first use of each of the buildings the relevant certification shall be submitted to the Local Planning Authority confirming that 'very good' rating has been achieved, unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interest of promoting energy efficiency and sustainable development, and in pursuance of policies E1 and U3 of the Swale Borough Local Plan 2008.

- (10) Notwithstanding the information set out in the 'Planning, Design and Access Statement' (December 2015), details of the package of on-site renewable energy generating measures to be incorporated in the development of any plot or part of the site shall be submitted to and approved by the Local Planning Authority before any part of the development on that plot or part of the site is commenced. Such agreed measures - which shall be designed to contribute to an overall, development-wide objective of generating 10% of the development's energy requirement from decentralised / renewable sources - shall be fully implemented for each of the buildings before the particular building is first used. The installed measures shall then be retained in perpetuity.

Reason: In the interest of maximising the use of on-site renewable energy and sustainable development.

- (11) No development of the scheme hereby approved shall take place until a strategic Construction and Environmental Method Statement has been submitted to and approved in writing by the Local Planning Authority. The approved Statement will provide details of the Construction and Environmental Method for the strategic site wide works and a framework for construction on the individual plots or parts of the site. No development shall take place on individual plots or parts of the site until a detailed Construction and Environmental Method Statement has been submitted to and approved in writing by the Local Planning Authority for the individual plots or parts of the site to be developed.

These Statements shall be adhered to throughout the construction period and 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; and
- (x) Lighting strategy for the construction phase, designed to minimise light spillage from the application site.

Reason: 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.

- (12) The details submitted pursuant to condition (1) shall accord with the following:
  - (a) There shall be no buildings within the 'no building zone' (to protect West Tonge Farmhouse) as shown on 'Eurolink V: Development Parameters' (drawing reference 602E).
  - (b) Any building located to the south / east of the 'access / landscape corridor as marked on 'Eurolink V: Development Parameters' (drawing reference 602E) shall be no more than 12 metres in height above the Approved Site Levels; and
  - (c) The maximum building height anywhere on the site shall be no more than 15 metres above the Approved Site Levels.

Reason: In the interests of visual and landscape amenity, and preserving the setting of West Tonge Farmhouse and other local heritage assets.

- (13) The details submitted pursuant to condition (1) above shall 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 plots and parts of the site. The development shall then be implemented in accordance with the agreed details, and no additional lighting (or material amendments to the approved lighting) shall be introduced without the prior written approval of the Local Planning Authority.

Reason: In the interests of residential and visual amenity, landscape quality, and ecology.

- (14) No development shall take place on areas not previously excavated for brickearth (as identified in Figure 16 of the Cultural Heritage Desk-Based Assessment prepared by CgMs) 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 in writing by the Local Planning Authority.

Reason: To ensure that features of archaeological interest are properly examined and recorded in pursuance.

- (15) No building work shall commence on any plot or part of the site until background noise surveys have been carried out, including an octave band analysis (whole/third), for that plot or part of the site.

The monitoring protocol to be used for the surveys shall be submitted to the Local Planning Authority for approval prior to the site surveys being undertaken.

The rating level of the noise emitted from all fixed plant and premises calculated in accordance with BS:4142 (1997) shall be at or below the existing background level at any time, determined at the façade of the nearest noise sensitive residential dwelling. No plot or part of the development shall be commenced until a scheme (accompanied by measurements and assessments in accordance with BS4142:1997 identifying how the rating level is to be achieved and subsequently maintained for that part of the development) have been submitted to and approved in writing by the Local Planning Authority. No plot or part of the development shall be occupied until the approved mitigation measures for the plot or part of the development have been carried out. Thereafter the mitigation measures for that plot or part of the development shall be maintained in accordance with the approved scheme, unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of residential amenity.

- (16) The details submitted pursuant to condition (1) above shall show adequate land reserved for the parking of vehicles within each plot or part of the site (in accordance, where appropriate, with the currently adopted Kent County Council Vehicle parking standards for the particular development proposed) and for the loading and off-loading of commercial vehicles, and upon approval of the details these areas shall be provided, surfaced and drained to the satisfaction of the Local Planning Authority. 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 to this reserved space; such land and access thereto shall be provided prior to the occupation of the building hereby permitted and shall be used for or be available for use for the parking, loading and off-loading of vehicles at all times when the premises are in use.

Reason: The development, without the provision of parking, loading and off-loading 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.

- (17) No development shall take place on any of the buildings on individual plots or parts of the site until details of shelters for the cycle and motorcycle parking areas for the particular building have been submitted to and approved by the Local Planning Authority.

The agreed details shall then be implemented in full before the particular building is first occupied and thereafter retained together with the spaces themselves in perpetuity.

Reason: In the interests of encouraging the use of non-car modes of travel.

- (18) The Reptile Mitigation Strategy and Relocation Scheme dated May 2016 must be fully implemented in accordance with the submitted details.

Reason: To ensure that the development includes adequate mitigation for any reptiles that may be present on the site.

- (19) The bat mitigation strategy as detailed in Updated Baseline Survey Report dated May 2016 must be fully implemented in accordance with the submitted details.

Reason: To ensure that the development includes adequate mitigation for any bats that may be present on the site.

- (20) The Badger Mitigation Strategy dated December 2015 as amended by the Updated Baseline Survey report dated May 2016 must be fully implemented in accordance with the submitted details.

Reason: To ensure that the development includes adequate mitigation for any badgers that may be present on the site.

- (21) The Mitigation Strategy for breeding birds as set out in the Updated Baseline Survey report dated May 2016 must be fully implemented in accordance with the submitted details.

Reason: To ensure that the development includes adequate mitigation for any birds that may be present on the site.

- (22) The Biodiversity Enhancement Strategy dated December 2015, Landscape Planting Plan 2102/002 G and the Landscape Management and Maintenance Plan dated 10 February 2015 must be fully implemented in accordance with the submitted details.

Reason: In the interests of encouraging biodiversity.

- (23) No development on particular plots or parts of the site shall take place until full details of a scheme to manage air quality impacts - with particular regard to potential impacts for particular plots or parts of the site on local ecology, and covering both the construction and the operational phases - has been submitted to and approved by the Local Planning Authority. The development shall then be constructed and subsequently operated in accordance with the approved details.

Reason: In order to avoid adverse air quality impacts on local ecology.

- (24) The development hereby permitted shall be carried out fully in accordance with the details of the submitted strategic site wide surface water drainage, (WSP Strategic Surface Water Drainage Strategy May 2016 reference 1101683) unless otherwise approved in writing by the Local Planning Authority. The construction on individual plots

or parts of the site shall not be commenced until details of the proposed means of surface water drainage for individual plots or parts of the site have been submitted to and approved in writing by the Local Planning Authority and the details shall accord with the submitted Strategic Surface Water Drainage Strategy. Thereafter the development shall be carried out in accordance with approved details.

With regard to surface water drainage, the agreed details shall consist of a scheme using SuDS principles 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 'Employment Development Area', 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.

Reason: To ensure that the principles of sustainable drainage are incorporated into this proposal, to ensure ongoing efficacy of the drainage provisions, to protect vulnerable groundwater resources and ensure compliance with the National Planning Policy Framework.

- (25) No building hereby permitted shall be occupied until details of the implementation, maintenance and management of the sustainable drainage scheme for each individual plot or parts of the site have been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented and thereafter managed and maintained in accordance with the approved details. Those details shall include:
- (i) A timetable for its implementation, and
  - (ii) A management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the sustainable drainage system throughout its lifetime.

Reason: To ensure that the principles of sustainable drainage are incorporated into this proposal, to ensure ongoing efficacy of the drainage provisions, to protect vulnerable groundwater resources and ensure compliance with the National Planning Policy Framework.

- (26) No infiltration of surface water drainage into the ground is permitted other than with the express written consent of the local planning authority (in consultation with the Environment Agency); this 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.

Reason: To ensure that the principles of sustainable drainage are incorporated into this proposal, to ensure ongoing efficacy of the drainage provisions, to protect vulnerable groundwater resources and ensure compliance with the National Planning Policy Framework.

- (27) The development shall be carried out and fully implemented out in accordance with the approved Environmental Geotechnical Assessment (revised September 2014).

Reason: To protect vulnerable groundwater resources.



- (28) Details of any open storage including the locations, maximum heights and screening arrangements shall have been submitted to and approved by the Local Planning Authority before the first occupation of any of the buildings hereby approved. The development shall then be operated in accordance with the agreed details. If no open storage is proposed on a particular plot or parts of the site the Local Planning Authority shall be notified in writing prior to the first occupation of any buildings on the particular plot or parts of the site.

Reason: In the interests of visual and landscape amenity.

- (29) No infiltration of surface water drainage into the ground is 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 controlled waters. The development shall be carried out in accordance with the approval details.

Reason: To protect vulnerable groundwater resources.

- (30) The access details shown on drawing ITB8075-GA-001 A shall be completed to the satisfaction of the Local Planning Authority prior to the commencement of any other works or building operations authorised by this permission and the access shall thereafter be maintained.

Reason: To ensure that a satisfactory means of access is provided for the site and in the interests of highway safety.

- (31) The strategic landscape works as shown on drawings 2102/001F, 2102/002G, 2102/003B, 2102/004B, 2102/005D, 2102/006 shall be carried out in accordance with the approved details. The works for the landscape bund, landscape buffer, landscape / ecological mitigation area and the access/landscape corridor/access shown on the development parameters drawing (drawing 4536/602E) 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. The details of the landscaping relating to individual plots or parts of the site shall be submitted to and approved by the Local Planning Authority and the approved details shall be carried out prior to the occupation of any building on the particular plot or part of the site.

Reason: In the interests of the visual amenities and landscape quality of the area.

- (32) 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 and landscape quality of the area.

- (33) 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 building fronting on a highway, or the route of the proposed Northern Relief Road, without the consent in writing of the Local Planning Authority.

Reason: In the interests of visual amenity.

- (34) Details of any mechanical ventilation system that will be installed, including details of the predicted acoustic performance shall be submitted for approval by the Local Planning Authority. No building on a particular plot or part of the site shall be occupied until such approval has been given by the Local Planning Authority for the system on that plot or part of the site. Upon approval, the system shall be installed, maintained and operated so as to prevent the emission of odours, fumes noise and vibration to neighbouring properties.

Reason: In the interests of residential amenity.

- (35) Before a B2 (general industrial) Use Class business occupies any unit - detailed information relating to:

- Noise levels to be produced from the curtilage of premises and the predicted noise levels at the site boundary.
- The siting of machinery and their associated noise levels.
- The provision to be made for the insulation of the building against the transmission of the noise and/or vibration.
- The times during which noise producing activities will be carried out.
- The times during which the premises shall be operated.

Shall be submitted to, and approved by, the Local Planning Authority prior to the occupation of the units. The development shall be carried out, completed and used in accordance with the aforementioned approved details.

Reason: In the interest of residential amenity.

- (36) If during development, contamination not previously identified is found to be present at the site, then no further development on that part of the site where contamination has been identified (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted details of how this unsuspected contamination shall be dealt with, and obtained written approval from the Local Planning Authority. The agreed remediation strategy shall be implemented as approved.

Reason: To ensure that the development complies with the approved details in the interests of protection of Controlled Waters.

- (37) 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.



- (38) No impact pile driving in connection with the construction of the development shall take place on the site on any Saturday, Sunday or Bank Holiday, nor any other day except between the following times:-  
Monday to Friday 0900-1700hours unless in association with an emergency or with the written approval of the Local Planning Authority.

Reason: In the interests of residential amenity.

- (39) The development hereby permitted shall incorporate measures to minimise the risk of crime. Details of such measures shall accord with the principles and physical security requirements of Crime Prevention through Environmental Design (CPTED) and shall be submitted to and approved in writing by the Local Planning Authority. The approved measures shall be implemented before the development is occupied and thereafter retained.

Reason: In the interest of Security, Crime Prevention and Community Safety and in accordance with the guidance within The Kent Design Initiative (KDI) and protocol dated April 2013.

Informative(s):

- (1) It is the responsibility of the applicant to ensure, before the development hereby approved is commenced, that all necessary highway approvals and consents where required are obtained and that the limits of highway boundary are clearly established in order to avoid any enforcement action being taken by the Highway Authority. The applicant must also ensure that the details shown on the approved plans agree in every aspect with those approved under such legislation and common law. It is therefore important for the applicant to contact KCC Highways and Transportation to progress this aspect of the works prior to commencement on site.
- (2) A formal application for connection to the public sewerage system and water supply system is required in order to service this development. Please contact Southern Water, Sparrowgrove House, Sparrowgrove, Otterbourne, Hampshire SO21 2 SW (Tel: 0330 303 0119) or [www.southernwater.co.uk](http://www.southernwater.co.uk)
- (3) This development is also subject to an agreement under Section 106 of the Town and Country Planning Act,

Please note you must comply with all the conditions attached to this permission. Otherwise the permission may not be valid and any development may be unauthorised.

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.



**James Freeman**  
**Head of Planning Services**  
**Swale Borough Council**

**IMPORTANT - YOUR ATTENTION IS DRAWN TO THE ATTACHED NOTES**

**PLANNING COMMITTEE – 27 APRIL 2017**

**PART 3**

Report of the Head of Planning

**PART 3**

Applications for which **REFUSAL** is recommended

<b>3.1 REFERENCE NO - 17/500825/FULL</b>			
<b>APPLICATION PROPOSAL</b> Erection of 5 no. 4 bedroom houses, with associated parking and refuse store			
<b>ADDRESS</b> Land Adjacent To Crescent House, Gills Terrace, Otterham Quay Lane, Upchurch, Kent, ME8 7UY.			
<b>RECOMMENDATION REFUSE</b>			
<b>SUMMARY OF REASONS FOR REFUSAL</b> The proposed development falls outside of the built up area boundary and is not identified as one of the Council's preferred housing allocations within the emerging Local Plan. The emerging Local Plan can now be given significant weight owing to its advanced stage in the examination process. Notwithstanding the contribution that the proposals would make to the five years supply of housing land, the harm caused by this proposal would significantly and demonstrably outweigh the very limited benefits and additionally there would be unacceptable harm caused to the character and amenity value of the countryside. As a result the proposal would not constitute sustainable development.			
<b>REASON FOR REFERRAL TO COMMITTEE</b> Called in by Ward Councillor (Cllr. Lewin).			
<b>WARD</b> Hartlip, Newington And Upchurch	<b>PARISH/TOWN</b> Upchurch	<b>COUNCIL</b>	<b>APPLICANT</b> Mr Bailey Partners Ltd. <b>AGENT</b> Kent Design Partnership
<b>DECISION DUE DATE</b> 11/04/17	<b>PUBLICITY EXPIRY DATE</b> 24/03/17		
<b>RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):</b>			
<b>App No</b>	<b>Proposal</b>	<b>Decision</b>	<b>Date</b>
17/500594/PNOCLA	Prior notification for conversion of adjacent redundant office building to form 5 residential dwellings.	Approved	24/3/17
Council unable to refuse permission for conversion of the existing adjacent building to residential dwellings as the prior notification procedure allows for very limited consideration of the case and does not allow application of policy.			

## MAIN REPORT

### 1.0 DESCRIPTION OF SITE

- 1.01 Application site is a parcel of vacant land on Otterham Quay Lane, situated west of Upchurch within the designated countryside close to the Borough boundary with Medway .
- 1.02 It comprises part of the grounds of a redundant office building known as Crescent House (which has recently been granted consent by way of prior approval for conversion to 5 houses under ref. 17/500594/PNOCLA), is largely flat and covered in grass, with some trees on the western edge and a small amount of scrubby vegetation.
- 1.03 To the north is a residential dwelling, , The Cottage ,northwest is the Otterham Quay Lane industrial estate, west is Crescent House, to the south are open fields, southeast a small cluster of residential dwellings, and across the road to the east is part of Upchurch golf course.
- 1.04 It is approximately 2.5km by road (1.9km via PRow) to Rainham shopping centre, 2.7km to Rainham train station (1.7km via PRow), and 1.8km to the Co-op / chip shop / school in Upchurch (1.6km via PRow)

### 2.0 PROPOSAL

- 2.01 The application seeks permission for the erection of 5no. 4-bed houses and associated amenities.
- 2.02 The houses would be arranged in an L-shaped terrace facing onto the corner, approximately mirroring the footprint of the existing former office building at Crescent House (which is to be converted into dwellings). The proposed houses are of a relatively simple design with a mixture of brick and dark-stained cladding, and have a maximum ridge height of approximately 8.3m.
- 2.03 Vehicle access would be via the existing site entrance on Gills Terrace and car parking would be provided as part of an extension to the existing car parking area. The proposed houses would face inwards onto this parking area, with rear gardens adjacent to Otterham Quay Lane and Gills Terrace – the submitted D&A statement shows timber close-boarded fence along the rear boundaries with Otterham Quay Lane.

### 3.0 SUMMARY INFORMATION

	Proposed
Site Area	0.1ha
Approximate Ridge Height	8.3m
Parking Spaces	11
No. of Residential Units	5
Density	50dph

#### 4.0 PLANNING CONSTRAINTS

- 4.01 Potential Archaeological Importance .
- 4.02 The western part of the site, roughly where Plots 1 and 2 and the car parking court are proposed, lies within Flood Zone 2.

#### 5.0 POLICY AND OTHER CONSIDERATIONS

##### The adopted Swale Borough Local Plan 2008

- 5.01 Policies E1, E6, H2 and RC3 of the 2008 Local Plan are relevant.
- 5.02 E1 is a general development policy which sets out a number of criteria to which all developments are expected to adhere.
- 5.03 E6 is the Council's main policy in terms of rural restraint and it aims to protect the countryside for its own sake. The policy restricts residential development within the countryside unless it is expressly for the purposes of satisfying an identified local affordable need in accordance with policy RC3; housing for agricultural workers (again in response to an identified need); or for gypsies or travellers.
- 5.04 The caveats of E6 are supported by policy RC3, which states that new housing within the rural area will be met within the existing built up area boundaries, or *"exceptionally at sites where planning permission for residential development would not normally be granted, where proposals are specifically and wholly intended to meet an identified local affordable housing need of the community provided the promoter of the scheme demonstrates that:*
1. *the identified need cannot otherwise be met within the confines of the built-up area, or failing this, on previously developed land adjoining the built confines of the settlement;*
  2. *the development is of a size and type suitable to meet the needs identified in a local housing needs survey;*
  3. *the site is well related to available village services and public transport;*
  4. *the proposal contains no element of general market housing;*
  5. *there are no overriding environmental or highway objections; and*
  6. *the scheme has the support of the local Parish Council."*
- 5.05 Policy H2 states that new housing development will be allowed within the built up area or at specifically allocated sites. Outside of those areas development is expected to accord with E6 and RC3, above. A stumbling block to this policy, however, is that the Council currently has an identified 5-year housing supply shortfall. In such circumstances national guidance advises that the policy is not compliant with the aims of the NPPF, para. 49 thereof stating:
- "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."*
- 5.06 This shortage / NPPF non-compliance was recognised by the Local Plan Inspector (in her initial considerations of the emerging local plan, 'Bearing Fruits'), who consequently increased our annual supply figure to 776 dwellings per annum. The end result of this is, in essence, that the Council has, since the first Local Plan (LP) review, had to consider sites outside of the defined built up areas and current adopted

allocated sites for new housing development to assist in meeting our 5yr supply target. Some of this need has been met through new allocations at the LP Main Modifications stage, while some will come through consideration of windfall sites (such as the current application site). This does not mean, however, that the other policies noted in this section do not apply.

- 5.07 Nevertheless, the Council has made further site allocations through the LP main modification procedure and is confident that it met its 5yr housing supply target when the LP was again reviewed by the Inspector in January 2017. We currently await her final report but the fact that the Council has taken relevant steps to address and resolve the shortfall of supply is a material consideration, as set out in the recent Richborough Estates Court of Appeal decision (discussed further below).

The emerging local plan; 'Bearing Fruits 2031, Publication Version December 2014'

- 5.08 Policy ST1, similar to E1 of the adopted plan, is a general policy aimed to achieve sustainable development throughout the Borough. The most relevant criteria are:

4. Accord with the Local Plan settlement strategy; and
7. Deliver a wide choice of high quality homes by:
  - a. balancing levels of forecast housing needs with that which is deliverable;
  - b. providing housing opportunity, choice and independence with types of housing for local needs; and
  - c. keeping vitality within rural communities with identified housing needs, proportionate to their character, scale and role.

- 5.09 ST3 sets out the Swale settlement strategy, and identifies preferred locations for residential development. Para.6 of the policy states that *"locations outside the built-up area boundaries shown on the Proposals Map fall in the open countryside where development will not normally be permitted, unless supported by national planning policy and able to demonstrate that it would contribute to protecting and where appropriate enhancing the intrinsic value, tranquillity and beauty of the countryside, its buildings and the vitality of rural communities."* In terms of the current application this means that, as with policies E6 and RC3 above, the proposed site is very much near the bottom of the list in terms of where officers would recommend new housing to be placed.

- 5.10 Policy CP2 states that new development will be located to minimise the need to travel for employment and services, and to facilitate sustainable transport choices.

- 5.11 CP3 aims to provide a wide choice of high-quality homes across the Borough. It aims to steer development to the built up areas and allocated sites, or to windfall sites *"except where the character of the site, its local context or environmental value determines otherwise,"* and to *"meet the housing requirements of specific groups, including families, older persons, or disabled and other vulnerable persons."*

- 5.12 Policy DM9 relates to rural exceptions housing, and states that *"planning permission for affordable housing (including pitches for Gypsies and Travellers) to meet local needs in rural areas will be granted provided [amongst others]:*

1. *The site accords with Policy ST3 and/or is in a location where access to day to day services can be conveniently and easily achieved;*

2. *The site and proposed development would not have a significant adverse impact upon the character of the settlement, the surrounding countryside and the amenity of the existing community;*
3. *A need for the scheme is clearly justified by the applicant, to the satisfaction of the Council, by providing the following to accompany a planning application:*
  - a. *an up-to-date parish or village housing needs assessment undertaken or carried out by a recognised and appropriate body;*
  - b. *a thorough site options appraisal; and*
  - c. *a prepared statement of community involvement that has sought to include the significant input of the Parish Council."*

5.13 DM14 is a general policy similar to E1 of the adopted Plan, and sets out a number of criteria all developments are expected to accord with.

#### National Planning Policy Framework (NPPF)

- 5.14 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."* In respect of decision-taking it notes that LPAs should approve proposals that accord with the development plan without delay. It continues to note that where the development plan is absent, silent or relevant policies are out-of-date, permission should be granted *"unless:*
- *any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or*
  - *specific policies in this Framework indicate development should be restricted."*
- 5.15 Paragraph 14 is caveated by footnote 9, which relates *"specific policies"* indicating development should be restricted to those referring to SSSI, AONB, Local Green Space, and locations at risk of flooding or coastal erosion.
- 5.16 This is particularly relevant in terms of policy H2 of the Local Plan, as noted above, as H2 is considered non-compliant and thus *"silent"* for the purposes of interpreting this paragraph. It does note, however, that adverse impacts need to be taken into account, and therefore does not present a *carte-blanche* to approving residential development within the countryside.
- 5.17 Paragraph 17 (11<sup>th</sup> and 12<sup>th</sup> bullet points only) of the NPPF are relevant, and state that *"within the overarching roles that the planning system ought to play, a set of core land-use planning principles should underpin both plan-making and decision-taking."*
- *actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling, and focus significant development in locations which are or can be made sustainable; and*
  - *take account of and support local strategies to improve health, social and cultural wellbeing for all, and deliver sufficient community and cultural facilities and services to meet local needs."*
- 5.18 Paragraph 35 encourages developments that *"protect and exploit opportunities for the use of sustainable transport modes."* It states that development should be located and designed to give priority to pedestrians, create safe and secure layouts for pedestrian and cycle movements, and consider the needs of people with disabilities by all modes of transport.

- 5.19 Paragraph 49, as discussed above, states 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.”* This is discussed in further detail in the appraisal section below.
- 5.20 Paragraph 50 states that LPAs should deliver a wide choice of high quality homes and create sustainable communities by taking demographic trends into consideration, provide housing reflecting local demand, and securing affordable housing provision. Further to this para. 54 states that LPAs should be responsive and reflexive to local affordable and rural housing needs.
- 5.21 Paragraph 55 of the NPPF is crucial in the consideration of applications such as this, and is worth reproducing in its entirety (my emphasis in bold):

*“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.”*

## 6.0 LOCAL REPRESENTATIONS

- 6.01 Upchurch Parish Council *“have considered the application and object to the proposal as the design is out of keeping with the character of the area. There are no other properties clad with black weatherboarding. This is one of the entrances to the village so any development must be in keeping with the village. Concern was also raised as to whether the parking would be sufficient.”*
- 6.02 Swale Footpaths Group note the footpath running along Gills Terrace.
- 6.03 No others received.

## 7.0 CONSULTATIONS

- 7.01 The Environment Agency objects to the application on the grounds that *“the information provided with the application does not demonstrate that the risk of pollution to controlled waters is acceptable.”* They comment further that *“the information provided in the 2014 Contamination Statement report is limited. There was only one groundwater sample taken from one borehole. Four boreholes indicated landfill*



*materials but the depth of landfill materials was not delineated. Further groundwater assessment is recommended to assess the potential impacts of any earthworks on controlled waters. We would point out that we are not seeking just an assessment of the current status quo, but a clear interpretation on what additional risks are posed by the development proposed. We could not agree to development in an area likely to affect groundwater or surface water in any significant way. Therefore we will require careful consideration of the potential impacts of any development activity..."*

- 7.02 The Agency also objects on the grounds of flood risk, commenting that *"The application site lies within Flood Zone 2 [NB: zone corrected from 3 to 2 in EA email 30.03.17] defined by our Flood Map as having a high probability of flooding. Paragraph 103, footnote 20 of the National Planning Policy Framework (NPPF) requires applicants for planning permission to submit an FRA when development is proposed in such locations. An FRA is vital if the local planning authority is to make informed planning decisions. In the absence of an FRA, the flood risk resulting from the proposed development are unknown. The absence of an FRA is therefore sufficient reason in itself for a refusal of planning permission. This site is subject to significant tidal flooding from the river Medway in both defended and undefended scenarios for a 1 in 200 year modelled flood event with increased flow to account for climate change to 2115."*
- 7.03 Natural England confirm the site lies within the SSSI zone of influence and mitigation measures may be required. (See HRA below.)
- 7.04 Kent Highways have no objection subject to standard conditions.
- 7.05 SBC EHO has no objection subject to conditions regarding contamination investigation and remediation, hours of working, and dust suppression.
- 7.06 KCC PRoW note the footpath running along Gills Terrace but have no objection subject to it not being obstructed during development.
- 7.07 The H&SE confirm the site does not lie within the consultation zone of a hazard site.
- 7.08 UK Power Networks have no objections.
- 7.09 Southern Gas Networks confirm that there may be high pressure pipelines within the area and suitable investigation will need to be carried out before mechanical excavation is commenced.
- 7.10 Environmental Health raise on objection subject to appropriate conditions being imposed regarding contamination closure report and noise and dust relating to demolition works.

## **8.0 BACKGROUND PAPERS AND PLANS**

- 8.01 Of relevance is application ref.15/506513/FULL for conversion of a building to a dwelling at Tranquility, immediately to the southeast of the current application site. That scheme was refused on a number of grounds, including for the reason that it lies outside of the built up area boundary and thus residential development is contrary to the Council's established policies of rural restraint.
- 8.02 Members may also recall the application for residential development at Kaine Farm, Breach Lane (ref. 16/507425/FULL), which was refused consent at the May meeting.

- 8.03 The application is also supported by a full suite of drawings, a D&A Statement, and contamination survey.

## 9.0 APPRAISAL

- 9.01 The application site lies outside of the built up area boundary and is thus within the countryside, where the Council's established policies of rural restraint seek to restrict residential development unless for the purposes of (amongst others) agricultural worker's housing, or affordable housing to meet an identified local need.

- 9.02 The principle of development in this instance is complicated by virtue of the Council's current lack of an identified five-year housing supply, but this is clarified through a recent (17 March 2016) court judgement: The Royal Court of Justice ruling in relation to i) Suffolk Coastal District Council and Hopkins Homes Limited and Secretary of State for Communities and Local Government, and ii) Richborough Estates Partnership LLP and Cheshire East Borough Council and Secretary of State for Communities and Local Government.

- 9.03 At para. 32 the Court states that "relevant policies for the supply of housing" means all policies that would affect the outcome of an application for new housing development:

*"A "relevant" policy here is simply a policy relevant to the application for planning permission before the decision-maker – **relevant either because it is a policy relating specifically to the provision of new housing in the local planning authority's area or because it bears upon the principle of the site in question being developed for housing.**" [My emphasis in bold.]*

- 9.04 This is expanded in para. 33:

*"Our interpretation...recognizes that the concept extends to plan policies whose effect is to influence the supply of housing land by restricting the locations where new housing may be developed – including, for example, policies for the Green Belt, policies for the general protection of the countryside, policies for conserving the landscape of Areas of Outstanding Natural Beauty ... policies for the conservation of wildlife or cultural heritage, and various policies whose purpose is to protect the local environment in one way or another by preventing or limiting development."*

- 9.06 Para. 35 clarifies concisely:

*"If a local planning authority is unable to demonstrate the requisite five-year supply of housing land, both the policies of its local plan that identify sites for housing development and policies restrictive of such development are liable to be regarded as not "up-to-date" under paragraph 49 of the NPPF – and "out-of-date" under paragraph 14."*

- 9.07 Where policies that restrict housing development are out of date, the NPPF's overall presumption in favour of sustainable development, and providing new housing to meet the designated five-year supply target (currently 776 dwellings per annum), is considered to prevail. This opens up otherwise unacceptable sites to consideration for new housing development, e.g. sites outside of built up areas, in order to meet that target.

- 9.08 However, para 24 states that "*Lord Reed ... emphasized, however (in paragraph 19), that statements of policy "should not be construed as if they were statutory or*

*contractual provisions". He also said (in the same paragraph) that "many of the provisions of development plans are framed in language whose application to a given set of facts requires the exercise of judgment", and that "[such] matters fall within the jurisdiction of planning authorities, and their exercise of their judgment can only be challenged on the ground that it is irrational or perverse..." ... It has been accepted in this court, and is not in dispute in these appeals, that the same principles apply also to the interpretation of national policy and guidance, including policies in the NPPF." [My emphasis.]*

9.09 This affords the Council opportunity to consider the weight to be afforded to national policy in terms of its affect upon local policy on a case-by-case basis, and with reference to the particular circumstances of each application.

9.10 Furthermore the judgement notes at para. 42 that *"it is for the decision-maker to decide what weight should be given to NPPF policies in so far as they are relevant to the proposal. Because this is government policy, it is likely always to merit significant weight. But the court will not intervene unless the weight given to it by the decision-maker can be said to be unreasonable in the Wednesbury sense."*

9.11 Crucial to the consideration of applications such as this is para. 43 of that judgement:

*"When determining an application for planning permission for housing development the decision-maker will have to consider, in the usual way, whether or not the proposal accords with the relevant provisions of the development plan. If it does, the question will be whether other material considerations, including relevant policies in the NPPF, indicate that planning permission should not be granted. If the proposal does not accord with the relevant provisions of the plan, it will be necessary to consider whether other material considerations, including relevant policies in the NPPF, nevertheless indicate that planning permission should be granted."*

9.12 Consequently, my understanding of the ruling is that whilst a failure to demonstrate an up-to-date five-year housing supply opens up consideration of sites that would be otherwise unacceptable under any policies that restrict the supply of housing (rural restraint policies, for example), there is still a duty imposed upon officers to consider all other relevant policies within both local guidance and the NPPF when assessing the suitability of any sites that come forward as part of an application. The weight that is afforded to those individual policies needs to be balanced against the lack of a demonstrable five-year supply, but does not negate the validity or the intention of those policies in themselves.

9.13 Therefore the acceptability of the principle of development can't be established from the outset, and a conclusion needs to be arrived at following consideration of the individual matters as set out below, and the associated policies.

#### Housing supply and the impact on policy

9.14 As noted above I have to consider the otherwise unacceptable nature of this development against the need for the Council to demonstrate a five-year housing supply. And, as above it is for officers to determine whether or not the policies in the development plan (adopted and emerging Local Plans, the NPPF and the NPPG) outweigh the need for more housing.

9.15 Paragraphs 14 and 49 of the NPPF state that, in a nutshell, where we can't demonstrate a five-year supply the Council should "approve development proposals

that accord with the development plan without delay,” and where the development plan is absent (as ours is because of a lack of five-year supply), the Council should be granting permission.

- 9.16 However, paragraph 14 caveats this position by stating that permission should be granted **unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against policies in the NPPF, or specific policies in the NPPF indicate development should be restricted.** Very importantly: footnote 9 to para.14 identifies areas at risk of flooding as being clear exceptions to the presumption in favour of development, and members will note that part of this site lies within Flood Zone 2.
- 9.17 Furthermore, and of significant value at this stage in the Council’s work towards meeting the housing supply shortfall, is para.47 of the Richborough Estates decision, which states (my emphasis in bold):

*“One may, of course, infer from paragraph 49 of the NPPF that in the Government’s view the weight to be given to out-of-date policies for the supply of housing will normally be less than the weight due to policies that provide fully for the requisite supply. **The weight to be given to such policies is not dictated by government policy in the NPPF. Nor is it, nor could it be, fixed by the court. It will vary according to the circumstances, including, for example, the extent to which relevant policies fall short of providing for the five-year supply of housing land, the action being taken by the local planning authority to address it, or the particular purpose of a restrictive policy – such as the protection of a “green wedge” or of a gap between settlements. There will be many cases, no doubt, in which restrictive policies, whether general or specific in nature, are given sufficient weight to justify the refusal of planning permission despite their not being up-to-date under the policy in paragraph 49 in the absence of a five-year supply of housing land. Such an outcome is clearly contemplated by government policy in the NPPF. It will always be for the decision-maker to judge, in the particular circumstances of the case in hand, how much weight should be given to conflict with policies for the supply of housing that are out-of-date. **This is not a matter of law; it is a matter of planning judgment.**”***

- 9.18 The Council has, since the Local Plan review earlier this year, made a concerted effort to address the lack of a 5yr supply. Additional sites have been brought forward to make up the shortfall and the Council now claims a 5.4yr supply; no significant challenges were raised in regards housing supply at the Inspector’s review of the Local Plan Main Modifications draft in January / February 2017; and it is expected that the emerging housing policies will be agreed when we receive the Inspector’s report in a month or so.
- 9.19 This puts the Council in a position to be able to refuse the application in principle (subject to the matters below) due to the progress made on the 5yr supply issue.

#### Sustainable development

- 9.20 Paragraph 14 of the NPPF makes it clear that there is a presumption in favour of sustainable development, which has three dimensions: economic, social and environmental. The NPPF expects development to seek improvements across all three dimensions.
- 9.21 It should be acknowledged that the proposals will achieve social gains in terms of the provision of new housing for the community whilst the Borough has an acknowledged

shortfall. In turn these make a positive contribution towards the economic role of sustainable development by contributing to building a strong, responsive and competitive economy, by helping to ensure that sufficient development land is available to support growth.

- 9.22 With regards to the environmental dimension I do not consider the site to be sustainably located in respect of access to services. Whilst it is just under 2km to the centre of Upchurch the majority of this route is via narrow, unlit, country lanes with 60mph speed limit and no pedestrian footpath. This is likely to encourage trips by private vehicle rather than on foot or by bicycle, in my opinion, which is contrary to the environmental aims of the NPPF.
- 9.23 The Methodology for the Swale Borough Strategic Housing Land Availability Assessment June 2009 sets out at section 7a that “*access to public transport local services and district wide facilities will be taken into account. The Council agrees with the conclusions of the Protocol that 800 m should be regarded as a maximum walking distance.*” Whilst there are a number of bus stop signs within the area the Chalkwell timetable shows these to be redundant, and the nearest stops actually in use are at Upchurch church (1.6km) and the A2/OQ Lane junction (1.4km). Chalkwell operates the 326 and 327 services between Medway and Sittingbourne, and there are several buses at peak commuter times but only 3 between 09.45 and 15.29 (<http://www.chalkwell.co.uk/files/5914/7879/7892/326-8-chalkwell-timetable-wefNov2016-web.pdf>). I consider that the distance to reach these stops is unacceptable under the Council’s methodology, and that the number of services is unlikely to be sufficient to encourage people to travel by means other than private vehicle, again contrary to the environmental aims of the NPPF.
- 9.24 I therefore do not consider that the development meets the NPPF’s tests of sustainable development.

#### Rural protection

- 9.25 The site lies outside of any built up area boundary and is thus considered to lie within the countryside of the Borough. Policy E6 of the adopted SBLP 2008 and ST3 of the emerging local plan aim to restrict the provision of housing unless for very specific circumstances – one of which is the provision of affordable housing to meet an identified rural need, with the support of the Parish Council.
- 9.26 There is no suggestion or evidence put forward to suggest that the development would provide affordable housing, accommodation for gypsies, travellers, or rural workers, or fall within any of the recognised other rural housing exceptions. The proposal therefore amounts to unjustified and unnecessary housing within the countryside, with consequent harm to the character and amenity of the rural landscape in a manner contrary to established policies.
- 9.27 Unjustified development upon the countryside would, in my opinion, be harmful to its rural character and appearance in a manner contrary to local and national policies of rural restraint.

#### Landscape / visual

- 9.28 The proposed dwellings themselves are, in my opinion, of an acceptable design and I have no significant objections on this aspect in itself and do not share the concerns of the Parish Council. However, it must be made clear that I do not consider them to be

of such exceptional architectural merit as to justify grant of permission as an exception to rural protection policies.

- 9.29 I am, however, concerned that the proposed dwellings turn their back on the highway and that the primary view of the site would be of rear garden fences immediately adjacent to the road. I consider that this would be harmful to the otherwise open character of the location and thus harmful to the character and appearance of the countryside. Landscaping could soften this to a certain extent, but would not resolve the matter sufficiently to overcome the harm caused, in my opinion.
- 9.30 In this regard I also consider that erection of dwellings on this site would remove the general sense of openness on this corner plot, which is currently open save for mature trees, in a manner harmful to the character of the area. I have not requested amendments to the scheme due to my objection in principle as set out above.

#### Amenity

- 9.31 There are a handful of existing dwellings within the immediate vicinity, and the existing adjacent office block is to be converted to houses under the PN process. Due to the layout of the proposed development and the position of those other properties, however, I do not consider that there would be any serious harm to residential amenity.

#### Contamination

- 9.32 I note the EA's concerns and therefore consider the proposal as submitted to be unacceptable in terms of potential contamination of groundwater. I appreciate that this matter could be resolved by submission of further information but due to the objection in principle I do not consider it justified to request additional details at this stage.

#### Flooding

- 9.33 As set out above the Environment Agency object to the proposals because the site lies within Flood Zone 2, and no Flood Risk Assessment (FRA) has been provided. As with the layout concerns I have not requested an FRA due to the objection in principle.
- 9.34 Development of this site is subject to the Sequential test. As set out by the government website *"the sequential test compares the site you're proposing to develop with other available sites to find out which has the lowest flood risk"* and *"ensures that a sequential approach is followed to steer new development to areas with the lowest probability of flooding."* The Council, through the site allocations process, has identified areas for residential development that would be at little or no flood risk, and there are likely many windfall sites within the Borough outside of any flood risk areas that, together, will enable us to meet our 5yr housing supply. I therefore consider that there is no need for the Council to approve residential development in otherwise unacceptable or marginal sites such as this.

#### Highways and Parking

- 9.35 I note that Kent highways have no objections and I do not consider that there are any reasonable grounds for refusal in regards highway safety and amenity. The site has good access via an existing road (Gills Terrace) and sufficient parking would be provided within the confines of the site.

Ecology

9.36 I have for completeness set out a Habitat Regulations Assessment below. This confirms that whilst mitigation could be provided by way of developer contributions, this is not considered appropriate for developments under 10 dwellings. The cost of mitigation will be met by developer contributions on developments over 10 dwellings. In view of this it is not considered that the development will have a harmful impact on the special interests of the SPA and Ramsar sites.

**10.0 CONCLUSION**

10.01 This application proposes new dwellings outside of the defined built up area and in a location considered, by the Council's own adopted methodology, to be unsustainable. The social benefits to be gained from an additional 5 dwellings being added to the council's housing supply are, in my opinion, entirely and heavily outweighed by the harm to the countryside that would arise.

10.02 Taking the above into consideration I strongly recommend that planning permission should be refused.

**11.0 RECOMMENDATION –REFUSE for the following reasons:**

- 1) The proposals would not represent sustainable development. The dwellings would be located within the countryside, outside the defined built up area boundaries as identified by Local Plan saved policies SH1 and E6 and emerging Local Plan Policy ST3, and away from established settlements in the Borough. The proposals would therefore be located so as to be poorly served by facilities, services, and public transport options. They would also be harmful to the landscape character and visual amenity of the surrounding countryside. Notwithstanding the contribution that the proposals would make toward the Borough's five-year supply of housing land, the adverse harm arising from the proposals would significantly and demonstrably outweigh the benefits. The proposals would be contrary to policies SP1, SP2, SH1, E1, E6, E9, E19 and H2 of the Swale Borough Local Plan 2008, policies ST1, ST3, CP2, DM14 and DM24 of the emerging Swale Borough Local Plan 2031 (Proposed Main Modifications June 2016), together with paragraphs 14, 17 and 55 of the National Planning Policy Framework
- 2) The site lies within Flood Zone 2 and no Flood Risk Assessment has been provided to demonstrate that the risk associated with residential development in this location are acceptable. The development may therefore give rise to unacceptable risk to life and increased flood risk elsewhere, in a manner contrary to policy E1 of the Swale Borough Local Plan 2008; DM14 and DM21 of the emerging Swale Borough Local Plan 2031 (Proposed Main Modifications June 2016), and paragraph 14 of the National Planning Policy Framework.

**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 to be fundamentally contrary to the provisions of the Development Plan and the NPPF, and these were not considered to be any solutions to resolve this conflict.

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 – 27 APRIL 2017**

**PART 5**

Report of the Head of Planning

**PART 5**

Decisions by County Council and Secretary of State, reported for information

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- **Item 5.1 – Fruit Store, Wrens Hill Farm, Wrens Hill, Norton**

**APPEAL ALLOWED**

**Observations**

DELEGATED REFUSAL

A straightforward decision that clarifies the likely limits on the Council's scope for objection to the rising number of Class Q Permitted Development agricultural building to dwelling conversions; even in seemingly unacceptable locations.

- **Item 5.2 – Land adjacent white Timbers, Painters Forstal Road, Painters Forstal**

**APPEAL DISMISSED**

**Observations**

DELEGATED REFUSAL

The Inspector supported the Council's refusal relating to the character of the conservation area, although he did not feel that the new building would overshadow the host dwelling or result in loss of amenity for the neighbouring property.

- **Item 5.3 – Owens Court Farm, Owens Court Road, Selling**

**APPEAL ALLOWED AND FULL COSTS AWARDED AGAINST THE COUNCIL**

**Observations**

AGAINST OFFICER RECOMMENDATION

This decision, especially the costs decision, clearly demonstrates the need for the Council to look at the evidence before it, and not to be overly influenced by public opinion. The decision has also sidestepped a recommended condition regarding working hours that was negotiated with the applicant and recommended but is not now in place.

- **Item 5.4 – 2 Kings Road, Minster**

**APPEAL ALLOWED**

**Observations**

AGAINST OFFICER RECOMMENDATION

The Inspector concluded that the development would not harm the character and appearance of the area, nor harm residential amenity or highway safety and allowed

the appeal.

Members will note that the Inspector comments that no evidence to support its case was submitted by the Council. This is an extremely unfortunate error on the part of the case officer, for which I apologise.

- **Item 5.5 – 9 London Road, Newington**

**APPEAL DISMISSED**

**Observations**

DELEGATED REFUSAL

The Inspector concluded that the proposed dwelling would be overlooked and dismissed the appeal accordingly.

- **Item 5.6 – Land at Ellen's Place, High Street, Newington**

**APPEAL ALLOWED**

**Observations**

COMMITTEE REFUSAL

The Inspector considered that the proposal would not amount to unsustainable development and would not give rise to a loss of best and most versatile agricultural land.

- **Item 5.7 – The Paddock, 76 Horsham Lane, Upchurch**

**APPEAL DISMISSED**

**Observations**

DELEGATED REFUSAL

The Inspector considered that the caravan was unacceptable and that there were no material considerations which warranted approval.




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## Appeal Decision

Site visit made on 28 February 2017

by **D. M. Young BSc (Hons) MA MRTPI MIHE**

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

Decision date: 28 March 2017

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**Appeal Ref: APP/V2255/W/16/3161427**

**Fruit Store, Wrens Hill Farm, Wrens Hill, Norton, Faversham, Kent ME13 0SH.**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO).
  - The appeal is made by D J Moor Partnership against the decision of Swale Borough Council.
  - The application Ref 16/502242/PNQCLA, dated 12 February 2015 was refused by notice dated 6 May 2016.
  - The development proposed is the change of use of a building and land within its curtilage from an agricultural use to a use falling within Class C3 (dwelling-houses).
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### Decision

1. The appeal is allowed and approval is granted under the provisions of Schedule 2, Part 3, Paragraph Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 for the change of use of a building and land within its curtilage from an agricultural use to a use falling within Class C3 (dwelling-houses) at Fruit Store, Wrens Hill Farm, Wrens Hill, Norton, Faversham, Kent ME13 0SH in accordance with the terms of the application 16/502242/PNQCLA, dated 12 February 2015.

### Preliminary Matters

2. In the interests of brevity I have taken the description of development from the Appeal Form.
  3. Under Class Q of the GPDO permitted development rights apply to a change of use of a building and any land falling within its curtilage to a use falling within Use Class C3 together with building operations reasonably necessary to convert the building to such a use. Paragraph Q.1 sets out the limitations applying to the exercise of permitted development, while paragraph Q.2 sets out the conditions applying.
  4. There is no dispute between the parties that the proposal would comply with the relevant criteria laid out in Paragraph Q.1 and I see no reason to take a contrary view. Moreover, the Council has not alleged that prior approval is required in respect of transport and highways, noise, contamination, flooding or the design or external appearance of the building as set out in paragraph Q.2.
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Appeal Decision APP/V2255/W/16/3161427

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5. However, the Council argue that prior approval is required and refused under Class Q.2 (e) with regards to whether *"the location or siting of the building makes it otherwise impractical or undesirable for the building to change from agricultural use to a use falling within Class C3"*. Clarification is provided by the *"Planning Practice Guidance"* (PPG) as to what might be meant by *"impractical"* or *"undesirable"* for the purposes of paragraph Q.2<sup>1</sup>. My interpretation of the PPG is that these words are restricted to their commonly-understood everyday meaning. When siting and location are considered, the PPG indicates that the decision-maker should consider the *"National Planning Policy Framework"* only to the extent that it is relevant to the matter upon which prior approval is sought.

#### Main Issue

6. In light of the above, the main issue is whether or not the proposed change of use would be permitted development under the provisions of Part 3, Class Q of Schedule 2 to the GPDO with regard to whether the location or siting of the building makes it otherwise impractical or undesirable for a residential use.

#### Reasons

7. The appeal building is a 4-bay, rectangular agricultural building which appears to be used mainly for the storage of fruit in connection with the surrounding orchard. There is little doubt that it is sited in a remote location on agricultural land to the north of the M2 motorway. The site is accessed via an unmade track from either Norton Lane or Rushett Lane although I understand access is to be taken from the former which I inspected when I conducted my site visit.
8. The Council's opposition to the scheme is based primarily on the length and condition of the access track. However, unmade farm tracks of this nature are not unusual as a means of residential access particularly in rural areas. In this case the access route is well established and is in reasonably good order such that I was able to negotiate it in a small family car without difficulty. I did not find the length of the route to Norton Lane to be excessive in the context of this rural location. Whilst I accept the access track would benefit from some patching work to fill in some of the pot-holes, this would be a relatively straightforward and inexpensive exercise that could be undertaken by future occupiers.
9. The *practicality* and *desirability* tests evidently have high thresholds with the PPG citing as an example a building on top of a hill with no road access. Neither of these situations, or similar occur in this case. In coming to that view I accept the Council's argument that there might be times when for reasons other than those examples cited in the PPG, it might be practical and/or desirable to restrict the Class Q right. However, given that I have found the building's access arrangements to be acceptable, it cannot reasonably be argued that the proposal would be *impractical* in this instance.
10. The Council has referred to potential problems for emergency vehicles wishing to access the site. However, even if I had found the access impracticable under the terms set out in the PPG, movements of these types of vehicles along the access would be extremely infrequent.

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<sup>1</sup> PPG Paragraph 109 Reference Id: 13-109-20150305

Appeal Decision APP/V2255/W/16/3161427

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11. Finally, I have had regard to the Council's argument about the separation from the local community. However, the Class Q right does not apply a test in relation to the sustainability of location, recognising that many agricultural buildings will not be in village settlements.

**Conclusion**

12. For the reasons given above, I conclude that the location or siting of the building would not make the proposed change of use impractical or undesirable and that the appeal should be allowed and prior approval granted. In granting approval the appellant should note that there is a requirement in the GPDO at paragraph Q.2(3) for a condition related to the time development should begin, in this case within three years of the date the prior approval is granted, and, at paragraph W (12), that the development shall be carried out in accordance with the details approved.

*D. M. Young*

Inspector

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## Appeal Decision

Site visit made on 28 February 2017

by **D. M. Young BSc (Hons) MA MRTPI MIHE**

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

**Decision date: 29 March 2017**

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**Appeal Ref: APP/V2255/W/16/3164648**

**Land adjacent White Timbers, Painters Forstal Road, Painters Forstal, Kent ME13 0DU.**

- 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 James Boucher against the decision of Swale Borough Council.
  - The application Ref 16/506452/FULL, dated 15 August 2106, was refused by notice dated 18 October 2016.
  - The development proposed is the demolition of an existing garage building and shed and the erection of a new two bedroom house with associated parking.
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. The Council has cited conflict with Policy DM14 of the "*Swale Borough Local Plan Proposed Main Modifications 2016*" (the emerging LP) in its first reason for refusal. I find this policy to be consistent with those in the existing development plan and advice in the "*National Planning Policy Framework*" (the Framework) and therefore I have afforded it significant weight in my decision.
3. I have taken the site address from the Appeal Form as this is more accurate than the version provided on the Application Form.

### Main Issues

4. The main issues are the effect of the development on, firstly, the character and appearance of the Painters Forstal Conservation Area (PFCA) and, secondly, the living conditions of neighbouring occupiers with particular regards to overshadowing and outlook.

### Reasons

#### *Character and appearance*

5. The site and surrounding area are within the PFCA. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) requires that in the exercise of planning powers in conservation areas, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area. The site is also within the Kent Downs Area of Outstanding Natural Beauty (AONB) where paragraph 115 advises that great weight should be given to conserving landscape and scenic beauty.
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Appeal Decision APP/V2255/W/16/3164648

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6. The appeal site comprises part of the residential curtilage to White Timbers, a modest but attractive semi-detached property whose name derives from its traditional facing materials. It is proposed to erect a single dwelling on the site following the demolition of the garage and outbuilding which are both of a similar style and appearance to the host dwelling.
7. The surrounding area is residential and comprises dwellings of varying style, age and materials. However, buildings tend to address the road and are set back generously from it. The proximity of amenity areas on the opposite side of Painters Forstal Road together with the generous spacing between dwellings and prevalence of landscaped frontages lend the area a pleasant and spacious character. Due to its central location and facing materials, White Timbers along with its immediate neighbour, have significant visual presence in the street scene. In particular, it is the unity of the two dwellings as well as the spaces and landscaping around them which when viewed as a pair, make a significant positive contribution to the PFCAs.
8. The appeal scheme would truncate the curtilage of White Timbers thus robbing it of a considerable proportion of its garden and reducing the extent of space in which the building is currently appreciated. The footprint, height and mass of the dwelling would significantly exceed that of the existing structures and would lead to a marked reduction in the visual gap between White Timbers to the south and Forstal Cottage to the north. The dwelling would be sited close to its northern and southern boundaries leaving little breathing space around it. It would be set back from the roadside and extend into the plot thus presenting a narrow gable end to the road. Its contrived proportions and constrained layout would be decidedly different to anything else in the vicinity and would be at odds with the characteristically generous spacing of built development in this part of the village. Overall the development would substantially alter the appearance of the site thus giving the immediate area a more built-up appearance.
9. Given the confines of the site, the small front garden to White Timbers would be removed to make way for an additional parking space. Accordingly, the whole frontage area to both properties would be taken up by parking areas with limited scope for any meaningful landscaping. The limited size of the residual garden area to White Timbers adds further credence to my concerns that the scheme would amount to overdevelopment of this site.
10. Given the special attention that has to be paid to the desirability of preserving or enhancing the character or appearance of conservation areas as set out in the Act and Policy E19 of the LP, the harm I have identified weighs substantially against the proposal. Paragraph 134 of the Framework indicates that where a development proposal will lead to less than substantial harm this should be weighed against the public benefits; I have not identified any significant public benefits in this case.
11. The development would appear cramped and would substantially alter the appearance of the site as a whole and erode the sense of spaciousness which is a defining characteristic of the PFCAs. Therefore and notwithstanding that there is nothing objectionable about the external appearance of the dwelling, I conclude that the development would conflict with Saved Policies E1, E9, E15 and E19 of the LP and Policy DM14 of the emerging LP. Collectively these seek



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high quality design that reflects the positive characteristics and features of a site and locality and preserves and enhances conservation areas and the AONB.

*Living Conditions*

12. Whilst the dwelling would be sited at close quarters to its northern neighbour, it would not be of a height to challenge it. There is nothing before me to indicate the presence of habitable room windows at ground floor level in the side elevation of Forstal Cottage. I therefore find little to support the Council's view that the development would have a significant overbearing effect on these occupiers.
13. There would undoubtedly be limited separation between the side elevation of White Timbers and the proposed dwelling. However, the new dwelling would be orientated to the north and would not cause any significant overshadowing of the rear garden. Only a limited number of windows are proposed to the new dwelling and none in the main south facing elevation. Consequently, there would be no loss of privacy to the occupiers of White Timbers. Although the lack of windows to the proposed dwelling does give me some cause for concern, the Council has not raised this as an issue. As a result and given that I have found the development unacceptable on the first main issue, I have not pursued this matter further.
14. I therefore conclude that the development would not have an unacceptable effect on the living conditions of neighbouring occupiers with particular regards to overshadowing and outlook. It would thus accord with Saved Policies E1 and E19 of the LP and Policy DM14 of the emerging LP.

**Conclusion**

15. I have identified clear conflict with the development plan in terms of the dwelling's effect on the character and appearance of the area. I acknowledge that the scheme would make a contribution, albeit modest, to the Council's housing stock. Nevertheless and irrespective of the Council's housing land supply position, this does not outweigh the harm I have identified and the conflict with the development plan in that regard.
16. For the reasons given above and taking into account of all other matters raised, I conclude that the appeal should be dismissed.

*D. M. Young*

Inspector

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## Appeal Decision

Site visit made on 28 February 2017

by **D. M. Young BSc (Hons) MA MRTPI MIHE**

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

**Decision date: 29<sup>th</sup> March 2017**

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**Appeal Ref: APP/V2255/W/16/3164817**

**Owens Court Farm, Owens Court Road, Selling, Kent ME13 9QN.**

- 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 FW Mansfield & Son against the decision of Swale Borough Council.
  - The application Ref 16/504494/FULL, dated 24 May 2016, was refused by notice dated 21 September 2016.
  - The development proposed is the erection of a cold store.
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### Decision

1. The appeal is allowed and planning permission is granted for the erection of a cold store at Owens Court Farm, Owens Court Road, Selling, Kent ME13 9QN in accordance with the terms of the application, Ref 16/504494/FULL, dated 24 May 2016, subject to the following conditions:
  - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
  - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 2259/105/241215, 2259/105/190516, 609.8/1rev C and ELG00-1-01 rev E.
  - 3) No development above slab level shall take place until details of the materials to be used in the construction of the external surfaces of the building hereby permitted 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.
  - 4) Construction works shall take place only between 0730-1900 hours Monday to Friday and 0730-1300 hours on Saturday and not at any time on Sundays or on Bank or Public Holidays.
  - 5) Development shall not be brought into use, until drainage works for surface and foul water from the site have been carried out in accordance with details which shall first have been submitted to and approved in writing by the local planning authority.
  - 6) The building hereby permitted shall only be used for the chilling and storage of cherries grown at Owens Court Farm.

### Application for costs

2. An application for costs was made by FW Mansfield & Son against Swale Borough Council. This application is the subject of a separate decision.
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Appeal Decision APP/V2255/W/16/3164817

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### **Main Issues**

3. The main issues are firstly, whether there is an agricultural need for the proposed building and secondly, the effect of the proposed building on the character and appearance of the area.

### **Reasons**

#### *Agricultural need*

4. The appeal site comprises a strip of open land to the north of a farmstead known as Owens Court Farm. The scheme seeks permission for a modular barn measuring approximately 20m (width) x 15m (depth) x 6.3m (ridge height). The road facing (south-east) elevation would contain 3 large roller shutter doors. According to the appellant, the building is required to provide a cold storage facility to cool and store cherries which are grown on the surrounding agricultural land.
5. I note the Council's view that there is no justification for the building. However, section 9 of the submitted Design and Access Statement (D&AS) contains a detailed justification for the building based on the appellant's extensive knowledge and understanding of the fruit growing business. It is significant that the need for the building has been accepted by the Council's rural planning consultant.
6. In coming to a different view to its specialist advisor, the Council's submissions are unconvincing and appear to rest in large part on the views of local residents. I have noted the historical use of a mobile chiller unit. However, the D&AS clearly sets out a cogent environmental and economic case for the building.
7. Given the Council's failure to adduce any evidence to support its view, I conclude that there is an agricultural need for the proposed development and find no conflict in this respect with the first criterion of Policy E6 of the "Swale Borough Local Plan 2008" (the LP).

#### *Character and appearance*

8. Despite the presence of residential properties in the vicinity, the surrounding area is lightly settled and unmistakably rural. Although I have not been supplied with a landscape character assessment, from what I saw when I visited the area, it is a working agricultural landscape consisting of a patchwork of medium-sized arable fields. As a consequence agricultural buildings and other paraphernalia are inherent features of the area.
  9. The topography of the area is fairly flat and consequently the mature hedging that lines Owens Court Road would severely limit views of the building from public vantages. I accept that there would be more exposure of the building from Owens Court Road in the winter months but even then the building would be set back some distance from the road and would simply be seen alongside the existing buildings at Owens Court Farm.
  10. I acknowledge the store would be located outside the existing yard and encroach slightly into the surrounding countryside. However, the degree of encroachment would be small and the building would be sited close to the existing group. Its scale and footprint would be within the range of existing
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Appeal Decision APP/V2255/W/16/3164817

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buildings and would not be unduly excessive. Although its design would differ to those existing buildings, these differences would not be substantial and the colour of the cladding could be controlled by a planning condition. Therefore seen in its context, the proposed building would not appear obtrusive or out of place, and given its relatively modest scale and siting immediately adjacent to a compact group of farm buildings, it would have no significant adverse effect on its surroundings.

11. The site is outside but adjacent to the Kent Downs Area of Outstanding Natural Beauty (AONB). The Council have not drawn my attention to any locations within the AONB from where the building would be visible and I note there was no objection to the proposal from the AONB Management Unit.
12. For the reasons set out above, I conclude that the development would not harm the character and appearance of the countryside. It would thus accord with Policies E1, E6 and E9 of the LP. Collectively these seek to strictly control development in the countryside and preserve the quality of the borough's landscape.

#### **Other Matters**

13. I appreciate that there is considerable local opposition to the scheme. However, to carry weight, opposition to a proposal should be founded on valid planning reasons, which are supported by appropriate evidence.
14. Due to the ability to store larger volumes of fruit on site, the Transport Statement submitted with the application forecasts that there would be a reduction in vehicle movements to/from the site. I have noted opposing views from local residents and the substandard nature of Owens Farm Road. However, there has been no objection from the Highway Authority and there is no evidence before me to substantiate the claim that there would be an increase in vehicle movements to/from the site. Consequently, I concur with the appellants that there would be no adverse impact on highway safety.
15. In terms of noise disturbance, the Council's Environmental Protection Officer has not objected to the scheme and again no substantive evidence has been adduced which would lead me to a different conclusion on these matters. As I have already commented, it is likely there would be a reduction in vehicular trips. It therefore follows that there would not be an increase in vehicular noise.
16. When I conducted my site visit, I was able to view the site from the rear of 2 Owens Court Cottages. I accept that there would be some change in the outlook from the rear of this property. However, the building would be some distance away and only visible in oblique views. I am not therefore persuaded that occupiers of the property would be subjected to an unreasonable level of enclosure or overbearing elements in views from windows in the rear elevation or from the garden. Whilst there would be a change in view, this is not a material consideration to which I can ascribe significant weight.

#### **Conditions**

17. The Council has suggested 11 planning conditions. I have considered these in relation to the advice in the "Planning Practice Guidance" (PPG). In some instances I have amended the conditions in the interests of brevity.



Appeal Decision APP/V2255/W/16/3164817

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18. I have imposed the standard implementation condition as well as a condition to ensure that the development is carried out in accordance with the approved plans, as these provide certainty. A condition relating to external facing materials is necessary to ensure the satisfactory appearance of the development. A condition restricting the hours of construction activity is necessary to protect the living conditions of neighbouring occupiers. However, a separate condition relating specifically to pile driving is unnecessary in light of the hours restriction. A drainage condition is necessary in the interests of flood prevention. A condition restricting the use of the building to the storage of cherries grown on Owens Court Farm is necessary to ensure a different use does not give rise to a more intensive logistical operation.
19. The construction of an agricultural building does not strike me as an operation that this likely to lead to excessive amounts of dust. Moreover, given the distance and orientation of the nearest residential properties I am not persuaded the living conditions of local residents would be undermined by external lighting. Consequently, I am not persuaded that these conditions would meet the requisite regulatory tests and I have omitted them accordingly.
20. Finally, the Council has suggested a condition which would restrict the use of the building outside the hours of 0500 to 2200. I acknowledge local concerns about the noise from the plant but this would be housed internally and there has been no recommendation from the Council's Environmental Protection Officer's for a restriction on hours. In terms of the plant, the D&AS states this would be a low noise condenser unit. With the nearest residential properties being located approximately 50m away, it is suggested that any noise would be 'imperceptible'. It is also pertinent that the building would be adjacent to a working farm where noise from a range of other sources is inevitably. Taking all these considerations in the round and bearing in mind the Council has failed to submit any justification, technical or otherwise, for the condition, I cannot be sure the condition is necessary to make the development acceptable. I have omitted it accordingly.

#### **Conclusion**

21. For the reasons given above and taking account of all other matters raised, I conclude that the appeal should succeed.

*D. M. Young*

Inspector




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## Costs Decision

Site visit made on 28 February 2017

by **D. M. Young BSc (Hons) MA MRTPI MIHE**

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

**Decision date: 29<sup>th</sup> March 2017**

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**Costs application in relation to Appeal Ref: APP/V2255/W/16/3164817  
Owens Court Farm, Owens Court Road, Selling, Kent ME13 9QN.**

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
  - The application is made by FW Mansfield & Son for a full award of costs against Swale Borough Council.
  - The appeal was against the refusal of planning permission for the erection of a cold store.
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### Decision

1. The application for an award of costs is allowed in the terms set out below.

### Reasons

2. The *Planning Practice Guidance* (PPG) advises that parties will normally be expected to meet their own costs in relation to appeals and that costs may only be awarded against a party who has acted unreasonably, and thereby caused the party applying for costs to incur unnecessary, or wasted, expense in the appeal process. The PPG states that vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis can constitute unreasonable behaviour.
  3. The appellant states that it should not have been necessary to submit an appeal against the Council's decision to refuse planning consent. Although the application was refused by Members contrary to the advice of its professional Officers, the Council is perfectly entitled to disagree with that advice, provided this is based on sound, substantive and defensible planning grounds. Similarly, whilst the views of local residents must be taken into account, the extent of local opposition is not in itself a reasonable ground for resisting development. To carry weight opposition should be founded on valid planning reasons and supported by appropriate evidence.
  4. Broadly speaking, the Council's reason for refusal raises three fundamental concerns; whether there is a need for the building, its visual impact on the countryside and the effect on local residents. The reason is somewhat vague and fails to clearly set out the harm that would be caused to the amenity of the area or the character of the countryside or exactly how the cited policies would be offended.
  5. In respect of need, the application was accompanied by a detailed business case setting out the putative reasons why the building was necessary. This was evidently scrutinised by the Council's Agricultural Consultant and found to be acceptable. The Council's response to these matters is limited to a short
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paragraph<sup>1</sup> which makes the case that the appellant's requirements could be met by a mobile chiller unit. Such a view is patently unsupported by objective analysis and relies in large part on the views of local residents. Moreover, the Council has failed to present any evidence to rebut the appellant's case set out in the Design and Access Statement.

6. In terms of its effect of on the character and appearance of the area, the Officer's Committee Report contains a fairly detailed analysis of the building, its location and effect on the area and the adjacent AONB. I appreciate Members visited the site and came to a different view. However, there is nothing in the Council's Appeal Statement or the Minutes of the Committee Meeting which explains how the building would harm the AONB or surrounding area.
7. Finally, the Council has raised various concerns under the umbrella of 'harm to amenities'. However, no objections were raised from the Council's specialist consultees in these areas and it seems to me that these concerns rely exclusively on the extent of local opposition without the support of objective appraisal and substantial evidence. In particular, the lack of any detailed and specific technical evidence in relation to noise or highway matters, means that the Council is not able to substantiate its claim that there would be harm arising from increased activity at the site. Indeed the evidence in relation to highway matters clearly demonstrated that there would be a reduction in vehicular activity. The Council's stance is therefore illogical.
8. The Council also raised the prospect of the building being used for 'other purposes'. It is not clear what specifically the Council is concerned about but in any event, these concerns could have been addressed by the imposition of a suitable planning condition.
9. The appellant's claim also alleges that the Council acted unreasonably by failing to explain to Members of the Planning Committee that an award of costs was likely to follow if they rejected the recommendation in the Officer's Committee Report. However, it is evident from the Minutes that there was a debate which followed a site visit by the Committee. Whilst there is nothing before me to indicate that Members were specifically advised of the likelihood of an appeal in this case, I find it unlikely that Members of a Planning Committee would not be conversant with the possible implications of refusing a planning application. Consequently, this failure in itself is not indicative of unreasonable behaviour.

#### **Conclusion**

10. Whilst the need for the building and its subsequent effect on the area are a matter of planning judgement, it is incumbent on the local planning authority to produce evidence to support its decision on appeal. However, in this case, the alleged lack of need and the effect on the AONB and living conditions of local residents is a matter of assertion, lacking in analysis and without sufficient regard to the views of the Council's specialist officers. As such, the Council's stance is vague and generalised and it has failed to demonstrate reasonable grounds for its decision.
11. For these reasons, I consider that the Council behaved unreasonably in respect of the substance of the case, which resulted in expenditure being incurred

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<sup>1</sup> Paragraph 4.6 of the Council's Appeal Statement



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unnecessarily in pursuing the appeal. Accordingly, I conclude that a full award of costs is justified in this case.

**Costs Order**

12. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Swale Borough Council shall pay FW Mansfield & Son the costs of the appeal proceedings described in the heading of this decision.
13. The applicant is now invited to submit to the Swale Borough Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

*D. M. Young*

Inspector

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## Appeal Decision

Site visit made on 28 February 2017

by **D. M. Young BSc (Hons) MA MRTPI MIHE**

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

**Decision date: 29 March 2017**

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**Appeal Ref: APP/V2255/W/16/3165678**  
**2 Kings Road, Minster-on-Sea, ME12 2HL.**

- 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 E Batten against the decision of Swale Borough Council.
  - The application Ref 16/506453/FULL, dated 24 August 2016, was refused by notice dated 15 December 2016.
  - The development proposed is the demolition of existing bungalow and erection of 2, 3-bed houses with parking spaces.
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### Decision

1. The appeal is allowed and planning permission is granted for the demolition of existing bungalow and erection of 2, 3-bed houses with parking spaces at 2 Kings Road, Minster-on-Sea, ME12 2HL in accordance with the terms of the application, Ref 16/506453/FULL, dated 24 August 2016, subject to the conditions set out in the schedule to this decision.

### Preliminary Matters

2. It appears from the limited information before me that the application was refused by the Council's Planning Committee contrary to the advice of its professional officers. Other than the single reason for refusal cited on the Decision Notice, no further evidence has been submitted by the Council. I have therefore identified the main issue below solely from the Decision Notice.

### Main Issue

3. In light of the above, the main issue is the effect of the development upon the character and appearance of the area.

### Reasons

4. The appeal site is a rectangular plot of land located at the corner of Kings and Queens Roads. It is currently occupied by a diminutive bungalow addressing the former and set back from the latter. The proposal seeks to remove the bungalow and replace it with a single, two-storey building containing two, 3-bedroom houses fronting Queens Road.
  5. As the Council acknowledge, the surrounding area is characterised by dwellings of varying design, scale and age. Whilst not unattractive, the immediate area lacks distinctiveness and is not particularly sensitive in streetscape terms. The height, mass, footprint and detailing of the building would reflect those of other
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properties in the immediate area and I find nothing objectionable in that regard.

6. Unlike the existing bungalow, the building would be orientated towards Queens Road. It would adhere to the established building line and in my view, it would be a welcome addition to the street scene adding a new and distinct element to a prominent corner plot. There is nothing before me to suggest the level of outdoor amenity space provision or off-street car parking would be deficient.
7. The Council's Committee Report refers to the distance between the flank wall of the building and its immediate neighbour. However, this is a built-up area where dwellings tend to fill the width of their plots. It is not notable for consistent or generous spacing between dwellings. I accept the dwelling would be set forward of 4 Kings Road. However, this dwelling would be located some distance away beyond the northern site boundary. I am therefore satisfied that the relationship of the development to its immediate neighbours would be acceptable.
8. Based on the foregoing, I conclude that the development would not harm the character and appearance of the area. It would thus accord with Policies E1 and E19 of the "Swale Borough Local Plan 2008". Amongst other things, these seek high quality design that reflects the positive characteristics and features of a site and locality.

#### **Other Matters**

9. I have noted the concerns of local residents regarding the effect of the development on outlook, light, levels of on-street parking and traffic congestion. Most of these matters have already been carefully considered by the Council and whilst I understand the concerns of local residents, there is no compelling evidence before me which would lead me to a different conclusion.

#### **Conditions**

10. The Officer's Committee Report contains 12 planning conditions. I have considered these against the advice in the "Planning Practice Guidance" (PPG). In some instances I have amended the conditions in the interests of brevity.
11. I have imposed the standard implementation condition as well as one to ensure that the development is carried out in accordance with the approved plans, as these provide certainty. A condition relating to external facing materials is necessary to ensure the satisfactory appearance of the development. A condition relating to the provision of the parking areas prior to occupation is necessary to ensure the development does not result in obstructive parking around the Kings/Queens Road junction. A separate condition relating to the access is unnecessary in light of the aforementioned.
12. As the development involves the demolition of the existing bungalow I have imposed a condition relating to the suppression of dust in addition to a restriction on construction hours. These are necessary to protect the amenity of local residents. Finally, I have imposed a condition to ensure any windows above ground floor level in the western elevation are fitted with obscure glazing to protect the privacy of neighbouring occupiers.
13. The locality is not notable for an abundance of landscaping and the submitted plan shows the retention of the existing hedge. As such and in the absence of

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a reasoned justification from the Council, I do not consider that a landscaping condition is necessary to make the development acceptable. I have therefore omitted the Council's conditions 5-7 accordingly.

14. Finally, I have carefully considered the Council's suggested condition relating to sustainable construction techniques. Whilst laudable there is no detailed justification before me. The Written Ministerial Statement of 25 March 2015 (the WMS) sets out provision for applying optional Building Regulations (the new national technical standards) in respect of water efficiency and for tighter energy performance standards than those otherwise required by the Building Regulations. The WMS states that where there is an existing plan policy which references the Code for Sustainable Homes, authorities may continue to apply a requirement for a water efficiency standard equivalent to the new national technical standard, or in the case of energy, a standard consistent with the WMS policy, concerning energy performance. The Council has not directed me to a relevant development plan policy and therefore I cannot be sure the condition would meet the advice in the WMS. I have omitted it accordingly.

#### **Conclusion**

15. For the reasons given above and taking into account all other matters raised, I conclude that the appeal should succeed.

*D. M. Young*

Inspector

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#### **SCHEDULE OF CONDITIONS**

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 16-16-11, 16-16-12 and 16-16-13.
- 3) No development above slab level shall take place until details of the materials to be used in the construction of the external surfaces of the buildings hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 4) Construction works shall take place only between 0730-1900 hours Monday to Friday and 0730-1300 hours on Saturday and not at any time on Sundays or on Bank or Public Holidays.
- 5) The commencement of the development shall not 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 in writing by the Local Planning Authority. The measures approved shall be employed throughout the period of demolition and construction unless any variation has been approved by the Local Planning Authority.
- 6) The parking areas shown on the approved plan shall be provided, surfaced and drained prior to first occupation of either dwelling and shall be retained thereafter.
- 7) Any windows above ground floor level in the western flank elevation facing 6 Queens Road, shall be obscure glazed and remain obscure glazed thereafter.






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## Appeal Decision

Site visit made on 28 February 2017

by **D. M. Young BSc (Hons) MA MRTPI MIHE**

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

**Decision date: 29 March 2017**

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**Appeal Ref: APP/V2255/W/16/3165376**

**9 London Road, Newington, ME9 7NP.**

- 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 M Anderson against the decision of Swale Borough Council.
  - The application Ref 16/506230/FULL, dated 4 August 2016, was refused by notice dated 17 October 2016.
  - The development proposed is a chalet type dwelling with detached garage – fronting The Willows.
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### Decision

1. The appeal is dismissed.

### Main Issue

2. The main issue is the effect of the development on the living conditions of future and neighbouring occupiers of the development.

### Reasons

3. The proposed dwelling would be sited in the rear garden of 9 London Road which is elevated above the ground floor level of the host dwelling. It would however be accessed from, and seen in the context of, The Willows.
  4. Insofar as the appeal scheme is concerned, Policy E1 of the "Swale Borough Local Plan 2008" (the LP) seeks to ensure that new development does not cause demonstrable harm to residential amenity.
  5. It is the relationship of the new dwelling to No 9 that is the issue in this case. According to the Council the separation between the rear elevation of the existing and proposed dwelling would be in the region of 13 metres. It is further stated that the Council would normally expect a distance of 21 metres in such situations. However, neither of the policies cited in the Council's Decision Notice are so prescriptive and I have not been referred to a relevant SPG.
  6. Nonetheless, 21 metres is the generally accepted standard between facing habitable room windows. However, in this case, the rear elevation of the proposed dwelling would be devoid of habitable room windows. It is also pertinent that the orientation between the two dwellings would be skewed by 45 degrees such that any direct over looking into the rear windows of No 9 from the new dwelling would be limited and not at a level to cause demonstrable harm.
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7. I am however less satisfied with the potential overlooking from No 9 to future occupiers of the dwelling. There are habitable room windows at first floor level in the rear of No 9. One of these, a dormer window, would occupy an elevated position facing the small rear garden of the new dwelling. A 45-degree splay line drawn from this window would encompass the majority of the outdoor amenity space to the dwelling. The window would be particularly apparent to future occupiers where it would loom just beyond the shared boundary. Its elevated position would compound the perception of future occupiers being under surveillance.
8. Whilst I accept that a degree of overlooking is inevitable given the site's context within a built-up residential area, I am not persuaded on the evidence before me that this could reasonably be described as typical in this case. I have considered the appellant's view that the harm could be mitigated by landscaping. However, there is nothing before me to demonstrate what this might look like including the height necessary to provide the screening. In any event, this would take a number of years to mature to any reasonable height and in the meantime the occupiers of the dwelling would have to endure unacceptable living conditions.
9. I therefore conclude that the development would cause unacceptable harm to the living conditions of future occupiers. It would thus conflict with Policy E1 of the LP. Although the Council has cited Policy E19 in its refusal reasoning, this is concerned with high quality design and distinctiveness as opposed to living conditions and I cannot find any conflict with the 12 criteria listed under that policy.

**Conclusion**

10. For the reasons given above and taking into account all other matters raised, I conclude that the appeal should be dismissed.

*D. M. Young*

Inspector






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## Appeal Decision

Site visit made on 28 February 2017

by **D. M. Young BSc (Hons) MA MRTPI MIHE**

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

**Decision date: 31 March 2017**

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**Appeal Ref: APP/V2255/W/16/3162806**

**Land at Ellen's Place, High Street, Newington, Kent ME9 7JH.**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
  - The appeal is made by Mr P Paulding (Esquire Developments Limited) against Swale Borough Council.
  - The application is Ref 16/505861/OUT, dated 14 July 2016.
  - The development proposed is the erection of nine dwellings with access, garaging, parking provision and other associated works.
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### Decision

1. The appeal is allowed and planning permission is granted for the erection of nine dwellings with access, garaging, parking provision and other associated works at land at Ellen's Place, High Street, Newington, Kent ME9 7JH in accordance with the terms of the application, Ref 16/505861/OUT, dated 14 July 2016, subject to the conditions set out in the schedule to this decision.

### Preliminary Matters

2. The planning application was submitted in outline, with only access to be determined at this stage. I have dealt with the appeal on that basis, treating the site plan and sections as illustrative.
3. The appeal is made against the failure of the Council to determine the application within the prescribed period. Following the submission of the appeal, the Council provided a Planning Committee Report setting out their concerns in relation to the proposal. The Council's suggested reason for refusal is wide ranging but confirms that had it been in a position to determine the application, it would have been refused for reasons that can be succinctly described as; (1) conflict with local and national policies regarding sustainable development, and (2) insufficient information with regards to noise and land contamination.
4. There is no dispute between the parties that the Council cannot demonstrate a 5 year supply of housing<sup>1</sup> and I see no reason to take a contrary view. In such situations paragraphs 47 and 49 of the "*National Planning Policy Framework*" (the Framework) state that the relevant policies for the supply of housing should not be considered up to date and that permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits.

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<sup>1</sup> The appellant's figure of 3.17 years has not been disputed by the Council

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5. The Council has referred to numerous policies in the emerging LP<sup>2</sup>. Of particular relevance to the appeal scheme is Policy ST3 which places emphasis on the use of previously developed land within built-up areas and sites allocated in the Local Plan. The emerging LP has been the subject of an Examination in Public and the Inspector's Interim Findings were issued in early 2016. Main Modifications have been issued for consultation and a review by the Local Plan Inspector concluded on the 10 February 2017. However, a substantial number of objections were received in response to those modifications. As a result, there is genuine uncertainty about exactly which site allocations and policies will appear in the adopted emerging LP. That being the case and notwithstanding that the plan is at a reasonably advanced stage, I have attached only limited weight to policies in the emerging LP, in accordance with advice in the second bullet of paragraph 216 of the Framework.

#### **Main Issues**

6. In light of the above the main issues are:
- (a) Whether the proposed dwellings are appropriate in principle in such a location in light of relevant local and national policy concerning new housing in the countryside and sustainable development;
  - (b) The effect on the character and appearance of the area;
  - (c) The effect on the availability of best and most versatile agricultural land, and
  - (d) Whether sufficient information has been submitted in respect of land contamination and noise issues.

#### **Main Issues**

##### *Principle of development*

7. The appeal site lies adjacent but outside the built-up area for Newington as defined in the "Swale Borough Local Plan 2008" (the LP). Saved Policy H2 states that residential development in the countryside will only be permitted where it meets one of the exceptions listed in Policies E6 and RC3. The provision of 9 open market dwellings does not fall within any of the exempted categories and consequently there would be conflict with the LP in this regard.
8. However, the LP is now time-expired and whilst this does not mean that it cannot carry weight, its policies need to be considered in relation to their consistency with the Framework. In this instance, the approach of seeking to control the principle of development beyond settlement boundaries is not entirely consistent with advice in paragraph 55 of the Framework. Moreover, although the underlying environmental aims of H2 are consistent with those in paragraph 17 of the Framework, Policy H2 as a whole has the effect of constraining the supply of housing land. As such and with regard to the Cheshire East judgement<sup>3</sup>, it is a policy for the supply of housing. Consequently, although the development would conflict with Policies H2 of the LP, this carries limited weight in the overall planning balance since this policy is out of date.

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<sup>2</sup> Emerging Draft Local Plan: Bearing Fruits 2013 (Publication draft December 2014)

<sup>3</sup> Richborough Estates Partnership LLP v Cheshire East, SSCLG [2016] EWCA Civ 168.

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9. It therefore follows that the default position identified in paragraph 14 of the Framework prevails and if the development constitutes sustainable development there is a presumption in favour of the appeal scheme unless other material circumstances dictate otherwise.

*Sustainable development*

10. The Framework states that the presumption in favour of sustainable development should be seen as a golden thread running through both plan making and decision-taking and that there are 3 dimensions to sustainable development: *economic, social* and *environmental*. Amongst other matters it seeks to significantly boost the supply of housing and deliver a wide choice of high quality homes. Section 6 sets out the policy in respect of housing in rural areas so that housing provision reflects local needs and is sustainable development.
11. The Council accept that the scheme would make a contribution towards the Council's housing stock. These benefits are indisputable and would be consistent with the *social* dimension of sustainable development. Given the Council's housing land shortfall, these benefits carry significant weight.
12. The development would support the *economic* role through the provision of construction employment, the purchase of materials and services in connection with the construction of the dwellings, an increase in local household expenditure and revenues to the Council from the New Homes Bonus. These factors must also weight in favour of the scheme.
13. In terms of locational sustainability, the Council argue that the site is 'reasonably well located'. When I visited the site I walked along the footway to the village centre where there are shops, community facilities and connections to bus and rail services. I did not find the walk challenging or excessive and therefore I see no reason to dispute the Council's assessment.

*Character and appearance*

14. The appeal site is an open area of paddock land located on the south side of High Street. It is sited towards the end of a ribbon of development that extends eastwards away from the village centre. It is bounded to the south by open land which rises gently away from the site. To the north is High Street with a large detached property beyond. To the east and west are existing properties and outbuildings.
15. Policy E9 of the LP sets out the relevant criteria when considering the effect of a development on landscape character. Since Policy E9 is concerned with general design considerations, it is not a policy for the supply of housing and its aims and language accord with the fifth bullet of paragraph 17 of the Framework. Accordingly I attach full statutory weight to Policy E9 which states that proposals in the countryside should consider guidelines in the Council's "Landscape Character and Biodiversity Appraisal SPD 2011" (the LCA). The appellants point out that the site is within the Landscape Character Area known as 'Newington Arable Farmlands', which has lost much of its traditional character and is noted for its poor condition and low sensitivity.
16. As I saw when I visited the site, there are a range of house types in the immediate area and although most dwellings address High Street there is considerable variety in their set-back from it. Nonetheless, the low-density and



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generous spacing between plots combined with the proximity of open countryside to rear boundaries lend the area a semi-rural quality.

17. The site is accessed direct from High Street via a simple dropped crossing and five-bar metal gate. The site is mainly laid to grass and contains a small bank of conifer type trees close to the southern boundary. It is therefore an intrinsically open and green space which despite the absence of distinctive features, is located at a point where a marked transition from village to countryside begins. Moreover, the low wire fence across the frontage affords significant visual exposure of the site from High Street in the immediate vicinity of the site.
18. The submitted plans show how the site might be developed around a cul-de-sac. I appreciate that it might well be possible to maintain a visual break through the middle of the site to safeguard views of the open countryside beyond. However, it is almost inevitable that whatever form the development takes, the dwellings together with the associated estate road and domestic boundary treatments would all change the open character of the land.
19. I accept the appellant's point that as a result of its location and local topography, the development would be seen against a general backdrop of existing built development when viewed in oblique angles. Furthermore, it would be possible to implement a scheme of structural landscaping particularly to the site boundaries which would provide a degree of visual containment thus helping to reduce the impact of the development on the landscape. Although this would take a number of years to mature and appellant argues that there would be a neutral impact after 15 years.
20. However, irrespective of how the dwellings are arranged and the amount of landscaping, it would be a relatively high-density, physically distinct development. It would effectively introduce a substantial and largely self-contained enclave of development which, in landscape terms, would have little resonance with the more conventional and established arrangement of dwellings along High Street. Although its impact on the wider landscape would be limited, there would still be a significant localised effect and this weighs against the proposal in terms of the balancing exercise to be undertaken.

*Best and most versatile agricultural land (BMV)*

21. According to the Council, the appeal site comprises around 0.49 hectares of Grade 1 (excellent) agricultural land. Paragraph 112 of the Framework advises that the economic and other benefits of BMV land should be taken into account and that areas of poorer quality land should be used in preference to that of a higher quality where significant (my emphasis) development of agricultural land is demonstrated to be necessary. However, whilst the Framework expresses a preference for development on non-BMV land, it does not preclude development on such.
22. Perhaps the most compelling argument here is that the land is not currently in agricultural use and therefore there would be no loss of BMV. The view expressed by some that the site could potentially be used for arable farming, is not a good one in principle as it could be applied to a wide range of sites to the further detriment of housing supply. Even if the land was in agricultural use, the loss of 0.49 hectares would be relatively small and could not reasonably be described as *significant* in the terms set out in the Framework. Based on the

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foregoing, I conclude that the loss of BMV land would not be significant when assessed against national planning policy and does not weigh against the scheme.

#### *Noise & land contamination*

23. The Council's second suggested reason for refusal relates to a lack of information in respect of traffic noise and land contamination and appears to be based solely on advice from its own Environmental Protection Officer.
24. When I visited the site, traffic noise from High Street was clearly audible across the northern section of the site. However, given the urban speed limits that are in force across the site frontage I did not find the amount of traffic noise to be particularly excessive. Moreover, based on the site plan, it is likely that the majority of the dwellings would be sited well away from the road. I am therefore satisfied future occupiers would not be subjected to unreasonable levels of noise.
25. In terms of contaminated land, no evidence has been adduced to show that the land is affected by contamination. It would therefore be possible to ensure the necessary investigation and remediation is carried out by imposing an appropriately worded condition.

#### **Other Matters**

26. Local residents have expressed a wide range of concerns including but not limited to the following; the loss of wildlife habitats, the effect on the setting of nearby listed buildings, highway and pedestrian safety, the effect on air quality inadequate sewerage/drainage infrastructure and the loss of recreational land. However, it is evident from the Committee Report that these matters were addressed by the various Statutory Consultees. Whilst I understand the concerns of local residents, there is no compelling evidence before me which would lead me to conclude differently to the Council on these matters.
27. Various other appeal decisions in the borough have been drawn to my attention but by reason of; site characteristics, location and development proposals, I find none to be directly comparable to the case in hand. In any event, I am required to assess the appeal before me on its own merits in the light of the particular circumstances which apply in this case and this is what I have done.

#### **Conditions**

28. Although the Council has suggested 10 planning conditions no reasons have been submitted in support of these. I have therefore considered them against advice in the "*Planning Practice Guidance*" (PPG). In some instances I have amended the conditions provided by the Council in the interests of brevity and to ensure compliance with the PPG.
29. Those conditions suggested covering time limits, the submission and approval of the reserved matters are necessary in the interests of proper planning and to provide certainty. The Council's condition 5 refers to the suppression of dust from the demolition of existing buildings. However, no buildings are to be demolished and I do not consider that the construction of the dwellings alone would give rise to excessive levels of dust. I have omitted the condition accordingly.

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30. I have combined several conditions into one requiring the submission of a Construction Method Statement. In addition, I have imposed conditions relating to visibility splays and ecological enhancements. These are necessary in the interests of highway safety, to protect the living conditions of local residents and to secure ecological improvements. Although not suggested by the Council, I have imposed a condition relating to an investigation for contamination and any necessary remedial measures. This is both reasonable and necessary to ensure the land is suitable for the proposed residential use.
31. Finally, The Council has not provided any justification, policy or otherwise, for a condition requiring details of sustainable construction techniques which are usually secured via the Building Regulations. As such, whilst the objectives of such a condition may be laudable, advice in the PPG is clear that a condition must be justified by the nature or impact of the development being permitted. Moreover, the Written Ministerial Statement of 25 March 2015 (the WMS) sets out provision for applying optional Building Regulations (the new national technical standards) in respect of water efficiency and for tighter energy performance standards than those otherwise required by the Building Regulations. The WMS states that where there is an existing plan policy which references the Code for Sustainable Homes, authorities may continue to apply a requirement for a water efficiency standard equivalent to the new national technical standard, or in the case of energy, a standard consistent with the WMS policy, concerning energy performance. As the Council has not directed me to a relevant development plan policy, I cannot be sure the condition would meet the advice in the WMS and the PPG. I have omitted it accordingly.

#### Overall Conclusions

32. The starting point in weighing the various factors is that the proposal would not conform to the development plan. However, the plan has time expired and the relevant policies for the supply of housing, which includes Policy H2, are out of date, given the Council's inability to demonstrate a 5-year supply of deliverable housing sites. Thus, if the development constitutes sustainable development permission should be granted unless any adverse impacts of doing so would significantly and demonstrably (my emphasis) outweigh the benefits.
33. I have identified *social* and *economic* benefits consistent with the aims of the Framework. Collectively these carry significant weight. In *environmental* terms, the scheme would incur loss of an open parcel of land close to the edge of the village resulting in landscape harm and conflict with Policy E9 of the LP. However, the appeal site has no special designation and views of the development would be limited in the wider landscape. Moreover, the visual harm could be partially mitigated over time by a net increase in green infrastructure. The site occupies a sustainable location where future residents would have a realistic choice to walk, cycle and use public transport to access essential day-to-day services and facilities. Based on the foregoing, I find that the overall level of environmental harm would be moderate.
34. When considered in the round, the proposed development would contribute significantly to the *economic* and *social* dimensions of sustainability. There would be moderate harm in terms of the *environmental* dimension. However, relative to the scale of the benefits arising, I find that this harm would not significantly and demonstrably out-weigh the benefits, when assessed against the policies in the Framework taken as a whole. The development would

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therefore be sustainable and the presumption identified in paragraph 14 of the Framework applies.

35. I consider this to be a significant material consideration sufficient to outweigh the conflict I have identified with the development plan. There are no other factors which would justify withholding planning permission. For the reasons given above and taking into account all other matters raised, I conclude that the appeal should succeed.

*D. M. Young*

Inspector



Appeal Decision APP/V2255/W/16/3162806

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#### **SCHEDULE OF CONDITIONS**

- 1) Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
- 3) The development hereby permitted shall begin not later than two years from the date of approval of the last of the reserved matters to be approved.
- 4) No development shall take place until a risk-based land contamination assessment to determine the nature and extent of any contamination on the site has been carried out, in accordance with a methodology that has first been submitted to and approved in writing by the local planning authority. Should any unacceptable risks be found, a remedial scheme and verification plan shall be submitted to and approved in writing by the local planning authority. The remedial scheme shall be implemented as approved before development begins.

If, during the course of development, any contamination is found which has not previously been identified, additional measures to address it shall be submitted to and approved in writing by the local planning authority and the additional measures shall be carried out as approved.

- 5) The development shall commence until a Construction Method Statement has been submitted to and approved, in writing, by the Local Planning Authority for that particular phase. The statement shall include:
  - i) the proposed hours and days of working;
  - ii) details of measures to prevent the deposit of mud and/or other debris on the public highway.
  - iii) Details of parking, turning, unloading areas for employees and contractors

The development shall be carried out in accordance with the statement so approved.

- 6) Provision and maintenance of the visibility splays shown on the submitted plans with no obstructions over 0.6 metres above carriageway level within the splays, prior to the occupation of any dwellings hereby approved, and hereafter retained in perpetuity.
- 7) The ecological enhancements detailed within the submitted ecological statement shall be implemented on site prior to the occupation of any dwellings hereby approved.





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## Appeal Decision

Site visit made on 14 March 2017

by **AJ Steen BA (Hons) DipTP MRTPI**

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

**Decision date: 4 April 2017**

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**Appeal Ref: APP/V2255/W/16/3162312**

**The Paddock, 76 Horsham Lane, Upchurch, Sittingbourne, Kent ME9 7AP**

- 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 Kathleen Marguerite Johns of The Brown Jug against the decision of Swale Borough Council.
  - The application Ref 16/503680/FULL, dated 9 May 2016, was refused by notice dated 9 September 2016.
  - The development proposed is parking a mobile home in the grounds.
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### Decision

1. The appeal is dismissed.

### Preliminary Matter

2. The development has been completed and the mobile home is located within the paddock such that I was able to view it when I visited and I have taken this into account when coming to my decision.
3. I note that the draft Swale Borough Local Plan Part 1 has been submitted for examination but I am not aware of the exact stage it has reached and the extent of outstanding objections or whether the policies concerned will be considered as consistent with the National Planning Policy Framework (the Framework). Consequently, I am only able to give it limited weight in my decision.

### Main Issue

4. The main issue is the effect of the stationing of the mobile home on the intrinsic character and beauty of the countryside.

### Reasons

5. Horsham Lane is a rural road with sporadic development that allows views between development and over the surrounding countryside. The Brown Jug Public House is located at the end of a short terrace of houses. Adjacent to the pub and fronting the road is a triangular shaped area of land, comprising the car park beside the pub that provides access to a garage at the rear of the land and a grassed area closest to the residential development at Woodruff Close. This space forms a predominantly open area with views over it toward the farmland beyond that contributes toward the sporadic character of development along the road.
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Appeal Decision APP/V2255/W/16/3162312

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6. The mobile home is located on the grassed area, approximately in the position marked on the site plan provided by the appellant, and introduces additional development into the gap between the pub and Woodruff Close, alongside the existing garage. This reduces the gap between the pub and housing estate, consolidating development in this location and affecting the view of the open countryside from the road. I accept that an alternative location on the site may reduce the effect of the development on the countryside, although I do not consider that this would wholly overcome the harm caused by the stationing of a mobile home on this site.
7. For these reasons, I conclude that the proposed development harms the intrinsic character and beauty of the countryside. As such, it is contrary to Policies E1, E6, E7, H2 and RC3 of the Swale Borough Local Plan and the Framework that seek to protect the quality, character and amenity value of the countryside.
8. The appellant suggests that the mobile home provides living accommodation for a staff member at the pub who would not otherwise be able to afford accommodation in the locality, with no available alternative accommodation for low paid workers in the area. However, limited evidence as to the availability or affordability of housing in the area in comparison to the living wage paid to the staff member concerned is provided to substantiate this. Consequently, while I have sympathy to the circumstances described, they are not sufficient to outweigh the harm and policy conflict identified.
9. I note reference to other sites used for the stationing of mobile homes, but I have not been provided with information as to their location or whether they would be subject of the same planning policies. Consequently, I have assessed the scheme before me on its individual merits. The mobile home is located away from the boundary with neighbouring residential properties and is separated by substantial boundary planting, such that it would not reduce the privacy of occupiers of the nearest dwellings. I understand that a supporting letter from a neighbouring occupier was provided to the Council, but I have not been provided with a copy.
10. On the basis of the above considerations, I conclude that the appeal should be dismissed.

*AJ Steen*

INSPECTOR

By virtue of paragraph(s) 1, 2, 3, 4, 5, 6, 7 of Part 1 of Schedule 12A of the Local Government Act 1972.

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