

## AGENDA

### PLANNING COMMITTEE MEETING

Date: Thursday, 22 June 2017

Time: 7.00pm

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, Nicholas Hampshire, Mike Henderson, James Hunt, Ken Ingleton, Nigel Kay, Peter Marchington, Bryan Mulhern (Chairman), Prescott and Ghlin Whelan.

Quorum = 6

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Pages

#### 1. Fire Evacuation Procedure

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.

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.

The Chairman will inform the meeting that:

(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

(b) the lifts must not be used in the event of an evacuation.

Any officers present at the meeting will aid with the evacuation.

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.

2. Apologies for Absence and Confirmation of Substitutes

3. Minutes

To approve the Minutes of the Meeting held on 25 May 2017 (Minute Nos. 19 - 25) 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 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

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To consider the following applications:

16/501266/FULL – 99 High Street and Land to the North of High Street, Newington

16/508117/OUT – The Slips, Scocles Road, Minster

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

Requests to speak on these items 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 21 June 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 21 June 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, 13 June 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)

Chief Executive, Swale Borough Council,  
Swale House, East Street, Sittingbourne, Kent, ME10 3HT



**PLANNING COMMITTEE – 22 JUNE 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 - 16/501266/FULL</b>		
<b>APPLICATION PROPOSAL</b>		
Erection on land to the north of 99 High Street of 124 No. dwellings in total including two storey 2, 3, and 4 bedroom dwellings and 1 and 2 bedroom apartments (2 no. 3 storey blocks) with a new access road from the High Street, pedestrian and cycle link to Church Lane, formal and informal areas of open space and landscaping, car parking and amenity space.		
<b>ADDRESS</b> 99 High Street And Land To The North Of High Street Newington Kent ME9 7JJ		
<b>RECOMMENDATION</b> GRANT subject to a section 106 agreement requiring contributions as set out in paragraph 9.52 and 9.53 of the appended report.		
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b>		
The proposed development would provide housing on a site that is allocated for this purpose within the emerging Local Plan. The sustainability of the application site has been assessed and it is considered to be acceptable on a strategic and a local level. The economic, social and environmental considerations of the proposed development have been assessed and I have concluded that there would be some harm to human health as a result of an increase in air pollution as a consequence of this development, but that this would be confined to the area of the Rainham AQMA. Mitigation measures will reduce this harm to some degree. I conclude that the need for housing would outweigh any harm arising from air pollution. Subject to the imposition of the conditions listed at the end of the report and the signing of a Section 106 agreement, planning permission should be granted.		
<b>REASON FOR REFERRAL TO COMMITTEE</b>		
Parish Council objection		
<b>WARD</b> Hartlip, Newington And Upchurch	<b>PARISH/TOWN</b> Newington	<b>COUNCIL</b>
		<b>APPLICANT</b> Persimmon Homes South East Ltd <b>AGENT</b>
<b>DECISION DUE DATE</b> 07/06/16	<b>PUBLICITY EXPIRY DATE</b> 11/10/16	<b>OFFICER SITE VISIT DATE</b> 10/11/16
<b>RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):</b> There is no relevant planning history for this site other than the submission of a request for an Environmental Impact Assessment (EIA) in July 2015. This was determined on 6 <sup>th</sup> October 2015 concluding that an EIA was not required.		

**MAIN REPORT****1.0 INTRODUCTION**

- 1.01 Members will recall this this application was reported to the Planning Committee on 30<sup>th</sup> March 2017. After some discussion in which Members raised a number of concerns about the proposal, the motion to approve the development was lost. The Head of Planning Services used his call in powers at this point on the grounds that the Planning Committee was minded to make a decision that would be contrary to officer recommendation and contrary to planning policy and/or guidance. Determination of the application was deferred to come back to the planning committee at a later date.

1.02 At the 30<sup>th</sup> March Planning Committee, Members raised the following concerns:

- Narrow pavement close to the new access is dangerous to pedestrians and the A2 is already grid-locked;
- Ellens Place application refused – access wasn't accepted, why is the 99 High St access ok?;
- Premature to determine application;
- Effectiveness of air quality mitigation measures unproven;
- Environmental Health Officer didn't object to Pond Farm but it was dismissed at appeal on air quality grounds;
- Newington Working Mens club, when developed would increase the 'canyon' effect along the High Street;
- Questions about water supply following Southern Water's comments;
- Allocation under Policy AX6 of Bearing Fruits 2031 is for 115 houses, the proposal exceeds this;
- St Mary's View appeal dismissed on landscape impact, this development would have a harmful impact on the landscape;
- Need to consider impact on the Conservation Area.

1.03 This report will address these concerns and will consider the consequences of refusing this application.

1.04 Members should refer to Appendix 1 of this report which provides the original committee report and sets out a description of the site, the proposal, planning constraints, planning policy, a summary of local representations and consultee responses, background papers and appraisal of the application. A copy of the minutes of this meeting are also appended as part of appendix 1.

1.05 At the 30<sup>th</sup> March committee meeting, there were two tabled papers which are provided at appendix 2.

1.06 Members were also verbally updated at the meeting in respect of the receipt of a further comments from CPRE where they compare this application to the Pond Farm proposals which were dismissed on appeal and draw our attention to concerns about the lack of "clear evidence to demonstrate their likely effectiveness" in respect of air quality mitigation measures. They also consider that the development is likely to extend the time taken to meet air quality objectives in the AQMA.

1.07 It was also reported that we had received an objection from the Member of Parliament for Gillingham and Rainham who considered that the development would pose a significant threat to the air quality of the Rainham AQMA as well as the health of people living and working in that area. He was also disappointed that the recommendation is for the approval of the development, despite the significant effect on human health.

## **2.0 UPDATE**

2.01 Since the application was reported to the 30<sup>th</sup> March Planning Committee, we have received an additional letter of representation from a local resident who raised concerns about the inability of HGVs to turn left out of the site in rush hour.

2.02 We have also received a response from KCC SUDs who raise no objection to the proposal and recommend conditions to require a detailed surface water drainage

scheme to be submitted as well as a management and maintenance programme. I have included this condition in an update list of conditions set out below. This updated list incorporates small changes to the wording of the conditions to ensure that they are enforceable and the deletion of condition 34 which was not required as a consequence of receiving amended plans.

- 2.03 Members may be aware of the publication of a Government consultation entitled: 'Tackling Nitrogen Dioxide in our Towns and Cities'. Responses to the consultation are due to be submitted by 15<sup>th</sup> June 2017. The consultation responses will then inform the Government's revised air quality strategy for the UK, Scotland and Wales. This Council is currently preparing a consultation response to the document. It is anticipated that a briefing note on this consultation will be provided by the Head of Environmental Services at the meeting.

### 3.0 DISCUSSION

- 3.01 I will address each of the Members' concerns listed above in this section and will then go on to consider the implications of refusing this application.
- 3.02 Narrow pavement close to the new access dangerous to pedestrians and the A2 of already grid-locked;
- 3.03 The submitted Transport Assessment predicts that the proposed development would add only 8% to the number of vehicles on the local roads. Local junctions are considered to have adequate capacity and the design of the new ghost junction is considered to be adequate. Kent Highways and Transportation raise no concerns in this respect.
- 3.04 In respect of the narrow pavement the applicant states:
- "The Transport Assessment submitted with the application (along with its various updates/addenda) has been accepted by Kent County Council as Highway Authority. The footway is 1.5m which is marginally narrower than the usual standard of 1.8m, however the footway width has been agreed by the Highway Authority as part of the wider highway improvement works."*
- 3.05 I therefore conclude that there are no highways matters that cause harm to highway safety or amenity and that there are no grounds for refusal in this respect.
- 3.06 Ellens Place refused – access wasn't accepted, why is the 99 High St access ok?
- 3.07 The applicant points out that the planning appeal APP/V2255/W/16/3162806 was upheld and the decision letter dated 31 March 2017 did not touch on the matter of highway access. Kent Highways and Transportation's response to the original planning application raised no objection to the development of Ellens Place on highway grounds and confirmed that they were satisfied with the design of the proposed access road. I do not therefore consider that the Ellen's Place development has any bearing on the conclusions about the safety of the access to this application site.

3.08 Premature

- 3.09 At the time of writing this report, the Local Plan Inspector's report has not been published. However, it is expected to be available at the meeting. Members will be updated further once the report has been received. I would however, reiterate that National Planning Practice Guidance clarifies that refusal on the grounds of prematurity would only be justified if the development would undermine the plan-making process. In this case, this draft allocation site has been chosen having followed the approach to the settlement hierarchy set out in the emerging Local Plan, which the examination inspector is likely to endorse (to be confirmed at the meeting). Therefore I consider that granting planning permission at this stage would not prejudice the plan-making process.

3.10 Effectiveness of air quality mitigation measures unproven

- 3.11 The applicant responds as follows:

*"The reports submitted by Lustre on behalf of Persimmon Homes have confirmed that the applicant is committed to providing a comprehensive range of mitigation measures in line with local plan guidance. The mitigation measures highlighted in the report are based on DEFRA damage cost calculations, which follows the national approach to managing and mitigating air quality impacts. Proving the effectiveness of these measures is considered erroneous to the determination of the application as we are dealing with behavioural changes and assumptions about future emissions rates.*

*The Environmental Health Officer at Swale Council has considered the Air Quality reports prepared for the Persimmon application and acknowledges the mitigation measures, including the contributions towards monitoring that have been offered, and considers that they are practical and reasonable for the size of development. He accepts that the effectiveness of these measures is unknown but it must be acknowledged that the Councils own technical guidance actually promotes the measures being offered."*

- 3.12 I would highlight the fact that the applicant is offering mitigation that is promoted by this Council in its Document entitled 'Air Quality Planning Technical Guidance'. This guidance is consistent with the Kent and Medway Air Quality Planning Guidance. So although the mitigation measures may be unproven as to their effectiveness, it would be unreasonable in my view to consider that they would not have any positive effect in limiting air quality impacts from the development.

3.13 EHO didn't object to Pond Farm but it was dismissed at appeal on air quality grounds

- 3.14 I draw Members' attention to the notes comparing the current proposal with the Pond Farm proposals that were tabled at the 30<sup>th</sup> March committee. I repeat these here for ease of reference:

## 3.15 Additional notes on the difference between Pond Farm and this scheme –

1. For both Pond Farm schemes, impacts on 3 receptors (with development assuming that there is no improvement in air quality) would be "substantial adverse". The highest impact for no. 99 High St would be "moderate adverse".

2. Modelling for Pond Farm was considered to be too optimistic about the improvements in technology for vehicle emissions. 99 High St does not assume any improvements in this respect and so the results really are worst-case.
  3. For Pond Farm, exceedances of the national target of 40µg/m<sup>3</sup> were likely in Newington as well as Rainham. 99 High Street would only add to an existing exceedance in Rainham by less than 1%. Even for the smaller Pond Farm scheme, the predicted change as a result of the development was between 2-5% for 6 receptor sites.
  4. The damage cost calculations (contributions) for Pond Farm were based on what was considered to be the over-optimistic assumptions about future emissions. The Inspector concludes that the mitigation measures would not therefore go far enough. The damage cost calculations for 99 High Street are not based on an improvement in future emissions and are instead based on the worse-case scenario. They are therefore highly likely to reflect the true damage cost of the scheme. In addition, the developer is willing to commit to mitigation measures for which the cost would exceed the damage cost calculation by approximately £30k.
  5. 99 High St is clearly more sustainable than Pond Farm being within such close walking distance from local amenities, the primary school, train station and bus stops;
  6. The TA confirms that 40% of traffic would turn right out of the site i.e. through the center of Newington and on to Rainham) with the majority (60%) turning left towards Sittingbourne and avoiding the AQMA in Rainham and the majority of the AQMA in Newington.
- 3.16 It is my strong view that the above differences between the two schemes/sites can clearly be used to justify why the current application could be approved, despite the dismissal of the Pond Farm applications at appeal. In addition, Members should be clear that the Pond Farm proposals were dismissed on the grounds of landscape harm as well as the concerns about air quality. Both concerns together amounted to harm that outweighed the benefits in that case. The conclusion to dismiss was reached after consideration was given to all aspects of the scheme that were weighed up in the planning balance. No two schemes are the same and each application must be considered on its own merits. Even if Members consider that the current application would have the same level of harm on air quality as the Pond Farm schemes, they must also consider the benefits of this particular scheme and the lack of identified harm in all other respects.
- 3.17 The fact that this site will effectively be an allocated site that falls in line with this Council's adopted settlement strategy must be given significant weight. Pond Farm was not, and has never been, an allocated site. Members must be clear that if they are to consider a refusal of this development on the grounds of the air quality impact, the reason for refusal must conclude that the air quality harm is so great that mitigation measures would be ineffective and that this harm outweighs the benefits of the proposal. Members will no doubt be aware of the need to ensure that this Council can demonstrate a five year housing land supply. This site will contribute towards fulfilling this demand and I place significant weight on this as a benefit of the development. Without development such as this coming forward in line with the adopted settlement strategy of Swale Borough Council, the danger is that unplanned and less favourable development in unsustainable locations will be approved or allowed at appeal.

Members should note that the decision on the High Court Challenge to this appeal decision by the developer, Gladmans on air quality grounds is still awaited.

- 3.18 Newington Working Mens club, when developed would increase the ‘canyon’ effect along the High St
- 3.19 Members may recall that there was a resolution to approve a development at this site under 16/506166 for ten dwellings. Persimmon’s air quality consultant, Lustre, has commented that it is unlikely that future development of the Working Mens Club will increase the canyon effect unless there is a significant increase in the footprint, size and scale of any new development replacing the existing premises. The creation of any “canyon” effect should be more of a concern to the design and layout of any redevelopment of the Working Men’s Club and will have no significant impact on the Persimmon development.
- 3.20 Questions about water supply following Southern Water’s comments
- 3.21 The applicant states: *“The water company is under a duty to provide drinking water to serve the future development and any off-site improvements are usually secured by the developer paying a financial contribution to reinforce and upgrade the water supply network. We do not believe this is a material consideration for the planning committee to consider in determining the planning application.”*
- 3.22 Allocation is for 115 houses, the proposed exceeds this
- 3.23 Policy AX 6 of the Swale Local Plan allocates the land for a minimum of 115 dwellings, landscape and open space. The proposed 124 dwellings would represent a development density of 32.6 dwellings per hectare ( as only 3.8 hectares are to be developed for housing and use class D1 building , the rest of the site (3.26 hectares) for informal open space) .
- 3.24 The applicant states: *“The increase in dwelling numbers provides a scheme which is compliant with local plan policies and development management constraints. The proposed development will deliver a wide choice of high quality new homes including 40% affordable housing. The increase in the proportion of affordable housing since the application was first submitted has resulted in a need to provide more small-sized dwellings including those now provided in apartments.”*
- 3.25 St Mary’s View appeal dismissed on landscape impact, this development would have a harmful impact on the landscape
- 3.26 The applicant provides the following response on this issue:
- 3.27 The application submitted by Persimmon Homes has been informed by a detailed Landscape and Visual Appraisal undertaken by a fully qualified Landscape Architect (Paul Whatley), who is a Chartered Member of the Landscape Institute. The methodology used for the Appraisal was based on the document ‘Guidelines for Landscape and Visual Impact Assessment’, published by The Landscape Institute and Institute of Environmental Management and Assessment, Third Edition, 2013. This approach establishes baseline landscape and visual character for a defined study area within which the site is located. The methodology then assesses anticipated impacts of the development proposal upon baseline landscape and visual character, principally by setting the magnitude of the proposal against the sensitivity of the landscape or visual receptor.
- 3.28 The visual assessment concludes that *“although the development would result in a change to the character and appearance of the site and would cause a reduction in the amount of agricultural land and a corresponding increase in the settlement area*

*to the north-east of the village, the general relationship between the existing settlement of Newington and the surrounding rural landscape would not be fundamentally altered."*

- 3.29 A landscape comparison has been undertaken to compare the appeal site at St Marys View with the proposed Persimmon development. The conclusions are:

a. Vegetation and Agricultural Uses

The planning application dismissed at appeal at St Mary's View relates to an entirely different site possessing very different landscape characteristics. For example the land at St Marys View is heavily vegetated and the Inspector noted that the site has not been subject to agricultural intensification, and the remnants of the orchard are still apparent. By comparison the Persimmon site is an open, arable field which has been subject to agricultural intensification for many years.

b. Visual Impact

In terms of views and visual impact, the Inspector noted that the principal visual impacts would be upon residents of St Mary's View and the dwellings to the west, and that 'the removal of the vegetation and introduction of the proposed dwellings would change the character and setting of this part of Newington.' The dwellings in St Mary's View are very close to the appeal site and some face directly onto it. By contrast the properties closest to the Persimmon site possess long back gardens and dwellings located within the proposed new development would be some considerable distance away from existing houses with a correspondingly reduced visual impact.

c. Site Containment

The Inspector also noted that the site at St Mary's View possessed an arbitrary site boundary, unrelated to the features on the ground or the topography of the site. He stressed that the proposed landscape buffer would serve to emphasise the awkward relationship between the appeal site and the surrounding countryside. The Inspector believed that the loss of vegetation would be considerable and the proposal would significantly harm the rural character and setting of Newington. In his opinion this harm would not be mitigated by the landscape proposals. By contrast the Persimmon site is very well contained on all sides by existing natural and man-made boundaries. The railway line forms the northern boundary and existing residential development contains the site to the south and west. In allocating the Persimmon land for development the Swale Local Plan confirms that "*the eastern part of the site is visually contained within the landscape by rising land up to an existing eastern hedgerow boundary*". The local plan comments that the most visually exposed land shall be excluded from built development.

- 3.30 Quite clearly the two sites are very different in landscape terms. The site at Site Mary's View has an awkward relationship with the surrounding countryside and that the loss of vegetation would significantly harm the rural character and setting of Newington. The application submitted by Persimmon relates to land which is well contained on all sides and which has been in full agricultural use for many years.
- 3.31 I do not therefore consider that the landscape impact of the current application is directly comparable to the harm identified at St Mary's View. I continue to conclude that the impact on the landscape would be acceptable with any harm on a local level being mitigated against by the robust landscaping scheme proposed.

### 3.32 Impact on the Conservation Area

- 3.33 The impact on the Conservation Area has been thoroughly assessed and I reiterate the conclusion set out in the original report:

*In respect of the Newington Church Conservation Area which is to the north of the site on the other side of the railway line, the Heritage Statement notes:*

*“This wider setting has not been identified as making a major contribution to the setting of the assets as pertains to their significance and impacts are therefore likely to be negligible.”*

- 3.34 I therefore consider that the development would preserve the setting of the adjacent Conservation Area.

### 3.35 Implications of refusing this application

- 3.36 The application site will effectively be an allocated housing site by the time of the committee meeting. Although the Local Plan is not yet officially adopted (due to be reported to Full Council on 26<sup>th</sup> July 2017), the Inspector's report will have been received and made public and is binding on the Council. If the Local Plan is found to be Sound, the application site will be judged to have been fully compliant with the Council's overall vision, aims and objectives for the future of Swale Borough and in line with the Council's settlement strategy. If Members are to refuse this application, they would have to be absolutely clear that the harm is significant, that this harm cannot be reduced to a satisfactory level by way of mitigation and that the harm is not outweighed by the benefits of the proposal. I set out above the dangers of refusing schemes that are compliant with our settlement strategy - that unplanned and less favourable development in unsustainable locations will be approved or allowed at appeal. This could undermine the whole approach of the freshly adopted Local Plan and is not a position that I anticipate Members would like to be in.

- 3.37 Members should be clear that without adequate justification for refusing this development, an appeal, most likely a Public Inquiry, would in be bound to follow. Members would be expected to be in a position to present the necessary evidence to support their refusal. The separate report at Part 6 of the agenda, which deals with the possible costs implications of a decision to refuse this application, should be noted.

## 4.0 CONCLUSION

- 4.01 This proposal would be in accordance with the soon to be adopted Local Plan in that it is an allocated housing site.

- 4.02 Paragraph 7 of the NPPF identifies three strands to sustainable development - economic (supporting the economy and growth), social (providing strong, healthy, accessible communities), and environmental (contributing to protecting our natural, built and historic environment). In terms of whether the proposals constitute sustainable development, I find that the proposals perform strongly in terms of the social and economic strands. The development would provide much needed housing, including 40% (49 units) as affordable housing. This site is of great importance in helping to meet the growing demand for housing in the Borough. It is acknowledged that the village does not have a doctor's surgery but in terms of other



infrastructure, the village is well served. Importantly, the site is within walking distance of the village shops, primary school and train station.

- 4.03 In terms of the environmental impact of the proposal, I do not consider that there would be significant harm to the landscape here and that mitigation in the form of soft landscaping as well as the design of the layout and the houses will ensure that landscape harm is limited further. I have discussed the impact of the development on highway safety and amenity and consider that there would be some harm. However, mitigation measures are proposed that would limit this harm to an acceptable degree in my view. In addition, there would be limited harm to ecology and biodiversity but I have set out mitigation measures such as ecological enhancements within the site and a contribution towards the SAMM Strategy. I consider that there would be no harm to the setting of the Conservation Area or to Hollybank, a Grade II listed building (which is discussed at paragraphs 9.29-9.33 of the original report), concluding that the setting of both of these designated heritage assets would be preserved. The loss of best and most versatile agricultural land is accepted in this case owing to the sites' allocation in the emerging Local Plan for housing. The potential for brickearth at the site has been examined and as well as being uneconomical to extract, the site is a draft housing allocation in the emerging local plan. As such, mineral extraction does not need to take place prior to its development.
- 4.04 In terms of air quality, I have found that the effect on human health would be significant but that this would be confined to the Rainham AQMA and I find that mitigation measures proposed will go some way towards lessening this effect. The applicant has considered a raft of air quality mitigation measures for this development, discounting those that would be impractical or of very little benefit but including those that would cumulatively make some difference in resident's choice of transport and would limit the scheme's contribution to air pollution. It is hoped that the mitigation measures combined will persuade residents to use sustainable forms of transport on a regular basis. However, it is fair to say that there are uncertainties as to the extent that the mitigation would reduce the significance of the impact and as such for purposes of the planning balance, I have therefore assumed the harm to be significant and that this should be weighed against the other elements of harm and overall benefits. This Council's Environmental Services Manager and the Medway Council's Environmental Health Officer do not object to the scheme on air quality, or any other grounds, and I give this significant weight in my consideration of air quality concerns. In terms of the overall planning balance, I consider that the need for housing in the Borough to be significant. This development would provide housing on an allocated site, contributing significantly to the 5 year housing land supply and this should carry significant weight in terms of social and economic benefits. Whilst the harm to air quality is potentially significant within the Rainham AQMA, in the absence of other significant harm, I do not consider that the harm to air quality is sufficient to significantly and demonstrably outweigh the overall benefits of the proposals.
- 4.05 I therefore consider that the development would be acceptable and, as such, that planning permission should be granted subject to the following conditions and a Section 106 agreement.
- 5.0 RECOMMENDATION – GRANT** Subject to the following conditions with delegation to add, amend or exclude conditions if necessary and a section 106 agreement requiring contributions as set out in paragraph 9.52 and 9.53 of the appended report:

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 the following approved drawings: 2588-18A; 2588-51B; 2588-52B; 2588-53B; 2588-19F; 2588-20I; 2588-21H; 2588-22G; 2588-23C; 2588-25D; 2588-26E; 2588-27E; 2588-28D; 2588-29D; 2588-30E; 2588-31F; 2588-32E; 2588-33E; 2588-34G; 2588-35G; 2588-36E; 2588-37D; 2588-40E; 2588-41F; 2588-42E; 2588-43H; 2588-44D; 2588-45G; 2588-46F; 2588-47F; 2588-48F; 2588-49F; 2588-50F; PERSE19783-09B; PERSE19783-10B; 2588-38E; 1391-001; 2588-55C & 5784/101B.

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 2015 (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 a levels strategy overlaying the proposed layout with the Topographical survey shall be submitted to and approved in writing by the Local Planning Authority before work commences and the development shall be completed strictly in accordance with the approved levels.

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

5. The amenity areas adjacent to the flats as shown on the approved plans shall be retained for use by the residents of all the flats throughout the duration of the development.

Reason: In the interests of residential amenity.

6. The areas shown on the approved drawings 2588-20 I and PERSE1978309 B as 'Green' and 'Suitable Alternative Natural Green Space' shall be reserved for the general amenity of the area and shall be provided in accordance with a schedule to be submitted to the Local Planning Authority to be agreed in writing prior to first occupation. Play space shown on drawing no. 2588-20 I as 'LEAP' shall be surfaced and equipped with play equipment, in accordance with a schedule agreed by the Local Planning Authority before the first occupation; no permanent development whether permitted by the Town and Country Planning (General Permitted Development) Order 1995 or not shall be carried out in the areas so shown without the prior written approval of the Local Planning Authority.

Reason: To ensure that these areas are made available in the interests of the residential amenities of the area.

7. Adequate underground ducts shall be installed before any of the buildings hereby permitted are occupied to enable telephone services, broadband 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 Article 3 of the Town and Country Planning (General Permitted Development) Order 1995 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.

8. No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of
  - (A) archaeological field evaluation works in accordance with a specification and written timetable which has been submitted to and approved by the Local Planning Authority; and
  - (B) following on from the evaluation, any safeguarding measures to ensure preservation in situ of important archaeological remains and/or further archaeological investigation and recording in accordance with a specification and timetable which has been submitted to and approved by the Local Planning Authority

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

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 contaminated land 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 contaminated 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 contaminated is adequately dealt with.

12. Prior to the commencement of the development, a Code of Construction Practice shall be submitted to and approval in writing by the Local Planning Authority. The construction of the development shall then be carried out in accordance with the approved Code of Construction Practice and 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.

The code shall include:

- An indicative programme for carrying out the works
- Measures to minimise the production of dust on the site(s)
- Measures to minimise the noise (including vibration) generated by the construction process to include the careful selection of plant and machinery and use of noise mitigation barrier(s)
- Maximum noise levels expected 1 metre from the affected façade of any residential unit adjacent to the site(s)
- Design and provision of site hoardings
- Management of traffic visiting the site(s) including temporary parking or holding areas
- Provision of off road parking for all site operatives
- Measures to prevent the transfer of mud and extraneous material onto the public highway
- Measures to manage the production of waste and to maximise the re-use of materials
- Measures to minimise the potential for pollution of groundwater and surface water
- The location and design of site office(s) and storage compounds
- The location of temporary vehicle access points to the site(s) during the construction works
- The arrangements for public consultation and liaison during the construction works
- Details of any mitigation measures necessary to mitigate the impact of construction on biodiversity and wildlife
- The mitigation measures set out in table 17 of the submitted Air Quality Assessment (March 2017).

Reason: In the interests of residential amenity, biodiversity and the control of air pollution.

13. Prior to the commencement of development hereby approved, full details of the method foul waters, including a drainage strategy and implementation timetable 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.

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

15. No dwelling/building shall be occupied or the approved use commenced until space has been laid out within the site in accordance with details to be submitted to and approved in writing by the Local Planning Authority for cycles to be parked securely stored (providing for 1 cycle per dwelling).

Reason: To ensure the provision and retention of adequate off-street parking facilities for cycles in the interests of sustainable development and promoting cycle visits.

16. The car barns/car ports as shown on the approved plans shall not be enclosed by the use of doors, walls, fences or any other means of enclosure to any open elevation, unless otherwise required by Part B (fire safety) of the Building Regulations (2010 as amended).

Reason: To ensure that the car barns/ carports are retained for parking in the interests of highway safety and amenity.

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

Reason: To ensure that the roads are constructed and laid-out in a satisfactory manner.

18. Before the first occupation of a dwelling / premises the following works between that dwelling / premises and the adopted highway shall be completed as follows:
- (A) Footways and/or footpaths shall be completed, with the exception of the wearing course;
  - (B) Carriageways completed, with the exception of the wearing course, including the provision of a turning facility beyond the dwelling together with related:
    - (1) highway drainage, including off-site works,
    - (2) junction visibility splays,
    - (3) street lighting, street nameplates and highway structures if any.

Reasons: In the interests of highway safety.

19. No dwelling hereby approved shall be occupied until the junction indicated on drawing 5784/101B, and the footway/emergency access shown on drawing 5288-23C have been provided in accordance with a design and specification to be

approved in writing with the Local Planning Authority and to be fully implemented to the satisfaction of the Local Planning Authority.

Reason: To ensure that a satisfactory means of access is provided for the site.

20. No vehicular access shall be brought into use until pedestrian visibility splays 2 m x 2 m with no obstruction over 0.6 m above the access level have been provided on each side of the access, and these shall be subsequently maintained.

Reasons: In the interests of highway safety.

21. Prior to the commencement of development hereby approved, full details of both hard and soft landscape works shall be submitted to and approved in writing by the Local Planning Authority. These details shall include existing trees, shrubs and other features, planting schedules of plants, noting species (which should be native species where possible and of a type that will enhance or encourage local biodiversity and wildlife), 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.

22. 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.

23. 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.

24. Prior to the commencement of development (above ground floor slab level) 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.

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

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

26. No floodlighting, security lighting or other external lighting shall be installed or operated at the site, other than in accordance with details that have first been

submitted to and agreed in writing by the Local Planning Authority. These details shall include:

- A statement of why lighting is required, including to the pedestrian/cycle link, the proposed frequency of the use and the hours of illumination.
- A site plan showing the area to be lit relative to the surrounding area, indicating parking or access arrangements where appropriate, and highlighting any significant existing or proposed landscape or boundary features.
- Details of the number, location and height of the lighting columns or other fixtures.
- The type, number, mounting height and alignment of the luminaries.
- The beam angles and upwards waste light ratio for each light.
- An isolux diagram showing the predicted illuminance levels at critical locations on the boundary of the site and where the site abuts residential properties.
- Confirmation that there would be no lighting to the SANG.
- Identification of 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 to access key areas of their territory.
- Demonstration as to how and where external lighting will be installed so that it can be clearly demonstrated that area to be lit will not disturb or prevent bats using their territory.

Reason: In the interests of visual amenity/landscape character and the residential amenities of occupiers of nearby dwellings and the interests of ecology.

27. All work to the site boundaries (where vegetation exists) must be carried out outside of the breeding bird season (March to August inclusive) unless otherwise agreed in writing by the Local Planning Authority that an ecologist examines the site prior to works commencing and if any nesting birds are recorded, all works must cease until all young have fledged.

Reason: In the interests of the protection of breeding birds.

28. Prior to the commencement of development hereby approved, a detailed SANGs management plan must be submitted to the Local Planning Authority for approval in writing. The approved management plan must be implemented and carried out as specified.

Reason: In the interests of ecology and biodiversity.

29. Notwithstanding the provisions of Classes A, B and C of Part 13 of the Town and Country Planning (General Permitted Development) Order 2015, prior to the commencement of development of the foul pumping station, details of its siting, design, scale and means of enclosure, shall be submitted to the Local Planning Authority for approval in writing and the approved details shall be implemented.

Reason: In the interests of visual amenities.

30. In this condition "retained tree" means an existing tree, which is to be retained in accordance with the approved plans and particulars. Paragraphs i) and ii) below shall have effect until the expiration of 5 years from the date of completion of the development for its permitted use.
- i) No retained tree shall be deliberately damaged, cut down, uprooted or destroyed, nor shall any retained tree be pruned other than in accordance with

the Arboricultural Impact Report (PJC ref: 3781/15-02) dated 15<sup>th</sup> January 2016, without the written approval of the Local Planning Authority. Any pruning approved shall be carried out in accordance with British Standard 3998:2010 Tree Work – Recommendations or any revisions thereof.

- ii) If any retained tree dies, or is removed, uprooted or destroyed, another tree shall be planted at the same place and that tree shall be of such size and species and shall be planted at such time as may be specified in writing by the Local Planning Authority.
- iii) The installation of tree protection barriers, the methods of working shall be undertaken in accordance with the Arboricultural Method Statement Report (PJC 3781/15-03 Rev 2) dated 15<sup>th</sup> January 2016.

Reason: To protect and enhance the appearance and character of the site and locality.

31. No development shall commence until the developer has (at his own expense):
- i) Instructed an Arboricultural consultant, approved in writing by the LPA, to liaise with the developer and/or his architect or engineer to approve relevant details of construction methods, oversee the works and report to the Council throughout the period of the works in so far as the works may affect retained trees (as set out in the approved plans) and;
  - ii) Submitted to and obtained the written approval of the LPA for an auditable system of Arboricultural site monitoring, including a schedule of specific site events requiring Arboricultural input or supervision where construction and development activity is to take place within or adjacent to any root protection area of any tree identified for retention.

Reason: To protect and enhance the appearance and character of the site and locality.

32. The noise mitigation methods as set out on pages 17, 18 and 19 of the submitted Noise Assessment: February 2016 (1391\MD\08-2015\370) and appendices D, E, F, G, H, and I, including the provision of mechanical ventilation, details of which shall have first been approved in writing by the Local Planning Authority, shall be implemented in respect of the 'worst-case' properties outlined in red on drawing 1391-001.

Reason: In the interests of the residential amenities of future residents of the development.

33. Prior to the occupation of the dwellings outlined in red on drawing no.1391-001, a verification report shall be submitted to and approved by the LPA to demonstrate that the recommendations contained in the MRL Acoustic Report submitted with the application have been incorporated, and therefore internal noise levels within the residential units and the external noise levels in the back gardens and other relevant amenity areas will confirm to the standard identified by BS 8233 2014, Sound Insulation and Noise Reduction for Buildings - Code of Practice.

Reason: In the interests of the residential amenities of future residents of the development.

34. Prior to the commencement of development hereby approved, a report demonstrating how the proposal will incorporate measures to encourage and promote biodiversity and wildlife shall be submitted to and approved in writing.



Development shall be carried out in accordance with those approved details and shall thereafter be retained.

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

35. If the development hereby approved has not commenced by February 2018 and, prior to any works to trees being carried out, an updated Preliminary Tree Roost Assessment shall be undertaken, the results of which must be submitted to the Local Planning Authority with any suggested mitigation measures approved in writing.

Reasons: In the interests of protecting bats that may be roosting within the trees at the site.

36. Prior to any tree works commencing to tree 20 (as per the Preliminary Tree Roost Assessment; Feb 2017), a dawn re-entry bat survey shall be carried out on that tree which shall include appropriate methodology required for the removal of any branches on this tree. The survey and methodology report shall be submitted to the Local Planning Authority for approval in writing prior to any works being carried out on tree 20. The approved methodology shall be implemented.

Reasons: In the interests of protecting bats that may be roosting within the trees at the site.

37. Development shall not begin 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 be based on Flood Risk Assessment prepared by Herrington Consulting Ltd (March 2017) and 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 100 year storm) can be accommodated and disposed of without increase to flood risk on or off-site.

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

38. 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:
- (a) a timetable for its implementation, and
  - (b) 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.

39. Where infiltration is to be used to manage the surface water from the development hereby permitted, it will only be allowed within those parts of the site where it has been demonstrated to the Local Planning Authority's satisfaction that there is no resultant unacceptable risk to controlled waters and/or ground stability. The development shall only then be carried out in accordance with the approved details.

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

Informative:

1. The applicant is advised to consider and act upon the contents of Network Rail's email in response to the consultation on this application dated 22<sup>nd</sup> March 2016.
2. The applicant is advised to consider the contents of the letter from Kent Public Right of Way Officer dated 24<sup>th</sup> March 2016, the contents of Southern Gas Networks' email dated 29<sup>th</sup> March 2016 and the contents of the letter from Southern Water dated 23<sup>rd</sup> March 2016.
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.

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 in the processing of their application and by:

Offering pre-application advice.

Where possible, suggesting solutions to secure a successful outcome.

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

In this instance the applicant was asked to consider the submission of amended plans to address Officer's concerns. These plans were forthcoming and the scheme was considered to be acceptable.

Case Officer: Emma Eisinger

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

**APPENDIX 1**

<b>2.2 REFERENCE NO - 16/501266/FULL</b>		
<b>APPLICATION PROPOSAL</b> Erection on land to the north of 99 High Street of 124 No. dwellings in total including two storey 2, 3, and 4 bedroom dwellings and 1 and 2 bedroom apartments (2 no. 3 storey blocks) with a new access road from the High Street, pedestrian and cycle link to Church Lane, formal and informal areas of open space and landscaping, car parking and amenity space.		
<b>ADDRESS</b> 99 High Street And Land To The North Of High Street Newington Kent ME9 7JJ		
<b>RECOMMENDATION</b> GRANT subject to the receipt of revised drainage details and further comments from KCC Sustainable Drainage and any additional conditions suggested by them, any further comments from Newington Parish Council and CPRE (closing date 17 <sup>th</sup> March 2017), further comments from Kent Highways and Transportation in response to the amended plans and further comments from Medway Council in response to the revised Air Quality Assessment, a section 106 agreement requiring contributions as set out in paragraph 9.53 and 9.54 below.		
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b> The proposed development would provide housing on a site that is allocated for this purpose within the emerging Local Plan. An assessment of the need for housing in the Borough highlights a requirement for housing sites that are located outside of the built-up area boundary as set out in the adopted Local Plan. The sustainability of the application site has been assessed and it is considered to be acceptable on a strategic and a local level. The economic, social and environmental considerations of the proposed development have been assessed and I have concluded that there would be some harm to human health as a result of an increase in air pollution as a consequence of this development, but that this would be confined to the area of the Rainham AQMA. Mitigation measures will reduce this harm to some degree. I conclude that the need for housing would outweigh any harm arising from air pollution. Subject to the imposition of the conditions listed at the end of the report and the signing of a Section 106 agreement, planning permission should be granted.		
<b>REASON FOR REFERRAL TO COMMITTEE</b> Parish Council objection		
<b>WARD</b> Hartlip, Newington And Upchurch	<b>PARISH/TOWN COUNCIL</b> Newington	<b>APPLICANT</b> Persimmon Homes South East Ltd <b>AGENT</b>
<b>DECISION DUE DATE</b> 07/06/16	<b>PUBLICITY EXPIRY DATE</b> 11/10/16	<b>OFFICER SITE VISIT DATE</b> 10/11/16
<b>RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):</b> There is no relevant planning history for this site other than the submission of a request for an Environmental Impact Assessment (EIA) in July 2015. This was determined on 6 <sup>th</sup> October 2015 concluding that an EIA was not required.		

**MAIN REPORT****1.0 DESCRIPTION OF SITE**

- 1.01 The application site immediately lies to the northeast of the settlement of Newington, a village of some 1058 houses approximately 2 miles to the west of Sittingbourne. Newington has a railway station, primary school, village hall, post office, shops, restaurant, and public house. The village is well served by bus routes.

**APPENDIX 1**

- 1.02 The application site is a total of 7.2ha (17.9 acres) in area and is made up of mostly agricultural land. It includes an access track from the High Street (A2) that is situated between no. 99 and 105. No. 99 High Street is included within the application site and will be retained with some of its grounds used to widen the access into the site. The northern boundary of the site follows the railway line that passes through Newington Railway Station. The eastern boundary of the site seems to follow a hedge dividing this field from the next. The southern and western boundaries of the site meet the rear gardens and other unspecified land to the rear of residential properties within the village of Newington.
- 1.03 A large proportion of the application site is broadly flat and Members will note the submitted topographical survey. The submitted Design and Access Statement describes the site topography as:
- “...the site falls in a north-easterly direction from the south-western corner, rising again in the north-eastern corner towards the railway embankments and the eastern boundary of the site.*
- The railway embankment forms a notable change in levels along the northern boundary of the site and is approximately 5m higher than the application site at its north-eastern corner, rising eastwards to approximately 10-15m higher than the site levels.*
- The southern boundary contains localised changes of level of approximately 1 – 1.5m above the existing agricultural field and adjoining rear gardens fronting High Street.”*
- 1.04 A submerged drain runs north-south across the site and is located approximately 60m to the east of the vehicular access from High Street.
- 1.05 A public right of way ZR59 crosses the eastern part of the land on a north-south axis. This links to a pedestrian crossing point over the railway line. There is also an access from the application site that leads from the western boundary to Church Lane. This is currently used for agricultural access to the application site and part of it is used for access to parking for nos. 40, 42 and 44 Church Lane.
- 1.06 Newington High Street Conservation area lies immediately to the west of the application site at the western boundary. There are a number of listed buildings fronting onto High Street and Church Lane. The closest of these to the application site is The Holly Bank, a grade II listed early 18<sup>th</sup> Century dwelling which is located 75m to the west of the site. A grade II listed milestone marker lies 58 metres to the west of the proposed access onto High Street.
- 1.07 Newington Village Hall lies adjacent to the western boundary of the site. This has a small public car park that is free to use. There is also a scout hall and hand car wash to the southwest of the site.
- 1.08 The site lies close to the Newington Village Air Quality Management Area (AQMA) and the access to the site would be within the AQMA, 150m from its eastern extent. The site also lies within the Strategic Gap between Sittingbourne the Medway towns and as identified by the adopted Local Plan.

**APPENDIX 1****2.0 PROPOSAL**

- 2.01 This is a full planning application for 124 dwellings comprising 114 houses and 10 flats (in two separate blocks). The scheme was originally submitted as part detailed and part outline with the details of a D1 (non-residential institution) building to be considered at a later date. The application has been amended by removing this D1 building from the proposal in order to enhance the 'green' spaces within the site and because the end user of the building was uncertain. The amended scheme also sees the inclusion of the two blocks of flats, mainly as a response to the requirement for 40% affordable housing provision on the site, and a slight rearrangement of the layout to address urban design concerns. The resulting layout increases the number of dwellings by 11 (or 9.7%).
- 2.02 Vehicular access into the site would be taken from High Street (A2) directly adjacent to 99 High Street and no. 105 High Street. The proposal would see changes to the A2 at the point of access involving the creation of a ghost island to allow traffic to turn right into the site and the consequent narrowing of the pavements. The original application would have included the demolition of no. 99 High Street and replacement with a new dwelling, but after careful consideration of the costs and necessity of this part of the proposal, the applicant is now seeking to retain no. 99. The access into the site does though need to be wider than it is now and so some of the curtilage land to the eastern side of no. 99 will be used for the access. Pedestrian access to the site would also be provided via public footpath ZR59 and also the track leading to the site from Church Lane. Currently this track serves to provide an access for agricultural vehicles to the fields within this application site and the first part of it is used to gain vehicular access to three properties fronting Church Lane (nos. 40, 42 and 44). This track would provide pedestrian and cycle access to the site and can also be used as an emergency access to the site.
- 2.03 The site layout proposes for the eastern third (3.26ha/9.4 acres) of the site to be provided as formal and informal green space with a children's play area close to the houses and rough grassland, orchard, a pond, and woodland buffer along the northern and eastern boundaries. The open spaces and amenity areas within the site would be open for public use and managed by a management company. It would not be transferred to the Council. The submerged drain would be opened up to form an open water ditch acting to manage surface water in a sustainable way as well as providing a landscape feature. This ditch would be crossed by four pedestrian paths which would link the built area of the site to the open space at the eastern end. A foul pumping station is proposed to be located within the north-eastern corner of the built-up area of the development. Details of this are to be submitted as required by condition. A small electricity substation is also shown to be provided close to the main access into the site and against the rear boundary of 103 High Street.
- 2.04 The layout of the housing development provides a central 'green corridor' running from the eastern open space to a smaller 'green' at the western end of the site. The green corridor has a pedestrian path running along it as well as a row of trees (to be of an appropriate height and species worthy of such an important element of the layout). Another small 'green' would be located halfway along the 'green corridor'. A thick landscape buffer would also be provided along the northern boundary adjacent to the railway line. The main access road through the site would run from High Street and then east-west through the site. Secondary roads and shared surface roads would lead off of this principle road with different surface materials used to differentiate between them. Most properties would have carports and at least one off-

**APPENDIX 1**

road parking space (2 spaces for each 2 and 3 bed dwelling and 3 spaces for each 4 bed dwelling). The flats and some of the houses would have spaces located in parking courts.

- 2.05 The apartment blocks would be 3 storeys high and would be located in two separate central locations within the site. All of the houses would be two storeys or 2.5 storeys high and would have 2, 3 and 4 bedrooms. The architecture would be traditional in respect of their gable and hipped pitched roofs and use of brick and tiles. They would have a rural character with some properties featuring weatherboarding, small dormer windows and chimneys.
- 2.06 The proposal would provide 40% of the units as affordable (49) and these would be spread about the site in four separate clusters of no more than 20 units. The flat blocks are included within the affordable housing provision.

**3.0 SUMMARY INFORMATION**

	<b>Proposed</b>
Site Area (ha)	7.2ha
Approximate Ridge Height (m)	Max 10.8m
Approximate Eaves Height (m)	Max 8
No. of Storeys	Max 3 min 2
Parking Spaces	24 visitor spaces & 228 on-plot/allocated spaces
No. of Residential Units	124
No. of Affordable Units	49 (40%)
Density of built-up area	31.4 d/ha

**4.0 PLANNING CONSTRAINTS**

Potential Archaeological Importance

Conservation Area Newington High Street (to west of the site)

Strategic Gap

AQMA

**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), 19 (economy), 30, 32, 36 (sustainable transport), 42 (supporting high quality communications infrastructure), 47 (delivering a wide choice of high quality homes), 49, 50, 55, 56, 58 (good design), 69, 70, 73 (healthy communities); 103 (flood risk), 109 (air quality), 110, 112 (agricultural land), 118, 119 (biodiversity), 120, 121 (air quality/contaminated land), 122, 124 (air quality), 128, 131 (heritage assets), 159 (housing), 162 (infrastructure), 186 (decision taking), 187, 196 (determining applications); 197, 204 (planning obligations) & 216 (weight to emerging policies).

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- 5.02 National Planning Policy Guidance (NPPG): Air Quality; Conserving and Enhancing the historic Environment; Design; Natural environment; Housing and Economic Development needs assessment; Planning Obligations; Use of planning conditions; transport assessments and statements in decision taking; Water supply, waste water and water quality land affected by contamination; Flood Risk and coastal change; Open Space, sports and recreational facilities, public rights of way and local green space.

Development Plan:

- 5.03 The Swale Borough Local Plan 2008 saved policies SP1 (sustainable development), SP2 (environment), SP4 (housing), SP5 (rural communities), SP6 (transport and utilities), TG1 (Thames Gateway Planning Area) SH1 (settlement hierarchy), E1 (general development criteria), E6 (countryside); E7 (separation of settlements); E9 (protecting the quality and character of the Borough's Landscape); E10 (trees and hedges); E11 (biodiversity and geological interests), E12 (designated biodiversity and geological conservation sites), E15 (Developing affecting a Conservation Area); E19 (achieving high quality design and distinctiveness); H2 (new housing), H3 (affordable housing), H5 (housing allocations), RC3 (meeting rural housing needs); C2 (housing development and the provision of community services and facilities); T1 (safe access), T3 (vehicle parking for new development); T4 (cyclists and pedestrians) & C3 (open space on new housing developments).
- 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), CP2 (sustainable transport), CP3 (high quality homes), CP4 (good design), CP5 (health and wellbeing), CP6 (community facilities and services to meet local needs), CP7 (conserving and enhancing the natural environment - providing green infrastructure), CP8 (conserving and enhancing the historic environment), AX6 (land north of High Street Newington), DM6 (managing transport demand and impact), DM7 (vehicle parking), DM8 (affordable housing), DM14 (general development criteria), DM17 (open space, sports and recreation provision), DM19 (sustainable design and construction), DM21 (water, flooding and drainage), DM24 (conserving and enhancing valued landscapes), DM28 (biodiversity and geological conservation), DM29 (woodland trees and hedges), DM23 (listed buildings), DM31 (agricultural land), DM32 (development involving listed buildings), DM33 (development affecting a conservation area), DM34 (Archaeological sites) & IMP1 (implementation and delivery plan).
- 5.05 Kent Minerals and Waste Local Plan 2013 – 2030 – Policy DM7 states that planning permission will only be granted for non-mineral development that is incompatible with minerals safeguarding where it is demonstrated, among other things, that it constitutes development on a site allocated in the adopted development plan.

Supplementary Planning Documents

- 5.06 Developer Contributions (2009)
- 5.07 Swale Landscape Character and Biodiversity Appraisal SPD (2011). The application site is identified as lying within the Iwade Arable Farmlands character area – gentling undulating rural landscapes in poor condition with a moderate sensitivity to change. The guidelines recommend that this landscape should be restored.

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- 5.08 Land-use Planning & Development Control: Planning for Air Quality. Guidance from Environmental Protection UK and the Institute of Air Quality Management for the consideration of air quality within the land-use planning and development control process (January 2017).
- 5.09 Swale Borough Council Air Quality Planning Technical Guidance (December 2016).

**6.0 LOCAL REPRESENTATIONS**

- 6.01 We have received 55 representations from local residents. A summary of their comments, which I have categorised for ease of reading, is as follows:

Highways

- Increased traffic through Newington which cannot cope with an increased volume;
- The access is at a narrow point in the A2 where lorries often cause congestion. The new access arrangements would narrow the road and pavements even more and cause a bottle-neck;
- Likely to be queues of traffic leaving the new housing estate onto the A2;
- Children will be unlikely to walk to school from the new housing estate, causing congestion along Church Lane and outside the school. More children would live within the housing development than the Transport Assessment suggests. The TA hasn't addressed the nursery that is based at the school, to which 100% of parents drive;
- The access to the site is in a part of the highway which is dangerous and there have been serious accidents there in the past. Crossing the road at this point would be dangerous as there would be three lanes. Traffic lights are needed at this new access due to the volume of traffic;
- The right of way to no. 103 High Street has been ignored on the plans;
- The realignment of the A2 to accommodate the "ghost lane" will require sacrificing the width of the adjoining pavement. This is a major concern for pedestrian safety next to a busy main road with a high number of HGVs;
- The emergency access onto Church Lane is questionable as this road is already congested;
- The footpath link onto Church Lane is dangerous as it leads straight onto a busy road. It would also become an attraction for anti-social behaviour;
- Commuters park in local roads making them more congested;
- Church Lane is often congested at the railway bridge;
- The development would contribute to junction improvements at M2 Stockbury;
- There should be a road underneath the railway to provide access to the school, church and the north side of the village;
- Headlights from cars leaving the new development will shine into the windows of the house opposite and these residents are concerned about how they might turn right into their drive. They are also concerned about an increase in noise and pollution as a consequence of cars waiting to turn from the A2 into the site;
- Calls for a by-pass of Newington village;
- The conclusions of the Transport Assessment are questioned;
- Have KCC already agreed to the road layout as the signs at the site suggest;



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- Emergency vehicles often use the A2 through Newington and any further congestion associated with the development would block their route;
- The erection of bollards at the entrance to the pedestrian and cycle route from the development onto Church Lane will not be possible as there are rights of access for adjacent properties (40, 42 and 44 Church Lane) to access rear parking spaces. If collapsible bollards are provided as shown on the amended plans, how will this be maintained?;
- Two parking spaces per property is not enough;
- Disruption during construction of the access will be significant for pedestrians and motorists.

Environment

- Pollution increased in an area already designated as an AQMA, as a consequence of increased congestion;
- Loss of best and most versatile agricultural land;
- Loss of land for wildlife;
- The development will cause light and noise pollution. The site is within a natural “amphitheatre” and so noise travels well;
- The density and proportion of open spaces is unacceptable in this landscape;
- The design and materials of the construction is unimaginative and typical of the developers pseudo village style, especially for the tightly-packed affordable housing;
- Impact on listed buildings and the Conservation Area;
- Extra housing will increase localised flooding;
- There are no plans for a doctors surgery at the site;
- The site will be subject to surface water flooding from Boyces Hill;
- The development would damage the character of Hollybank, a grade II listed building.

Village infrastructure

- There would be a significant increase in the population of the village of Newington (approx. 15%). This would change the character and fabric of the village. There are also other planning applications for residential development within the village with not sufficient infrastructure to cope;
- Query about the affordable housing proposed and whether it will actually be available to local people;
- Lack of infrastructure in terms of doctors and the local hospital cannot cope;
- Lack of school places;
- Lack of local employment. It makes more sense to build houses in towns, close to places of employment;
- There are very few trains stopping at Newington and no fast trains to London. Residents will have to drive to Rainham.

Residential amenities

- Building works will cause disturbance to local residents;
- Privacy and outlook from the properties along the A2 and Church Lane would be compromised;
- The residents of 103 High Street (adjacent to the proposed access) object on the grounds that there would be noise and disturbance due to vehicles using the new access;
- The development would affect light entering into no. 87 High St;

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- Overlooking from 2 storey units, especially where dormers are proposed.

Other

- Newington is becoming a town;
- It is better to development on brownfield sites, of which there are plenty in Swale;
- The development does not benefit the existing local residents, only the developers and land owner;
- There is no provision for soft landscaping to alleviate the intrusive impact of the proposed development;
- The site is likely to be extended to the east towards Keycol Hill in the future;
- The development is not part of the adopted Local Plan housing allocations;
- This would be a good place to provide housing. It would be sustainable development;
- If the village is to expand, it is better to do this to the north of the A2 than to the south;
- The majority of houses close to the site are bungalows and chalet bungalows. The proposed development would consist of 2 and 3 storey buildings;
- Greenbelt land should be protected (Members should note that this land is not within the Greenbelt);
- The demand for housing in London is being met by Kent.

- 6.02 In response to the amended plans, 21 representations have been received. Many of the comments reiterate the comments summarised above. Additionally, they comment: that there would be even more of an impact with the increase in number from 113 to 124; that the layout looks like a rabbit warren; no. 105 High St would be overlooked as it backs on to the development; the development would provide 3 storey flats and would be high density and would set a precedent, contrary to the emerging draft allocation policy and out of character with the village; detrimental impact on no. 105 High St as a result of noise and; fumes and disturbance from the use of the access into the site. They also express concern about the length of time allowed for the re-consultation.
- 6.03 Cllr J Wright – Ward Members for Hartlip, Upchurch and Newington objects to the application on the grounds that the land is not allocated within the Local Plan or the emerging Local Plan (This is not the case. The site is within the emerging Local Plan). He considers that there are better and more sustainable sites available. He has safety and congestion concerns about the proposed access to the site and extra traffic will increase pollution in his view. Additional pollution would impede the brickearth extraction at Paradise Farm as the cumulative impact would exceed permitted pollution levels. Why is section 106 money going out of the village when there is a need within the village? Issues about the safety of Church Lane have been ignored. Visitor parking does not seem to take account of commuter parking or visitors to the proposed parkland. The cumulative impact of this development with other approved developments does not seem to have been properly considered by Highways England.
- 6.04 Gordon Henderson MP for Sittingbourne and Sheppey strongly supports the residents of Newington and others in opposing the application because the site is not included within the Swale Borough Local Plan 2008 nor the emerging Local Plan (Members should note that this site is included as a housing allocation in the emerging Local Plan).

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- Whilst the Government's policy to significantly boost the supply of housing is a material consideration, the duty to consider this application against the adopted Local Plan still applies, even if the NPPF judges the policies out of date;
- It is clear that the proposal is not in accordance with the development plan;
- The proposal would also seem to conflict with the settlement strategy within the emerging Local Plan which describes Newington as having poor pedestrian connections between north and south of the village, restricted internal road network, poor air quality and surrounding high quality agricultural land as well as valued landscapes and heritage;
- There are grounds for refusing the application on prematurity as the development would undermine the emerging Local Plan which should identify sites and allow time for proper scrutiny and proper consultation. Also, the application needs to be considered in the context of the cumulative effect of other planning applications in Swale. The Council should strongly resist speculative development such as this in order to ensure sustainable patterns of development;
- Detrimental impact on the landscape and the character of the village setting;
- Should the application be approved, habitat enhancements should be incorporated into the development as well as: ensuring that the open space to the east is included within the management; wildlife corridors should be enhanced; the landscaping masterplan should include the pond that the SUDs report recommends and uncertainties about the drainage should be resolved;
- Loss of best and most versatile agricultural land;
- The Heritage Assessment needs to be improved to assess the detailed proposals. The proposal would go against the historic pattern of development in Newington Conservation Area. The application fails to provide sufficient evidence to demonstrate that there would be no harm to the setting of listed buildings close to the site;
- Detrimental impact on the AQMA. The mitigation measures are wholly inadequate. The cumulative impact on the traffic from this proposal with other development should be considered. The development will be car dependent;
- The submitted HRA fails to take account of the cumulative effects of the development on the North Downs Woodlands which already exceeds maximum critical levels of nitrogen pollutants;
- The proposal would fail to constitute sustainable development.

**6.06** Swale Footpaths Group comment that public footpath ZR59 would not be affected by the proposal but as always, the upkeep of any new footpaths, cycleways etc. needs to be established.

**7.0 CONSULTATIONS****7.01** Newington Parish Council object to the application on the following grounds:

- Loss of high quality agricultural land. Poorer quality agricultural land should be used instead;
- The land forms a natural boarder to the village and the proposal would result in 'urban sprawl'. Reference is made to an appeal decision which considers this issue;

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- The land was not included in the site allocations for housing in the emerging Local Plan (Members should note that these comments post-date the modified emerging Local Plan in which this site is included);
- The site is adjacent to High Street and Church Lane Conservation Areas;
- this is not sustainable development with poor public transport and a lack of amenities such as a dentist and doctors;
- the development would increase the risk of flooding within the site and/or the properties on the north of the High Street;
- the A2 is a busy road used by HGVs, buses and school traffic. The new access arrangements with 3 lanes would be dangerous to pedestrians and motorists. Narrowing the pavement here to 1.5m will be dangerous for pedestrians, particularly those who use mobility scooters and those who have buggies. Two buggies could not safely pass one another and HGV wing-mirrors would overhang the pavement;
- an increase in population would result in more pressure on the local hospital which is already in special measures;
- the development would result in an increase in air pollution. An increase in traffic would lead an increase in noxious fumes;
- the footpath link to Church Lane would become a focal point for anti-social behaviour;
- commenting on amended plans, they acknowledge that the applicant has sought to address the concerns of local residents, they consider that the overall concept is 'fundamentally flawed';
- there would be added congestion to the roads at peak times and the £94,000 offered for improvements to the Key Street roundabout will do nothing to alleviate the problem here and further onwards to Sittingbourne and the Stockbury roundabout. Traffic from this site will add to other developments planned with access to the A2 and;
- concerns about education contributions going towards a school outside of the village.

In response to the amended plans, Newington Parish Council make the following additional comments:

- The planned expansion of Newington is flawed on a strategic level as local services cannot sustain further development and the spilt between development in the Thames Gateway and Faversham is out-of-date. Additional villages should become Rural Local Service Centres instead of compounding problems in its towns and villages;
- The allocation of development here does not comply with policy ST3 which directs development to previously development land. The development would harm that settlement pattern and the character of the countryside.
- The proposed site is designated as best and most versatile agricultural land and development would be contrary to paragraph 112 of the NPPF and the council's own policies of protecting this land;
- The proposal would be likely to have at least a moderately adverse impact on air quality in Newington and Rainham AQMAs and therefore a significant effect on human health. There is no evidence to demonstrate the effectiveness of mitigation measures proposed. They note the recent EC decision to issue a final warning to the UK over failure to reduce NO2 levels with the threat of referral to the European Court of Justice;

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- Newington is a village and the residents wish it to remain one. The already approved and planned development in the village would increase the population considerably. Newington Primary School is already close to capacity and cannot expand due to traffic expansion;
- Public transport to and from Newington is limited – one slow train per hour to London or Dover, a poor bus service and no buses at all on Sundays;
- There is no doctors or dentist in Newington;
- The proposed flats do not have a lift and are unsuitable for the elderly, disabled and families with young children;
- The access onto the A2 would be too narrow and dangerous and pavements would also be too narrow;
- Congestion on the A2 and junctions to the A249 would be made worse;
- Nearby residents have suffered frequent rainwater and foul sewage flooding due to the incline of Boyces Hill and the sewage infrastructure;
- The Ellens Place application, opposite the application site, was refused planning permission and they believe that the same reasons apply for the application site.

7.02 UK Power Networks have no objection to the proposal.

7.03 Kent Police note that the applicant has considered crime prevention that the developer has met with them to discuss the proposal. Secure by Design principles should be included in the development and a condition is recommended to secure this.

7.04 Natural England have no objection to the proposal. They note that the site is in close proximity to the Swale SPA and Ramsar site. This is also designated as a SSSI. A Habitats Regulations Assessment should be undertaken by SBC Planning. However, based on the information provided, Natural England consider that the proposals are unlikely to have a significant effect on these sites and can therefore be screened out from any requirement for further assessment. This is providing the development makes the necessary contribution towards the Thames, Medway and Swale Estuaries SAMM Strategy to provide appropriate mitigation towards recreational disturbance of birds within the SPA. Natural England also advise that the SSSI does not represent a constraint in determining this application and refers to their standing advice on protected species. They also recommend biodiversity enhancements. Commenting on the amended plans they consider that the development is unlikely to have significantly different impacts on the natural environment than the original proposal.

7.05 Network Rail comment on the application noting that the developer must ensure that their proposal, both during construction and after completion of works, does not encroach on their land, affect safety, operation or integrity of the railway line and its infrastructure, undermine its support zone or affect it in any other way. Future maintenance must be conducted solely on the applicant's land. All buildings should be at least 2m from Network Rail's boundary. No surface water or effluent should discharge from the site into Network rail's property. Foul drainage must be provided separate from Network Rail's existing drainage. Soakaways must not be constructed near/within 10-20metres of their boundary. During construction, no plant should be capable of falling within 3 metres of their boundary. Any scaffolding within 10metres of their land should not over-sail the railway and protective netting should be installed. Details of any piling will need to be agreed with them. The developer must

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provide a suitable trespass proof fence along the development side of the existing boundary fence to a minimum height of 1.8m. Its future maintenance should be secured by the developer. Any lighting for the proposed development should not interfere with the sighting of the signalling apparatus and/or train driver's vision. Their approval of the detailed lighting scheme is required. They asked to be involved in the approval of landscaping scheme where landscaping is proposed close to the track. The applicant is advised to contact the Asset Protection Manager.

- 7.06 The KCC Public Rights of Way Officer notes that public right of way ZR59 would be directly affected by the proposed development. They have no objection to the proposed development but have requirements for future maintenance if the proposal is approved. The proposed pond should be located so that it does not obstruct the public footpath or create potential drainage issues. Any vegetation close to the public right of way should be cut on a regular basis.
- 7.07 Southern Gas Network note that a low/medium/intermediate pressure gas main lies close to the site. There would be no mechanical excavations taking place above or within 0.5m of the gas main, or above or within 3m of an intermediate pressure system.
- 7.08 Southern Water note that they cannot accommodate the needs of the development without the provision of additional local infrastructure to reduce the risk of flooding and to supply water to the site. An appropriate condition is recommended. There are no public water sewers in the area to serve the development and there must be an alternative means of surface water disposal. The proposal refers to the use of SUDs. The developer should ensure that there are provisions for the maintenance of this system. The adequacy of the soakaway and drainage via the watercourse should be assessed.
- 7.09 KCC Sustainable Drainage note that the drainage strategy for the site in general is acceptable. They note that infiltration is likely to be suitable and should avoid exacerbating downstream flooding but require further detail on this. Soakaways should discharge into Chalk. Commenting on the revised layout and updated Flood Risk Assessment, they object to the scheme noting that there would be a significant increase in the use of permeable pavement and geocellular soakaways/attenuation storage shared across back gardens. The placement of drainage within the private properties could be a problem for future maintenance. The use of roofwater soakaways in central and western parts of the site is encouraged to tackle this problem. The greater depth of superficial deposit in the eastern side of the site may require the use of offsite discharge. The statutory undertaker will also be likely to object to adoptable pipework being sited under permeable paving. This may impact on the layout. Commenting on a written response from the applicant they strongly recommend that attenuation and discharge features are located within open spaces and common areas. This simplifies access and any future repair or maintenance requirement. The present layout does not lend itself to achieving this with a gravity discharge. They do however note that it may be possible to promote the use of individual property roof water soakaways to help solve this problem in the areas of the site where infiltration is more viable. Some areas will still need to consider the issues above. Further comments are anticipated upon receipt of the amended drainage details to address their previous comments.

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- 7.10 The Lower Medway Internal Drainage Board state that provided that surface water runoff is restricted to that of the Greenfield site with on-site storage to accommodate the 1 in 100 year rainfall event, ideally by the use of open SUDs, the Boards interests would not be affected. Details of surface water drainage should be required by condition. They suggest that open SUDs are better than the closed systems proposed.
- 7.11 Kent Highways and Transportation comment that the Transport Assessment has been prepared in consultation with them and Highways England and that the methodology used is appropriate. The figure generated for the predicted vehicle trip rates are considered to be accurate and would equate to less than 2% of the total number of vehicles passing through the village at the AM peak, well within the limits set out in the NPPF. Along with other local developments, this proposal should contribute towards an improvement scheme to increase capacity and manage traffic more efficiently through the Key Street roundabout. Highways England has calculated a contribution of £94,864 (now amended to £102,487) for this development. The proposed “ghost island” with a right turn filter lane would be appropriate for the new access and the resulting narrowing of the footway to 1.5m would be acceptable. The narrower lane widths would actually be wider than some of the many other right turn lanes along the A2 between Rainham and Sittingbourne and this is a 30mph stretch of the road. Infrequent use of this right filter lane by HGVs is considered to be acceptable. The design of this junction has been the subject of a Stage 1 Road Safety Audit which did not identify the narrow lanes as being an issue. In response to the latest set of amended plans, they comment that the new parking arrangement would meet the quantum suggested in current standards but would be lower than had previously been proposed. However, they note that the internal roads would not be adopted by them and so any parking issues would not be their responsibility. However, they do offer advice on how the parking arrangement could be improved. This includes increasing the number of visitor spaces where tandem spaces are relied upon and along two particular lengths of road, changing the footway along the main access to the opposite side of the road. They note the update Transport Assessment and consider that the findings are accepted and that there would be no material impact on the highway network. They have no objections subject to condition to ensure that the access and changes to the junction are provided prior to occupation, that adequate provision is made for contractor parking during construction, management of surface water so as to prevent spillage onto the highway, to prevent mud on the highway during construction, the provision and retention of parking space, completion of footways and carriageways prior to occupation, provision of cycle spaces and pedestrian visibility splays. Further comments on the revised parking layout with increased visitor spaces are awaited and will be reported at the meeting.
- 7.12 KCC Archaeology comment that the site has potential for prehistoric and Roman remains with high potential for Roman remains close to the public footpath that crossed the site to the east. There may also be a cemetery here and if so, this should be preserved and referenced in the landscape masterplan. There should be a programme of archaeological evaluation and appropriate mitigation which would involve preservation in situ or archaeological excavation. A suitable condition is recommended.
- 7.13 The NHS (Strategic Estates) confirm that there is no intention to develop a GP facility in this area as they would normally seeks to put funding into existing infrastructure

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rather than build new facilities unless the size of the development is such that a new facility is warranted. The Meads Practice operates out of a purpose built facility which is now operating at capacity and does have the potential to develop facilities to register additional patients. As the proposed development has details of the number of dwellings/bedrooms, they are able to calculate an exact figure for a contribution towards the expansion of The Meads Practice. This totals £124,200.

- 7.14 KCC Planning (Minerals and Waste) refer to the submitted LEAP Environmental Report and note that there is little or no definable brickearth present on the site. The report concludes that any brickearth present is unlikely to be of any economic value. They note that Wienerberger Ltd should have ideally been consulted in coming to this conclusion but KCC believe that the application for development on this site satisfies exemption 1 of Policy DM7 in the Kent Minerals and Waste Local Plan 2013-2030 in that 'the mineral is not of economic value or does not exist.'
- 7.15 The Environmental Services Manager comments on air quality, land contamination and noise. The findings of the noise report are accepted. Conditions to address the presence of contaminated land on the site and remediation thereof are suggested. A condition is also recommended to require the submission of a Construction Code of Conduct. With regards to air quality, he accepts the damage cost calculation of £151,133 as an improvement on the previous figure offered. In his latest comments he states:

*"When comparing this figure against predicted NO<sub>2</sub> concentrations in 2021, both with- and without the development, the impact **is considered negligible** in Newington for all 12 receptors, with none of these points experiencing more than a 1.0% change, and none higher than 92% of the AQ objective. In Rainham it is predicted to be between slight and moderate, depending on the location in question. Here the figures were up to 148% of the AQ objective value.*

*Because of this prediction, in Newington this impact is **not considered significant** referring to the guidance in section 7.6 of the EPUK Planning Guidance 2017.*

*This is a change from previous assessments, where a slight to moderate impact was predicted for Newington. The data has been rigorously discussed, checked and modelled again and the most recent 2015 data now used. The impact on Rainham has also been applied and shown to be more significant than in Newington.*

*Despite the lower significance of the latest assessment, the applicant is keen to retain the level of mitigation described previously, as they consider that it will not only assist the Newington, but also the Rainham AQMA.*

*To accompany the lower significance of the development in Newington, the damage costs have been correspondingly reduced from that previously offered. The figure now stands at £132K. Some of this figure will be put aside for further air quality monitoring-related activities with discussions to follow.*

*I have considered this application very carefully over a period of time and have seen an improvement in the clarity and quality of the data presented in each succeeding version of their air quality assessments.*

*I am now satisfied that the applicant has done everything reasonably possible to demonstrate that the impact on local air quality is negligible in Newington, despite the*



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*presence of a nearby AQMA. In addition, the suggested mitigation measures are being retained and can only assist the situation further.*

*The latest data appears to show a greater impact on the Rainham AQMA than Newington. I therefore do not object to this proposal.”*

- 7.16 The Environment Agency have no comment on the application as it is not in a flood zone or near a river or source protection zone.
- 7.17 The Greenspaces Manager notes that the amenity space is a little limited in terms of usability for ball games, however, the natural greenspace is significant. There is a lack of play facilities provided and he seeks some formal, perhaps natural play elements within the natural greenspace (the amended plans provide this). In addition, a contribution of £511 per dwelling is sought towards Newington Recreation Ground. Clarification on the transfer of open space to the Council is required and a contribution towards maintenance of this land if necessary (the open space is to be transferred to a management company).
- 7.18 Highways England comment that the proposals have the potential to impact on the safe and efficient operation of the Strategic Road Network (SRN) in this case the A249. The development would generate 56 trips in the AM peak and 56 trips in the PM peak at the A2/A249 Key Street junction. The conclusions of the submitted Transport Assessment that there would be no impact is not accepted and they consider that the junction would operate over capacity in the peak hours by 2021. As a result the Key Street junction will be adversely affected and mitigation will be necessary. On the basis that this development contributes to improvements to this junction, Highways England have no objection. This approach is in line with other developments that would have an impact on the Key Street junction. In response to the amended plans and updated Transport Assessment they are satisfied that the amended proposals will not materially change the scale of impact compared to the amended proposal. Their previous comments still apply therefore with an increase in the amount requested for junction improvements to £102,487.
- 7.19 KCC Ecology comment on the application and advise that there is sufficient ecological information to determine the application. They note that because the majority of the site boundaries would be retained, there would be no loss of foraging/commuting habitat for bats. However, the lighting within the scheme should be designed to minimise the impact on bats/site boundaries. The Suitable Alternative Natural Greenspace (SANG) will increase the foraging habitat for bats if managed properly. There is evidence of foraging badger within the site and there needs to be measures in place to ensure that this can continue. Access between the grassland/scrub buffer and scrub area within the SANG for badgers will need to be provided and the proposed dog-proof fence amended accordingly. Any works to the site boundaries should be carried out outside of the bird-breeding season or that an ecologist is appointed to examine the site and that work ceases if birds are found. If managed correctly, the SANG will create habitat which will benefit biodiversity. However, the submitted management plan is not sufficiently detailed. A condition is recommended to ensure that a detailed SANG management plan is submitted. The submitted Habitats Regulation Assessment is noted and its conclusions that the development will avoid a likely significant impact are accepted providing that the SANG is provided and contribution is made towards the Strategic Access Management and Monitoring plan (SAMM). In response to the amended layout, they note that there is potential for bats to roost in trees 18 and 20 and that there is a need

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for climbing surveys to assess their suitability for roosts. Following the submission of the climbing surveys, KCC Ecology are happy for the removal of overhanging branches to tree 18 with the need for additional information. However, for tree 20 there is potential for bat roosts in the overhanging branches. As such, they recommend a condition to require a further assessment prior to the tree works being carried out and suggest a suitably worded condition.

- 7.20 KCC Economic Development (Education contributions) seek contributions towards primary and secondary schools (both new schools at Quinton Road), community learning, youth services, libraries and social care. They also ask for superfast fibre optic broadband to be provided for all properties within the site.
- 7.21 The Strategic Housing and Health Manager seeks 40% affordable housing with a 70:30 split of social rented : shared ownership and accept that this equates to 49 affordable dwellings. The distribution of affordable housing across the site is accepted. A proportionate mix should be provided across each phase of development if it is to be phased. They seek a small number of wheelchair adaptable homes, the number of which would be agreed with the preferred Registered Provider.
- 7.22 Medway Council object to the proposal on the grounds that the Air Quality Assessment does not consider the impact of the development on the Rainham Air Quality Management Area. They also consider that the development might lead to extra pressure on schools within their administration and that contributions towards education should be made to them. Medway Council have been consulted on the amended Air Quality Assessment and I will update Members at the meeting.

**8.0 BACKGROUND PAPERS AND PLANS**

Agricultural Land Classification and Soil Resources; Air Quality Assessment; Arboricultural Impact Assessment; Arboricultural Method Statement; Ecological Assessment; Energy & Sustainability Statement; Flood Risk Assessment; Habitats Regulations Assessment; Heritage Statement; Historic Environmental Assessment; Landscape and Visual Appraisal; Noise Assessment; Planning Statement; Statement of Community Involvement; Transport Assessment; Travel Plan Framework; Desk Study Investigation Report (contaminated land); Design and Access Statement; topographical survey plans; proposed site layout; landscaping masterplan; strategy plans; elevations; Development and Air Quality Update.

**9.0 APPRAISAL****Principle of Development**Planning Policy and the Housing Land supply position

- 9.01 For the purposes of the development plan, the site is located outside of the built confines of Newington and falls to be considered as within the countryside and a Strategic Gap. Policy E6 of the adopted local plan seeks to protect the quality, character and amenity of the countryside. Policy E7 of the adopted local plan seeks to prevent development that would result in the merging of settlements or the piecemeal erosion of land or its rural open and undeveloped character or prejudice the Council's strategy for the redevelopment of urban sites. Policy SP4 seeks to provide sufficient land for housing need, policy SP5 seeks to protect the quality and

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character of the wider countryside and policies TG1, SH1 and H5 of the adopted local plan seek to concentrate this in the Thames Gateway Planning Area. Policy H2 of the adopted plan states that permission for new residential development will be granted for sites that are allocated or within defined built-up areas. Outside of these, new residential development will only be granted for certain limited exceptions. The application site being outside of the built-up area boundary would be contrary to the above policies, with the exception of policy SP4, and not in accordance with the development plan.

- 9.02 The NPPF was published in 2012 and is a material consideration in the determination of planning applications. It sets out a presumption in favour of sustainable development. Paragraph 7 identifies three strands to sustainable development, an economic role (supporting the economy and growth), a social role (providing strong, healthy, accessible communities), and an environmental role (contributing to protecting our natural, built and historic environment). Paragraph 14 sets out that, for the purposes of decision taking, this means where the development plan is absent, silent or relevant policies are out of date, permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits or; specific policies within the Framework indicate development should be restricted.
- 9.03 Paragraph 47 of the NPPF seeks to significantly boost housing supply, and requires Local Planning Authorities to meet full objectively assessed needs for housing in their area, and to identify and update a supply of deliverable sites to provide a five year housing supply. Paragraph 49 of the NPPF clarifies that policies for the supply of housing should be considered out of date if the LPA cannot demonstrate a 5 year supply.
- 9.04 Based on current Objectively Assessed Needs (OAN) for housing within the Borough, we require 776 dwellings per annum. The council cannot currently demonstrate a 5 year housing supply on this basis as the supply figure currently sits at 3.8 years' worth. Given that the Council cannot demonstrate an existing 5 year housing supply, and policies for housing delivery pre-date the OAN, they must be considered as out of date. For clarity, these out-of-date policies are: SP5, TG1, SH1, E6, E7 and H2, although it should be noted that they should not be given no weight at all.
- 9.05 The emerging local plan is has now completed its examination in public (closed 9<sup>th</sup> February), and following the Inspector's interim findings, the Council has sought to significantly boost its housing allocations to meet objectively assessed housing needs as modifications to the emerging Local Plan. One of the additional sites identified to meet this housing need is the application site and is a draft allocation under Policy AX6. This policy states that planning permission will be granted for a *minimum* of 115 dwellings along with a large area of green space in the eastern third and green corridors through the site. The decision to allocate this site within the emerging local plan followed a number of steps. Firstly, the site was assessed in the 2014-15 Strategic Housing Land Availability (SHLAA) in the context of a lower housing target. At that time, whilst landscape and traffic issues were considered capable of being addressed, the presence of the AQMA and the distance to a GP surgery meant that the site was not considered suitable. Following the Inspector's interim findings and the increase in the overall housing target, the SHLAA was subject to a 2016 addendum which required the site (and others) to be re-assessed. This was published in June 2016 and re-considered the two main constraints of the AQMA and

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access to medical facilities. In respect of the access to medical facilities, the SHLAA concluded that a 'flexible' interpretation could be used here because existing residents of Newington already need to travel to access medical facilities. With regards to the AQMA, the site's location on the eastern side of the village meant that the majority of traffic from the site intending to access the strategic road network would not pass through the village, therefore avoiding travelling through the majority of the AQMA. It should be noted that this assumption is supported by the Transport Assessment submitted in support of this application. The critical need for housing sites was therefore considered to outweigh the impact of the two identified constraints and the site was identified as potentially being acceptable for allocation. The 2016 SHLAA concluded:

*"...this is an excellent opportunity for high quality housing in a semi-rural location which is likely to prove popular with developers and purchasers."*

- 9.06 The site was secondly assessed under the Sustainability Appraisal of the Swale Borough Local Plan June 2016. This assessment concluded much the same as the 2016 SHLAA with regards to the impact on the AQMA but noted that there is potential for 'in combination effects'. It also highlighted the proximity of the site to the Conservation Area and the need to address the impact on this heritage asset. However, it was also noted that the site has a good relationship with the village centre and train station (via the footpath link to Church Lane). The site was also ranked well, at 21 out of 115 within the ranked assessment of non-allocated options to inform modifications to the Swale Borough Local Plan June 2016 (AECOM). Thirdly, the report to the LDF Panel on 19<sup>th</sup> May 2016 compared this site to other sites to the west of the village and noted that it was better in terms of landscape, heritage and air quality impacts.
- 9.07 Consultation on the modifications to the emerging local plan, including policy AX6 which allocates the application site for housing, took place over the summer of 2016. A further examination of the emerging Local Plan took place in February this year with the Council seeking to demonstrate that it can meet its full identified housing needs and a 5 year supply. A number of policies within the emerging plan seek to deliver housing development in order to meet the OAN for housing in the Borough. These policies are ST1 (sustainable development including delivery of homes to meet OAN), ST2 (delivery targets), ST3 (Swale settlement strategy), ST4 (site allocations to meet OAN), and ST5 (Sittingbourne area strategy) to provide housing at sites within the urban and village confines, or as urban extensions to settlements where indicated by proposed allocations.
- 9.08 Against the emerging Local Plan, the Council's published statement of housing land supply for 2015/16 shows the Council to have a five year supply of 5.4 years. However, at this time the Plan has not yet been found to be sound. I can therefore only attach limited weight to this changed position, other than to note the important point that the achievement of this land supply has been assisted by the allocation of the application site and that without it, this supply would be inevitably reduced.
- 9.09 Paragraph 216 of the NPPF sets out that decision makers may give weight to emerging plans, depending on the stage of preparation of the plan (the more advanced, the greater the weight), the extent to which there are unresolved objections, and the degree of consistency of relevant policies to policies in the NPPF. In this case, the emerging plan policy AX 6 received a relatively large number of

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objections from local residents, the Parish Council and CPRE. Although these representations remain outstanding, I am of the opinion that the soundness of the evidence base supporting the Local Plan means that material weight should be given to the emerging plan and in terms of the Council's support for the sites that it has allocated to meet the overall OAN and demonstration of a five year housing supply.

- 9.10 Given the fact that the application site is included as a draft allocation within the emerging local plan, I do not consider that it would be premature to approve development on this draft allocation site prior to the adoption of the emerging Local Plan, particularly given the overall need for housing and the Council's 5 year supply position. Planning Practice Guidance clarifies that refusal on the grounds of prematurity would only be justified if the development would undermine the plan-making process. In this case, this draft allocation site has been chosen having followed the approach to the settlement hierarchy set out in the emerging Local Plan, which the examination inspector has endorsed. Therefore I consider that granting planning permission at this stage would not prejudice the plan-making process.

**Local infrastructure**

- 9.11 The site is within walking distance of a number of amenities within Newington, including a primary school, post office, convenience store, train station and community hall. The proposal includes a pedestrian/cycle link between the site and Church Lane which would provide direct access to the centre of the village which would cut-down walking times to the primary school and train station. Even without this link to Church Lane, the walking distance if using the main access onto the A2, would still only be approximately 1km. I acknowledge that the local primary school as oversubscribed. Unfortunately, this situation is not uncommon within Kent. KCC have asked for contributions towards a new primary school at the allocation known as North-west Sittingbourne (Quinton Road) to cater for an increase in population as a result of new housing developments and so it considered that, at a strategic level, the numbers of primary places available to residents of this part of the borough would be sufficient. I understand that, currently, some of the children who are allocated places at Newington Primary School live outside of the village. If this development is approved, it is likely that children who live in the village will be given preference, including those living on this new estate, with children living outside the village being given places elsewhere when applying for a primary school place.
- 9.12 The lack of a doctors' surgery within the village is disappointing but is not fundamental to the acceptance of this development in my view. The NHS have confirmed that they do not consider the provision of a new surgery within the application site to be necessary and there are doctors surgeries in Rainham and on The Meads, both a 5-10 minute drive from the application site.

**Loss of agricultural land**

- 9.13 The application is accompanied by an Agricultural Land Classification Report which confirms that 76% of the site is Grade 2 and 24% is grade 3A and so falls within the 'best and most versatile' category. Policy DM 31 of the emerging local plan states that development on agricultural land will only be permitted when there is an overriding need that cannot be met on land within the built-up area boundaries. An overriding need in this case is considered to be the housing needs of this Borough. Policy DM 31 states that development on best and most versatile agricultural land will

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I not be permitted unless the site is allocated by the local plan. In this case, the site is included as a draft allocation in the emerging local plan. Paragraph 112 of the NPPF states that where significant development of agricultural land is demonstrated to be necessary, local planning authorities should seek to use areas of poorer quality land in preference to that of higher quality. The applicant argues that the majority of agricultural land around Newington is best and most versatile and therefore to accommodate the development needs of the Borough, it is inevitable that development will have to take place on said land in the absence of poorer quality land. In this case however, I consider that the overriding argument in respect of the loss of best and most versatile agricultural land is that the need for housing outweighs the need for agricultural land and the fact that this site is included as a draft allocation is of significance.

**Visual/landscape Impact**

- 9.14 The application is accompanied by a Landscape and Visual Impact Assessment (LVIA). This assesses the landscape impact from different scales – national (North Kent Plain), Kent (Fruit Belt) and local (Iwade Arable Farmlands). This notes that the southern boundary of the Area of High Landscape Value is located approximately 310m to the north of the application site and is separated from the site by the railway line and an expanse of vegetation. The LVIA considers that the site does not contain any particularly unique landscape characteristics which cannot be found elsewhere within the study area or wider landscape and the character of the site is influenced heavily by the adjoining developed land a Newington to the south and west. It is largely protected in views by the railway line and its embankments to the north and by Keycol Hill to the east. Glimpsed views of the site would be mainly from motorists, cyclists and pedestrians travelling along the A2 and High Oak Hill and users of the public rights of way – ZR59 (which passes through the site), ZR58 (to the east of the site) and ZR38 (to the west of the site Mill Hill) as well as passengers of the trains travelling along the railway track and properties backing onto the site. Overall, the LVIA concludes that the site would have a small and contained visual envelope and that as a result it would affect only a limited number of individuals on a local scale. I agree with these findings.

- 9.15 The report concludes that:

*“Although the development would result in a change to the character and appearance of the site and would cause a reduction in the amount of agricultural land and a corresponding increase in the settlement area to the north-east of the village, the general relationship between the existing settlement of Newington and the surrounding rural landscape would not be fundamentally altered.”*

- 9.16 The north, south and west boundaries of the site enclose the site with residential properties and the railway line which is on a raised embankment. The site also sits lower than the land to the east meaning that the built-up element of this development would sit in a pocket of land that would be protected from view from a significant number of viewpoints. It would be seen within the context and against the backdrop of Newington village. The submitted report concludes that adverse impacts would be minor and on a local scale which could be mitigated through a landscape buffer to the eastern boundary.

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- 9.17 There is no doubt that the loss of open countryside would lead to some harm to the landscape on a local level. However, the inclusion of a robust landscaping scheme through the site and around the edges of the built up part of it would go some way towards softening its impact. Also, a significant part of this scheme is the inclusion of the open space to the eastern third of the site. This open space would cater for both recreational use and ecological enhancements. The public right of way that cuts through this open space would also be incorporated into it and there would be a circular walk around the space which is intended to cater for dog walkers.
- 9.18 The layout of the development has also sought to introduce tree-lined 'green corridors' as encouraged by the draft policy allocation AX6. There are pedestrian links running through the development between the open space to the east and the 'green' to the west. The scheme as amended has a rural feel with roads that are less dominant than the original plans had shown. The architecture of the dwellings offers a good mix of housing types and forms, all of which are of a vernacular that reflects a more traditional rural village character. Finishing material such as weather-boarding and, tile hanging and slate roof. I consider that this design, layout and architecture is appropriate for this area and that it responds well to emerging policy AX6. Amended plans have been submitted to address some concerns in respect of design i.e. introducing windows in some flank elevations, adding interest in terms of the pallet of materials to some of the terraces and, introducing trees/hedges to some of the parking areas. I consider that the proposed scheme would be of a good design overall.

**Residential Amenity**

- 9.19 The proposed development would undoubtedly increase noise, activity and levels of light within the site when compared to its current use as an agricultural field. However, this would be entirely associated with residential use and informal recreational use of the open space which is not considered to be a 'bad-neighbour' in planning terms. In terms of the proximity of the proposed houses to existing residential properties fronting High Street and Church Lane, I consider that there would be a sufficient distance allowed to avoid any harmful overlooking, overshadowing or an overbearing effect. I have given careful consideration to the impact in terms of noise and disturbance caused to the residents of nos. 99 and 103 High Street as a consequence of vehicles using the new access into the site. There will no doubt be an increase in noise experienced by these properties. However, I do not consider that this would be significant in comparison to the road noise already experienced from the High Street. The new access would be adjacent to the flank elevation of no. 99. There is one high level ground floor flank window and a non-habitable first floor window within the flank elevation of this property. It is likely that cars would be travelling at a slow speed at this point thereby reducing noise impact. The submitted noise survey predicts that for the rear garden of no. 103 High Street, the road traffic noise levels from the A2 would increase by 4 db. However, it notes that the worse-case scenario would not see noise levels exceed 55 bd, which is considered to be acceptable (according to British Standard 8233:2014). The plans show that there would be a landscaped buffer provided between the new access and no. 103 High Street and I consider that this would limit any noise impact further.
- 9.20 Concern has been raised in respect of car headlights shining into properties facing the new access. Such an impact, if it were to occur, would not be a constant source of irritation to the extent that it would become a nuisance in my view, noting that such circumstances are unavoidable in housing layout designs.

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- 9.21 A noise survey has been submitted with this application to consider the impact of noise from the railway line to the proposed dwellings as well as noise from the A2. It states that levels of railway noise at the development are expected to be lower than shown on the noise contours set out in the report and that in practice, railway noise levels are expected to be satisfactory. Properties close to the railway have been mostly positioned to face towards it so that the dwellings themselves can act as a noise buffer for the rear gardens. No vibration was perceived at the railway noise monitoring position. Noise levels from the A2 are also predicated to be acceptable in most cases. The Environmental Services Manager accepts the findings of the report, which recommends specifications for glazing, trickle vents, mechanical ventilation and wall construction to ensure that noise levels within the dwellings most affected by the noise are acceptable. I have recommended a suitably worded planning condition which refers to mitigation measures required and a plan identifying the properties that are most likely to be affected by noise from the railway and the A2.
- 9.22 The development is laid out in such a way that there is no significant overlooking between the new properties and any overshadowing or overbearing effect would be limited. The rear gardens of house and the communal amenity space for the flats would all be of an appropriate size and depth, giving future residents a good quality living environment in my view.

**Highways**

- 9.23 The submitted Transport Assessment (TA) considers the impact of the proposed development on relevant junctions and highlights the need to pay a contribution towards improvements to the Key Street/A249 junction. This has been accepted by Highways England with a requested contributions of £102,487 (see paragraph 7.18). The updated TA states that the proposed use of the site would only lead to a small increase in trips on the local highway network. Local junctions in the area were considered to have adequate capacity to accommodate the additional traffic from the development. This has been accepted by Kent Highways and Transportation. The proposed access to the site has been designed in conjunction with Kent Highways and Transportation and provides a right turn lane in the form of a ghost island on the A2/High Street at the point where the access to the site is proposed.
- 9.24 A number of local residents have serious concerns about the design of this junction in respect of increasing congestion and also the consequent narrowing of the footpath to 1.5m wide. The concern here is mainly in respect of the safety of pedestrians using this footpath being knocked/clipped by wing-mirrors to HGVs. Kent Highways and Transportation continue to accept the findings of the Road Safety Audit submitted with the application which finds the proposed new junction to be safe. Kent Highways and Transportation are confident that the new junction will not cause an increase in congestion along the A2.
- 9.25 In respect of congestion associated with increased vehicles using local roads, the findings of the updated TA are that there would be no material increase in traffic on the A2 through the village and no increase on Church Lane. The TA assumes that almost 60% of the traffic from the site would turn left towards the strategic highway network and Sittingbourne and 40% of traffic from the site would turn right towards the Medway towns and through Newington village. This assumption is based on the 2011 census data for journeys to work. Kent Highways and Transportation accept these assumptions. Kent Highways and Transportation have highlighted the fact that



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the scheme makes use of tandem parking and recommends that additional visitor spaces are provided within the site. They also ask for other minor changes to the parking and road layout. The applicant has submitted amended plans to address some of these concerns and it is anticipated that further comment from Kent Highways and Transportation will be available at the meeting.

- 9.26 The use of the existing farm access from the western boundary of the site to Church Lane as a pedestrian/cycle access has been criticised by local residents as interfering with rights of access to 40, 42 and 44 Church Lane and also potentially attracting anti-social behaviour. However I see this pedestrian/cycle link as an important way of integrating the development into the existing village. I note that Kent Police have not raised any concerns in respect of this pedestrian/cycle link and consider that with adequate lighting (details of which I have requested in the lighting condition below), instances of anti-social behaviour would be limited. With regards to vehicular access being retained for 40, 42 and 44 Church Lane, the applicant has altered the position of the bollards so that this access is still allowed whilst preventing vehicular access to the majority of the pedestrian link.
- 9.27 I understand the concerns of local residents in respect of the pedestrian/cycle link coming out onto a busy road with a narrow footpath at this point. However, I have observed that cars tend to park along the opposite side of Church Lane and there is also a chicane at this point in the road. This will slow vehicles down as they approach these obstacles. I consider that the pedestrian/cycle link will be an attractive and safe route for the residents of the proposed development.
- 9.28 I am informed that no. 103 High Street has a right of way over the current farm access into the site from the A2. The concern is that the proposed plans do not allow for this right of access to continue. I have not been given evidence of this right of access but note that the plans do not extinguish the opportunity for the right of access to be maintained. This could very easily be addressed directly between the developer and the resident should they wish to pursue it.

**Heritage**

- 9.29 A Heritage Statement has been submitted with the application and this identifies key heritage assets, including Newington High Street Conservation Area which immediately abuts the western boundary of the site and a small number of listed buildings close by.
- 9.30 Paragraph 132 of the NPPF states that *“When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting.”* The setting of a listed building and/or conservation must either be conserved or enhanced.
- 9.31 In terms of the impact on the listed buildings, the majority face onto the High Street and have no notable relationship with the application site. Hollybank, a grade II listed building faces onto Church Lane and it the closest listed building to the application site. It does have some connection with the application site in that its garden backs onto the western boundary. In respect of Newington High Street Conservation Area and Hollybank, the submitted Heritage Statement notes that:

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*“The part of the conservation area lying along Church Lane, including the gardens of Holly Bank (31) are the most likely to be effected given their proximity to the proposed development. The key components of the historic setting of the Church Lane have been summarised as follows:*

- *Focussed on the road / inward looking;*
- *Residential;*
- *Attractive groups of traditional buildings.*

*Whilst the proposed development may, depending on size and massing, impact on the views of some properties in Church Lane and the Conservation Area this visual amenity has not been identified as contributing to the significance of the designated assets. The key components of the historic setting outlined above are not anticipated to be impacted by the development particularly given its inward looking focus and enclosed character. The proposed development area is similarly enclosed and thus is unlikely to provide competition with or distraction from the Conservation Area. Accordingly the likely impact of the proposed development of the setting (as it pertains to significance) is considered negligible.”*

- 9.32 In respect of the Newington Church Conservation Area which is to the north of the site on the other side of the railway line, the Heritage Statement notes:

*“This wider setting has not been identified as making a major contribution to the setting of the assets as pertains to their significance and impacts are therefore likely to be negligible.”*

- 9.33 I therefore consider that the setting of the designated heritage assets as identified would be preserved.
- 9.34 I have recommended a suitably worded condition to address the comments of the archaeological officer in respect of potential archaeological find at the site.

**Air Quality**

- 9.35 The applicant has submitted an Air Quality Assessment (recently revised) and a ‘Development and Air Quality Update’ to accompany this application. Members will have noted that an Air Quality Management Area (AQMA) has been declared along Newington High Street, the eastern end of which extends 150m past the proposed access to the site. As such, vehicles travelling to and from the application site will travel through the AQMA. The submitted assessment considered the potential impacts on local traffic emissions once the development has been completed (2021) and concludes that the impact of any change in the predicted particle concentrations (PM<sub>10</sub>) at existing receptors is negligible and that subject to appropriate mitigation measures, the impact on air quality during construction is negligible. I have recommended that the mitigation measures during construction are set out within the submitted Air Quality Assessment are implemented through the Construction Code of Conduct (condition 12).
- 9.36 Paragraph 109 of the NPPF states: *The planning system should contribute to and enhance the natural and local environment by...preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of soil, air, water or noise pollution or land instability.*

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- 9.37 Paragraph 124 of the NPPF states: *“Planning policies should sustain compliance with and contribute towards EU limit values or national objectives for pollutants, taking into account the presence of Air Quality Management Areas and the cumulative impacts on air quality from individual sites in local areas. Planning decisions should ensure that any new development in Air Quality Management Areas is consistent with the local air quality action plan.”*
- 9.38 For NO<sub>2</sub> concentrations, the submitted Air Quality Assessment sets out the impact of the development on receptors located along the A2 within the Newington and Rainham AQMAs. The impact on receptors is considered to be negligible for the Newington AQMA and slight, moderate or negligible, depending on the location of the receptor, within the Rainham AQMA. The assessment identifies that in no cases would the government objective of 40µg/m<sup>3</sup> be exceeded within the Newington AQMA but that within the Rainham AQMA the objective would be exceeded in 6 out of the 8 receptor locations. In this case, the baseline NO<sub>2</sub> concentrations already exceed the objective - 40µg/m<sup>3</sup>. However, the development is predicted to add less than 1% to the NO<sub>2</sub> concentrations here. The data shows that for the Newington AQMA, there would not be a significant effect on human health as a consequence of increases in air pollution from this development. However, owing to the fact that the NO<sub>2</sub> concentrations in the Rainham AQMA are already exceeding the 40µg/m<sup>3</sup> objective, it is concluded that any increase, no matter how small, would, as a consequence of development, lead to a significant effect on human health. The assessment recommends that mitigation measures should be considered.
- 9.39 Members will note the recent appeal decisions for two proposed residential developments at Pond Farm (APP/V2255/W/15/3067553 & APP/V2255/W/16/3148140 which were reported to the previous planning committee). This was for two schemes, one for 140 houses, plus 60 extra care units, and one for 330 houses with 60 extra care units). The Inspector considered the impact of the development on air quality, specifically the AQMA, among other issues. The appeal was dismissed on the grounds of detriment to the landscape and also significant adverse effect on human health in terms of air quality in respect of NO<sub>2</sub> levels. In the final planning balance, the Inspector considered that the combination of the landscape and air quality harm would outweigh the need for housing. As such, given the conclusions of the Inspector and the submitted air quality assessment for this application, very careful consideration must be given to this matter.
- 9.40 For the Pond Farm appeals, the Inspector found the predicted fall in general levels of NO<sub>2</sub> as set out in the submitted air quality assessment was over optimistic and that therefore, NO<sub>2</sub> levels at receptor sites would be likely to be worse than predicted. As a consequence, the Inspector found that “moderate adverse” and “substantial adverse” impacts were likely. The Inspector also found that the proposed mitigation measures were unsupported by evidence to demonstrate their likely effectiveness. In addition, the Inspector found that the contributions that were put forward to fund measures to mitigate the adverse impacts of the development *“may well not reflect the true impacts of the development.”*
- 9.41 Members should be advised that the applicant for the Pond Farm appeal has submitted an application for a judicial review on the grounds that the Inspector erred in law in their assessment of the air quality impact.

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- 9.42 The applicant has taken the opportunity to review the submitted air quality assessment in the light of the Pond Farm decisions, new monitoring data from 2015 and has reassessed the damage cost calculations in order to reflect the latest version of the DEFRA Emission Factor Toolkit. This update in the calculation increases the five year damage cost to £132,951 from the original £5,716. The air quality consultants also highlight the differences between the Pond Farm development and the current application in respect of: the lesser number of properties proposed under the current application with a lesser number of traffic movements; the inherent sustainability of this site being so close to the centre of Newington, train station and bus stops and; the fact that the air quality assessment for the current application does not make assumptions about a reduction in background concentrations of NO<sub>2</sub> levels, as the Pond Farm assessment did.
- 9.43 The applicant has also taken the opportunity to submit a document entitled 'Development and Air Quality Update'. This is a helpful document that sets out how the application has changed since its first submission and how it has responded to changes in air quality considerations and the Pond Farm appeal decision. It also demonstrates very well how sustainable the site is in respect of being within a short walking distance of a number of the amenities within Newington, including the primary school (10 minutes), train station (4.5 minutes) and bus stops (5-7 minutes). Importantly, the document sets out a number of mitigation measures that are to be included within the development which are costed based on the 'damage cost' referred to above with additional mitigation measures proposed since the original submission. These mitigation measures include:
- Electric car charging points at every property, plus 10 free-standing dual EV car charging points for some of the visitors spaces;
  - Travel Plan & Welcome Pack to encourage a 'modal shift' to sustainable means of transport such as public transport, cycling and walking. Also to include details of grants for purchasing electric vehicles and details of car sharing schemes;
  - Low NOx or zero emission boilers fitted to all properties and use of green infrastructure – trees and soft landscaping within the development;
  - Cycle sheds for each property and cycle voucher for each new resident;
  - Potential for funding of an improved cycle shelter at Newington Railway Station (£5,000);
  - Financial incentive for eco driver training for each household (£50 each);
  - Financial contribution towards air quality monitoring (£15,000);
  - Independent Validation Report prepared detailing how the mitigation measures have been implemented and submitted to SBC.
- 9.44 As part of the process of deciding how best to utilise the 'damage cost' (£132,951), the applicant also considered other mitigation measures such as an additional bus stop, repairs and improvements to existing bus stops, private car club scheme. These were discounted for a number of reasons and I am content that the mitigation measures put before us will be the most effective in seeking to reduce the air quality impact of the development. The mitigation measures put forward are in line with the Swale Borough Council Air Quality Planning Technical Guidance (December 2016).
- 9.45 Members will have noted that Medway Council have objected to the scheme on the grounds that the submitted Air Quality Assessment does not consider the impact of the development on the Rainham AQMA. The recently revised Air Quality

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Assessment does now consider the Rainham AQMA and Medway Council have been re-consulted. Their comments will be reported at the meeting. I am seeking further clarification from the applicant about how the damage cost calculation will be directed to the Rainham AQMA and will update Members at the meeting.

- 9.46 Despite what the applicant's air quality assessment concludes, which is that the development would have a significant adverse impact on air quality within the Rainham AQMA, it is a matter for the Environmental Services Manager to consider and to ultimately advise Officer's and Members on the significance of the *effect* on human health. Guidance from Environmental Protection UK and the Institute of Air Quality Management for the consideration of air quality within the land-use planning and development control process (January 2017) notes that a significant impact on air quality does not necessary equate to a significant effect on human health. This depends on factors such as the number of people that might be affected and whether the development lies within an AQMA. It is important to note that the Environmental Services Manager does not object to the scheme on air quality grounds and has taken his time to fully consider the issues in light of changing air quality guidance and the recent Pond Farm appeal decision. He does conclude that the air quality effect would be significant for the Rainham AQMA but notes that national air quality NO<sub>2</sub> objective levels have not been exceeded within the Newington AQMA and even with the development in place, are not predicted to rise above this national limit. He also notes that the mitigation measures put forward would go some way towards reducing the harm within the Rainham AQMA.

- 9.47 Ultimately, a weighing-up exercise must be conducted, of the potential harm in terms of air quality impact on human health against the benefits of the scheme in terms of the significant need for houses in the Borough. This is made clear in the Land-use Planning & Development Control: Planning for Air Quality. Guidance from Environmental Protection UK and the Institute of Air Quality Management for the consideration of air quality within the land-use planning and development control process (January 2017). This states:

*"A significant air quality effect is not, of itself, a reason for refusal of a planning application; that decision will be the outcome of a careful consideration of a number of factors by a planning committee (or a planning inspector/Secretary of State), air quality being just one of the factors."*

(para. 7.3)

- 9.48 As such, although I still consider the effect on human health to be significant within the Rainham AQMA as a consequence of the increases in NO<sub>2</sub> levels, I consider that a direct comparison with the Pond Farm scheme is unwise given the differences as set out above. I acknowledge the mitigation measures, including the contributions towards monitoring, that have been offered and consider that they are practical and reasonable for this size of development. The effectiveness of these measures is unknown but it must be acknowledged that our own technical guidance referred to above promotes these measures.

### **Ecology and biodiversity**

- 9.49 A Phase 1 Habitat Survey has been undertaken on the site to provide an inventory of basic habitat types at the site and comments on the need for further survey work. This recommended that a series of bat emergence surveys are carried out. No bats

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were detected during these surveys and so buildings on site can be demolished. The report concludes that the majority of the site consists of an agricultural crop of little ecological value and that the development is unlikely to have an adverse effect on the conservation status of habitats or species. The boundary hedgerows are of value to bats and should be retained and enhanced and the report suggests a number of mitigation measures to ensure no significant impact upon protected species. I have recommended conditions to ensure that there are enhancements to biodiversity at the site and a condition to protect bats that may be affected by proposed works to one of the trees with the site, as requested by KCC Ecology. I have also required the submission of a detailed management plan for the open space to the east. An amended Landscape Masterplan has been submitted and this includes amendments to the open space referred to as a Suitable Alternative Natural Green space (SANG) to better respond to policy AX6 and also the comments of KCC Ecology.

- 9.50 An arboricultural survey was undertaken at the site and notes that a total of 24 trees, 5 tree groups and 1 hedgerow would be lost as a consequence of the development. However, 29 trees, 14 tree groups and 7 hedgerows would be retained with replacement planting proposed to more than compensate for the losses.
- 9.51 Natural England do not object to the application noting that there would be no significant impact on the SPA subject to contribution towards the Thames, Medway and Swale Estuaries Strategic Management and Monitoring (SAMM) Strategy. 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) require the Council to make an appropriate assessment of the implications for the site. An Appropriate assessment is appended.

**Section 106 agreement**

- 9.52 The applicant has been asked to consider the following planning obligations/developer contributions in line with the various requests from consultees.
- Community learning: £7432.89
  - Youth services: £4622.34
  - Social care: £7789.59
  - Libraries: £27,921
  - Primary education: £456,000
  - Secondary education: £580,422.40
  - SAMM: £223.58/dwelling
  - Strategic highways improvements to the Key Street roundabout: £102,487 to be secured via a Section 278 agreement;
  - Air quality mitigation (off-setting impacts, continual annual monitoring costs): £15,000
  - Affordable housing at 40% (mix of 70% social rented to 30% shared ownership);
  - 1 wheelchair adaptable home.
  - Off-site (Newington Recreation Ground) sports provision £511/dwelling
  - Off-site (The Meads Practice) health centre contribution: £124,200
  - Bins - £92/dwelling and £471 per six flats (rounded up to the nearest 6);
  - Monitoring and administration fee.

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- 9.53 In addition to the above, the mitigation measures set out in table 8 of the submitted 'Development and Air Quality Update' and as detailed at paragraph 9.44 above would be included as an obligation as well as the requirement to set up a management company for the open space. The applicant has accepted the above contributions and obligations.
- 9.54 KCC have responded to the comments of Medway Council in respect of asking for education contributions for the Medway Authority area. They note:
- "It is quite clear that KCC is the Local Education Authority responsibility for the provision of school places in the county and in Swale District. KCC's request letter details the required mitigation. Medway Council is responsible for the provision of pupils places within its jurisdiction and due to development within its boundaries. KCC is not beholden to nor prepared to share or proportion any developer contributions secured from the developer and will resist any appeal from the neighbouring authority to do so.*
- KCC upholds its statutory duty to provide education for pupils in Kent. Government legislation, however, does not prevent families living outside the county from applying for school places within Kent."*
- 9.55 As such, I do not intend to require additional funds for education in Medway or that the education contributions are split between authorities in this instance.
- 9.56 The above contributions and obligations are all considered to meet the tests set out in the Community Infrastructure Levy regulations (CIL). Delegation is sought for Officers to agree to the final wording of the planning obligations within the Section 106 agreement in conjunction with the Head of Legal Services.

**Other Matters**

- 9.57 The development would adopt sustainable design and construction methods and techniques as well as following the principles of secure by design. The applicant also notes that current Building Regulations in respect of maximum carbon emissions and maximum space heating will be followed and that it is likely that Building Regulations standards will tighten even further in this regard before construction starts. Nonetheless, I have recommended a condition (no. 25) to require details of how the development will incorporate sustainable design and construction methods.
- 9.58 KCC Planning (Minerals and Waste) refer to the submitted LEAP Environmental Report and note that there is little or no definable brickearth present on the site. The report concludes that any brickearth present is unlikely to be of any economic value. They note that Winerberger Ltd should have ideally been consulted in coming to this conclusion but KCC believe that the application for development on this site satisfies exemption 1 of Policy DM7 in the Kent Minerals and Waste Local Plan 2013-2030 in that 'the mineral is not of economic value or does not exist.' In addition, policy DM7 states that planning permission will only be granted for non-mineral development that is incompatible with minerals safeguarding where it is demonstrated, among other things, that it constitutes development on a site allocated in the adopted development plan. I acknowledge that this site is not technically an allocated development site but it is a draft allocation in the emerging Local Plan and this should be given material weight.

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- 9.59 The site is at low risk of flooding, being within flood zone 1. There is a small risk from surface water flooding but the development has been designed so that no houses would be located within the area at risk. The surface water drainage within the site will be designed to accommodate the 1:100 year return period storm even plus 30% for climate change. Storm water will drain to the existing culvert that runs through the site. A Sustainable Urban Drainage scheme is being considered and an updated flood risk assessment has been submitted. KCC Sustainable Drainage team have commented on the amended scheme and have concerns about the inclusion of drainage features, control devices and pipework within the curtilage of properties. They also highlight potential problems with the adoption of sewage pipework beneath permeable paving and that this may have implications for the layout of the scheme. I have asked the applicant to consider these comments and I anticipate that these issues will be able to be adequately addressed. I will update Members at the meeting. Southern Water have asked for further details on surface and foul water drainage and I have recommended a suitably worded condition to address this.
- 9.60 A Phase 1 Desk Study and Phase 2 site investigation report has been submitted with the application to assess the potential for contaminants at the site. This concludes that the main risk of contamination is from herbicides and pesticides associated with the current land use. Further sampling and testing is recommended. The Environmental Services Manager is satisfied that the reports submitted are sound and I have recommended a suitably worded condition to address the need for further work and remediation as necessary.
- 9.61 The development would be located close to a railway line and Network Rail have set out a number of stipulations in respect of development during and after construction. The application's attention has been drawn to these requirements and I note that the plans provide a buffer of 5 m for drainage with dwellings set away from the railway embankment by 7-20 m.

**10.0 CONCLUSION**

- 10.01 This proposal would be contrary to the adopted Local Plan in respect of the provision of residential development outside of the built-up area boundary. However, the development would be in accordance with the emerging Local Plan in that the site is a draft housing allocation and this must be given material weight.
- 10.02 Paragraph 7 of the NPPF identifies three strands to sustainable development - economic (supporting the economy and growth), social (providing strong, healthy, accessible communities), and environmental (contributing to protecting our natural, built and historic environment). In terms of whether the proposals constitute sustainable development, I find that the proposals perform strongly in terms of the social and economic strands. The development would provide much needed housing, including 40% (49 units) as affordable housing. This Borough does not currently have a 5 year supply of housing as required by National Planning Policy. This site is of great importance in helping to meet the growing demand for housing in the Borough. The provision of 49 unit of affordable accommodation will make a significant contribution to the housing needs of Newington and a contribution to the needs of the borough as a whole. It is acknowledged that the village does not have a doctor's surgery but in terms of other infrastructure, the village is well served. Importantly, the site is within walking distance of the village shops, primary school and train station.



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- 10.03 In respect of the environmental strand of sustainable development however, whilst most environmental impacts can be mitigated to acceptable levels, there are uncertainties concerning residual air quality impacts within the Rainham AQMA which means that the proposal cannot be regarded as sustainable against the environmental strand.
- 10.04 Paragraph 14 of the NPPF sets out that, for the purposes of decision taking, where the development plan is absent, silent or relevant policies are out of date, permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits or; specific policies within the Framework indicate development should be restricted. I have already identified the key issues above and have considered the impacts against each of the three strands of sustainable development – social, economic and environmental and have concluded that the development would be sustainable in terms of the first two strands, but that there are uncertainties in respect of the third.
- 10.05 In terms of the paragraph 14 tests, firstly, I do not consider that there are any specific policies within the NPPF that would restrict the proposed development. It is therefore necessary to consider whether there are any adverse impact that would significantly and demonstrably outweigh the benefits.
- 10.06 In terms of the environmental impact of the proposal, I do not consider that there would be significant harm to the landscape here and that mitigation in the form of soft landscaping as well as the design of the layout and the houses will ensure that landscape harm is limited further. I have discussed the impact of the development on highway safety and amenity and consider that there would be some harm. However, mitigation measures are proposed that would limit this harm to an acceptable degree in my view. In addition, there would be limited harm to ecology and biodiversity but I have set out mitigation measures such as ecological enhancements within the site and a contribution towards the SAMM Strategy. I consider that there would be no harm to the setting of the Conservation Area or to Hollybank, a Grade II listed building, concluding that the setting of both of these designated heritage assets would be preserved. The loss of best and most versatile agricultural land is accepted in this case owing to the sites' allocation in the emerging Local Plan for housing. The potential for brickearth at the site has been examined and as well as being uneconomical to extract, the site is a draft housing allocation in the emerging local plan. As such, mineral extraction does not need to take place prior to its development.
- 10.07 In terms of air quality, I have found that the effect on human health would be significant but that this would be confined to the Rainham AQMA and I find that mitigation measures proposed will go some way towards lessening this effect. The applicant has considered a raft of air quality mitigation measures for this development, discounting those that would be impractical or of very little benefit but including those that would cumulatively make some difference in resident's choice of transport and would limit the scheme's contribution to air pollution. It is hoped that the mitigation measures combined will persuade residents to use sustainable forms of transport on a regular basis. However, it is fair to say that there are uncertainties as to the extent that the mitigation would reduce the significance of the impact and as such for purposes of the planning balance, I have therefore assumed the harm to be significant and that this should be weighed against the other elements of harm and overall benefits. This Council's Environmental Health Manager does not object to the

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scheme on air quality, or any other grounds, and I give this significant weight in my consideration of air quality concerns. In terms of the overall planning balance, I consider that the need for housing in the Borough to be significant. This development would provide housing on a draft allocated site, contributing significantly to the 5 year housing land supply and this should carry significant weight in terms of social and economic benefits. Whilst the harm to air quality is potentially significant within the Rainham AQMA, in the absence of other significant harm, I do not consider that the significant harm to air quality is sufficient to significantly and demonstrably outweigh the overall benefits of the proposals.

10.08 I therefore consider that the development would be acceptable and, as such, that planning permission should be granted subject to the following conditions (with any minor amendments required) and a Section 106 agreement listed in paragraph 9.53 and 9.54 above.

**11.0 RECOMMENDATION – GRANT** Subject to the following conditions and subject to the receipt of revised drainage details and further comments from KCC Sustainable Drainage and any additional conditions suggested by them, any further comments from Newington Parish Council and CPRE (closing date 17<sup>th</sup> March 2017), further comments from Kent Highways and Transportation in response to the amended plans and further comments from Medway Council in response to the revised Air Quality Assessment and, a section 106 agreement requiring contributions as set out in paragraph 9.53 and 9.54 below:

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 the following approved drawings: *to be added once all amended plans received.*

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 2015 (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 a levels strategy overlaying the proposed layout with the Topographical survey shall be submitted to and approved in writing by the Local Planning Authority before work commences and the development shall be completed strictly in accordance with the approved levels.

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

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5. The amenity areas adjacent to the flats as shown on the approved plans shall be retained for use by the residents of all the flats throughout the duration of the development.

Reason: In the interests of residential amenity.

6. The areas shown on the approved drawings 2588-20 I and PERSE1978309 B as 'Green' and 'Suitable Alternative Natural Green Space' shall be reserved for the general amenity of the area and shall be provided in accordance with a schedule to be submitted to the Local Planning Authority to be agreed in writing prior to first occupation. Play space shown on drawing no. 2588-20 I as 'LEAP' shall be surfaced and equipped with play equipment, in accordance with a schedule agreed by the Local Planning Authority before the first occupation; no permanent development whether permitted by the Town and Country Planning (General Permitted Development) Order 1995 or not shall be carried out in the areas so shown without the prior written approval of the Local Planning Authority.

Reason: To ensure that these areas are made available in the interests of the residential amenities of the area.

7. Adequate underground ducts shall be installed before any of the buildings hereby permitted are occupied to enable telephone services, broadband 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 Article 3 of the Town and Country Planning (General Permitted Development) Order 1995 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.

8. No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of
- (C) archaeological field evaluation works in accordance with a specification and written timetable which has been submitted to and approved by the Local Planning Authority; and
  - (D) following on from the evaluation, any safeguarding measures to ensure preservation in situ of important archaeological remains and/or further archaeological investigation and recording in accordance with a specification and timetable which has been submitted to and approved by the Local Planning Authority

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

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:

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- d) 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.
- e) 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.
- f) 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 contaminated land 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 contaminated 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 contaminated is adequately dealt with.

- 12. Prior to the commencement of the development, a Code of Construction Practice shall be submitted to and approval in writing by the Local Planning Authority. The construction of the development shall then be carried out in accordance with the approved Code of Construction Practice and 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.

The code shall include:

- An indicative programme for carrying out the works
- Measures to minimise the production of dust on the site(s)
- Measures to minimise the noise (including vibration) generated by the construction process to include the careful selection of plant and machinery and use of noise mitigation barrier(s)
- Maximum noise levels expected 1 metre from the affected façade of any residential unit adjacent to the site(s)

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- Design and provision of site hoardings
- Management of traffic visiting the site(s) including temporary parking or holding areas
- Provision of off road parking for all site operatives
- Measures to prevent the transfer of mud and extraneous material onto the public highway
- Measures to manage the production of waste and to maximise the re-use of materials
- Measures to minimise the potential for pollution of groundwater and surface water
- The location and design of site office(s) and storage compounds
- The location of temporary vehicle access points to the site(s) during the construction works
- The arrangements for public consultation and liaison during the construction works
- Details of any mitigation measures necessary to mitigate the impact of construction on biodiversity and wildlife
- The mitigation measures set out in table 17 of the submitted Air Quality Assessment (March 2017).

Reason: In the interests of residential amenity, biodiversity and the control of air pollution.

13. Prior to the commencement of development hereby approved, full details of the method of disposal of foul and surface waters, including a drainage strategy and implementation timetable 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 and localised flooding and in the interests of highway safety and convenience.

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

15. No dwelling/building shall be occupied or the approved use commenced until space has been laid out within the site in accordance with details to be submitted to and approved in writing by the Local Planning Authority for cycles to be parked securely stored (providing for 1 cycle per dwelling).

Reason: To ensure the provision and retention of adequate off-street parking facilities for cycles in the interests of sustainable development and promoting cycle visits.

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16. The car barns/car ports as shown on the approved plans shall not be enclosed by the use of doors, walls, fences or any other means of enclosure to any open elevation, unless otherwise required by Part B (fire safety) of the Building Regulations (2010 as amended).

Reason: To ensure that the car barns/ carports are retained for parking in the interests of highway safety and amenity.

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

Reason: To ensure that the roads are constructed and laid-out in a satisfactory manner.

18. Before the first occupation of a dwelling / premises the following works between that dwelling / premises and the adopted highway shall be completed as follows:  
 (B) Footways and/or footpaths shall be completed, with the exception of the wearing course;  
 (B) Carriageways completed, with the exception of the wearing course, including the provision of a turning facility beyond the dwelling together with related:  
 (1) highway drainage, including off-site works,  
 (2) junction visibility splays,  
 (3) street lighting, street nameplates and highway structures if any.

Reasons: In the interests of highway safety.

19. No dwelling hereby approved shall be occupied until the junction indicated on drawing 5784/101B, and the footway/emergency access shown on drawing 5288-23C have been provided in accordance with a design and specification to be approved in writing with the Local Planning Authority and to be fully implemented to the satisfaction of the Local Planning Authority.

Reason: To ensure that a satisfactory means of access is provided for the site.

20. No vehicular access shall be brought into use until pedestrian visibility splays 2 m x 2 m with no obstruction over 0.6 m above the access level have been provided on each side of the access, and these shall be subsequently maintained.

Reasons: In the interests of highway safety.

21. Prior to the commencement of development hereby approved, full details of both hard and soft landscape works shall be submitted to and approved in writing by the Local Planning Authority. These details shall include existing trees, shrubs and other features, planting schedules of plants, noting species (which should be native species where possible and of a type that will enhance or encourage local biodiversity and wildlife), plant sizes and numbers where appropriate, means of enclosure, hard surfacing materials, and an implementation programme.

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

22. 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.

23. 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.

24. Prior to the commencement of development (above ground floor slab level) 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.

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

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

26. No floodlighting, security lighting or other external lighting shall be installed or operated at the site, other than in accordance with details that have first been submitted to and agreed in writing by the Local Planning Authority. These details shall include:
- A statement of why lighting is required, including to the pedestrian/cycle link, the proposed frequency of the use and the hours of illumination.
  - A site plan showing the area to be lit relative to the surrounding area, indicating parking or access arrangements where appropriate, and highlighting any significant existing or proposed landscape or boundary features.
  - Details of the number, location and height of the lighting columns or other fixtures.
  - The type, number, mounting height and alignment of the luminaries.
  - The beam angles and upwards waste light ratio for each light.

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- An isolux diagram showing the predicted illuminance levels at critical locations on the boundary of the site and where the site abuts residential properties.
- Confirmation that there would be no lighting to the SANG.
- Identification of 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 to access key areas of their territory.
- Demonstration as to how and where external lighting will be installed so that it can be clearly demonstrated that area to be lit will not disturb or prevent bats using their territory.

Reason: In the interests of visual amenity/landscape character and the residential amenities of occupiers of nearby dwellings and the interests of ecology.

27. All work to the site boundaries (where vegetation exists) must be carried out outside of the breeding bird season (March to August inclusive) unless otherwise agreed in writing by the Local Planning Authority that an ecologist examines the site prior to works commencing and if any nesting birds are recorded, all works must cease until all young have fledged.

Reason: In the interests of the protection of breeding birds.

28. Prior to the commencement of development hereby approved, a detailed SANGs management plan must be submitted to the Local Planning Authority for approval in writing. The approved management plan must be implemented and carried out as specified.

Reason: In the interests of ecology and biodiversity.

29. Notwithstanding the provisions of Classes A, B and C of Part 13 of the Town and Country Planning (General Permitted Development) Order 2015, prior to the commencement of development of the foul pumping station, details of its siting, design, scale and means of enclosure, shall be submitted to the Local Planning Authority for approval in writing and the approved details shall be implemented.

Reason: In the interests of visual amenities.

30. In this condition "retained tree" means an existing tree, which is to be retained in accordance with the approved plans and particulars. Paragraphs i) and ii) below shall have effect until the expiration of 5 years from the date of completion of the development for its permitted use.
- iv) No retained tree shall be deliberately damaged, cut down, uprooted or destroyed, nor shall any retained tree be pruned other than in accordance with the Arboricultural Impact Report (PJC ref: 3781/15-02) dated 15<sup>th</sup> January 2016, without the written approval of the Local Planning Authority. Any pruning approved shall be carried out in accordance with British Standard 3998:2010 Tree Work – Recommendations or any revisions thereof.
  - v) If any retained tree dies, or is removed, uprooted or destroyed, another tree shall be planted at the same place and that tree shall be of such size and species and shall be planted at such time as may be specified in writing by the Local Planning Authority.



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- vi) The installation of tree protection barriers, the methods of working shall be undertaken in accordance with the Arboricultural Method Statement Report (PJC 3781/15-03 Rev 2) dated 15<sup>th</sup> January 2016.

Reason: To protect and enhance the appearance and character of the site and locality.

- 31. No development shall commence until the developer has (at his own expense):
  - iii) Instructed an Arboricultural consultant, approved in writing by the LPA, to liaise with the developer and/or his architect or engineer to approve relevant details of construction methods, oversee the works and report to the Council throughout the period of the works in so far as the works may affect retained trees (as set out in the approved plans) and;
  - iv) Submitted to an obtained the written approval of the LPA for an auditable system of Arboricultural site monitoring, including a schedule of specific site events requiring Arboricultural input or supervision where construction and development activity is to take place within or adjacent to any root protection area of any tree identified for retention.

Reason: To protect and enhance the appearance and character of the site and locality.

- 32. The noise mitigation methods as set out on pages 17, 18 and 19 of the submitted Noise Assessment: February 2016 (1391\MD\08-2015\370) and appendices D, E, F, G, H, and I, including the provision of mechanical ventilation, details of which shall have first been approved in writing by the Local Planning Authority, shall be implemented in respect of the 'worst-case' properties outlined in red on drawing 1391-001.

Reason: In the interests of the residential amenities of future residents of the development.

- 33. Prior to the occupation of the dwellings outlined in red on drawing no.1391-001, a verification report shall be submitted to and approved by the LPA to demonstrate that the recommendations contained in the MRL Acoustic Report submitted with the application have been incorporated, and therefore internal noise levels within the residential units and the external noise levels in the back gardens and other relevant amenity areas will confirm to the standard identified by BS 8233 2014, Sound Insulation and Noise Reduction for Buildings - Code of Practice.

Reason: In the interests of the residential amenities of future residents of the development.

- 34. Notwithstanding the plans submitted, the Suitable Alternative Natural Green Space shall make provision to enable badgers to access the grassland and scrub area by reducing the fenced area to create a vegetated buffer between the northern and southern boundaries and the dog proof fence. Details of how this will be achieved shall be submitted to the Local Planning Authority prior to the first occupation for approval in writing.

Reason: In the interests of preserving and enhancing the habitat for badgers within the site.

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35. Prior to the commencement of development hereby approved, a report demonstrating how the proposal will incorporate measures to encourage and promote biodiversity and wildlife shall be submitted to and approved in writing. Development shall be carried out in accordance with those approved details and shall thereafter be retained.

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

36. If the development hereby approved has not commenced by February 2018 and, prior to any works to trees being carried out, an updated Preliminary Tree Roost Assessment shall be undertaken, the results of which must be submitted to the Local Planning Authority with any suggested mitigation measures approved in writing.

Reasons: In the interests of protecting bats that may be roosting within the trees at the site.

37. Prior to any tree works commencing to tree 20 (as per the Preliminary Tree Roost Assessment; Feb 2017), a dawn re-entry bat survey shall be carried out on that tree which shall include appropriate methodology required for the removal of any branches on this tree. The survey and methodology report shall be submitted to the Local Planning Authority for approval in writing prior to any works being carried out on tree 20.

Reasons: In the interests of protecting bats that may be roosting within the trees at the site.

Informative:

1. The applicant is advised to consider and act upon the contents of Network Rail's email in response to the consultation on this application dated 22<sup>nd</sup> March 2016.
2. The applicant is advised to consider the contents of the letter from Kent Public Right of Way Officer dated 24<sup>th</sup> March 2016, the contents of Southern Gas Networks' email dated 29<sup>th</sup> March 2016 and the contents of the letter from Southern Water dated 23<sup>rd</sup> March 2016.
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.



**APPENDIX 1**

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 in the processing of their application and by:

Offering pre-application advice.

Where possible, suggesting solutions to secure a successful outcome.

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

In this instance the applicant was asked to consider the submission of amended plans to address Officer's concerns. These plans were forthcoming and the scheme was considered to be acceptable.

Case Officer: Emma Eisinger

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

**APPENDIX 1****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 1**

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 assessment dated January 2017 and the submitted report entitled 'Information for Habitats Regulations Assessment' January 2017 contains information to assist this 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 25<sup>th</sup> July 2016 has also been considered; in particular that they have raised no objections subject to contributions towards strategic mitigation.

**The Assessment of Land at 99 High Street and land to north of High Street, Newington**

The application site is located 2.5km to the south Medway Estuary and Marshes Special Protection Area (SPA) and 5km to the southwest of The Swale SPA. Therefore, there is a medium possibility that future residents of the site will access footpaths and land within these European designated areas.

Measures are to be taken to reduce the impact on the SPA and these would be built into the development in respect of the provision of public open space which would have a circular route around it.

This assessment has taken into account the availability of other public footpaths close to the site and to a lesser extent, the open space proposed within 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 SAMM 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.

## **APPENDIX 1**

### **Conclusions**

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

**APPENDIX 1**Minutes of 30<sup>th</sup> March 2017 Planning Committee**2.2 REFERENCE NO - 16/501266/FULL****APPLICATION PROPOSAL**

Erection on land to the north of 99 High Street of 124 No. dwellings in total including two storey 2, 3, and 4 bedroom dwellings and 1 and 2 bedroom apartments (2 no. 3 storey blocks) with a new access road from the High Street, pedestrian and cycle link to Church Lane, formal and informal areas of open space and landscaping, car parking and amenity space.

**ADDRESS** 99 High Street And Land To The North Of High Street Newington Kent ME9 7JJ

**WARD** Hartlip, Newington And Upchurch

**PARISH/TOWN COUNCIL** Newington

**APPLICANT** Persimmon Homes South East Ltd

There were tabled papers for this item. One outlined information of the High Court's decision to allow the appellant for the Pond Farm appeals to proceed with a Judicial Review, and the other contained additional comments from Newington Parish Council. These papers had previously been emailed to Members.

The Senior Planner reported that further comments from the Campaign for Rural England (CPRE) had been received. They had compared the application with the Pond Farm proposals which had been dismissed on appeal. CPRE had drawn attention to the lack of clear evidence of the effectiveness of air quality mitigation measures. CPRE also considered the development was likely to extend the time taken to meet air quality objectives in the Air Quality Management Area (AQMA).

The Senior Planner also reported that the MP for Gillingham and Rainham had objected to the application and considered the development would pose a significant threat to the air quality of the Rainham AQMA, as well as the health of people living and working in the area. The MP was also disappointed that the recommendation was for approval, despite the significant effect on human health.

Parish Councillor Richard Palmer, representing Newington Parish Council, spoke against the application.

Mr Richard Knox-Johnson, an objector, spoke against the application.

Mr Mick Drury, the Agent, spoke in support of the application.

The Senior Lawyer provided a legal update to Members. He outlined that the Pond Farm appeal was to be judicially reviewed as to whether the Planning Inspector had been correct and acted fairly in his decision in respect of air quality. There was a Watching Brief in respect of the Council's position on these matters.

The Senior Lawyer explained that the evidence in support of the application was not the same as that for Pond Farm. Mitigation measures had been improved. Air quality remained an important consideration, but there was no technical evidence from the CPRE to support their concerns on air quality. If the decision on the Pond Farm judicial review favours the appellant, there would be little weight to the original appeal decision. However, the Senior Lawyer advised that officers and Members needed to assume that the decision letter concerning Pond Farm was correct.



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Members needed to consider that if they refused the application on the grounds of air quality, they must have technical evidence to support this.

The Environmental Protection Team Leader provided information on the air quality measures that were in place in Newington. He advised that there was one continuous measure, plus nine diffusion tubes. He explained that the continuous monitoring station had never exceeded Government guidelines, but some of the nine tubes had. Of the readings that were gathered monthly, three exceeded the Government guideline. The Environmental Protection Team Leader further advised that the tubes were inherently inaccurate, and not real-time results as the continuous monitoring station was. This meant that the continuous data could be interrogated, but not the tube data. He considered the applicant had looked at the air quality issues and the Team Leader did not consider air quality to be a reason to refuse the application. Modelling had proved that the impact on Newington was negligible, and slight to moderate in the Rainham/Medway AQMA.

Ward Members raised points which included: support the concerns of local residents; if the AQMA and highway concerns were not answered, the application should be refused; the report had said that there was some harm to health on the High Street in Newington; and the air quality in Newington would get worse if the development went ahead.

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

Members considered the application and raised the following points: the A2 was already grid-locked; concerned about the supply of water to the development; this application was premature given the current status of the emerging Local Plan; AQMA issues had not been addressed; ghost right-hand lane would not improve the traffic flow; appeal decision stated that landscapes needed to be protected; this went against SBC's policies; every development harmed air quality; happy with the advice from the Legal and Environmental Protection officers; needed to consider the style (layout and architectural treatment) of the development as it was close to a conservation area; air quality technical information was needed so that a decision could be made; and welcomed the 40% affordable housing that was proposed.

The Environmental Protection Team Leader further advised that the Government maximum guideline for nitrogen oxide was 40micrograms/cubic metre, and a rolling mean figure was used. Further information could be found at [www.kentair.org.uk](http://www.kentair.org.uk).

Newington AQMA had never exceeded the maximum figure.

The Senior Planner advised that Southern Water were providing a foul water pumping station on site to address the additional housing.

The KCC Highways and Transportation Officer reported that the road into the proposed development was appropriately wide enough and the ghost lane would assist the flow of traffic, and although the footpath does narrow, this was only for a short distance.

In accordance with Council Procedure Rule 19(5) a recorded vote was taken on the motion and voting was as follows:

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For: Councillors James Hunt, Mike Henderson, Bryan Mulhern, Prescott and Ghlin Whelan. Total equals five.

Against: Councillors Mike Baldock, Cameron Beart, George Bobbin, Andy Booth, Richard Darby, James Hall, Ken Ingleton, Samuel Koffie-Williams and Peter Marchington. Total equals 9.

Abstain: Councillors Roger Clark, Mike Dendor and Nigel Kay. Total equals three.

At this point the Head of Planning Services used his delegated powers to 'call-in' the application.

***Resolved: That as the Planning Committee was minded to make a decision that would be contrary to officer recommendation and contrary to planning policy and/or guidance, determination of the application be***

## APPENDIX 2

Tabled item 1**Item 2.2 land north of High Street, Newington 16/501266/FULL Update**

For Members information, Officers have been informed of the High Court's decision to allow the appellant for the Pond Farm appeals to proceed with the Judicial Review. The challenge is on the grounds of the Inspector's consideration of air quality.

Air Quality

Comments from Medway Council's Environmental Protection Officer have been received in respect of the revised air quality assessment which includes an assessment of the impacts on the Rainham AQMA. They suggest that Swale's Environmental Health Officers look again at the methodology used to calculate the concentrations of air pollution in Newington. In response, the Environmental Health Manager at Swale states: *"The modelling is the best scientific attempt at making sense of the complex dispersal of pollutants and how they will be present. The most important thing is that the modelling has followed the current DEFRA guidance, which is the case."*

The Medway Environmental Protection Officer notes that the revised Air Quality Assessment over predicts the nitrogen oxide concentrations in the Rainham AQMA and is very conservative in its methodology which leads him to conclude that the impacts presented would be the worse case scenario. He goes on to state that: *"even modest improvements to vehicle emissions will outweigh the moderate predicted nitrogen dioxide increases in the Rainham AQMA in the opening year of the development"*. They withdraw their objection to the scheme subject to two matters being addressed. These are:

1. A revised damage cost assessment which monetises the impacts of both nitrogen oxides (NO<sub>x</sub>) and particulate pollution (PM10). This will likely result in a higher figure than currently submitted (£132,951) – *Members should note that a revised AQA assessment has been submitted following this request and the revised damage cost calculation has now increased to £143,347. Medway have commented on the revised figure and accept it;*
2. A condition requiring an air quality mitigation statement which details how the damage cost will be spent. This should demonstrate that all of the damage cost contribution will be utilised and that it should be spent on mitigation measures over and above the standard measures set out within the Kent & Medway Air Quality Planning Guidance. – *Members should note that I have recommended that the mitigation measures are to be included as an obligation within the section 106 agreement. This would be more appropriate than applying a condition in my view. The distribution of the damage cost calculation figure (£143,347) is set out in table 9 of the submitted 'Development and Air Quality Update.'*

**Table 9 – Schedule of Mitigation Measure Costs**

Type of Mitigation	Unit Price	Cost to provide
Cycle Sheds including bases to every house (111 plots).	£475	£52,725
Cycle Vouchers to be provided to each (first) new resident. One voucher per household.	£150 per household	£18,450

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Electric charging points for potentially all new dwellings inc. 111 houses, 12 for flats (provided as 3 dual EV points for each block) and 10 dual EV points on visitor bays. Total EV points = 143	£300	£42,900
Travel Plan including welcome packs and ongoing monitoring for 3 years after final occupation (equivalent to circa 5 years) + promotion of car sharing and electric cars.	£30,000	£30,000
Eco Driver Training – Contribution towards each household who completes a certified eco-driver training course. To be paid upon receipt of completion. Details of which will be included within the Welcome Packs.	£50	£6,150
Low emission boilers of less than 40 NOx.	Provided as standard	Nil
Cycle Shelter for Newington Railway station.	£5000	£5000
Air Quality Mitigation Validation Report.	£3,750	£3,750
Directional signage within development highlighting the facilities available (including walking or cycling distances and/or times).	£750	£750
Financial contribution towards LPA's continual annual monitoring costs.	Single one-off payment	£15,000
<b>Total</b>		<b>£174,725</b>

*Members will note that the total cost of mitigation (£174,725) significantly exceeds the damage cost calculation (£143,347) and the developer is committed to all of the mitigation measures set out above.*

The Environmental Health Manager at Swale has confirmed that the £15,000 one-off payment as referred to above can be used to supplement the existing monitoring in Newington AQMA, specifically the particulate pollutants (PM<sub>10</sub>).

The table below is extracted from the applicant's most up-to-date Air Quality Assessment and should be read as part of the wider evidence on air quality. This shows the levels of Nitrogen dioxide (NO<sub>2</sub>) at certain locations (receptors) within the Newington and Rainham AQMAs. Members will note that the 2<sup>nd</sup> column gives the predicted NO<sub>2</sub> levels *without* development in 2021. The 3<sup>rd</sup> column gives the predicted NO<sub>2</sub> levels *with* development in

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2021 and the 6<sup>th</sup> column gives the predicted change in %. These figures determine the impact on air quality. Members will note that for Newington, the National objective level of 40µg/m<sup>2</sup> (referring to the Air Quality Strategy 2007) is not exceeded (1<sup>st</sup> & 2<sup>nd</sup> columns) either with or without the development in place. For Rainham however, the objective level is predicted to be exceeded for 6 out of the 8 receptors even without the development in place and so even though the % change would be less than 1%, the impact must be considered as moderate.

**Table 15 – Comparison of Predicted Annual Mean NO<sub>2</sub> Concentrations (µg/m<sup>3</sup>), 2021**

Receptor	Future Baseline (2021)	Future Baseline + Development (2021)	% of AQ Objective	Change (2021)	% Change	Impact Descriptor
Newington						
N1	28.7	28.9	72.3%	0.2	0.7%	Negligible
N2	36.2	36.5	91.3%	0.3	0.8%	
N3	29.6	29.8	74.5%	0.2	0.7%	
N4	35.2	35.4	88.5%	0.2	0.6%	
N5	34.6	34.9	87.3%	0.3	0.9%	
N6	28.6	28.8	72.0%	0.2	0.7%	
N7	35.5	35.8	89.5%	0.3	0.8%	
N8	29.5	29.7	74.3%	0.2	0.7%	
N9	29.0	29.2	73.0%	0.2	0.7%	
N10	29.5	29.7	74.3%	0.2	0.7%	
N11	28.1	28.3	70.8%	0.2	0.7%	
N12	28.6	28.8	72.0%	0.2	0.7%	
Rainham						
R1	44.6	45.0	112.5%	0.4	0.9%	Moderate
R2	44.1	44.4	111.0%	0.3	0.7%	Moderate
R3	28.3	28.5	71.3%	0.2	0.7%	Negligible
R4	42.8	43.2	108.0%	0.4	0.9%	Moderate
R5	58.9	59.4	148.5%	0.5	0.8%	Moderate
R6	42.8	43.2	108.0%	0.4	0.9%	Moderate
R7	51.7	52.1	130.3%	0.4	0.8%	Moderate
R8	39.1	39.4	98.5%	0.3	0.8%	Slight
Objective	40.0					

*Additional notes on the difference between Pond Farm and this scheme –*

- For both Pond Farm schemes, impacts on 3 receptors (with development assuming that there is no improvement in air quality) would be “substantial adverse”. The highest impact for no. 99 High St would be “moderate adverse”.

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8. *Modelling for pond farm was considered to be too optimistic about the improvements in technology for vehicle emissions. 99 High St does not assume any improvements in this respect and so the results really are worst-case.*
9. *For Pond Farm, exceedances of the national target of 40µg/m<sup>3</sup> were likely in Newington as well as Rainham. 99 High Street would only add to an existing exceedance in Rainham by less than 1%. Even for the smaller Pond Farm scheme, the predicted change as a result of the development was between 2-5% for 6 receptor sites.*
10. *The damage cost calculations (contributions) for Pond Farm were based on what was considered to be the over-optimistic assumptions about future emissions. The Inspector concludes that the mitigation measures would not therefore go far enough. The damage cost calculations for 99 High Street are not based on an improvement in future emissions and are instead based on the worse-case scenario. They are therefore highly likely to reflect the true damage cost of the scheme. In addition, the developer is willing to commit to mitigation measures for which the cost would exceed the damage cost calculation by approximately £30k.*
11. *99 High St is clearly more sustainable than Pond Farm being within such close walking distance from local amenities, the primary school, train station and bus stops;*
12. *The TA confirms that 40% of traffic would turn right out of the site i.e. through the center of Newington and on to Rainham) with the majority (60%) turning left towards Sittingbourne and avoiding the AQMA in Rainham and the majority of the AQMA in Newington.*

Other matters

A revised Flood Risk Assessment and drainage strategy has been submitted by the applicant to address the comments of the KCC SUDS team. Their further comments are awaited.

Kent Highways and Transportation have commented on the amended plans. They note the increase in visitor parking spaces across the site and advise that this will help to address their concerns in respect of tandem parking. Although they do note that there may still be some instances of on-street parking within the site. They are satisfied with the revised depth of the crossovers to the main road and the additional footway to serve plots 19 and 65.

A further comment of objection has been received from a resident backing onto the western boundary of the application site. They are concerned about the three storey properties proposed to be sited along the western boundary in terms of intrusion and overlooking. *The distance between the closest proposed dwelling (which is 2.5 storeys in height) from the properties to the west is over 80m and the landscaping plan shows that there would be extensive boundary vegetation planted and reinforced along the western boundary.*

I ask that condition 34 is deleted as it is no longer necessary further to the receipt of amended plans reducing the fencing to allow badgers to access the grassland and scrub area.

Condition 37 should be amended to include a requirement that the approved methodology for the removal of any branches to tree 20 must be implemented.

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**The recommendation is for approval subject to:**

**The conditions set out within the report but with delegation to add, amend or exclude conditions if reasonably necessary, further comments from KCC Sustainable Drainage and any additional conditions suggested by them and a section 106 agreement requiring contributions and obligations as set out in paragraphs 9.52 and 9.53 of the report with delegation to amend the section 106 as required by the Head of Legal Services.**

Tabled item 2

Planning Application: 16/501266/FULL 99 High Street And Land To The North Of High Street Newington

Proposal: Erection on land to the north of 99 High Street of 124 No. dwellings in total including two storey 2, 3, and 4 bedroom dwellings and 1 and 2 bedroom apartments (2 no. 3 storey blocks) with a new access road from the High Street, pedestrian and cycle link to Church Lane, formal and informal areas of open space and landscaping, car parking and amenity space.

Additional Comments from Newington Parish Council. 27 March 2017

We have received the revised air quality assessment dated 16 March 2017.

- i. Newington Parish Council note that the comments from the Environmental Protection Officer at Medway Council show reservations of both general and technical nature; Parish Councillors feel unqualified to comment on the latter, but do understand the general concerns and the *comment 'would advise that a Swale air quality officer looks at this again, as the model is significantly under predicting concentrations of NO2 at a number of sites, by as much as 40%. On average the model is under predicting NO2 in the Swale study area by 12.6%'*
- ii. The recent Pond Farm public planning inquiry resulted in the refusal of the two Gladman proposals one two grounds – harm to landscape character and the effect on air quality; both apply to the Persimmon Application. Whilst being marginally smaller than the lesser Gladman proposal (124 dwellings, rather than 140), current applications on and immediately behind the high street, which we understand to have officer support, match this 140 figure. There is no evidence that traffic from the proposed Persimmon site would turn left, eastwards, to avoid Newington High Street and we believe the effect on air quality would be the same as for the refused Gladman application.
- iii. We urge members of the Planning Committee to read the relevant section of the Planning Inspectorate decision on the Pond Farm (Gladman) appeal and the recent punitive decision by the Secretary of State in response to Gladman's submission to appeal the Inspector's decision.
- iv. Published Consumer Association report (22 March 2017) shows that many vehicle manufacturers have manipulated data and that diesel, especially, vehicles are heavier polluters than thought.
- v. We are not persuaded that travel packs, bicycle vouchers and cycle sheds would reduce motor traffic significantly. We are unaware of any evidence to contradict our view that such proposals are laudable and aspirational.

**APPENDIX 2**

- vi. We are not persuaded that Electric charging points will have the response suggested. Evidence shows that electric vehicles are useful, but expensive, second cars and there is still a reticence for people to purchase them. Further evidence shows that residents of affordable housing tend to drive older (and therefore more polluting) cars. Further evidence shows that many of these, and other residents, have a firm's vehicle (often a diesel van) over which they have no choice in the specification.
- vii. The proposed mitigation payments offer no help to the children and elderly residents of Newington who walk through the high street each day and who are the most likely to suffer severe health problems due to the poor air quality in the Village
- viii. All comments and objections made in earlier responses still stand.

**PLEASE FORWARD THIS RESPONSE TO ALL MEMBERS OF THE SWALE BOROUGH COUNCIL PLANNING COMMITTEE**



<b>Def Item 2      REFERENCE NO - 16/508117/OUT</b>		
<b>APPLICATION PROPOSAL</b>		
Outline application (with access being sought) for up to 62 dwellings including details of vehicular access.		
<b>ADDRESS</b> The Slips Scocles Road Minster-on-sea Kent ME12 3SN		
<b>RECOMMENDATION</b> Grant subject to further comments from KCC Highways and Transportation and any further conditions recommended by them and a Section 106 agreement.		
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b>		
The proposed development would provide housing on a site that is allocated for this purpose within the emerging Local Plan. The sustainability of the application site has been assessed and it is considered to be acceptable on a strategic and a local level. The economic, social and environmental considerations of the proposed development have been assessed and I have identified no harm that cannot be adequately mitigated. Subject to the imposition of the conditions listed at the end of the report and the signing of a Section 106 agreement, planning permission should be granted.		
<b>REASON FOR REFERRAL TO COMMITTEE</b>		
Parish Council objection and local resident objections.		
<b>WARD</b> Sheppey Central	<b>PARISH/TOWN</b> Minster-On-Sea	<b>COUNCIL</b>
		<b>APPLICANT</b> Parker
		<b>AGENT</b> BDB Design LLP
<b>DECISION DUE DATE</b> 02/03/17	<b>PUBLICITY EXPIRY DATE</b> 13/01/17	<b>OFFICER SITE VISIT DATE</b> 15/12/2016
<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 this this application was reported to the Planning Committee on 30<sup>th</sup> March 2017. After some discussion in which Members raised a number of concerns about the proposal, the motion to approve the development was lost. The Head of Planning Services used his call in powers at this point on the grounds that the Planning Committee was minded to make a decision that would be contrary to officer recommendation and contrary to planning policy and/or guidance. Determination of the application was deferred to come back to the planning committee at a later date.

1.02 At the 30<sup>th</sup> March Planning Committee, Members raised the following concerns:

- History – adjoining site's development dismissed at appeal;
- Parking looks inadequate;
- Over-intensive development due to cumulative impact;
- Demonstrable harm to the landscape;
- Over-stretched infrastructure;
- Increased impact on traffic and congestion on local roads;
- Would set a precedent for future development;
- Premature to approve;
- Scocles Road should be 30mph for its entire length;
- How will the self build houses contribute to the section 106 payments?;
- Would like to ensure that trees remain on site and want assurances that this can be secured by a condition;
- Harm to the local countryside gap.

- 1.03 This report will address these concerns and will consider the consequences of refusing this application.
- 1.04 Members should refer to appendix A of this report which provides the original committee report and sets out a description of the site, the proposal, planning constraints, planning policy, a summary of local representations and consultee responses, background papers and appraisal of the application. A copy of the minutes of this meeting are also appended under appendix A.
- 1.05 At the 30<sup>th</sup> March committee meeting, there was one tabled paper which is provided at appendix B.
- 1.06 Members were also verbally updated at the meeting noting comments received from Kent Highways and Transportation who have requested that the developer contribute towards improvements to the Lower Road/Barton Hill Drive junction.

*“So far 3 development sites have been required to contribute towards delivering the necessary junction improvements, and it is deemed appropriate that this current application should also be held to the same requirement. We would therefore seek the same £1006 per dwelling contribution that the developments at Harps Farm (440 dwellings), Plover Road (97 dwellings) and Lavender Avenue (9 dwellings) are expected to pay.”*

- 1.07 The applicant has confirmed that they will contribute as requested. Kent Highways and Transportation also note that any further access for drives onto Scocles Road would need to be considered at the reserved matters stage but flag up the need to ensure that vehicles can exit these drives in forward gear. I have suggested a suitably worded informative.

## **2.0 UPDATE**

- 2.01 KCC Highways and Transportation have confirmed that the land proposed to be used as a new footway opposite the site is owned by them and I therefore intend to impose a grampian style condition to ensure that the footway is provided prior to the commencement of development as opposed to an obligation within the section 106 agreement. I have added condition 29 below.
- 2.02 The applicant has provided amended plans to correctly reflect the existing junction changes to the bellmouth junction at Harpes Avenue. The 30 mile/hour speed limit has also been extended to start before the junction with Elm Lane. This is in response to a suggestion by Kent Highways and Transportation and I am awaiting their comments on the amended plans.
- 2.03 The applicant has submitted a report including the results of a recent traffic survey of Scocles Road which will be used to determine the visibility splays required for the proposed southern access. The applicant has proposed visibility splays of 2.4m x 120m and this has been accepted by KCC Highways and Transportation.
- 2.04 In response to KCC Highways and Transportation having identified a potential pinch point in Scocles Road, the applicant has submitted an amended plan which shows that Scocles Road would be widened to 5.6m which will allow vehicles to pass unimpeded in opposite directions. Comments on this road widening from Kent Highways and Transportation are awaited.

2.05 The Section 106 agreement may need to also include reference to the provision of a proposed footway along the eastern side of Scocles Road as shown on the site layout drawing if it is highway land. However, it is most likely to be land within the applicant's ownership and so can be dealt with under condition 15. Confirmation from the applicant has been sought.

2.06 For clarity, I provide an updated list of Section 106 contributions below:

- SAMM - £223.58 pre dwelling;
- Primary education - £4,535 per dwelling;
- Libraries - £48.02 per dwelling;
- Community learning - £60.43 per dwelling;
- Youth services - £37.58 per dwelling;
- Social care - £60.99 per dwelling;
- Bins - £92 per dwelling;
- Footpath resurfacing PROW ZS6 outside of the site - £13,640;
- NHS – £52,280 total
- On site open space - wording to secure a management company for the open space and landscaped area with a requirement to ensure maintenance and management in perpetuity;
- Off-site open space contribution - sports provision at a rate of £484 per dwelling;
- 1 wheelchair adaptable home;
- Travel Plan;
- Best endeavours to implement an extension to 30mph speed limit on Scocles Road and 'gateway' scheme.
- Possible reptile mitigation measures (comments from KCC Ecology awaited);
- 5% monitoring and administration fee

2.07 We have received comment from KCC Ecology on the submitted reptile survey. They note that appropriate mitigation has been proposed for the low population of reptiles and suggest conditions to require the submission of a biodiversity method statement for ecological mitigation and also the submission of an ecological enhancement strategy.

### **3.0 DISCUSSION**

3.01 I will address each of the Members' concerns listed above in this section and will then go on to consider the implications of refusing this application.

3.02 History – adjoining sites development dismissed at appeal;

3.03 The adjacent site to the north has been the subject of a number of failed planning applications to develop the land for small-scale housing. The last application for a single dwelling was dismissed on appeal in 2008 under SW/07/1418. The dismissed appeal concluded that the site fell outside of the built-up area boundary and therefore residential development on the site would not be consistent with the Council's settlement strategy. Quite clearly, we are now in a very different situation in terms of housing need, the wording of the NPPF and, the soon to be adopted Local Plan. The application site before Members is fully in line with the settlement strategy of the most up to date Local Plan and so there is no reason why the dismissed proposal of housing on the adjacent site should influence the decision on the current application site.

- 3.04 Parking looks inadequate;
- 3.05 This application is in outline form only and so details such as parking are not up for consideration at this stage. The adequacy of the parking within the site will be fully considered at the reserved matters stage.
- 3.06 Over-intensive development due to cumulative impact;
- 3.07 The applicant responds that the density for the scheme is 22dph gross with 25% of the land given over to public open space/landscaping etc. The density is still under 31dph (if the areas for open space and structural landscaping are excluded) which is about average for a semi-rural location like this. With regards to the cumulative impact, I reiterate that this development is on an allocated housing site which has been chosen by this Council as an appropriate site for development as it falls in line with the adopted settlement strategy. Subject to contributions towards local infrastructure, including highway improvements, I cannot identify any demonstrable cumulative harm in this case.
- 3.08 Demonstrable harm to the landscape;
- 3.09 The landscape impact of development at the application site was assessed prior to the site being allocated in the soon to be adopted Local Plan and has also been assessed under the current application. In both cases, the landscape harm has not been considered to be significant and adequate mitigation can be put in place. Members are asked to consider paragraphs 9.12 to 9.14 of the original report (appended) on the matter of landscape impact.
- 3.10 Over-stretched infrastructure;
- 3.11 The applicant notes that there is no evidence that infrastructure in the local area cannot cope with this development. Members are asked to consider paragraph 9.22 of the original report which sets out the contributions towards education, libraries, youth services, social care and the NHS. The applicant has agreed to pay all of these contributions in acknowledgement that the development will place additional pressures on these services.
- 3.12 Increased impact on traffic and congestion on local roads;
- 3.13 The submitted Transport Assessment (TA) provides robust evidence to show that traffic generation levels can be accommodated on the local roads and this is accepted by Kent Highways and Transportation. The TA confirmed that the development would add only 8% to the traffic on the local roads. It is our view that the development would cause no harm to highway safety or amenity.
- 3.14 Would set a precedent for future development;
- 3.15 Members must be clear that the approval of this development will not set a precedent for further development along Elm Lane. Firstly, of key importance here it that the site is allocated for housing within the soon to be adopted Local Plan. Land immediately adjacent to it is not allocated and therefore there would be no principle established for the development of those sites. The eastern boundary of the application site would be heavily planted and there would be no access though it to adjacent land. Any new development would therefore have to take its vehicular

access from Elm Lane which I consider would be far more difficult to secure in terms of highway safety than the Scocles Road access proposed for the current scheme.

3.16 Premature to approve;

3.17 At the time of writing this report, the Local Plan Inspector's report has not been published. However, it is expected to be available at the meeting. Members will be updated further once the report has been received. I would, however, reiterate that Planning Practice Guidance clarifies that refusal on the grounds of prematurity would only be justified if the development would undermine the plan-making process. In this case, this draft allocation site has been chosen having followed the approach to the settlement hierarchy set out in the emerging Local Plan, which the examination inspector has endorsed. Therefore I consider that granting planning permission at this stage would not prejudice the plan-making process.

3.18 Scocles Road should be 30mph for its entire length;

3.19 The extent of the 30mph zone has been increased by the applicant following a suggestion by Kent Highways and Transportation. However, there is no justification for any further extension of the 30mph zone under this application. That is not to say that residents could not continue to make requests to Kent Highways and Transportation outside of this application for a lower speed limit along Scocles Road if they consider it necessary.

3.20 How will the self build houses contribute to the section 106 payments?;

3.21 The applicant clarifies that this will happen in the same way that affordable/disabled/etc. units do. As is always the case, S106 payments will become due on completion of a trigger usually upon 50% completion of the houses.

3.22 Would like to ensure that trees remain on site and want assurances that this can be secured by a condition;

3.23 I draw Members' attention to conditions 18, 19 and 24 below which cover the submission of details in respect of a proposed landscaping scheme and details of those trees to be retained. I see no reason why these conditions would not be robust enough to ensure that trees are retained on site but reassure Members that any particularly high quality specimens of sufficient amenity value that are identified under condition 24 would be considered for the Tree Preservation Order. I have also altered the period of time for ensuring retention of the trees and landscaping across the site in general to ten years as opposed to the usual 5 years. Additionally, the applicant has confirmed that the open space areas, including the landscaping along the boundaries, would be dealt with by a management company. We will include wording with the Section 106 agreement that will ensure that the management company must be responsible to the maintenance of these area is perpetuity.

3.24 Harm to the local countryside gap;

3.25 The application site does not lie within the local countryside gap as set out in the current or soon to be adopted Local Plan.

3.26 Implications of refusing this application

3.27 The application site will effectively be an allocated housing site by the time of the committee meeting. Although the Local Plan is not yet officially adopted (due to be

reported to Full Council on 26<sup>th</sup> July 2017), the Inspector's report will have been received and made public and is binding on the Council. If the Local Plan is found to be Sound, the application site will be judged to have been fully compliant with the Council's overall vision, aims and objectives for the future of Swale Borough and in line with the Council's settlement strategy. If Members are to refuse this application, they would have to be absolutely clear that the harm is significant, that this harm cannot be reduced to a satisfactory level by way of mitigation and that the harm is not outweighed by the benefits of the proposal. The danger of refusing schemes on allocated sites such as this - that are compliant with our settlement strategy, is that unplanned and less favourable development in unsustainable locations will be approved or allowed at appeal instead. This could undermine the whole approach of the freshly adopted Local Plan and is not a position that I anticipate Members would like to be in.

- 3.28 Members should be clear that without adequate justification for refusing this development, an appeal, most likely a Public Inquiry, would in be bound to follow. Members would be expected to be in a position to present the necessary evidence to support their refusal. The separate report at Part 6 of the agenda, which deals with the possible costs implications of a decision to refuse this application, should be noted.

#### **4.0 CONCLUSION**

- 4.01 Paragraph 7 of the NPPF identifies three strands to sustainable development - economic (supporting the economy and growth), social (providing strong, healthy, accessible communities), and environmental (contributing to protecting our natural, built and historic environment). In terms of the social and economic aspects of the scheme, the development would provide much needed housing. This site is of great importance in helping to meet the growing demand for housing in the Borough.
- 4.02 In terms of whether the proposals constitute sustainable development, I find that the proposals perform strongly in terms of the social and economic strands and that any harm identified in respect of the environmental strand can be adequately mitigated. I set out above that I do not consider that there would be significant harm to the landscape here and that mitigation in the form of soft landscaping will ensure that landscape harm is limited further. I have discussed the impact of the development on highway safety and amenity and consider that there would be no harm in this respect. In addition, it is anticipated that there would be limited harm to ecology and biodiversity but this is subject to the submission of additional reptile surveys and appropriate mitigation measures if necessary. I have also set out mitigation measures such as ecological enhancements within the site and a contribution towards the SAMM Strategy. The loss of best and most versatile agricultural land is accepted in this case owing to the site's allocation in the emerging Local Plan for housing.
- 4.03 I therefore consider that the development would be acceptable and, as such, that planning permission should be granted.

- 5.0 RECOMMENDATION – GRANT** Subject to the following conditions with delegation to add, amend or exclude conditions as reasonably necessary, further comments from KCC Highways and Transportation and any further conditions recommended by them and a Section 106 agreement to include items as set out at paragraph 2.06 of this report. In addition, authority is sought to negotiate amendments to the Section 106 agreement as may be reasonably necessary.

Condition:

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

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

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

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 five years from the date of the grant of outline planning permission; or 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 development hereby approved shall be carried out in accordance with the following approved drawings: 619/204, 619/203619/201.

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

5. The details submitted pursuant to condition (1) above shall include an area equal to 10% of the net site area shall be reserved for public open space. Play spaces shall be surfaced and equipped with play equipment, in accordance with a schedule agreed by the Local Planning Authority before development is commenced and shall be provided before the last dwelling is occupied; no permanent development whether permitted by the Town and Country Planning (General Permitted Development) Order 1995 or not shall be carried out in the areas so shown without the prior written approval of the Local Planning Authority.

Reason: To ensure that these areas are made available in the interests of the residential amenities of the area in pursuance of policies E1 and C3 of the Swale Borough Local Plan 2008.

6. 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 contaminated land is adequately dealt with.

7. 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 contaminated is adequately dealt with.

8. 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 contaminated is adequately dealt with.

9. Development shall not begin 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 be based on the recommendations within the report prepared by RMB consulting (August 2016), and 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 on site before being discharged at an agreed rate to the receiving watercourse network; this rate shall not exceed 7l/s/ha and shall be agreed in writing prior to the submission of any related discharge of conditions application. The development shall be carried out in accordance with the approved details.

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

10. Development shall not begin 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 development shall be carried out in accordance with the approved details.

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



11. Prior to the commencement of the development, a Code of Construction Practice shall be submitted to and approval in writing by the Local Planning Authority. The construction of the development shall then be carried out in accordance with the approved Code of Construction Practice and 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.

The code shall include:

- An indicative programme for carrying out the works
- Measures to minimise the production of dust on the site(s)
- Measures to minimise the noise (including vibration) generated by the construction process to include the careful selection of plant and machinery and use of noise mitigation barrier(s)
- Maximum noise levels expected 1 metre from the affected façade of any residential unit adjacent to the site(s)
- Design and provision of site hoardings
- Management of traffic visiting the site(s) including temporary parking or holding areas
- Provision of off road parking for all site operatives
- Measures to prevent the transfer of mud and extraneous material onto the public highway
- Measures to manage the production of waste and to maximise the re-use of materials
- Measures to minimise the potential for pollution of groundwater and surface water
- The location and design of site office(s) and storage compounds
- The location of temporary vehicle access points to the site(s) during the construction works
- The arrangements for public consultation and liaison during the construction works.

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

12. The details submitted pursuant to condition (1) above shall show adequate land, reserved for the parking or garaging of cars and such land shall be kept available for this purpose at all times and no permanent development, whether permitted by the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking or re-enacting that Order) or not shall be carried out on such land or in a position as to preclude vehicular access thereto; such land and access thereto shall be provided prior to the occupation of the dwelling(s) hereby permitted.

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

13. Development shall not commence until a drainage strategy detailing the proposed means of foul disposal (including such infrastructure – on and off site – as may be required) and an implementation timetable, has been submitted to and approved in writing by, the local planning authority. The development shall be carried out in accordance with the approved scheme and timetable.

Reason: In the interests of ensuring that the site is adequately drained.

14. No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of:

- i) archaeological field evaluation works in accordance with a specification and written timetable which has been submitted to and approved by the Local Planning Authority; and
- ii) following on from the evaluation, any safeguarding measures to ensure preservation in situ of important archaeological remains and/or further archaeological investigation and recording in accordance with a specification and timetable which has been submitted to and approved by the Local Planning Authority

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

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

Reason: To ensure that the roads are constructed and laid-out in a satisfactory manner.

16. The vehicular accesses to the site as shown on the approved drawings shall be constructed and completed prior to the commencement of the first use of the development hereby permitted. The gradient of the accesses shall be no steeper than 1 in 10 for the first 1.5 metres from the highway boundary and no steeper than 1 in 8 thereafter.

Reason: To ensure that a satisfactory means of access is provided for the site.

17. The details submitted pursuant to condition (1) above shall include details of a covered secure cycle parking facility shall be submitted to the Local Planning Authority for approval in writing and thereafter provided prior to the occupation of dwellings hereby approved, and retained in perpetuity.

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

18. The details submitted pursuant to condition (1) above shall include 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, where possible), plant sizes and numbers where appropriate, means of enclosure, hard surfacing materials, the retention and reinforcement of vegetation along the southern and eastern boundaries of the site and an implementation programme.

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

19. 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.

20. Upon completion of the approved landscaping scheme, any trees or shrubs that are removed, dying, being severely damaged or becoming seriously diseased within ten 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.

21. The details submitted pursuant to condition (1) above shall include 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.

22. The details submitted pursuant to condition (1) above shall include details 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.

23. No development shall take place (including any ground works, site or vegetation clearance) until a method statement for ecological mitigation has been submitted to and approved in writing by the local planning authority. The content of the method statement shall include the:
- a) Purpose and objectives for the proposed works;
  - b) Detailed design(s) and/or working method(s) necessary to achieve stated objectives including reptile mitigation strategy;
  - c) Extent and location of proposed works, including the reptile receptor site, shown on appropriate scale maps and plans;
  - d) Timetable for implementation, demonstrating that works are aligned with the proposed phasing of construction;
  - e) Use of protective fences, exclusion barriers and warning signs;
  - f) Initial aftercare and long-term maintenance (where relevant);

The works shall be carried out in accordance with the approved details and shall be retained in that manner thereafter.

Reason: To protect habitats and species identified in the ecological surveys from adverse impacts during construction.

24. Prior to the occupation of the dwellings hereby approved, an Ecological Design Strategy (EDS) addressing ecological enhancement of the site shall be submitted to and approved in writing by the local planning authority. The EDS shall include the following:
- a) Purpose and conservation objectives for the proposed works;
  - b) Review of site potential and constraints;
  - c) Detailed design(s) and/or working method(s) to achieve stated objectives including installation of bat and bird nesting spaces and generous native planting;
  - d) Extent and location/area of proposed works on appropriate scale maps and plans;
  - e) Type and source of materials to be used where appropriate, e.g. native species of local provenance;
  - f) Timetable for implementation demonstrating that works are aligned with the proposed phasing of development;
  - g) Persons responsible for implementing the works;
  - h) Details of initial aftercare and long term maintenance;
  - i) Details for monitoring and remedial measures;

The EDS shall be implemented in accordance with the approved details and all features shall be retained in that manner thereafter.

Reason: To enhance biodiversity.

25. The landscaping details to be submitted in accordance with condition (1) above shall include:
- (a) a plan showing the location of, and allocating a reference number to each existing tree on the site to be retained and indicating the crown spread of each tree.
  - (b) details of the size, species, diameter, approximate height and an assessment of the general state of health and stability of each retained tree.
  - (c) details of any proposed arboricultural works to any retained tree, which shall be carried out in accordance with British Standard 3998 (tree work).
  - (d) details of any alterations in ground levels and of the position of any excavation or other engineering works within the crown spread of any retained tree.
  - (e) details of the specification and position of fencing and of any other measures to be taken for the protection of any retained tree from damage before or during the course of development

In this condition “retained tree” means any existing tree which is to be retained in accordance with the drawing referred to in (a) above.

Reason: In the interests of protecting existing trees which are worthy of retention in the interests of the amenities of the area.

26. The details submitted pursuant to condition (1) above shall include measures to minimise the risk of crime via measures, according to the principles and physical security requirements of Crime Prevention through Environmental Design (CPTED). 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.

27. The details submitted pursuant to condition (1) shall include the submission of a development brief to include a design strategy for the overall site and any self-build

plots to be provided on site. This strategy shall include details of the finishing materials, palette of colours, elevational treatment and architectural approach as well as maximum and minimum building heights.

Reason: In the interests of visual amenities.

28. Visibility splays of 43 metres at the proposed northern access and 120 metres at the southern access into the site, set back 2.4 metres from the edge of the carriageway, at the access with no obstructions over 0.9 metres above carriageway level within the splays shall be provided and maintained prior to use of the site commencing.

Reason: In the interests of highway safety and amenity.

29. The footways to be provided along the eastern side of Scocles Road and within the development, should be a minimum of 1.8 metres wide to meet standards outlined in the Kent Design Guide.

Reason: In the interests of highway safety and amenity.

30. No development shall take place until the footpath shown on drawing no. 619/204A along the west side of Scocles Road has been implemented in full in accordance with details that shall have been submitted to the Local Planning Authority for approval in writing.

Reason: In the interests of ensuring good quality pedestrian access to and from the site.

Informative:

1. The applicant should be reminded that planning consent does not confer a right to disturb or divert any public right of way at any time without the express permission of the Highway Authority, in this case Kent County Council's PROW and Access Service.
2. The applicant/developer should enter into a formal agreement with Southern Water to provide the necessary sewerage infrastructure required to service this development. The applicant/developer should contact Southern Water, Sparrowgrove House, Sparrowgrove, Otterbourne, Hampshire SO21 2SW (Tel: 0330 303 0119) or [www.southernwater.co.uk](http://www.southernwater.co.uk) in order to progress the required infrastructure.
3. Kent County Council recommends that all developers work with a telecommunication partner or subcontractor in the early stages of planning for any new development to make sure that Next Generation Access Broadband is a fundamental part of the project. Access to superfast broadband should be thought of as an essential utility for all new homes and businesses and given the same importance as water or power in any development design. Please liaise with a telecom provider to decide the appropriate solution for this development and the availability of the nearest connection point to high speed broadband. We understand that major telecommunication providers are now offering Next Generation Access Broadband connections free of charge to the developer. For advice on how to proceed with providing access to superfast broadband please contact [broadband@kent.gov.uk](mailto:broadband@kent.gov.uk)
4. The applicant is advised that the only approved accesses under this outline permission are the two main accesses into the site shown with visibility splays on drawing number 69/201 and not those indicated indicatively on the drawings to serve private drives. Any driveway access onto Scocles Road would need to ensure that vehicles can exit in forward gear.

The Council's approach to this application:

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

Offering pre-application advice.

Where possible, suggesting solutions to secure a successful outcome.

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

In this instance:

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

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

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**

<b>2.1 REFERENCE NO - 16/508117/OUT</b>		
<b>APPLICATION PROPOSAL</b>		
Outline application (with access being sought) for up to 62 dwellings including details of vehicular access.		
<b>ADDRESS</b> The Slips Scocles Road Minster-on-sea Kent ME12 3SN		
<b>RECOMMENDATION</b> Grant subject to comments from KCC Ecology and any additional conditions/obligations recommended by them, further comments from Kent Highways and Transportation and any further conditions recommended by them and a Section 106 agreement.		
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b>		
The proposed development would provide housing on a site that is allocated for this purpose within the emerging Local Plan. An assessment of the need for housing in the Borough highlights a requirement for housing sites that are located outside of the built-up area boundary as set out in the adopted Local Plan. The sustainability of the application site has been assessed and it is considered to be acceptable on a strategic and a local level. The economic, social and environmental considerations of the proposed development have been assessed and I have identified no harm that cannot be adequately mitigated. Subject to the imposition of the conditions listed at the end of the report and the signing of a Section 106 agreement, planning permission should be granted.		
<b>REASON FOR REFERRAL TO COMMITTEE</b>		
Parish Council objection and local resident objections.		
<b>WARD</b> Sheppey Central	<b>PARISH/TOWN COUNCIL</b> Minster-On-Sea	<b>APPLICANT</b> Parker <b>AGENT</b> BDB Design LLP
<b>DECISION DUE DATE</b> 02/03/17	<b>PUBLICITY EXPIRY DATE</b> 13/01/17	<b>OFFICER SITE VISIT DATE</b> 15/12/2016
<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 DESCRIPTION OF SITE**

- 1.01 The application site totals 2.778ha in area and is located to the southern boundary of the settlement of Minster-on-Sea. Elm Lane bounds the southern edge of the application site and Scocles Road bounds the western edge. A row of detached bungalows and houses front onto Scocles Road and lie opposite the application site. To the north are mainly detached bungalows/semi-detached bungalows fronting onto Drake Avenue. To the east is land used for the grazing of horses and, to the south are agricultural fields. The Thistle Hill housing estate lies to the southwest of the application site.
- 1.02 The application site is currently used for the grazing of horses. There is a large building (to be demolished) located towards the western boundary of the site that appears to be a former agricultural building converted into stables. The site slopes gently to the south and is largely flat with fences dividing the land into paddocks. There is a thick hedge that runs along the southern boundary of the site and a thinner hedge to the eastern boundary with clusters of small trees and hedges within the eastern part of the site.
- 1.03 A public footpath (ZS6) crosses the application site at the northeast corner. This footpath link passes through the site linking Scocles Road, Nelson Avenue, Drake Avenue and Elm Lane. There is an existing pond on the site located close to the existing stable building.





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An open water ditch runs along the eastern boundary of the application site where it meets a ditch running along Elm Lane.

**2.0 PROPOSAL**

- 2.01 This is an outline planning application with all matters reserved, with the exception of access, for a maximum of 62 houses to be provided within the site. The indicative plans show that the houses would be a mix of detached, semi-detached and terraced two storey, 2, 3, 4 and 5 bedroom properties. Each property is shown to have at least one allocated parking space and there are additional visitor's spaces shown. A large central green and open space is shown to be provided to the centre and north of the application site and the existing pond is to be retained. The public footpath would be incorporated within the development and would not be diverted. Another large area of open spaces is shown to occupy the northeast corner. The southern boundary is shown to be heavily planted with trees and hedges and soft landscaping provided throughout. The illustrative plan shows dwellings fronting onto Scocles Road.
- 2.02 The access to the site would be taken from two points on Scocles Road, one opposite nos. 100 and 102 Scocles Road and one opposite no. 118 Scocles Road. A new footway is shown to be provided along the entire length of the western boundary of the site as well as a new footway on the opposite side of Scocles Road stretching from no. 100 Scocles Road to the corner of Harps Avenue. The application includes details of a 30 mile/hour 'gateway' which would be located on Scocles Road, close to the corner of Elm Lane and would comprise of a red coloured 'block' with '30' painted on the road, 30m/hr signs and five-bar gates on either side of the road.
- 2.03 This outline application details the provision of 13 self-build plots that would be located close to the southern boundary of the site. The intention is for a house builder to install infrastructure, providing all 13 plots with services at the outset. The plots would then be offered to private applicants subject to them obtaining detailed planning permission for their chosen design which would be in accordance with a design brief that is to be submitted (see condition 26).

**3.0 SUMMARY INFORMATION**

	<b>Proposed</b>
Site Area (ha)	2.778ha
Approximate Ridge Height (m)	Not specified
Approximate Eaves Height (m)	Not specified
No. of Storeys	2
Parking Spaces	At least 2 per dwelling
No. of Residential Units	62
No. of Affordable Units	0
Density	23d/ha

**4.0 PLANNING CONSTRAINTS**

Potential Archaeological Importance



**APPENDIX A****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), 30, 32, 36 (sustainable transport), 42, 47 (delivering a wide choice of high quality homes), 49, 50, 55, 56, 58 (good design), 69, 70, 73 (healthy communities); 103 (flood risk), 110, 112 (agricultural land), 118, 119 (biodiversity), 120, 121 (contaminated land), 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; transport assessments and statements in decision taking; Water supply, waste water and water quality land affected by contamination; Flood Risk and coastal change; Open Space, sports and recreational facilities, public rights of way and local green space.

Development Plan:

- 5.03 The Swale Borough Local Plan 2008 saved policies SP1 (sustainable development), SP2 (environment), SP4 (housing), SP5 (rural communities), SP6 (transport and utilities), TG1 (Thames Gateway Planning Area) SH1 (settlement hierarchy), E1 (general development criteria), E6 (countryside); E7 (separation of settlements); E9 (protecting the quality and character of the Borough's Landscape); E10 (trees and hedges); E11 (biodiversity and geological interests), E12 (designated biodiversity and geological conservation sites), E19 (achieving high quality design and distinctiveness); H2 (new housing), H3 (affordable housing), H5 (housing allocations), RC3 (meeting rural housing needs); C2 (housing development and the provision of community services and facilities); T1 (safe access), T3 (vehicle parking for new development); T4 (cyclists and pedestrians) & C3 (open space on new housing developments).
- 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 (Isle of Sheppey area strategy), CP2 (sustainable transport), CP3 (high quality homes), CP4 (good design), CP5 (health and wellbeing), CP6 (community facilities and services to meet local needs), CP7 (conserving and enhancing the natural environment - providing green infrastructure), DM6 (managing transport demand and impact), DM7 (vehicle parking), DM8 (affordable housing), DM14 (general development criteria), DM17 (open space, sports and recreation provision), DM19 (sustainable design and construction), DM21 (water, flooding and drainage), DM24 (conserving and enhancing valued landscapes), DM28 (biodiversity and geological conservation), DM29 (woodland trees and hedges), DM31 (agricultural land), DM34 (Archaeological sites), A14 (smaller allocations as extensions to settlements) & IMP1 (implementation and delivery plan).

Supplementary Planning Documents

- 5.05 Developer Contributions (2009)

5.06 Swale Landscape Character and Biodiversity Appraisal SPD (2011). The application site is identified as lying within the Central Sheppey Farmlands character area and Clay Farmlands landscape type – the landscape is generally in poor condition with a

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moderate sensitivity to change. The guidelines recommend that this landscape should be restored.

## **6.0 LOCAL REPRESENTATIONS**

6.01 Twelve representations have been received from local residents. A summary of their comments is as follows:

- Views affected;
- Additional congestion on Scocles Road (a narrow road) and the accesses would increase the chance of accidents;
- Result in a reduction in property values;
- The ditch that runs along Elm Lane and the application site is prone to flooding and displacement of surface water is likely to have a negative effect;
- Development should be on brownfield land;
- Property in Drake Avenue would be overlooked and overshadowed;
- Detrimental to wildlife on the site;
- Elm Lane and Lower Road will not cope with additional traffic;
- Expansion of the urban area would be contrary to Swale Council's approach to development in the past;
- Local services such as education and health will be over-burdened;
- Dangerous to horses which use the local roads;
- Overdevelopment of the Island;
- Green spaces are being lost;
- Approval of this development could lead to further development along Elm Lane;
- The site is in a Local Countryside Gap and the development would be contrary to the aims and objectives of this designation and policy E6;
- Detrimental impact on the landscape;
- Not in-keeping with the other houses in Minster;
- Pedestrian access along Scocles Lane and Elm Lane is dangerous.

## **7.0 CONSULTATIONS**

7.01 Minster Parish Council object to the proposal on the following grounds:

- The application is premature;
- The site is within an important local countryside gap and should be maintained to separate settlements and safeguard open and undeveloped areas;
- The development is outside of the West Sheppey Triangle (modification 45) and would contradict policies E1, E6 and RC4 of the adopted LP;
- The development is poor in sustainability terms as it is not well related to existing services and facilities in Minster and major serves in Sheerness and Queenborough;
- Significant adverse impact on the landscape character of the area. This is hindered by the topography of the site which rises to a crest at the centre with views from low lying marshland to the south towards Minster Abbey and from Forty-Acres Hill. Mitigation would not off-set the landscape impact;

- Over-intensive development of the site not in-keeping with semi-rural character and appearance of this part of Minster;
- Scocles Road will not cope with additional traffic;

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- Allowing development of this site could make further development to the east difficult to resist.
- 7.02 KCC (community contributions) request that the application contributes towards a new primary school on the Island, community learning, youth services, library bookstock and social care as well as the provision of 1 wheelchair adaptable home. Members will note that the sums of money required are detailed at paragraph 9.21 below. They also ask that an informative be added to encourage Next Generation Access Broadband.
- 7.03 KCC Highways and Transportation did not originally have sight of the submitted Transport Assessment (TA) and asked for one to be completed. Commenting on the submitted TA they have no objection to the principle of the development from a highway point of view. However, they require further detail in terms of the traffic/speed survey and they cannot therefore confirm the required visibility splay at the southern access. They also require further time to consider the applicant's TRIC's assessment to comment on the proposed trip generation. Commenting on the indicative plans, they discourage the use of tandem parking and, that they do not count garages as parking spaces and therefore plot 47 does not appear to have any parking spaces provided. They recommend conditions to provide visibility splays, provision and maintenance of the accesses, control of the gradient of the accesses, a minimum width of 1.8m for the proposed footway and the use of bound surface for the access roads.
- 7.04 The Lower Medway Internal Drainage Board note that surface water is to be discharged via SUDs to watercourses bordering the site. Although not opposed to this in principle, it will be essential that surface water runoff, and therefore downstream flood risk, will not be increased as a result. A condition to ensure that surface water be attenuated to no more than Greenfield rates for a range of events up to 100 year event +CC/ the details of the proposed SUDs and future maintenance should be agreed with KCC Drainage and flood risk team. Any works affecting their watercourses will require their consent.
- 7.05 KCC Flood Risk and Drainage are generally satisfied that the surface water generated by the proposal can be accommodated within the site's boundaries and discharge at a controlled rate without exacerbating the flood risk to the development site or surrounding area. They recommend a condition to ensure that final detailed drainage design is submitted and agreed in consultation with the Lower Medway Internal Drainage Board. At the detailed design stage it must also be ensured that the area to the north of the site that has been identified as being at risk from surface water accumulation is fully considered, and that a clearly identified and managed means of conveying water from this area to the wider drainage network is provided.
- 7.06 Natural England have no objection to the proposal subject to contributions towards the SAMM and note that a Habitat Regulations Assessment is required. They advise that the SSSI does not represent a constraint in determining the application.
- 7.07 KCC Public Rights of Way Officer have no objection to the proposal but notes that public footpath ZS6 passes through the site and is of high importance for recreational purposes. The route is well used and popular for access to the countryside from Minster. The footpath should be upgraded to a standard agreed with them and consideration should be given to the surface of the remainder of the footpath to connect to Drake Avenue and Elm Lane. A contribution of £13,640 is sought for this

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surfacing work to be completed. They will not adopt the connecting footpaths shown on the illustrative layout plan.

- 7.08 Southern Water do not object to the proposal but note that currently there is not capacity in their network for the disposal of wastewater sewage, without the development providing additional infrastructure. They ask for a condition to require details of the disposal of foul water. They confirm that they can provide surface water disposal to service the development. Drainage from hardstanding should be by means of oil trap gullies or petrol/oil interceptors. They confirm that they can provide a water supply to the site.
- 7.09 KCC Archaeology note that the site lies within an area of archaeological potential from the multi-period remains found on the higher areas of the Isle of Sheppey. A condition is recommended to require an archaeological field evaluation.
- 7.10 Southern Gas Networks note that there is a low/medium/intermediate pressure main near the site. There should be no mechanical excavation within 0.5m of the low/medium gas main or 2m of an intermediate pipe.
- 7.11 The NHS request contributions towards expanding existing facilities within the vicinity of the site. They ask for a total contribution of £53,280.
- 7.12 The Environmental Health Manager has no objection to the proposed development subject to conditions to secure contaminated land investigations and remediation where necessary, a condition to require a Code of Construction Practice.
- 7.13 KCC Ecology comments that additional detail in respect of reptiles is required prior to the determination of this application. The submitted ecological report outlines that there is suitable habitat for reptiles on the site. Further reports and necessary mitigation measures should be submitted therefore. Great Crested Newts are unlikely to be present at the site in their view. Ecological enhancements should be provided on site.
- 7.14 Kent Police recommend that Secure by Design principles are followed at this site. They have some concerns about the footpaths and permeability afforded adjacent to the side of plots 46 and 53 on the indicative plans which should be considered at the detailed planning stage. They recommend a condition to ensure that details of Crime Prevention through Environmental Design are submitted.
- 7.15 The Environment Agency have no comment to make on the application.
- 7.16 Housing Services were not consulted on the scheme because under the emerging Local Plan (see Policy DM8) there is not a requirement to provide a proportion of affordable housing on new development.

**8.0 BACKGROUND PAPERS AND PLANS**

- 8.01 Planning Statement; Design and Access Statement; Foul Water Drainage Strategy; Utilities Statement; Great Crested Newt Survey Report; Phase 1 Ecological Appraisal; Surface Water Management Strategy incorporating a Flood Risk Assessment; Transport Statement; Proposed access and highway plans and indicative site layout and housing mix plans; level survey site plan.

**APPENDIX A****9.0 APPRAISAL****Principle of Development**Planning Policy and the Housing Land supply position

- 9.01 For the purposes of the development plan, the site is located outside of the built confines of Minster-on-Sea and falls to be considered as within the countryside. To clarify, contrary to the representations from local residents and the Parish Council, the site does not lie within a Local Countryside Gap. Policy E6 of the adopted local plan seeks to protect the quality, character and amenity of the countryside. Policy SP4 seeks to provide sufficient land for housing need, policy SP5 seeks to protect the quality and character of the wider countryside and policies TG1, SH1 and H5 of the adopted local plan seek to concentrate this in the Thames Gateway Planning Area. Policy H2 of the adopted plan states that permission for new residential development will be granted for sites that are allocated or within defined built-up areas. Outside of these, new residential development will only be granted for certain limited exceptions. The application site being outside of the built-up area boundary would be contrary to the above policies, with the exception of policy SP4, and not in accordance with the development plan.
- 9.02 The NPPF was published in 2012 and is a material consideration in the determination of planning applications. It sets out a presumption in favour of sustainable development. Paragraph 7 identifies three strands to sustainable development, an economic role (supporting the economy and growth), a social role (providing strong, healthy, accessible communities), and an environmental role (contributing to protecting our natural, built and historic environment). Paragraph 14 sets out that, for the purposes of decision taking, this means where the development plan is absent, silent or relevant policies are out of date, permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits or; specific policies within the Framework indicate development should be restricted.
- 9.03 Paragraph 47 of the NPPF seeks to significantly boost housing supply, and requires Local Planning Authorities to meet full objectively assessed needs for housing in their area, and to identify and update a supply of deliverable sites to provide a five year housing supply. Paragraph 49 of the NPPF clarifies that policies for the supply of housing should be considered out of date if the LPA cannot demonstrate a 5 year supply.
- 9.04 Based on current Objectively Assessed Needs (OAN) for housing within the Borough, we require 776 dwellings per annum. The council cannot currently demonstrate a 5 year housing supply on this basis as the supply figure currently sits at 3.8 years' worth. Given that the Council cannot demonstrate an existing 5 year housing supply, and policies for housing delivery pre-date the OAN, they must be considered as out of date. For clarity, these out-of-date policies are: SP5, TG1, SH1, E6 and H2, although it should be noted that they should not be given no weight at all.
- 9.05 The emerging local plan has now completed its examination in public (closed 9<sup>th</sup> February), and following the Inspector's interim findings, the Council has sought to significantly boost its housing allocations to meet objectively assessed housing needs as modifications to the emerging Local Plan. One of the additional sites identified to



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meet this housing need is the application site and is a draft allocation for a minimum of 50 dwellings under Policy A14 - Main Modification 166 – smaller allocations as extensions to settlements. Under this policy, table 6.5.3 sets out matters to be considered at the planning application stage. For the application site these issues are: maintain and enhance boundary vegetation; undertake ecological assessments to determine interest and mitigation necessary; consider widening Elm Lane frontage across the site; consider a proportion of plots for self builders and; potential contribution to A2500 Lower Road improvements, health and primary school provision. The draft allocation of the application site was informed by a revised Strategic Housing Land Availability Assessment (SHLAA) undertaken in 2015. This concluded:

*“This site’s primary constraints are access to services and highway issues. While there are clearly sites with better access to services and facilities, in the context of overall housing need, this constraint is not considered overriding. Facilities are available within Minster and the wider urban area within a reasonable walk, cycle or car journey. Highway issues will be need to be addressed in response to the quantum of development accessed off the Lower Road and biodiversity impacts mitigated.”*

- 9.06 On the impact on landscape character and visual amenity, the SHLAA notes:  
*“Unlike other sites in the vicinity (SW/133 - land east of Scocles Road, south of Elm Lane) the modest scale of development proposed is unlikely to have a major impact on the landscape character of the area. Development of the scale proposed could be more easily absorbed into the landscape, being screened in the landscape by mature hedgerow planting, marking the transition between the large open fields down to the Lower Road and the perceived boundary to development in Minster.”*
- 9.07 A further examination of the emerging Local Plan took place in February this year with the Council seeking to demonstrate that it can meet its full identified housing needs and a 5 year supply. A number of policies within the emerging plan, including A14 as noted above, seek to deliver housing development in order to meet the OAN for housing in the Borough. These policies are ST1 (sustainable development including delivery of homes to meet OAN), ST2 (delivery targets), ST3 (Swale settlement strategy), ST4 (site allocations to meet OAN), and ST6 (Isle of Sheppey area strategy) to provide housing at sites within the urban and village confines, or as urban extensions to settlements where indicated by proposed allocations.
- 9.08 Against the emerging Local Plan, the Council’s published statement of housing land supply for 2015/16 shows the Council to have a five year supply of 5.4 years. However, at this time the Plan has not yet been found to be sound. I can therefore only attach limited weight to this changed position, other than to note the important point that the achievement of this land supply has been assisted by the allocation of the application site and that without it, this supply would be inevitably reduced.
- 9.09 Paragraph 216 of the NPPF sets out that decision makers may give weight to emerging plans, depending on the stage of preparation of the plan (the more advanced, the greater the weight), the extent to which there are unresolved objections, and the degree of consistency of relevant policies to policies in the NPPF. In this case, the emerging plan policy A14 received eight objections from local residents and the Parish Council. Although these representations remain outstanding, I am of the opinion that the soundness of the evidence base supporting the Local Plan means that material weight should be given to the emerging plan and

in terms of the Council's support for the sites that it has allocated to meet the overall OAN and demonstration of a five year housing supply.

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- 9.10 Given the fact that the application site is included as a draft allocation within the emerging local plan, I do not consider that it would be premature to approve development on this draft allocation site prior to the adoption of the emerging Local Plan, particularly given the overall need for housing and the Council's 5 year supply position. Planning Practice Guidance clarifies that refusal on the grounds of prematurity would only be justified if the development would undermine the plan-making process. In this case, this draft allocation site has been chosen having followed the approach to the settlement hierarchy set out in the emerging Local Plan, which the examination inspector has endorsed. Therefore I consider that granting planning permission at this stage would not prejudice the plan-making process.

### **Local infrastructure**

- 9.11 The site is within walking distance of a number of amenities within Minster, including a primary school (700m), convenience stores, Medical Centre (1.2km), community hall/church. The proposal includes a connection to the public right of way (Z S6) leading to Drake Avenue and also the provision of footpaths either side of the proposed vehicular accesses from Scocles Road. The applicant has agreed to pay contributions towards a new primary school on the Island as well as contributions towards community learning, youth services, library bookstock and social care in response to an identified need (refer to para 9.21 below for further detail). I therefore consider that this site is sustainably located with good access to local amenities and that adequate contributions are to be paid towards local infrastructure.

### **Landscape and Visual Impact**

- 9.12 The application site is visible from a number of view points, in particular from opposite the site on Scocles Road and from the public footpath (ZS6) that passes through the site. Views from Elm Lane and the countryside beyond are more restricted due to the thick boundary hedge/row of trees along the southern boundary of the site. The relationship of this site with the countryside to the south is of great importance in the assessment of the impact on the landscape character in my view. The application details indicate that the southern boundary vegetation would be reinforced and this is shown on the illustrative site layout. Trees are also shown to be retained along the eastern boundary and this will also be important in helping to limit the impact on the countryside to the south and east. The retention of the existing trees/hedgerow and its reinforcement is of fundamental importance in mitigating any harm to the character and appearance of the countryside to the south and east. The landscaping condition 18 below specifically refers to the southern and eastern boundaries of the site.
- 9.13 Owing to the location of houses to the north and west of the application site, the new houses would assimilate easily into this environment in my view. The illustrative plans show that there would be houses fronting onto Scocles Road and I see this as a positive element of the design which would provide an active frontage to the development and will help to integrate the development into the existing residential area. The proposed new footway and vehicular accesses along this part of Scocles Road would not detract from the appearance of the area in my view. It is acknowledged that the character of this part of Scocles Road would be altered to become less rural and more suburban, however, I do not consider that there would be significant harm in this respect given the proximity of the site to existing houses

opposite. This is also a necessary consequence of the provision of housing on this site.

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- 9.14 The Swale Landscape Character and Biodiversity Appraisal 2011 indicates that the surrounding landscape is of poor quality with moderate sensitivity to change. The application site is not within a designated landscape area and is not noted for its special quality or character. Members will note the conclusions on the landscape impact of the SHLAA above at paragraph 9.06. I therefore conclude that the development of this site for housing would cause no significant harm to the character or appearance of the countryside/landscape and that any harm can be adequately mitigated against through retention and reinforcement of vegetation along the southern and eastern boundaries of the site.

**Highways**

- 9.15 The proposal would provide two new vehicular access points onto Scocles Road. Kent Highways and Transportation are content with the provision of these accesses, subject to confirmation of the required visibility splays. Further comments from them on this matter will be reported at the meeting. It is likely that additional conditions will be required to ensure that the appropriate visibility splays are provided. The proposed northern access would be within an existing 30mph speed limit but the southern access would be within a 60mph speed limit. The submitted TA states that the nature of Scocles Road means that speeds are actually much lower than 60mph. As part of the development, the intention is to extend the 30mph speed limit to the junction with Elm Lane. To reinforce the reduced speed limit, a gateway is proposed which would incorporate red surfacing, 30mph signage and a 'traditional gateway feature' on the grass verge. Kent Highways and Transportation are agreeable to this scheme but it is important to note that they do not require the works in order to address highway safety concerns in respect of the proposal. This scheme is mainly in response to comments from Minster Parish Council and local residents. I have recommended that an obligation is included in the Section 106 agreement to require the applicant use their best endeavours to secure the scheme. We cannot secure the works via a condition as they would be the subject of a Traffic Regulation Order requiring a separate consultation process and a Grampian condition would not be justified as there is no highway safety concern.
- 9.16 The internal roads and parking layout will be determined under the reserved matters application. The proposed footways along Scocles Road, along the western edge of the application site and opposite, will be important in providing pedestrians with good access to the existing footpath infrastructure. It is of note that the applicant is proposing a new footway on the opposite side of Scocles Road which will not only benefit the future residents of the development but would benefit existing residents who live along this part of Scocles Road. I have recommended an obligation within the Section 106 agreement to ensure that this footway is provided via a Section 278 agreement. Pedestrians will also be able to use the public footpath ZS6 that passes through the site and the applicant has agreed to contribute towards re-surfacing of the footpath outside of the site with the expectation that the footpath within the site would also be re-surfaced as part of the development. I therefore consider that the development would be served with good pedestrian and vehicular access.
- 9.17 In terms of traffic generation and congestion on local roads, the submitted TS anticipates that there would be 38 peak hour movements and 291 daily movements from the site. This represents an increase of 8% on traffic movements along Scocles Road. The TS concludes that the impact on local roads would therefore be negligible. The TS promotes the use of a Travel Plan to encourage a reduction in car usage. I

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have recommended that this is included in the section 106 agreement. Further comments from Kent Highways and Transportation on the traffic movements are awaited and will be reported at the meeting. I anticipate that these will include comments on the possible need for contributions on Lower Road, as indicated in policy A14.

**Ecology**

- 9.18 Natural England do not object to the application noting that there would be no significant impact on the SSSI and no significant impact on the SPA subject to contribution towards the Thames, Medway and Swale Estuaries Strategic Management and Monitoring (SAMM) Strategy. 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) require the Council to make an appropriate assessment of the implications for the site. An Appropriate assessment is appended.
- 9.19 KCC Ecology have asked for additional survey data to be submitted for reptiles on the site. I have asked the applicant to address this request and Members will note that I have recommended approval subject to, among other things, the receipt of this survey work and further comments from KCC Ecology. Any required mitigation can be adequately addressed through the conditions or obligations within the Section 106 agreement.
- 9.20 With regards to other protected species, the submitted ecology report does not identify any other potential on the site. I have recommended a condition (23) to ensure that biodiversity is enhanced within the development, details of which shall be submitted.

**Agricultural land**

- 9.21 The application is currently used for the keeping and grazing of horses. This use seems to have taken place for over ten years and may well have a lawful use as such. However, it is possible that the land could still be considered to be of an agricultural use. The application is not accompanied by an Agricultural Land Classification Report but I am aware that much of the surrounding land is graded as 3b (post 1988 Agricultural Land Classification data). Policy DM 31 of the emerging local plan states that development on agricultural land will only be permitted when there is an overriding need that cannot be met on land within the built-up area boundaries. An overriding need in this case is considered to be the housing need of this Borough. Policy DM 31 states that development on best and most versatile agricultural land will not be permitted unless the site is allocated by the local plan. In this case, the site is included as a draft allocation in the emerging local plan. Paragraph 112 of the NPPF states that where significant development of agricultural land is demonstrated to be necessary, local planning authorities should seek to use areas of poorer quality land in preference to that of higher quality. In this case I consider that the overriding argument in respect of the loss of best and most versatile agricultural land is that the need for housing outweighs the need for agricultural land and the fact that this site is included as a draft allocation is of significance.

**APPENDIX A****Section 106 agreement**

9.22 The following obligations and contributions are required for this application. The applicant has agreed to a Section 106 agreement to include the following:

- SAMM - £223.58 pre dwelling;
- Primary education - £4,535 per dwelling;
- Libraries - £48.02 per dwelling;
- Community learning - £60.43 per dwelling;
- Youth services - £37.58 per dwelling;
- Social care - £60.99 per dwelling;
- Bins - £92 per dwelling;
- Footpath resurfacing PROW ZS6 outside of the site - £13,640;
- NHS – £52,280 total
- Open space - awaiting comments from the Green Spaces Manager;
- 1 wheelchair adaptable home as part of the affordable housing requirement;
- Travel Plan
- Best endeavours to implement an extension to 30mph speed limit on Scocles Road and 'gateway' scheme.
- Provision of footway along Scocles Road opposite the application site from no. 100 to the junction with Harps Avenue – Section 278 agreement
- Possible reptile mitigation measures;
- 5% monitoring and administration fee

9.23 The applicant is not offering any affordable housing in accordance with emerging Local Plan Policy DM8. As this emerging policy is based on the most up to date evidence, it can be given moderate to significant weight. The adopted Local Plan policy H3 which required 30% affordable housing on all sites of is now considered to be out of date. As such, I do not consider that we have grounds to require any affordable housing on this site.

**Other issues**

9.24 The submitted illustrative plan show a development of 62 dwellings and does not appear overly dense and does not lead to any significant overlooking or overshadowing within and outside of the site. The final layout and design of the houses will be considered at the reserved matters stage and such detail can be assessed at that point. However, the illustrative plan does provide me with the confidence that a scheme of 62 dwellings on the site would be acceptable.

9.25 The proposal includes the suggestion that some of the dwellings/plots could be developed as self-build homes. The details of this are outlined at paragraph 2.03 above. I acknowledge that emerging policy A14 encourages the consideration of self-build plots and the proposal before Members responds accordingly. The inclusion of self-build plots has been promoted in the past by Central Government as a way of encouraging different ways of increasing housing stock and type. The applicant notes that the Island has a tradition of self-build housing and that this scheme would follow this pattern. Such a proposal is therefore to be encouraged in my view.

- 9.26 In terms of contamination, surface and foul drainage, I note the comments of relevant consultees and have included conditions to ensure that any issues raised are adequately addressed.

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### 10.0 CONCLUSION

- 10.01 Paragraph 7 of the NPPF identifies three strands to sustainable development - economic (supporting the economy and growth), social (providing strong, healthy, accessible communities), and environmental (contributing to protecting our natural, built and historic environment). In terms of the social and economic aspects of the scheme, the development would provide much needed housing. This Borough does not currently have a 5 year supply of housing as required by National Planning Policy. This site is of great importance in helping to meet the growing demand for housing in the Borough.
- 10.02 In terms of whether the proposals constitute sustainable development, I find that the proposals perform strongly in terms of the social and economic strands and that any harm identified in respect of the environmental strand can be adequately mitigated. I also conclude that the development would be contrary to the adopted Local Plan in respect of development outside of the built-up area boundary but that the development would be in accordance with the emerging Local Plan in that the site is a draft allocation.
- 10.03 Paragraph 14 of the NPPF sets out that, for the purposes of decision taking, where the development plan is absent, silent or relevant policies are out of date, permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits or; specific policies within the Framework indicate development should be restricted. I have already identified the key issues above and have considered the impacts against each of the three strands of sustainable development – social, economic and environmental and have concluded that the development would be sustainable. In terms of the paragraph 14 tests, firstly, I do not consider that there are any specific policies within the NPPF that would restrict the proposed development. It is therefore necessary to consider whether there are any adverse impact that would significantly and demonstrably outweigh the benefits.
- 10.04 In terms of the environmental impact of the proposal, I set out above that I do not consider that there would be significant harm to the landscape here and that mitigation in the form of soft landscaping will ensure that landscape harm is limited further. I have discussed the impact of the development on highway safety and amenity and consider that there would be no harm in this respect. In addition, it is anticipated that there would be limited harm to ecology and biodiversity but this is subject to the submission of additional reptile surveys and appropriate mitigation measures if necessary. I have also set out mitigation measures such as ecological enhancements within the site and a contribution towards the SAMM Strategy. The loss of best and most versatile agricultural land is accepted in this case owing to the sites' allocation in the emerging Local Plan for housing.
- 10.05 I therefore consider that the development would be acceptable and, as such, that planning permission should be granted.
- 11.0 RECOMMENDATION – GRANT** Subject to the following conditions and comments from the Greenspaces Manager and any additional conditions or obligations recommended by them, additional reptile surveys being submitted with further comments from KCC Ecology in response and any additional conditions

recommended by them, further comments from Kent Highways and Transportation and any further conditions recommended by them and a Section 106 agreement to



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include items as set out at paragraph 9.21. In addition, authority is sought to amend the planning conditions and to negotiate amendments to the Section 106 agreement as may be reasonably necessary.

**Condition:**

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

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

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

**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 five years from the date of the grant of outline planning permission; or 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 development hereby approved shall be carried out in accordance with the following approved drawings: 619/204, 619/203619/201.

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

5. The details submitted pursuant to condition (1) above shall include an area equal to 10% of the net site area shall be reserved for public open space. Play spaces shall be surfaced and equipped with play equipment, in accordance with a schedule agreed by the Local Planning Authority before development is commenced and shall be provided before the last dwelling is occupied; no permanent development whether permitted by the Town and Country Planning (General Permitted Development) Order 1995 or not shall be carried out in the areas so shown without the prior written approval of the Local Planning Authority.

**Reason:** To ensure that these areas are made available in the interests of the residential amenities of the area in pursuance of policies E1 and C3 of the Swale Borough Local Plan 2008.

6. 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:

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- d) 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.
- e) 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.
- f) 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 contaminated land is adequately dealt with.

- 7. 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 contaminated is adequately dealt with.

- 8. 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 contaminated is adequately dealt with.

- 9. Development shall not begin 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 be based on the recommendations within the report prepared by RMB consulting (August 2016), and 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 on site before being discharged at an agreed rate to the receiving watercourse network; this rate shall not exceed 7l/s/ha and shall be agreed in writing prior to the submission of any related discharge of conditions application.

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

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10. Development shall not begin 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.

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

11. Prior to the commencement of the development, a Code of Construction Practice shall be submitted to and approval in writing by the Local Planning Authority. The construction of the development shall then be carried out in accordance with the approved Code of Construction Practice and 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.

The code shall include:

- An indicative programme for carrying out the works
- Measures to minimise the production of dust on the site(s)
- Measures to minimise the noise (including vibration) generated by the construction process to include the careful selection of plant and machinery and use of noise mitigation barrier(s)
- Maximum noise levels expected 1 metre from the affected façade of any residential unit adjacent to the site(s)
- Design and provision of site hoardings
- Management of traffic visiting the site(s) including temporary parking or holding areas
- Provision of off road parking for all site operatives
- Measures to prevent the transfer of mud and extraneous material onto the public highway
- Measures to manage the production of waste and to maximise the re-use of materials
- Measures to minimise the potential for pollution of groundwater and surface water
- The location and design of site office(s) and storage compounds
- The location of temporary vehicle access points to the site(s) during the construction works
- The arrangements for public consultation and liaison during the construction works.

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

12. The details submitted pursuant to condition (1) above shall show adequate land, reserved for the parking or garaging of cars and such land shall be kept available for this purpose at all times and no permanent development, whether permitted by the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking or re-enacting that Order) or not shall be carried out on such land or in a position as to preclude vehicular access thereto; such land and access thereto shall be provided prior to the occupation of the dwelling(s) hereby permitted.

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

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13. Development shall not commence until a drainage strategy detailing the proposed means of foul disposal (including such infrastructure – on and off site – as may be required) and an implementation timetable, has been submitted to and approved in writing by, the local planning authority. The development shall be carried out in accordance with the approved scheme and timetable.

Reason: In the interests of ensuring that the site is adequately drained.

14. No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of:
- i) archaeological field evaluation works in accordance with a specification and written timetable which has been submitted to and approved by the Local Planning Authority; and
  - ii) following on from the evaluation, any safeguarding measures to ensure preservation in situ of important archaeological remains and/or further archaeological investigation and recording in accordance with a specification and timetable which has been submitted to and approved by the Local Planning Authority

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

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

Reason: To ensure that the roads are constructed and laid-out in a satisfactory manner.

16. The vehicular accesses to the site as shown on the approved drawings shall be constructed and completed prior to the commencement of the first use of the development hereby permitted. The gradient of the accesses shall be no steeper than 1 in 10 for the first 1.5 metres from the highway boundary and no steeper than 1 in 8 thereafter.

Reason: To ensure that a satisfactory means of access is provided for the site.

17. The details submitted pursuant to condition (1) above shall include details of a covered secure cycle parking facility shall be submitted to the Local Planning Authority for approval in writing and thereafter provided prior to the occupation of dwellings hereby approved, and retained in perpetuity.

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

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18. The details submitted pursuant to condition (1) above shall include 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, where possible), plant sizes and numbers where appropriate, means of enclosure, hard surfacing materials, the retention and reinforcement of vegetation along the southern and eastern boundaries of the site and an implementation programme.

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

19. 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.

20. 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.

21. The details submitted pursuant to condition (1) above shall include 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.

22. The details submitted pursuant to condition (1) above shall include details 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.

23. The details submitted pursuant to condition (1) above shall include a report demonstrating how the proposal will incorporate measures to encourage and promote biodiversity and wildlife shall be submitted to and approved in writing. Development shall be carried out in accordance with those approved details and shall thereafter be retained.

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

24. The landscaping details to be submitted in accordance with condition (1) above shall include:
- (a) a plan showing the location of, and allocating a reference number to each existing tree on the site to be retained and indicating the crown spread of each tree.
  - (b) details of the size, species, diameter, approximate height and an assessment of the general state of health and stability of each retained tree.
  - (c) details of any proposed arboricultural works to any retained tree, which shall be carried out in accordance with British Standard 3998 (tree work).
  - (d) details of any alterations in ground levels and of the position of any excavation or other engineering works within the crown spread of any retained tree.
  - (e) details of the specification and position of fencing and of any other measures to be taken for the protection of any retained tree from damage before or during the course of development

In this condition “retained tree” means any existing tree which is to be retained in accordance with the drawing referred to in (a) above.

Reason: In the interests of protecting existing trees which are worthy of retention in the interests of the amenities of the area.

25. The details submitted pursuant to condition (1) above shall include measures to minimise the risk of crime via measures, according to the principles and physical security requirements of Crime Prevention through Environmental Design (CPTED). 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.

26. The details submitted pursuant to condition (1) shall include the submission of a development brief to include a design strategy for the overall site and any self-build plots to be provided on site. This strategy shall include details of the finishing materials, palette of colours, elevational treatment and architectural approach as well as maximum and minimum building heights.

Reason: In the interests of visual amenities.

27. Visibility splays of 43 metres at the proposed northern access into the site, set back 2.4 metres from the edge of the carriageway, at the access with no obstructions over 0.9 metres above carriageway level within the splays shall be provided and maintained prior to use of the site commencing. *Additional text to be added upon receipt of accepted visibility splays for the southern access.*

Reason: In the interests of highway safety and amenity.

28. The footways to be provided along the eastern side of Scocles Road and within the development, should be a minimum of 1.8 metres wide to meet standards outlined in the Kent Design Guide.

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Reason: In the interests of highway safety and amenity.

Informative:

1. The applicant should be reminded that planning consent does not confer a right to disturb or divert any public right of way at any time without the express permission of the Highway Authority, in this case Kent County Council's PROW and Access Service.
2. The applicant/developer should enter into a formal agreement with Southern Water to provide the necessary sewerage infrastructure required to service this development. The applicant/developer should contact Southern Water, Sparrowgrove House, Sparrowgrove, Otterbourne, Hampshire SO21 2SW (Tel: 0330 303 0119) or [www.southernwater.co.uk](http://www.southernwater.co.uk) in order to progress the required infrastructure.
3. Kent County Council recommends that all developers work with a telecommunication partner or subcontractor in the early stages of planning for any new development to make sure that Next Generation Access Broadband is a fundamental part of the project. Access to superfast broadband should be thought of as an essential utility for all new homes and businesses and given the same importance as water or power in any development design. Please liaise with a telecom provider to decide the appropriate solution for this development and the availability of the nearest connection point to high speed broadband. We understand that major telecommunication providers are now offering Next Generation Access Broadband connections free of charge to the developer. For advice on how to proceed with providing access to superfast broadband please contact [broadband@kent.gov.uk](mailto:broadband@kent.gov.uk)

The Council's approach to this application:

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

Offering pre-application advice.

Where possible, suggesting solutions to secure a successful outcome.

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

In this instance:

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

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

Case Officer: Emma Eisinger

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

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

**APPENDIX A****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.





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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 assessment dated January 2017 and the submitted report entitled 'Information for Habitats Regulations Assessment' January 2017 contains information to assist this 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 25<sup>th</sup> July 2016 has also been considered; in particular that they have raised no objections subject to contributions towards strategic mitigation.

### **The Assessment of Land at The Slips, Scocles Road, Minster-on-Sea**

The application site is located 1.2km to the south The Swale SPA. Therefore, there is a medium possibility that future residents of the site will access footpaths and land within these European designated areas.

Measures are to be taken to reduce the impact on the SPA and these would be built into the development in respect of the provision of public open space.

This assessment has taken into account the availability of other public footpaths close to the site and to a lesser extent, the open space proposed within 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 SAMM 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. At this stage it can therefore be concluded that the proposals can be screened out for purposes of Appropriate Assessment.

**APPENDIX B**Minutes of 30<sup>th</sup> March 2017 Planning Committee:

Applications for which **PERMISSION** is recommended

**2.1 REFERENCE NO - 16/508117/OUT**

**APPLICATION PROPOSAL** Outline application (with access being sought) for up to 62 dwellings including details of vehicular access.

<b>ADDRESS</b>	The Slips Scocles Road Minster-on-sea Kent ME12 3SN
<b>WARD</b>	Sheppey Central
<b>PARISH/TOWN COUNCIL</b>	Minster-On-Sea
<b>APPLICANT</b>	Parker
<b>AGENT</b>	BDB Design LLP

There was a tabled paper for this item which included amendments to the report and this had previously been emailed to Members.

The Senior Planner reported that KCC Highways and Transportation had requested that the developer contributed towards improvements to the Lower Road/Barton Hill Drive junction. Three developments had so far contributed to the delivery of junction improvements, so it had been requested that this development contributed as well. The sum of £1,006 per dwelling was therefore requested from the developer. She advised that some land, proposed to be a new footway, belonged to the KCC Highways and Transportation and that a grampian-style condition would be imposed to ensure that the footway was provided prior to commencement of the development, rather than an obligation within a Section 106 Agreement. KCC Highways and Transportation had advised that the plans needed to be amended to reflect the existing junction changes to the bell-mouth junction at Harps Avenue, and they had suggested that a 30mph speed limit be introduced before the junction with Elm Lane. KCC Highways and Transportation also advised that access for drives onto Scocles Road would need to be considered at the reserved matters stage, with vehicles exiting the drives in forward gear. These accesses were not part of the outline submission.

The Senior Planner reported that the results of a recent traffic survey had been received on 30 March 2017, and this would be used to determine the visibility splays required for the proposed southern access. KCC Highways and Transportation had identified a potential pinch-point on Scocles Road, because of a telegraph pole, so the road would need to be widened. Delegation was sought to approve the application, subject to ensuring that all outstanding highway matters were addressed in consultation with KCC Highways and Transportation, with any additional conditions or obligations recommended by them.

Parish Councillor Peter Macdonald, representing Minster Parish Council, spoke against the application.

Mrs Julie Bird was not present at the meeting.

Mr Mick Drury, the Agent, spoke in support of the application.

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

Ward Members raised points which included: concerned with the pinch-point on Scocles Lane; there was no parking facility for plot 47; this site was in an important Countryside Gap; 62 dwellings was over-intensive for the site; it would have a cumulative adverse effect on the landscape and the infrastructure; development of Minster was a sprawling mass of houses which had decreased the quality of life; traffic congestion issues; the indicative layout showed

**APPENDIX B**

a lack of space for the housing, and parking at the rear was not ideal, with on-street parking causing obstruction; there were no safe cycle routes in Minster; access roads were not well designed; land to east of Scocles Road would be vulnerable to development; and there was no need for this development as there were un-developed sites nearby.

Members considered the application and made the following comments: happy to see KCC Highways and Transportation had insisted that Scocles Road be widened; the 30mph sign needed to be re-located; thought that funding for the junction had already been fully resourced; turning left out of Elm Road onto Scocles Road was a risk; KCC measures did not go far enough to make Scocles Road safe; hoped that there would be more than one parking space for the 4/5 bedroom properties; 10% less than 62 dwellings would help to solve parking and traffic problems; self-build option was good; question how officers can ensure that each existing tree location and reference number could be retained?; would like the majority of trees to remain and that this becomes a condition/part of a Section 106 Agreement; not convinced that this was in the best interests of local residents; housing was needed, this was just an outline application, lots could be changed; this was premature to the adoption of the emerging Local Plan; there was a potential of 110,000 travel movements from the proposed development, on infrastructure that was stretched to breaking point; this would present demonstrable harm to the view and to the Countryside Gap; and deeply concerned with the offer of £1,006 per dwelling for the roundabout, considered this was misleading and wrong.

The Senior Planner responded to the concern that the application was premature and drew Members' attention to Paragraph 9.10 on page 33 of the report which outlined the fact that the site was included as a draft allocation in the emerging Local Plan. She acknowledged the concern that local residents might have regarding the Countryside Gap, but reiterated that the site was not identified as such under the Local Plan. Some of the funding of the Lower Road improvements had been secured already, but the additional funding (£1,006 per dwelling) was considered to be fair by KCC Highways and Transportation.

The KCC Highways and Transportation Officer confirmed that the 30mph zone would commence south of the Elm Lane junction. He further advised that it was a fair decision that the developer contributed to the highway improvements, as other developers had done so, and this provided flexibility on the design and detail of the improvement scheme.

In accordance with Council Procedure Rule 19(5) a recorded vote was taken on the motion and voting was as follows:

For: Councillors James Hunt, Mike Henderson, Bryan Mulhern and Ghlin Whelan. Total equals four.

Against: Councillors Mike Baldock, Cameron Beart, George Bobbin, Andy Booth, Roger Clark, Richard Darby, Mike Dendor, James Hall, Ken Ingleton, Samuel Koffie-Williams and Peter Marchington. Total equals 11.

Abstain: Councillors Nigel Kay and Prescott. Total equals two.

At this point the Head of Planning Services used his delegated powers to 'call-in' the application.

***Resolved: That as the Planning Committee was minded to make a decision that would be contrary to officer recommendation and contrary to planning policy and/or guidance, determination of the application be deferred to the next meeting of the Committee.***

**APPENDIX C****Item 2.1 The Slips, Scocles Road, Minster-on-Sea - 16/508117/OUT Update**

Members should note the following amendments to the report –

1. The description is changed to include the words ‘up to’ before 62 dwellings. This will allow the detailed scheme the flexibility to provide fewer dwellings than 62 if the final layout requires it.
2. The NHS contribution as set out at paragraph 9.22 would equate to £360 per new resident with 2.4 people per dwelling;
3. The wheelchair adaptable home as noted at para. 9.22 would not be for the affordable units as stated. There are no affordable units to be provided on site and as such, the wheelchair adaptable home would be for a standard house;
4. Conditions 9 and 10 should be amended to include the words: *“The development shall be carried out in accordance with the approved details.”*

The Greenspaces Manager has requested off-site contributions towards sports provision at a rate of £484 per dwelling and off-site play equipment at a rate of £861.00 per dwelling. He has also noted that if the on-site open space is transferred to the Council then a commuted sum equivalent to 10 years maintenance will be required. The applicant accepts the off-site sports provision payment but will be providing the play equipment on site and so the off-site play equipment contribution is not necessary. The applicant’s agent has also confirmed that a management company would be used for the open space and therefore a commuted sum for maintenance is not required.

The applicant has submitted a Reptile Survey for the application site, which was mistakenly not submitted at the validation stage. This notes that a small number of slow worms were found on site and recommends mitigation in the form of habitat compensation and the relocation of slow worms onto a receptor site within the application site boundaries. I await comment from KCC Ecology in response to the survey.

Comments from Kent Highways are still awaited but will be reported verbally at the meeting.

**The recommendation is for approval subject to:**

**The conditions set out within the report but with delegation to add, amend or exclude condition(s) if reasonably necessary, further comments from KCC Ecology in response and any additional conditions or obligations recommended by them, further comments from Kent Highways and Transportation and any further conditions or obligations recommended by them and a Section 106 agreement to include items as set out at paragraph 9.22 of the report. In addition, authority is sought to negotiate changes to the Section 106 agreement as may be reasonably necessary.**

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## SWALE BOROUGH COUNCIL

### PLANNING SERVICES

Planning Items to be submitted to the Planning Committee

**22 JUNE 2017**

#### Standard Index to Contents

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

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

**PART 2** Applications for which permission is recommended

**PART 3** Applications for which refusal is recommended

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

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

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

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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 – 22 June 2017

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

### Deferred Items

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Def Item 2 Pg 73 – 111	16/508117/OUT	MINSTER	The Slips, Scocles Road
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### Part 2

2.1 Pg 112 – 117	15/500669/FULL	MINSTER	Land at Greyhound Road
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2.2 Pg 118 – 123	17/501399/FULL	MINSTER	Ramblin Rose, Greyhound Road
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2.3 Pg 124 – 130	16/505355/FULL	MINSTER	Ivygate, Greyhound Road
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2.4 Pg 131 – 137	SW/14/0530	MINSTER	The Barn Yard, Land Adjoining Blackthorne Lodge
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2.5 Pg 138 – 165	16/505356/FULL	MINSTER	The Three Palms, Greyhound Road
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2.6 Pg 166 – 181	16/508678/FULL	BORDEN	The Willows, Munsgore Lane
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2.7 Pg 182 – 185	17/500965/FULL	RODMERSHAM	The Paddock, Highsted Valley
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2.8 Pg 186 – 196	17/500525/FULL	NEWINGTON	Cromac, Callaways Lane
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2.9 Pg 197 – 206	17/500325/FULL	SITTINGBOURNE	55 Murston Road
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2.10 Pg 207 – 236	16/506644/REM	FAVERSHAM	land opposite Greenways, Brogdale Road
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2.11 Pg 237 – 284	16/507689/OUT	TEYNHAM	Land between Frogna Lane and Orchard View, Lower Road
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### Part 3

3.1 Pg 285 – 289	17/502452/FULL	SITTINGBOURNE	8 Park Avenue
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3.2 Pg 290 – 296	15/505069/FULL	MINSTER	Sheerness Holiday Park, Halfway Road
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**PLANNING COMMITTEE – 22 JUNE 2017****PART 2**

Report of the Head of Planning

**PART 2**Applications for which **PERMISSION** is recommended

<b>2.1 REFERENCE NO - 15/500669/FULL</b>		
<b>APPLICATION PROPOSAL</b> Siting for a mobile home with touring caravan, utility block, and associated parking.		
<b>ADDRESS</b> Land At Greyhound Road, Minster-on-sea, Kent, ME12 3SP.		
<b>RECOMMENDATION</b> Grant		
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b> The Council has, by way of recent appeal decisions on three neighbouring sites at Greyhound Road, been given very clear direction by the Planning Inspector that provision of Gypsy and Traveller accommodation is acceptable here as a matter of principle, and the proposed pitches are therefore not considered to be sufficiently harmful to justify refusal of planning permission.		
<b>REASON FOR REFERRAL TO COMMITTEE</b> Parish Council objection.		
<b>WARD</b> Sheppey Central	<b>PARISH/TOWN</b> Minster-On-Sea	<b>COUNCIL</b> <b>APPLICANT</b> Mr J Ball <b>AGENT</b> M P Foad Ltd
<b>DECISION DUE DATE</b> 19/03/15	<b>PUBLICITY EXPIRY DATE</b> 11/03/15	
<b>RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):</b>		
No relevant planning history for this site, but the historic applications and appeals on neighbouring sites, as noted elsewhere on this agenda, are relevant.		

**Members should note that applications SW/14/0530, 14/501324/FULL, 15/500669/FULL, 16/505355/FULL, 16/505356/FULL, and 17/501399/FULL all seek permanent permission for neighbouring Gypsy / Traveller sites on Greyhound Road. As the considerations for each application are very similar, in the interest of brevity, a short introduction is presented for each, but a single policy and appraisal section is presented at the end.**

**MAIN REPORT****1.0 DESCRIPTION OF SITE**

- 1.01 Application site is a rectangular parcel of land on the eastern end of Greyhound Road. It is enclosed by a 1.8m close-boarded fence with a five-bar timber gate providing vehicle access. The site is generally flat, covered in hardcore and compacted dirt, and extends to roughly 0.16 hectares (0.39 acres).
- 1.02 Two dilapidated static caravans have been stored on the plot for some months, but the site remains unoccupied at present.

- 1.03 Members may be aware that Greyhound Road features a number of Gypsy / Traveller sites along its western and southern sides, and a single residential dwelling known as the Shack which sits immediately to the north of this application site.

## **2.0 PROPOSAL**

- 2.01 The application seeks planning permission for residential use of the site by Gypsies / Travellers, and for the stationing of one static caravan, one touring caravan, the erection of a utility block, and associated parking and amenity space.
- 2.02 The static caravan and mobile home will be of a standard design common to many such sites within the Borough. The utility building will measure approximately 6.1m x 6.1m x 4.4m tall, with stained timber boarding walls and artificial slate roof.
- 2.03 The site is occupied by local gypsies who are known to planning officers.

## **3.0 PLANNING CONSTRAINTS**

- 3.01 None.

## **4.0 POLICY AND OTHER CONSIDERATIONS**

- 4.01 The relevant policy considerations are noted at item 2.5, which shares the same concerns.

## **5.0 LOCAL REPRESENTATIONS**

- 5.01 None received.

## **6.0 CONSULTATIONS**

- 6.01 Minster Parish Council object to the application, and their comments are attached in full as an appendix to this report:
- Contrary to adopted rural restrain policies;
  - Harm to visual amenity;
  - Isolated location, contrary to advice of the PPTS; and
  - Cumulative impact on settled community

- 6.02 No other representations received.

## **7.0 BACKGROUND PAPERS AND PLANS**

- 7.01 There are no previous applications relating to this site, however the history of the neighbouring sites on Greyhound Road is well documented and presented elsewhere on this agenda.
- 7.02 Of significant relevance are the recent appeal decisions for Blackthorne Lodge, The Hawthorns, and The Peartree. The Inspector allowed all three appeals and granted permanent permission for residential gypsy use of those sites, which neighbour the current application site. They are discussed in greater detail in the appraisal section.

## 8.0 APPRAISAL

- 8.01 This scheme differs somewhat from the previous applications noted above in that it has not previously been granted permission, and while the application is retrospective, it effectively amounts to an application for a fresh site. That notwithstanding, however, the circumstances and considerations are the same as for the concurrent applications on the neighbouring sites.
- 8.02 The merits of this case, as well as SW/14/0530, 14/501324/FULL, 16/505355/FULL, 16/505356/FULL, and 17/501399/FULL are considered in a single appraisal section at item 2.5 of the agenda.
- 8.03 An assessment under the Habitat Regulations is appended to the end of this report, screening the site out of the need to provide contributions in accordance with the Council's agreed procedure for smaller sites.

## 9.0 CONCLUSION

- 9.01 Whilst the Council has historically maintained a firm stance in regards the unacceptability of Greyhound Road for permanent Gypsy / Traveller sites, the recent appeal decisions for Blackthorne Lodge, The Hawthorns, and The Peartree make it clear that this stance should not be pursued further. The site provides Gypsy accommodation that counts towards the Council's pitch provision need, suits the applicant's needs, and does not give rise to significant harm to the character or amenity of the countryside or serious harm to residential amenity.
- 9.02 Taking the above into account I recommend that permanent permission should be granted.

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

- (1) The site shall not be occupied by any persons other than gypsies and travellers as defined in Annex 1 to the DCLG Planning Policy for Traveller Sites.

Reasons: In recognition of the terms of the application, and because an uncontrolled use of the land would be unacceptably detrimental to the character and amenities of the area.

- (2) No more than one static caravan and one touring caravan shall be stationed on the site at any one time.

Reasons: In recognition of the terms of the application, and because an uncontrolled use of the land would be unacceptably detrimental to the character and amenities of the area.

- (3) The site shall only be used for residential purposes and it shall not be used for any business, industrial or commercial use. In this regard no open storage of plant, products or waste may take place on the land and no vehicle over 3.5 tonnes shall be stationed, parked or stored on the land.

Reasons: In recognition of the terms of the application, and because an uncontrolled use of the land would be unacceptably detrimental to the character and amenities of the area.

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

Reasons: In the interests of preventing light pollution.

- (5) The access details shown on the approved plans shall be maintained in accordance with these details.

Reasons: In the interests of highway safety and convenience.

- (6) The areas shown on the submitted layout as vehicle parking spaces shall be retained for the use of the occupiers of, and visitors to, the premises, and no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) Order 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 these reserved parking spaces.

Reasons: To ensure the use does not prejudice conditions of highway safety and in accordance with Policy T3 of the Swale Borough Local Plan 2008.

#### **The Council's approach to this application:**

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

Offering pre-application advice.

Where possible, suggesting solutions to secure a successful outcome.

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

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

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

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

### Habitat Regulations Assessment.

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

The application site is located approximately 1km to the north of The Medway Estuary and Marshes Special Protection Area (SPA) which is a European designated sites afforded protection under the Conservation of Habitats and Species Regulations 2010 as amended (the Habitat Regulations).

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

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

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

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

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

- Due to the scale of development there is no scope to provide on site mitigation such as an on site dog walking area or signage to prevent the primary causes of bird disturbance which are recreational disturbance including walking, dog walking (particularly off the lead), and predation of birds by cats.
- Based on the correspondence with Natural England, I conclude that off site mitigation is required. However, the Council has taken the stance that financial contributions will not be sought on developments of this scale because of the practicalities of securing payment. In particular, the legal agreement would cost substantially more to prepare than the contribution itself. This is an illogical approach to adopt; would overburden small scale developers; and would be a poor use of Council resources. This would normally mean that the development should not be allowed to proceed. **However, the North Kent Councils have yet to put in place the full measures necessary to achieve mitigation across the area and there are questions relating to the cumulated impacts on schemes of 10 or less that will need to be addressed in on-going discussions with NE.** Developer contributions towards strategic mitigation of impacts on the features of interest of the SPA – I understand there are informal thresholds being set by other North Kent Councils of 10 dwellings or more above which developer contributions would be sought. Swale Council is of the opinion that Natural England's suggested approach of seeking developer contributions on single dwellings upwards will not be taken forward and that a

threshold of 10 or more will be adopted in due course. In the interim, I need to consider the best way forward that complies with legislation, the views of Natural England, and what is acceptable to officers as a common route forward. Swale Council intends to adopt a formal policy of seeking developer contributions for larger schemes in the fullness of time and that the tariff amount will take account of and compensate for the cumulative impacts of the smaller residential schemes such as this application, on the features of interest of the SPA in order to secure the long term strategic mitigation required. **Swale Council is of the opinion that when the tariff is formulated it will encapsulate the time period when this application was determined in order that the individual and cumulative impacts of this scheme will be mitigated for.**

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

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



<b>2.2 REFERENCE NO - 17/501399/FULL</b>			
<b>APPLICATION PROPOSAL</b>			
Variation of condition 1 of 14/504681/FULL (Change of use of land to gypsy residential site for the stationing of two static caravans, two tourers, one day room) - to make permission permanent			
<b>ADDRESS</b> Ramblin Rose Greyhound Road Minster-on-sea Kent ME12 3SP			
<b>RECOMMENDATION</b> Grant			
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b>			
The Council has, by way of recent appeal decisions on three neighbouring sites at Greyhound Road, been given very clear direction by the Planning Inspector that provision of Gypsy and Traveller accommodation is acceptable here as a matter of principle, and the proposed pitches are therefore not considered to be sufficiently harmful to justify refusal of planning permission.			
<b>REASON FOR REFERRAL TO COMMITTEE</b>			
Parish Council objection.			
<b>WARD</b> Sheppey Central	<b>PARISH/TOWN</b> Minster-On-Sea	<b>COUNCIL</b>	<b>APPLICANT</b> Mr Danny Penfold <b>AGENT</b> Philip Brown Associates
<b>DECISION DUE DATE</b> 03/05/17	<b>PUBLICITY EXPIRY DATE</b> 03/05/17		
<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>
14/504681/FULL	Change of use of land to gypsy residential site for the stationing of two static caravans, two tourers, one day room.	Granted	05.04.16
Temporary permission, for a period of one year, was granted to enable the applicants time to find alternative accommodation.			
SW/11/0522	Remove condition (1) of SW/07/1198 to allow permanent use of site for residential/stationing of two mobile homes for gypsies.	Refused	09.09.11
Planning permission was refused on the grounds that the site was not considered suitable for permanent Gypsy or Traveller accommodation, and that the Council was addressing the need for sites through the Corporate Policy site selection process.			
SW/07/1198	Change of use to residential. Stationing of two mobile homes for gypsies. Erection of a utility room.	Granted	25.04.08
Temporary planning permission, for a period of three years, was granted as the Council was not able to direct the applicant towards other, more suitable, sites.			

Members should note that applications SW/14/0530, 14/501324/FULL, 15/500669/FULL, 16/505355/FULL, 16/505356/FULL, and 17/501399/FULL all seek permanent permission for neighbouring Gypsy / Traveller sites on Greyhound Road. As the considerations

for each application are very similar, in the interest of brevity, a short introduction is presented for each, but a single policy and appraisal section is presented at the end.

## **MAIN REPORT**

### **1.0 DESCRIPTION OF SITE**

- 1.01 Rambling Rose is a residential Gypsy site situated towards the southern end of Greyhound Road; an unmade road situated within the countryside at Minster, approx. 700m east of Scocles Road. The site measures approx. 60m x 25m. The mobile homes and utility room are located at the northern end of the site, whilst existing trees and hedges along the boundaries help to partially screen the site from the Lower Road.
- 1.02 The mobile homes are of a standard, manufacturer's design, whilst the utility room has a brick skin, flat felt roof, and measures approximately 4m x 3.3m and 2.8m high.
- 1.03 Members may be aware that Greyhound Road features a number of Gypsy / Traveller sites along its western and southern sides, and a single residential dwelling known as the Shack.
- 1.04 The site is occupied by local gypsies who are known to planning officers.

### **2.0 PROPOSAL**

- 2.01 The application seeks variation of condition (1) of planning permission 14/504681/FULL to allow permanent residential use of the site by a Gypsy family.
- 2.02 No physical changes are proposed on site.

### **3.0 PLANNING CONSTRAINTS**

- 3.01 None

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

- 4.01 The relevant policy considerations are noted at item 2.5, which shares the same concerns.

### **5.0 LOCAL REPRESENTATIONS**

- 5.01 Minster Parish Council objects to the application:

*“Notwithstanding the Inspector's recent decision, the grounds for Minster-on-Sea Parish Council's continued objection is that the proposal does not comply with the existing adopted Swale Borough Local Plan where the protection of the open countryside is considered paramount and no unauthorised development is permitted. Although, the Parish Council's acknowledges the requirement for gypsy and traveller accommodation in general, it believes the Department for Communities and Local Government (DCLG) is not providing local authorities like Swale with enough support to achieve this. To resolve this, the Parish Council will be making further representations to the DCLG on account of its perception that inequality exists within the planning policy framework where it will ask the DCLG to make it compulsory to provide sites within the builtup area where a need has been properly identified and enough investment to do this.”*

**6.0 CONSULTATIONS**

- 6.01 Southern Water has no comments.
- 6.02 The Council's Environmental Health Manager has no comments.
- 6.03 The Lower Medway internal Drainage Board have provided a copy of the byelaws relating to the drainage ditch to the west of the site.

**7.0 BACKGROUND PAPERS AND PLANS**

- 7.01 The above-noted historic applications are relevant.
- 7.02 Of significant relevance are the recent appeal decisions for Blackthorne Lodge, The Hawthorns, and The Peartree. The Inspector allowed all three appeals and granted permanent permission for residential gypsy use of those sites, which neighbour the current application site. They are discussed in greater detail in the appraisal section.

**8.0 APPRAISAL**

- 8.01 The merits of this case, as well as SW/14/0530, 14/501324/FULL, 15/500669/FULL, 16/505355/FULL, and 16/505356/FULL, are considered in a single appraisal section at item 2.5 of the agenda.
- 8.02 An assessment under the Habitat Regulations is appended to the end of this report, screening the site out of the need to provide contributions in accordance with the Council's agreed procedure for smaller sites.

**9.0 CONCLUSION**

- 9.01 Whilst the Council has historically maintained a firm stance in regards the unacceptability of Greyhound Road for permanent Gypsy / Traveller sites, the recent appeal decisions for Blackthorne Lodge, The Hawthorns, and The Peartree make it clear that this stance should not be pursued further. The site provides Gypsy accommodation that counts towards the Council's pitch provision need, suits the applicant's needs, and does not give rise to significant harm to the character or amenity of the countryside or serious harm to residential amenity.
- 9.02 Taking the above into account I recommend that permanent permission should be granted.

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

- (1) The site shall not be occupied by any persons other than gypsies and travellers as defined in Annex 1 to the DCLG Planning Policy for Traveller Sites.

Reasons: In recognition of the terms of the application, and because an uncontrolled use of the land would be unacceptably detrimental to the character and amenities of the area.

- (2) No more than two static caravans and two touring caravans shall be stationed on the site at any one time.

Reasons: In recognition of the terms of the application, and because an uncontrolled use of the land would be unacceptably detrimental to the character and amenities of the area.

- (3) The site shall only be used for residential purposes and it shall not be used for any business, industrial or commercial use. In this regard no open storage of plant, products or waste may take place on the land and no vehicle over 3.5 tonnes shall be stationed, parked or stored on the land.

Reasons: In recognition of the terms of the application, and because an uncontrolled use of the land would be unacceptably detrimental to the character and amenities of the area.

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

Reasons: In the interests of preventing light pollution.

- (5) The access details shown on the approved plans shall be maintained in accordance with these details.

Reasons: In the interests of highway safety and convenience.

- (6) The areas shown on the submitted layout as vehicle parking spaces shall be retained for the use of the occupiers of, and visitors to, the premises, and no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) Order 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 these reserved parking spaces.

Reasons: To ensure the use does not prejudice conditions of highway safety and in accordance with Policy T3 of the Swale Borough Local Plan 2008.

### **The Council's approach to this application:**

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

Offering pre-application advice.

Where possible, suggesting solutions to secure a successful outcome.

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

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

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

### Habitat Regulations Assessment.

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

The application site is located approximately 1km to the north of The Medway Estuary and Marshes Special Protection Area (SPA) which is a European designated sites afforded protection under the Conservation of Habitats and Species Regulations 2010 as amended (the Habitat Regulations).

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

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

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

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

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

- Due to the scale of development there is no scope to provide on site mitigation such as an on site dog walking area or signage to prevent the primary causes of bird disturbance which are recreational disturbance including walking, dog walking (particularly off the lead), and predation of birds by cats.
- Based on the correspondence with Natural England, I conclude that off site mitigation is required. However, the Council has taken the stance that financial contributions will not be sought on developments of this scale because of the practicalities of securing payment. In particular, the legal agreement would cost substantially more to prepare than the contribution itself. This is an illogical approach to adopt; would overburden small scale developers; and would be a poor use of Council resources. This would normally mean that the development should not be allowed to proceed. **However, the North Kent Councils have yet to put in place the full measures necessary to achieve mitigation across the area and there are questions relating to the cumulated impacts on schemes of 10 or less that will need to be addressed in on-going discussions with NE.** Developer contributions towards strategic mitigation of impacts on the features of interest of the SPA – I understand there are informal thresholds being set by other North Kent Councils of 10 dwellings or more above which developer contributions would be sought. Swale Council is of the opinion that Natural England's suggested approach of seeking developer contributions on single dwellings upwards will not be taken forward and that a

threshold of 10 or more will be adopted in due course. In the interim, I need to consider the best way forward that complies with legislation, the views of Natural England, and what is acceptable to officers as a common route forward. Swale Council intends to adopt a formal policy of seeking developer contributions for larger schemes in the fullness of time and that the tariff amount will take account of and compensate for the cumulative impacts of the smaller residential schemes such as this application, on the features of interest of the SPA in order to secure the long term strategic mitigation required. **Swale Council is of the opinion that when the tariff is formulated it will encapsulate the time period when this application was determined in order that the individual and cumulative impacts of this scheme will be mitigated for.**

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

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

<b>2.3 REFERENCE NO - 16/505355/FULL</b>			
<b>APPLICATION PROPOSAL</b> Variation of Condition 7 of planning application SW/11/0420 (Change of use for the stationing of one mobile home and the erection of a utility room for use by a gypsy family) - to retain change of use on permanent basis, or for a further temporary period			
<b>ADDRESS</b> Ivygate, Greyhound Road, Minster-on-sea, Kent, ME12 3SP.			
<b>RECOMMENDATION</b> Grant			
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b> The Council has, by way of recent appeal decisions on three neighbouring sites at Greyhound Road, been given very clear direction by the Planning Inspector that provision of Gypsy and Traveller accommodation is acceptable here as a matter of principle, and the proposed pitches are therefore not considered to be sufficiently harmful to justify refusal of planning permission.			
<b>REASON FOR REFERRAL TO COMMITTEE</b> Parish Council objection.			
<b>WARD</b> Sheppey Central	<b>PARISH/TOWN</b> Minster-On-Sea	<b>COUNCIL</b>	<b>APPLICANT</b> Mr William King <b>AGENT</b> Heine Planning Consultancy
<b>DECISION DUE DATE</b> 18/08/16	<b>PUBLICITY EXPIRY DATE</b> 18/10/16		
<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/11/0420	Change of use for the stationing of one mobile home and the erection of a utility room for use by a gypsy family.	Approved	25.06.12
The Council granted temporary permission for a period of three years as we were unable to direct the applicant towards other, more suitable, sites.			

**Members should note that applications SW/14/0530, 14/501324/FULL, 15/500669/FULL, 16/505355/FULL, 16/505356/FULL, and 17/501399/FULL all seek permanent permission for neighbouring Gypsy / Traveller sites on Greyhound Road. As the considerations for each application are very similar, in the interest of brevity, a short introduction is presented for each, but a single policy and appraisal section is presented at the end.**

## **MAIN REPORT**

### **1.0 DESCRIPTION OF SITE**

- 1.01 Ivygate is a residential gypsy / traveller pitch situated on the western side of Greyhound Road. It is roughly rectangular in shape and extends to approximately 25m wide by 47m deep. The site is occupied by Mr William King, who is a local gypsy known to planning officers.
- 1.02 The front of the site is given over to vehicle parking, with a static caravan and utility shed on the rear half of the plot. A timber close-boarded fence runs along the boundary with Greyhound Road, and there is established tree and hedgerow planting

along the rear boundary with the agricultural fields. The site is bordered by Hawthorns to the north and Three Palms to the south.

- 1.03 Members may be aware that Greyhound Road features a number of Gypsy / Traveller sites along its western and southern sides, and a single residential dwelling known as the Shack..

- 1.04 The site is occupied by local gypsies who are known to planning officers.

## **2.0 PROPOSAL**

- 2.01 The applications to vary condition 7 of planning permission SW/11/0420 to allow permanent residential use of the site by a gypsy family.

## **3.0 PLANNING CONSTRAINTS**

- 3.01 None.

## **4.0 POLICY AND OTHER CONSIDERATIONS**

- 4.01 The relevant policy considerations are noted at item 2.5, which shares the same concerns.

## **5.0 LOCAL REPRESENTATIONS**

- 5.01 None received.

## **6.0 CONSULTATIONS**

- 6.01 Minster Parish Council object to the application, and their comments are attached in full as an appendix to this report:

- Contrary to adopted rural restrain policies;
- Harm to visual amenity;
- Isolated location, contrary to advice of the PPTS; and
- Cumulative impact on settled community

- 6.02 No other representations received.

## **7.0 BACKGROUND PAPERS AND PLANS**

- 7.01 The above-noted historic applications are relevant.

- 7.02 Of significant relevance are the recent appeal decisions for Blackthorne Lodge, The Hawthorns, and The Peartree. The Inspector allowed all three appeals and granted permanent permission for residential gypsy use of those sites, which neighbour the current application site. They are discussed in greater detail in the appraisal section.

## **8.0 APPRAISAL**

- 8.01 The merits of this case, as well as SW/14/0530, 14/501324/FULL, 15/500669/FULL, 16/505356/FULL, and 17/501399 are considered in a single appraisal section at item 2.5 of the agenda.



- 8.02 An assessment under the Habitat Regulations is appended to the end of this report, screening the site out of the need to provide contributions in accordance with the Council's agreed procedure for smaller sites.

## 9.0 CONCLUSION

- 9.01 Whilst the Council has historically maintained a firm stance in regards the unacceptability of Greyhound Road for permanent Gypsy / Traveller sites, the recent appeal decisions for Blackthorne Lodge, The Hawthorns, and The Peartree make it clear that this stance should not be pursued further. The site provides Gypsy accommodation that counts towards the Council's pitch provision need, suits the applicant's needs, and does not give rise to significant harm to the character or amenity of the countryside or serious harm to residential amenity.

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

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

- 1) The site shall not be occupied by any persons other than gypsies and travellers as defined in Annex 1 to the DCLG Planning Policy for Traveller Sites.

Reason: In recognition of the terms of the application, and because an uncontrolled use of the land would be unacceptably detrimental to the character and amenities of the area.

- 2) No more than one static caravan and one touring caravan shall be stationed on the site at any one time.

Reason: In recognition of the terms of the application, and because an uncontrolled use of the land would be unacceptably detrimental to the character and amenities of the area.

- 3) The site shall only be used for residential purposes and it shall not be used for any business, industrial or commercial use. In this regard no open storage of plant, products or waste may take place on the land, no vehicle over 3.5 tonnes and no more than one 3.5 tonne vehicle shall be stationed, parked or stored on the land.

Reason: In recognition of the terms of the application, and because an uncontrolled use of the land would be unacceptably detrimental to the character and amenities of the area.

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

Reason: In the interests of preventing light pollution.

- 5) The access details shown on the approved plans shall be maintained in accordance with these details.

Reason: In the interests of highway safety and convenience.

- 6) The use hereby permitted shall cease and any caravans, shed, other structures, hard standings, fences, materials and equipment on the site and connected with the use,

together with all ancillary vehicles and equipment, shall be removed within 28 days of any one of the following requirements not being met:

- (i) within 3 months of the date of this decision there shall have been submitted for the approval of the Local Planning Authority a landscaping scheme comprising full details of both hard and soft landscape works. These details shall include existing trees, shrubs and other features, planting schedules of plants, noting species, plant sizes and numbers where appropriate, means of enclosure, hard surfacing materials, and an implementation programme.
- (ii) within 11 months of the date of this decision the landscaping scheme shall have been approved by the Local Planning Authority or, if the Local Planning Authority fail to approve such a scheme, or fail to give a decision within the prescribed period an appeal shall have been lodged and accepted as validly made, by the Secretary of State.
- (iii) if an appeal is made in pursuance of requirement (ii) above, that appeal shall have been finally determined and the submitted landscaping scheme shall have been approved by the Secretary of State.
- (iv) all works comprised in the landscaping scheme as approved shall have been implemented, and completed within the timetable set out in the approved scheme

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

- 7) Within one month of the date of this decision, the applicants shall submit a surface water drainage strategy to the Local Planning Authority for approval demonstrating that surface water drainage discharge into the local watercourse is attenuated for the 1:100 year return storm with a limited discharge of 7 litres per second per hectare. The drainage strategy shall be implemented within one month of approval and shall thereafter be retained throughout the duration of the use of the site.

Reason: To ensure the use does not give rise to concerns over localised flooding.

- 8) No building or structure shall be erected or stationed within 8 meters of the adopted drainage ditch.

Reason: To ensure the use does not give rise to concerns over localised flooding.

- 9) The area shown on the submitted layout as vehicle parking or turning space shall be retained for the use of the occupiers of, and visitors to, the premises, and no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) Order 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.

Reason: To ensure the use does not prejudice conditions of highway safety.

### **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.

### Habitat Regulations Assessment.

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

The application site is located approximately 1km to the north of The Medway Estuary and Marshes Special Protection Area (SPA) which is a European designated sites afforded protection under the Conservation of Habitats and Species Regulations 2010 as amended (the Habitat Regulations).

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

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

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

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

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

- Due to the scale of development there is no scope to provide on site mitigation such as an on site dog walking area or signage to prevent the primary causes of bird disturbance which are recreational disturbance including walking, dog walking (particularly off the lead), and predation of birds by cats.
- Based on the correspondence with Natural England, I conclude that off site mitigation is required. However, the Council has taken the stance that financial contributions will not be sought on developments of this scale because of the practicalities of securing payment. In particular, the legal agreement would cost substantially more to prepare than the contribution itself. This is an illogical approach to adopt; would overburden small scale developers; and would be a poor use of Council resources. This would normally mean that the development should not be allowed to proceed. **However, the North Kent Councils have yet to put in place the full measures necessary to achieve mitigation across the area and there are questions relating to the cumulated impacts on schemes of 10 or less that will need to be addressed in on-going discussions with NE.** Developer contributions towards strategic mitigation of impacts on the features of interest of the SPA – I understand there are informal thresholds being set by other North Kent Councils of 10 dwellings or more above which developer contributions would be sought. Swale Council is of the opinion that Natural England's suggested approach of seeking developer contributions on single dwellings upwards will not be taken forward and that a

threshold of 10 or more will be adopted in due course. In the interim, I need to consider the best way forward that complies with legislation, the views of Natural England, and what is acceptable to officers as a common route forward. Swale Council intends to adopt a formal policy of seeking developer contributions for larger schemes in the fullness of time and that the tariff amount will take account of and compensate for the cumulative impacts of the smaller residential schemes such as this application, on the features of interest of the SPA in order to secure the long term strategic mitigation required. **Swale Council is of the opinion that when the tariff is formulated it will encapsulate the time period when this application was determined in order that the individual and cumulative impacts of this scheme will be mitigated for.**

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

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

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<b>2.4 REFERENCE NO - SW/14/0530</b>			
<b>APPLICATION PROPOSAL</b>			
Siting of two mobile homes with associated utility blocks, with parking for cars and two touring caravans for gypsy family and erection of stables.			
<b>ADDRESS</b> The Barn Yard, Land Adjoining Blackthorne Lodge, Greyhound Road, Minster, Sheerness, Kent, ME12 3SP			
<b>RECOMMENDATION</b> Grant			
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b>			
The Council has, by way of recent appeal decisions on three sites at Greyhound Road, been given very clear direction by the Planning Inspector that provision of Gypsy and Traveller accommodation on Greyhound Road is acceptable as a matter of principle, and the proposed pitches are therefore not considered to be sufficiently harmful to justify refusal of planning permission.			
<b>REASON FOR REFERRAL TO COMMITTEE</b>			
Parish Council objection			
<b>WARD</b> Sheppey Central	<b>PARISH/TOWN</b> Minster-On-Sea	<b>COUNCIL</b>	<b>APPLICANT</b> Mrs Patience Brazil <b>AGENT</b> Mr Martin Foad
<b>DECISION DUE DATE</b>	<b>PUBLICITY EXPIRY DATE</b> 24/03/16		
<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>
15/502191/FULL, 15/502237/FULL, 15/503278/FULL	Removal of condition (7) of planning permissions SW/14/1414 (The Peartree), SW/11/1415 (Blackthorne Lodge), and SW/11/1430 (The Hawthorns) to allow permanent use of land as residential caravan sites.	Appeals allowed.	21.02.17
The Council granted further temporary permission for a period of one year, following previous three-year temporary consents, at the three sites. The applicants appealed against the temporary nature of the consents, and the Inspector allowed all three appeals, granting permanent permission for residential use of these three sites on Greyhound Road. The decisions have been reviewed by the Council's barrister, and there are no grounds on which to challenge them. This is discussed further in the appraisal section.			

**Members should note that applications SW/14/0530, 14/501324/FULL, 15/500669/FULL, 16/505355/FULL, 16/505356/FULL, and 17/501399/FULL all seek permanent permission for neighbouring Gypsy / Traveller sites on Greyhound Road. As the considerations for each application are very similar, in the interest of brevity, a short introduction is presented for each, but a single policy and appraisal section is presented at the end.**

## 1.0 DESCRIPTION OF SITE

- 1.01 The Barn Yard is a gypsy site situated on Greyhound Road to the east of Minster and west of Brambledown. It is roughly L-shaped, sits on the southern end of the road, and measures approximately 45m wide x 62m deep. It is largely covered in shingle and contains 2 static caravans, 2 tourers and a wooden utility building. A timber fence runs along the front boundary.
- 1.02 The site sits immediately to the east of Blackthorne Lodge, and to the rear of an existing barn / stable building at the southern end of the road. Two static caravans have been erected along the western site boundary.
- 1.03 Prior to occupation by the applicant in 2014 the land was an open field that had, in the past been used for grazing in association with the existing barn / stables.
- 1.04 The site is occupied by local gypsies who are known to planning officers.

## 2.0 PROPOSAL

- 2.01 The application seeks permission for use of the land as a residential gypsy site, including the stationing of 2 static caravans, parking for 2 touring caravans, and the erection of 2 utility buildings / dayroom.
- 2.02 The application also proposes the erection of a stable building to the side of the existing barn and stables. This will measure approximately 9.3m wide x 4m deep x 3.3m high to the ridge, and will be of a standard design with an overhanging roof to the front. The covering letter states:

*“Each site will have a modern mobile home with an associated utility block and services. The sites will also have their own allocated parking areas which will be surfaced in reclaimed road planings / scalpings. Drainage from the accommodation will go to a sealed cesspool...”*

*The utility blocks, as indicated, will be constructed from facing yellow stock brickwork and black stained / painted boarding, with Eternit slates to the roof and standard timber joinery for the doors and windows.”*

- 2.03 The applicant, Mrs Brazil, is from a local gypsy family that is known to officers, and have lived within Swale for many years. Her parents live on the adjacent site (Blackthorne Lodge) and the application site will be occupied by the applicant and her family on plot 1, and her sister on plot 2.

## 3.0 SUMMARY INFORMATION

	Existing
Site Area (ha)	0.44 (1.08 acres)
No. of static caravans	2
No. of touring caravans	2

## 4.0 PLANNING CONSTRAINTS

- 4.01 None.



## 5.0 POLICY AND OTHER CONSIDERATIONS

- 5.01 To avoid duplication a combined policy section has been produced for applications SW/14/0530, 14/501324/FULL, 15/500669/FULL, 16/505355/FULL, and 16/505356/FULL, and is presented at item 2.5.

## 6.0 LOCAL REPRESENTATIONS

- 6.01 The application was advertised by way of a site notice, and letters to local residents.
- 6.02 Two letters of objection have been submitted by local residents, commenting:
- The scale of sites on Greyhound Road now dominates the settled community;
  - Work has already been carried out on site;
  - The site is within a flood plain [NB: the site is outside of the flood zone];
  - Planning permission was previously refused for a dwelling and smallholding on the site [NB: this relates to an enforcement case where a caravan was being lived in by a single person, who did not claim gypsy / traveller status, and without any justification of agricultural need];
  - Gypsies and Travellers are treated differently to the settled population; and
  - The Council will not listen to local concerns *“as you have never done so in the past.”*
- 6.03 The Brambledown Resident's Association objects on the following summarised grounds:
- There has been an established pattern of unauthorised sites on Greyhound Road;
  - The number of pitches has formed one large site, with further surrounding land available for more expansion;
  - Cumulative, dominating impact on settled community;
  - The Woodlands Lodge appeal decision sets a precedent for refusing permission here; and
  - Planning enforcement action has been slow to respond.
- 6.04 No other representations received.

## 7.0 CONSULTATIONS

- 7.01 Minster Parish Council objects strongly on the following summarised grounds:
- Impact on the character and amenity value of the countryside;
  - Remote, unsustainable location;
  - Domination of nearby settled community; and
  - History of planning breaches.
- A full copy of the Parish Council's objection is appended to this report.
- 7.02 Southern Water has no objections, but advises that the Environment Agency should be consulted with regard to the use of soakaways and septic tanks.
- 7.03 No other representations received.

## 8.0 BACKGROUND PAPERS AND PLANS

- 8.01 There are no historic applications for this site itself, but the above-noted historic applications and the recent appeals at The Hawthorns, The Peartree, and Blackthorn Lodge, as discussed in the appraisal section, are relevant.

## 9.0 APPRAISAL

- 9.01 Applications ref. SW/14/0530, 14/501324/FULL, 15/500669/FULL, 16/505355/FULL, and 16/505356/FULL all seek permanent permission for residential use of Gypsy / Traveller sites along Greyhound Road. The issues, circumstances and considerations for each are very similar so, to avoid duplication, a single appraisal section has been presented at item 2.5.
- 9.02 With specific regard to the proposed stables, however, I have no serious concerns and do not consider that they, in themselves, would give rise to any serious or significant harm to the countryside or local amenity.
- 9.03 An assessment under the Habitat Regulations is appended to the end of this report, screening the site out of the need to provide contributions in accordance with the Council's agreed procedure for smaller sites.

## 10.0 CONCLUSION

- 10.01 I recommend that permanent planning permission should be granted.

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

- (1) The site shall not be occupied by any persons other than gypsies and travellers as defined in Annex 1 to the DCLG Planning Policy for Traveller Sites.

Reasons: In recognition of the terms of the application, and because an uncontrolled use of the land would be unacceptably detrimental to the character and amenities of the area.

- (2) No more than two static caravans and two touring caravans shall be stationed on the site at any one time.

Reasons: In recognition of the terms of the application, and because an uncontrolled use of the land would be unacceptably detrimental to the character and amenities of the area.

- (3) The site shall only be used for residential purposes and it shall not be used for any business, industrial or commercial use. In this regard no open storage of plant, products or waste may take place on the land and no vehicle over 3.5 tonnes shall be stationed, parked or stored on the land.

Reasons: In recognition of the terms of the application, and because an uncontrolled use of the land would be unacceptably detrimental to the character and amenities of the area.

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

Reasons: In the interests of preventing light pollution.

- (5) The access details shown on the approved plans shall be maintained in accordance with these details.

Reasons: In the interests of highway safety and convenience.

- (6) The areas shown on the submitted layout as vehicle parking spaces shall be retained for the use of the occupiers of, and visitors to, the premises, and no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) Order 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 these reserved parking spaces.

Reason: To ensure the use does not prejudice conditions of highway safety.

- (7) The proposed stables shall be constructed in accordance with the details shown on drawing 489/03.

Reason: In the interest of visual and rural amenity.

- (8) The stables hereby permitted shall only be used for the stabling of horses or ponies for private use and for no other purpose, including any commercial use.

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

- (9) With the exception of one trailer for the storage of manure, no external storage of materials or items of any kind including jumps, caravans, mobile homes, vehicles or trailers shall take place on the site.

Reason: In the interests of visual amenity.

### **The Council's Approach**

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.

### Habitat Regulations Assessment.

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

The application site is located approximately 1km to the north of The Medway Estuary and Marshes Special Protection Area (SPA) which is a European designated sites afforded protection under the Conservation of Habitats and Species Regulations 2010 as amended (the Habitat Regulations).

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

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

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

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

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

- Due to the scale of development there is no scope to provide on site mitigation such as an on site dog walking area or signage to prevent the primary causes of bird disturbance which are recreational disturbance including walking, dog walking (particularly off the lead), and predation of birds by cats.
- Based on the correspondence with Natural England, I conclude that off site mitigation is required. However, the Council has taken the stance that financial contributions will not be sought on developments of this scale because of the practicalities of securing payment. In particular, the legal agreement would cost substantially more to prepare than the contribution itself. This is an illogical approach to adopt; would overburden small scale developers; and would be a poor use of Council resources. This would normally mean that the development should not be allowed to proceed. **However, the North Kent Councils have yet to put in place the full measures necessary to achieve mitigation across the area and there are questions relating to the cumulated impacts on schemes of 10 or less that will need to be addressed in on-going discussions with NE.** Developer contributions towards strategic mitigation of impacts on the features of interest of the SPA – I understand there are informal thresholds being set by other North Kent Councils of 10 dwellings or more above which developer contributions would be sought. Swale Council is of the opinion that Natural England's suggested approach of seeking developer contributions on single dwellings upwards will not be taken forward and that a

threshold of 10 or more will be adopted in due course. In the interim, I need to consider the best way forward that complies with legislation, the views of Natural England, and what is acceptable to officers as a common route forward. Swale Council intends to adopt a formal policy of seeking developer contributions for larger schemes in the fullness of time and that the tariff amount will take account of and compensate for the cumulative impacts of the smaller residential schemes such as this application, on the features of interest of the SPA in order to secure the long term strategic mitigation required. **Swale Council is of the opinion that when the tariff is formulated it will encapsulate the time period when this application was determined in order that the individual and cumulative impacts of this scheme will be mitigated for.**

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

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

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<b>2.5 REFERENCE NO - 16/505356/FULL</b>			
<b>APPLICATION PROPOSAL</b> Variation of condition 7 of SW/11/1413 (Change of use of land to use as residential caravan site for one gypsy family with two caravans, including no more than one static mobile home, erection of utility/storage shed and laying of hardstanding) - To make permission permanent or renew for further temporary period			
<b>ADDRESS</b> The Three Palms, Greyhound Road, Minster-on-sea, Kent, ME12 3SP			
<b>RECOMMENDATION</b> Grant			
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b> The Council has, by way of recent appeal decisions on three neighbouring sites at Greyhound Road, been given very clear direction by the Planning Inspector that provision of Gypsy and Traveller accommodation is acceptable here as a matter of principle, and the proposed pitches are therefore not considered to be sufficiently harmful to justify refusal of planning permission.			
<b>REASON FOR REFERRAL TO COMMITTEE</b> Parish Council objection.			
<b>WARD</b> Sheppey Central	<b>PARISH/TOWN</b> Minster-On-Sea	<b>COUNCIL</b>	<b>APPLICANT</b> Mr & Mrs King <b>AGENT</b> Heine Planning Consultancy
<b>DECISION DUE DATE</b> 18/08/16	<b>PUBLICITY EXPIRY DATE</b> 18/10/16		
<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/11/1413	Change of use of land to use as residential caravan site for one gypsy family with two caravans, including no more than one static mobile home, erection of utility/storage shed and laying of hardstanding	Approved	25.06.12
The Council granted temporary permission for a period of three years as we were unable to direct the applicant towards other, more suitable, sites.			

Members should note that applications SW/14/0530, 14/501324/FULL, 15/500669/FULL, 16/505355/FULL, 16/505356/FULL, and 17/501399/FULL all seek permanent permission for neighbouring Gypsy / Traveller sites on Greyhound Road. As the considerations for each application are very similar, in the interest of brevity, a short introduction is presented for each, but a single policy and appraisal section is presented at the end.

## MAIN REPORT

### 1.0 DESCRIPTION OF SITE

- 1.01 Ivygate is a residential gypsy / traveller pitch situated on the western side of Greyhound Road. It is roughly rectangular in shape and measures approximately 53m deep x 18m wide. There is a close-boarded fence along the frontage with Greyhound Road, with a gate providing vehicle access to a parking/turning area at the front of the site. There is also a small garden area and a utility shed / day room

towards the site frontage. A single static caravan is positioned across the plot roughly halfway down with a garden area to the rear, and a gap to the side allowing access for a touring caravan to be parked behind the static. The side and rear boundaries feature hedgerow planting. The site is bordered by Ramblin Rose to the south and Ivygate to the north. Open agricultural fields lie to the rear.

- 1.02 The site is occupied by a local gypsy family known to planning officers.

## **2.0 PROPOSAL**

- 2.01 The applications to vary condition 7 of planning permission SW/11/1413 to allow permanent residential use of the site by a gypsy family.

## **3.0 PLANNING CONSTRAINTS**

- 3.01 None.

## **4.0 POLICY AND OTHER CONSIDERATIONS**

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

- 4.01 The national policy position comprises the National Planning Policy Framework (NPPF) and Planning Policy for Traveller Sites (PPTS). Both documents were released in 2012 but the PPTS was re-issued in August 2015 with amendments. Together they provide national guidance for Local Planning Authorities on plan making and determining planning applications for Gypsy and Traveller sites. A presumption in favour of sustainable development runs throughout both documents and this presumption is an important part of both the plan-making process and in determining planning applications. In addition there is a requirement in both documents that makes clear that Councils should set pitch targets which address the likely need for pitches over the plan period and maintain a rolling five year supply of sites which are in suitable locations and available immediately.
- 4.02 The Council considers that the following extracts from paragraph 7 are particularly pertinent:

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

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



*and mitigate and adapt to climate change including moving to a low carbon economy.*

4.03 In relation to rural housing the NPPF (at paragraph 55) states;

- *To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. For example, where there are groups of smaller settlements, development in one village may support services in a village nearby. Local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances such as:*
  - *the essential need for a rural worker to live permanently at or near their place of work in the countryside; or*
  - *where such development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets; or*
  - *where the development would re-use redundant or disused buildings and lead to an enhancement to the immediate setting; or*
  - *the exceptional quality or innovative nature of the design of the dwelling. Such a design should:*
    - *be truly outstanding or innovative, helping to raise standards of design more generally in rural areas;*
    - *reflect the highest standards in architecture;*
    - *significantly enhance its immediate setting; and*
    - *be sensitive to the defining characteristics of the local area.*

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

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

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

#### Planning Policy for Traveller Sites (PPTS)

4.05 The PPTS was originally published in March 2012 but it was re-issued in August 2015 with minor changes. Its main aims now are:

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

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

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

4.06 In terms of plan-making the PPTS advice is that;

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

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

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

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

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

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

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

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

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

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

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

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

*“Persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family’s or dependants’*

*educational or health needs or old age have ceased to travel temporarily, but excluding members of an organised group of travelling showpeople or circus people travelling together as such."*

- 4.10 The implications for this change in definition has clouded the issue with regard to defining need and this matter was the subject of some changes to the Council's emerging Local Plan during the Main Modifications stage, which are referred to below.

#### Swale Landscape Character and Biodiversity Appraisal SPD 2011

- 4.11 These sites are within the Central Sheppey Farmlands landscape character areas as defined in the March 2011 Swale Landscape Character and Biodiversity Appraisal, areas which are seen as of moderate sensitivity and in poor condition.

#### Bearing Fruits 2031: The Swale Borough Local Plan (subject to formal adoption)

- 4.12 The emerging Local Plan has been through a formal review procedure and at the time of writing the Local Plan Inspector's report is expected to be released imminently, and is likely to confirm that the Plan is sound and can proceed towards formal adoption by the Council. This is due to take place at Full Committee on 26 July, and as such the policies therein can be afforded substantial weight.
- 4.13 Policy DM10 is particularly relevant:

#### ***Part A: Retention of sites for Gypsies and Travellers***

*Existing permanent sites and those granted permanent planning permission will be safeguarded for use by Gypsies and Travellers, unless it is demonstrated the site is no longer suitable for such use.*

#### ***Part B: Gypsy and Traveller sites***

*The Council will grant planning permission for sites for Gypsies, Travellers and Travelling Show People, where it is demonstrated that proposals:*

1. *Are in accordance with Policy ST3 by reference to the deliverability of potential or existing sites at each settlement tier(s) above that proposed by the application, unless:*
  - a. *there are exceptional mitigating and/or personal circumstances where the applicant has demonstrated that a particular site is required to meet their needs and where there is no overriding harm to the locality; or*
  - b. *where required to meet an affordable housing need either via a rural exception site in accordance with Policy DM9 or specific allocation; or*
  - c. *the proposal is for an extension to, or stationing of, additional caravans at an existing site.*
2. *Can establish that the applicants have previously led a nomadic lifestyle, the reasons for ceasing a nomadic lifestyle and/or an intention to return to a nomadic lifestyle in accordance with Annex 1 of Planning Policy for Traveller Sites (2015);*
3. *Can achieve an integrated co-existence between all communities;*
4. *Are of a scale appropriate to meet the accommodation need identified and not introduce a scale of development that singly or cumulatively dominates the nearest settlement or causes significant harm to the character of an area, its landscape, or the capacity of local services;*
5. *Can, where appropriate, accommodate living and working in the same location, either through a mixed use site or on land nearby, whilst having regard to the safety and amenity of occupants and neighbouring residents;*

6. *Cause no significant harm to the health and wellbeing of occupants or others by noise, disturbance, vibration, air quality or other circumstances;*
7. *Cause no significant harm to the Area of Outstanding Natural Beauty, national/local landscape or biodiversity designations and other natural or built environment that cannot be adequately mitigated;*
8. *Provide landscaping to enhance the environment in a way that increases openness and avoids exclusion and isolation from the rest of the community;*
9. *Provide for healthy lifestyles through open space, amenity areas for each pitch and play areas;*
10. *Would be safe from flooding by meeting both the exceptions and sequential tests in accordance with national policy and Policy DM22;*
11. *Achieve safe and convenient parking and pedestrian and/or vehicular access without unacceptable impact on highway safety; and*
12. *Where appropriate, include visitor or transit pitches and/or sufficient areas for future expansion. Planning conditions may be used to limit the length of time that caravans can stop at transit sites and on visitor pitches.*

### **Five year supply position**

- 4.14 The revised PPTS (2015) has resulted in considerable uncertainty as it changed the planning definition of a traveller and gypsy, and therefore what number of required pitches need to be identified. Evidence to the recent Local Plan examination was that the Council has re-interrogated the GTAA data to determine the appropriate level of pitch provision based on the new 2015 PPTS revised definition of gypsies and travellers. The data revealed that for all but unauthorised sites some two-thirds of households surveyed for the GTAA either never travel or travel not more than once a year. Overall, only 31% of respondents travel a few times a year, and 55% never travel, meaning that in Swale the gypsy and traveller population is quite settled, slightly more so than elsewhere in the country. Many current site occupants no longer meet the new PPTS definition of having a nomadic habit of life
- 4.15 Accordingly, the need for pitches in Swale has been re-evaluated, resulting in a reduced estimate of pitch need of 61 pitches over the Plan period to 2031; this being the most generous of the possible reduced pitch numbers scenarios considered. Of these, 58 pitches have already been granted permanent planning permission meaning that the outstanding need for pitches to 2031 has now been met, albeit eight pitches at Upchurch have not been implemented and may now need to be deducted from the figures. The Council considers that on the basis of past trends any remaining need could easily be met from windfall proposals. Moreover it indicates that by proper engagement with the Council, appropriate sites can be found in sustainable and acceptable locations in Swale (outside of the AONB or other designated area) without an appeal, meaning that there is a high probability of being able to find an acceptable alternative site with minimal delay. Indeed, if Members were to approve these applications, five more pitches could be added to the list.
- 4.16 As a result of this analysis, the Council is suggesting through Main Modifications to its draft Local Plan (published in June 2016) that the future need be based on a figure of 61 pitches, leaving a need per year of less than one pitch and, that no formal pitch allocations will be needed. Policy DM10 has been revised to deal with these windfall applications and the element of policy CP3 on pitch allocations is to be removed from the Plan. Accordingly, a Part 2 Local Plan would not be required.
- 4.17 The Local Plan Inspector's third interim report (March 2016) fully supported the Council's proposed position regarding gypsy and traveller site provision, accepting that the remaining need for sites could be managed by windfall applications and

without a Part 2 Local Plan. The Inspector also accepted that the Council should revise draft Plan policies to reflect progress on site provision whereupon the Plan will be effective and consistent with national policy. In June 2016 the Council published Main Modifications to the draft Local Plan to confirm these intentions and these were considered at the resumption of the Local Plan EIP in January 2017, with the emerging Local Plan anticipated to be formally adopted on 26 July 2017.

## **5.0 LOCAL REPRESENTATIONS**

5.01 None received.

## **6.0 CONSULTATIONS**

6.01 Minster Parish Council object to the application, and their comments are attached in full as an appendix to this report:

- Contrary to adopted rural restrain policies;
- Harm to visual amenity;
- Isolated location, contrary to advice of the PPTS; and
- Cumulative impact on settled community

6.02 The Environment Agency, Southern Water, and Natural England have no objections.

6.03 No other representations received.

## **7.0 BACKGROUND PAPERS AND PLANS**

7.01 The above-noted historic application is relevant.

7.02 Of significant relevance are the recent appeal decisions for Blackthorne Lodge, The Hawthorns, and The Peartree. The Inspector allowed all three appeals and granted permanent permission for residential gypsy use of those sites, which neighbour the current application site. They are discussed in greater detail in the appraisal section.

## **8.0 APPRAISAL**

8.01 As noted within the reports for the associated sites along Greyhound Road, the merits of this case, as well as SW/14/0530, 14/501324/FULL, 15/500669/FULL, 16/505355/FULL, and 17/501399 are being considered in a single appraisal section as the circumstances of all the applications are broadly similar and the sites lie in immediate proximity to each other.

8.02 Circumstances differ in that some of the applicants have children and I am therefore required to consider the best interests of the child. However, given that I am recommending approval for all of the applications I do not consider that I need to go into great depth on this point as it does not significantly alter the arguments for each application (and this is supported by the Inspector's appeal decision for Blackthorne Lodge, which, at para. 42, states that *"there is no need to attach particular weight to the personal circumstances of the appellant, other than that they indicate the experience of many gypsies or travellers"*).

### The recent appeal decisions and the principle of development

8.03 As noted at 7.02 above the Planning Inspectorate recently granted permanent permission for three sites along Greyhound Road: The Hawthorns, The Peartree, and

Blackthorne Lodge (SBC refs. 15/502191/FULL, 15/502237/FULL & 15/503278/FULL respectively). The appeal decision for Blackthorne Lodge is attached for reference, and is broadly identical to the decisions on the other two sites.

- 8.04 The appeal decisions set a very clear marker for the Council in terms of how it should be dealing with applications at Greyhound Road. Officers and Members have previously taken a negative stance to the location as it was considered to be remote from services, poorly accessible, and harmful to the character and amenity of the countryside. However, the appeal Inspector allowed the three appeals and fundamentally disagreed with the Council on all of the above aspects, which are explored further below.
- 8.05 The decisions were reviewed by the Council's barrister, but it was concluded that they were sound and that there were no grounds on which to challenge the Inspector's findings. The appeal decisions therefore set a very clear steer for gypsy and traveller applications on Greyhound Road, and firmly establish the principle of granting permanent permission for these applications.

#### Location and accessibility

- 8.06 When previously assessing the sites by way of the "traffic light" Site Assessment methodology Greyhound Road consistently scored poorly due to officers considering it to be remote from services and amenities. However, the appeal Inspector took a different view and noted that the expansion of Thistle Hill had brought the built up area boundary to within 800m of the various sites. The appeal decision comments:

25. *It is pertinent to consider the changes being brought about by the continued development at Thistle Hill. Whilst much is built-out and the Council state a high degree of pre-sales, and whilst the community centre and school are in place, the provision of the planned shops appears to have stalled. That would provide a ready access for the site, and a level of integration with the new settled community. It is clear that there is development to the north of the proposed central site for the shops still to commence and that may provide the critical mass of demand necessary to bring about the provision.*
26. *It was asserted at the Hearing that the traveller lifestyle is likely to involve the use of private transport in any event, and that journeys would often combine shopping and the school run with other needs to make use of such transport for work, where the use of public transport, even if available, would not be appropriate. Certainly the traveller lifestyle is based on the need to travel in search of work, but there would be times when work is found closer to home and requiring only day-trips. Such a pattern of work would allow those other journeys to be undertaken at the same time, but would require of necessity, private transport. That aspect of the lifestyle is accepted in paragraph 13 h) of Planning Policy for Traveller Sites which states that some travellers live and work from the same location thereby omitting many travel to work journeys, which can contribute to sustainability.*
27. *... the site is not so remote as to make it unduly difficult to gain ready access to facilities, and Planning Policy for Traveller Sites does provide at Policy C for sites in rural areas.*

- 8.07 The Inspector concludes this issue very clearly at para. 29:

*In conclusion on this issue, the site is outside the settlement boundary, but less remote than at the time of an appeal Decision at Woodlands Lodge, due to the progress being made with the Thistle Hill expansion. In the balance between a desirable social inclusion and the operational needs of a traveller site for a countryside location, the situation of Greyhound Road is appropriate and acceptable, in accordance with emerging Policy DM10 and national policies.*

- 8.08 Given this unequivocal stance I find it very hard to conclude differently on the matter in respect of the current applications. The Inspector has determined that Greyhound Road is, partly due to recent expansions at Thistle Hill, now in an acceptable position and that the traditional gypsy way of life includes vehicle movements. It would be remiss of the Council to go against this stance at this stage, and I do not consider that we have any evidence to argue to the contrary. Refusal on such grounds would leave the Council open to a significant costs claim at appeal, and Members therefore should, in my opinion, not pursue such an option.

#### Visual amenity

- 8.09 The PPTS states that *“Local planning authorities should very strictly limit new traveller site development in open countryside that is away from existing settlements or outside areas allocated in the development plan. Local planning authorities should ensure that sites in rural areas respect the scale of, and do not dominate the nearest settled community, and avoid placing an undue pressure on the local infrastructure.”* It is worth noting that the word “very” was added to this paragraph in the 2015 re-issue of PPTS which implies to the Council that whilst there is still no outright ban on approving sites in open countryside, there is a need to give greater weight to the harm that sites such as this can do to the character of open countryside.
- 8.10 However, the Planning Inspector was, again, very clear in his conclusions on this aspect, commenting that additional landscaping would reduce the prominence and visual impact of the various sites along Greyhound Road, and that in long distance views (from Elm Lane, for example) the sites blended into the wider landscape and were (para.19 of the appeal decision) *“largely subsumed into the flat land leading down to the Swale, the eye being drawn to the attractive estuarial landscape and distant features...the effect on the wider area is limited.”*
- 8.11 Therefore the imposition of standard landscaping conditions on the various applications would accord with the Inspector’s recommendations, and mitigate the appearance of the various sites appropriately.

#### Other matters

- 8.12 The principle of development aside, the various sites appear to cater for the applicant’s needs – they have access to local healthcare facilities, schools and shops (albeit by driving, as noted above), and seem to have settled down well on their respective plots. I have noted a good sense of community when visiting Greyhound Road, and each of the sites are generally well maintained and tidy.
- 8.13 Each site provides a suitable amount of outdoor amenity space, vehicle parking, and turning in accordance with adopted guidance, and I therefore have no serious concerns in this respect. The existing access from Greyhound Road onto the Lower Road serves the site appropriately.



- 8.14 As noted at 4.24 above approval of these applications would result in five additional permanent gypsy / traveller pitches being added to the Council's figures, which significantly reduces the need to provide such accommodation elsewhere, on potentially more sensitive land.
- 8.15 An assessment under the Habitat Regulations is appended to the end of this report, screening the site out of the need to provide contributions in accordance with the Council's agreed procedure for smaller sites.

## 9.0 CONCLUSION

- 9.01 Whilst the Council has historically maintained a firm stance in regards the unacceptability of Greyhound Road for permanent Gypsy / Traveller sites, the recent appeal decisions for Blackthorne Lodge, The Hawthorns, and The Peartree make it clear that this stance should not be pursued further. The site provides Gypsy accommodation that counts towards the Council's pitch provision need, suits the applicant's needs, and does not give rise to significant harm to the character or amenity of the countryside or serious harm to residential amenity.

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

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

- 1) The site shall not be occupied by any persons other than gypsies and travellers as defined in Annex 1 to the DCLG Planning Policy for Traveller Sites.

Reason: In recognition of the terms of the application, and because an uncontrolled use of the land would be unacceptably detrimental to the character and amenities of the area.

- 2) No more than one static caravan and one touring caravan shall be stationed on the site at any one time.

Reason: In recognition of the terms of the application, and because an uncontrolled use of the land would be unacceptably detrimental to the character and amenities of the area.

- 3) The site shall only be used for residential purposes and it shall not be used for any business, industrial or commercial use. In this regard no open storage of plant, products or waste may take place on the land, no vehicle over 3.5 tonnes and no more than one 3.5 tonne vehicle shall be stationed, parked or stored on the land.

Reason: In recognition of the terms of the application, and because an uncontrolled use of the land would be unacceptably detrimental to the character and amenities of the area.

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

Reason: In the interests of preventing light pollution.

- 5) The access details shown on the approved plans shall be maintained in accordance with these details.

Reason: In the interests of highway safety and convenience.

- 6) The use hereby permitted shall cease and any caravans, shed, other structures, hard standings, fences, materials and equipment on the site and connected with the use, together with all ancillary vehicles and equipment, shall be removed within 28 days of any one of the following requirements not being met:
- (i) within 3 months of the date of this decision there shall have been submitted for the approval of the Local Planning Authority a landscaping scheme comprising full details of both hard and soft landscape works. These details shall include existing trees, shrubs and other features, planting schedules of plants, noting species, plant sizes and numbers where appropriate, means of enclosure, hard surfacing materials, and an implementation programme.
  - (ii) within 11 months of the date of this decision the landscaping scheme shall have been approved by the Local Planning Authority or, if the Local Planning Authority fail to approve such a scheme, or fail to give a decision within the prescribed period an appeal shall have been lodged and accepted as validly made, by the Secretary of State.
  - (iii) if an appeal is made in pursuance of requirement (ii) above, that appeal shall have been finally determined and the submitted landscaping scheme shall have been approved by the Secretary of State.
  - (iv) all works comprised in the landscaping scheme as approved shall have been implemented, and completed within the timetable set out in the approved scheme

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

- 7) Within one month of the date of this decision, the applicants shall submit a surface water drainage strategy to the Local Planning Authority for approval demonstrating that surface water drainage discharge into the local watercourse is attenuated for the 1:100 year return storm with a limited discharge of 7 litres per second per hectare. The drainage strategy shall be implemented within one month of approval and shall thereafter be retained throughout the duration of the use of the site.

Reason: To ensure the use does not give rise to concerns over localised flooding.

- 8) No building or structure shall be erected or stationed within 8 metres of the adopted drainage ditch.

Reason: To ensure the use does not give rise to concerns over localised flooding.

- 9) The area shown on the submitted layout as vehicle parking or turning space shall be retained for the use of the occupiers of, and visitors to, the premises, and no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) Order 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.

Reason: To ensure the use does not prejudice conditions of highway safety.

**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.

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.

### Habitat Regulations Assessment.

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

The application site is located approximately 1km to the north of The Medway Estuary and Marshes Special Protection Area (SPA) which is a European designated sites afforded protection under the Conservation of Habitats and Species Regulations 2010 as amended (the Habitat Regulations).

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

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

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

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

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

- Due to the scale of development there is no scope to provide on site mitigation such as an on site dog walking area or signage to prevent the primary causes of bird disturbance which are recreational disturbance including walking, dog walking (particularly off the lead), and predation of birds by cats.
- Based on the correspondence with Natural England, I conclude that off site mitigation is required. However, the Council has taken the stance that financial contributions will not be sought on developments of this scale because of the practicalities of securing payment. In particular, the legal agreement would cost substantially more to prepare than the contribution itself. This is an illogical approach to adopt; would overburden small scale developers; and would be a poor use of Council resources. This would normally mean that the development should not be allowed to proceed. **However, the North Kent Councils have yet to put in place the full measures necessary to achieve mitigation across the area and there are questions relating to the cumulated impacts on schemes of 10 or less that will need to be addressed in on-going discussions with NE.** Developer contributions towards strategic mitigation of impacts on the features of interest of the SPA – I understand there are informal thresholds being set by other North Kent Councils of 10 dwellings or more above which developer contributions would be sought. Swale Council is of the opinion that Natural England's suggested approach of seeking developer contributions on single dwellings upwards will not be taken forward and that a

threshold of 10 or more will be adopted in due course. In the interim, I need to consider the best way forward that complies with legislation, the views of Natural England, and what is acceptable to officers as a common route forward. Swale Council intends to adopt a formal policy of seeking developer contributions for larger schemes in the fullness of time and that the tariff amount will take account of and compensate for the cumulative impacts of the smaller residential schemes such as this application, on the features of interest of the SPA in order to secure the long term strategic mitigation required. **Swale Council is of the opinion that when the tariff is formulated it will encapsulate the time period when this application was determined in order that the individual and cumulative impacts of this scheme will be mitigated for.**

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

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

## APPENDIX 1

M.P.C. comments

3

adjoining Blackthorne Lodge, Greyhound Road, Minster ME12 3SP **STRONGEST OBJECTION on the following grounds: -**

- i. The proposals contradict Swale Borough Council Local Plan policy E6 (the Countryside) which dictates that the quality and character and amenity value of the countryside of the Borough will be protected and where possible enhanced.

The application sites lie within the countryside, outside any recognised built up area, as defined in the Swale Borough Local Plan 2008, where policy RC4 for rural restraint applies. The proposals would amount to visually intrusive development which would fail to protect the countryside for its own sake because of their prominent location within a rural area, lack of site screening and the harsh urban appearance of the mobile homes, buildings and hard landscaping presenting as harmful to on the character and appearance of the surrounding countryside and do not guarantee environmental sustainability by protecting the rural landscape from development.

This also goes against the Government's new Planning Policy for Travellers which instructs local planning authorities to strictly limit new traveller site development in open countryside that is away from existing settlements or outside areas allocated in the development plan.

- ii. In line with the Government's new Planning Policy for Traveller Sites which is now law and supersedes the Core Strategy which is only in draft form and subservient to current legislation, local planning authorities have a duty to ensure that gypsy and traveller sites are sustainable; economically, socially and environmentally.

The site is remotely located from shops, services, public transport and amenities. There is no pedestrian access and road access is from the A2500 Lower Road, a de-restricted road which is well known for its safety issues having suffered two fatalities within 100 metres of the access to the unmade track known as Greyhound Road. There are no employment opportunities available locally. The site cannot be considered to be sustainable or suitable for gypsy and traveller accommodation or indeed ANY residential accommodation.

Approval would also contradict Swale Borough Council's Local Plan policy E1 (General Development Criteria) which sets out standards applicable to all development, saying that it should be well sited appropriate in scale, design and appearance with a high standard of landscaping, and have safe pedestrian and vehicular access whilst avoiding unacceptable consequences in highway terms. Furthermore, the overall need for gypsy and traveller site accommodation in the Borough is outweighed by the harm arising from the unsustainable location of this site and as such planning permission should be refused.

- iii. Policy C of the Government's new Planning Policy for Traveller Sites makes it clear that when assessing the suitability of sites in rural areas and the countryside that local planning authorities should ensure that the scale of such sites does not dominate the nearest settled community.

The cumulative effect of this and the adjacent sites on the existing community at Brambledown, in terms of their overall scale and the effect of this insidious expansion directly contravenes the Government's own Planning Policy for Traveller Sites. This means that this application should not and cannot be considered in isolation. Granting

M.P.C. comments

3

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## APPENDIX 2

M.P.C. comments

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adjoining Blackthorne Lodge, Greyhound Road, Minster ME12 3SP **STRONGEST OBJECTION on the following grounds: -**

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## APPENDIX 2



## Appeal Decision

Hearing held on 13 December 2016

Site visit made on 14 December 2016

**by S J Papworth DipArch(Glos) RIBA**

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

**Decision date: 21 February 2017**

**Appeal Ref: APP/V2255/W/16/3153747**

**Blackthorn Lodge, Greyhound Road, Minster-on-Sea, Kent ME12 3SP**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
- The appeal is made by Mr D Brazil against the decision of Swale Borough Council.
- The application Ref 15/503278/FULL, dated 14 April 2015, was approved on 5 January 2016 and planning permission was granted subject to conditions.
- The development permitted is change of use of land to use as residential caravan site for 2 gypsy families with a total of 4 caravans, including no more than 2 static mobile homes, erection of amenity building and laying of hardstanding.
- The condition in dispute is No 1 which states that: The use hereby permitted shall be for a limited period being the period of one year from the date of this decision. At the end of this period the use hereby permitted shall cease, all caravans, buildings, structures, materials and equipment brought on to, or erected on the land, or works undertaken to it in connection with the use shall be removed, and the land restored to its condition before the development took place..
- The reason given for the condition is: As permission has only been granted in recognition of the particular circumstances of the case, having regard to the lack of alternative, available sites elsewhere within the Borough, in accordance with DCLG Planning Policy for Traveller Sites.

### Decision

1. I allow the appeal and vary planning permission Ref 15/503278/FULL for change of use of land to use as residential caravan site for 2 gypsy families with a total of 4 caravans, including no more than 2 static mobile homes, erection of amenity building and laying of hardstanding at Blackthorn Lodge, Greyhound Road, Minster-on-Sea, Kent ME12 3SP granted on 5 January 2016 by Swale Borough Council, by deleting conditions 1) and 6) and varying condition 8).

### Main Issues

2. These are;
  - The effect of the proposal on the character and appearance of the Lower Road area of Sheppey.
  - The effect of the proposal on the aims of sustainable development, with particular regard to access to services and facilities for day-to-day living.

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- The weight to be attached to other considerations, including the supply of sites generally, the personal circumstances of the appellant and the availability of alternative sites for him.

### **Reasons**

#### *Preliminary Matters*

3. The site is among a group of traveller sites on Greyhound Road, and a single Hearing addressed similar applications from the occupiers of three of the sites; this one at Blackthorn Lodge, one at The Peartree and one at The Hawthorns. Another site at Woodlands Lodge was referred to as being the subject of an appeal in 2013, and that Decision will be considered as part of the main issues in the present appeal.
4. Whilst a joint Hearing was appropriate in view of the common issues, the appellants being represented by the same agent and by both the Council and the appellants having submitted joint Appeal Statements, it is appropriate to issue three separate Appeal Decisions in order that each should stand-alone as a document. There are however passages common to all three Decisions.
5. The hearing in the Council offices took place over much of Tuesday 13 December and in view of the failing light it was agreed that the site inspection should take place the following day. At that inspection each site was visited along with the respective occupiers, and the appellant's agent then drove myself and the Council Officer on a tour of possible viewpoints, shops, schools and other facilities mentioned in evidence, as well as recent housing development to the west. At the request of District Councillors and a representative of the Parish Council, notice was taken of the traffic conditions at the entry onto the main road, although this was not a matter of objection from the Council. The Hearing remained open for discussion throughout.
6. The original application was for the variation or removal of condition 7) of planning permission SW/11/1415 granted on 25 June 2012 which was for the change of use of land to use as residential caravan site for 2 gypsy families with a total of 4 caravans, including no more than 2 static mobile homes, erection of amenity building and laying of hardstanding, and sought the temporary permission of 4 years be extended or removed. The four year period would have expired on 25 June 2016. The Council granted permission on 5 January 2016 for a further 1 year period from that date, effectively another 6 months or so, secured by condition 1) as set out in the bullet points to the heading above, and it is this grant of permission that is appealed. Being an appeal against the grant of permission, the various options open to the decision taker were discussed and agreed at the Hearing. The permission granted in 2016 included 7 of the 9 other conditions attached to the 2012 permission.
7. It was confirmed at the Hearing that the occupiers of the site continue to satisfy the definition of a gypsy or traveller as set out in the August 2015 version of Planning Policy for Traveller Sites, a situation that existed at the time of the Council's grant of the one year permission in January 2016.

#### *Policy Background*

8. The Development Plan for the area consists of the saved policies of the Swale Borough Local Plan 2008 and Policy E1 on general development control criteria

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- requires development to be well sited, appropriate in scale, design and appearance with a high standard of landscaping, and have safe pedestrian and vehicular access. The site is in the countryside where Policy E6 seeks to protect the quality, character and amenity of the area. Development will not be permitted outside rural settlements unless related to an exceptional need for a rural location. Policies E9 and E19 seek the protection of landscape and high quality design. Safe access to development is the subject of Policy T1.
9. Specific to the provision of gypsy and traveller sites, Policy H4 sets criteria for sites, but seeks a genuine connection with the locality for anyone wanting to set-up a site, in addition to be able to prove traveller status. The Council accept that the policy was criticised by the Local Plan Inspector at the time, and that greater weight should be given to the more recent publication of Planning Policy for Traveller Sites. Whilst Policy H4 is still part of the Development Plan, and benefits from the provisions of section 38(6) of the Planning and Compulsory Purchase Act 2004, the Council's acceptance of its limitations is acknowledged.
  10. There is emerging policy in '*Bearing Fruits 2031: The Swale Borough Local Plan, Proposed Modifications, June 2016*'. The Local Plan Inspector's interim findings contain at paragraphs 11 to 14 in Part 3 a commentary on the process being undertaken by the Council, having mind to the revised definition of a gypsy or traveller introduced in the August 2015 revision to Planning Policy for Traveller Sites. The original need for 85 pitches was found to have reduced to 61, of which 51 had been completed or had permission granted. The Inspector considered the proposal that the remaining 10 be provided through windfall planning applications to be a well-reasoned and pragmatic solution to ensure that the Plan aligns with up-to-date national policy.
  11. On that basis it is not proposed to allocate sites, but to test windfall applications against criteria in Policy DM10 of the draft Local Plan which includes consideration of integration between communities; the effect on local communities, character and appearance, landscape and local services; the health of occupiers; the need for landscaping; access and parking. The appellant made representation as to the weight to be attached to the Inspector's interim findings, which will be considered in the planning balance.
  12. The Council has published the Supplementary Planning Document '*Swale Landscape Character and Biodiversity Appraisal*' which identifies the area where the site is as being within the central Sheppey Farmlands character area, described as being of moderate sensitivity and in poor condition.
  13. Planning Policy for Traveller Sites of August 2015 is the most recent statement of Government policy with regard to such site provision and the introduction states the Government's overarching aim to ensure fair and equal treatment for travellers, in a way that facilitates the traditional and nomadic way of life of travellers, while respecting the interests of the settled community.
  14. Decisions on traveller sites should also have regard to the policies in the National Planning Policy Framework so far as relevant, and this document states the presumption in favour of sustainable development and sets out the three dimensions of such development. The core planning principles include conserving and enhancing the natural environment; actively managing patterns of growth to make the fullest possible use of public transport, walking and

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cycling; and focusing significant development in locations which are or can be made sustainable.

*Character and Appearance*

15. The site is part of a distinct and closely linked group of similar sites along Greyhound Road leading south from Lower Road, the A2500. It is outside the settlement boundary to the west and is, in policy terms, in the open countryside. There is open agricultural land to the north of the main road and the flat land reaching to the Swale to the south, but that land south of the road is not devoid of other development, there being linear built form leading away from the road to the west of the site, a disused public house and car park to the east, and further east more concentrated development around the bend and hill at Brambledown and at the entry to Elmley Road.
16. It is clear from a series of aerial views supplied by the Council that the site was once wooded and the various temporary permissions granted have resulted in the present more open aspect. It is less clear what would be expected pursuant to the condition requiring the land to be restored to its condition before the development took place, or what control might have prevented some removal of trees under the original use, presumably agricultural.
17. As mentioned previously, another site at Woodlands Lodge was the subject of an appeal in 2013. That site is adjacent to and between The Peartree and Blackthorn Lodge, another site covered by the joint Hearing, whereas The Hawthorns is further to the north and nearer the main road, with intervening sites not considered here. The Inspector's Decision was issued on 28 October 2014 (Ref: APP/V2255/C/13/2208507) and concerned enforcement action, but he considered a deemed planning application under Ground (a) and the effect on the character and appearance of the area. He found views of that site to be limited in extent to the immediate locality given the presence of trees around the edge of the site, although the structures and hardstanding would be visible from Greyhound Road given the wide access.
18. The analysis holds true to an extent for the current appeal site, although being at the end of Greyhound Road the nearby view is more open. Greyhound Road is a *cul-de-sac* and there is no public right of way, whilst the vegetation at the site boundary with open land to the west is limited. The previous Inspector accepted that the use of landscaping could soften the appearance of that site and over time mitigate, to an extent, the visual harm, but he considered that it would not remove it entirely. It is agreed now that compared with what appears to be the previous condition of the land, there has been some harm caused to the appeal site, but this is limited and to a substantial degree, capable of being further mitigated by landscaping.
19. More distant view-points are limited as found in 2013, and from the slightly raised locations along Lower Road to the east and west the sites, including Blackthorn Lodge, are largely subsumed into other development or filtered by vegetation. Higher level views are available from Elm Lane to the north, but from there the sites do not stand out and are again largely subsumed into the flat land leading down to the Swale, the eye being drawn to the attractive estuarial landscape and distant features. Having mind to the findings of the '*Swale Landscape Character and Biodiversity Appraisal*' that the site lies within an area of moderate sensitivity that is in poor condition, the effect on the wider area is limited.

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20. Another consideration in this and the next main issue is the change being brought about by the continued development of Thistle Hill on the far side of Scocles Road to the west. This is bringing the appearance of the built-up area closer to the appeal site, rendering it less clearly in open countryside and more as an edge-of-town site. The consequence of this is to reduce further the limited visual harm that would occur.
21. It is appropriate to consider the cumulative effect, having mind to the Decisions being issued at the same time for the other two sites at The Peartree and The Hawthorns, and the possibility that these would affect consideration of other sites in the group. There is visual benefit in a grouping, avoiding sporadic development and visually isolated individual sites. The single entry onto Lower Road is visually appropriate and not unlike other entries in the vicinity, and Greyhound Road has the character and appearance of a rural lane
22. To conclude on this issue, whilst the passage of over 4 years of temporary permissions has resulted in the site becoming a part of the character and appearance of the area over that time, the use of the land, the stationing of the mobile home and the other structures has resulted in some limited harm in nearby views. That is mitigated in long views by the vegetation on other sites and there is scope for further works on this site. With those provisions the proposal accords with national policy and Development Plan Policies E1, E6, E9 and E10.

#### *Accessibility to Local Services*

23. This matter again was considered by the Inspector in the 2013 appeal, and he made reference to the policies of the Planning Policy for Traveller Sites extant at that time. One of the changes introduced in 2015 was to paragraph 25 in Policy H on determining planning application for traveller sites. This now reads *'local planning authorities should very strictly limit new traveller site development in open countryside that is away from existing settlements or outside areas allocated in the development plan. Local planning authorities should ensure that sites in rural areas respect the scale of, and do not dominate, the nearest settled community, and avoid placing an undue pressure on the local infrastructure'*, the alteration being the addition of the word 'very' in the first sentence. The Inspector concluded that the site was remote and located away from a settlement with adequate and sufficient amenities.
24. The site inspection of the current case included an extensive tour of the nearest settlement and its facilities, and they do not appear to have changed significantly from those referred to in the Woodlands Lodge case. The main road is not inviting to walk along, but there is a public right of way across fields towards the school and shops.
25. It is pertinent to consider the changes being brought about by the continued development at Thistle Hill. Whilst much is built-out and the Council state a high degree of pre-sales, and whilst the community centre and school are in place, the provision of the planned shops appears to have stalled. That would provide a ready access for the site, and a level of integration with the new settled community. It is clear that there is development to the north of the proposed central site for the shops still to commence and that may provide the critical mass of demand necessary to bring about the provision.

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26. It was asserted at the Hearing that the traveller lifestyle is likely to involve the use of private transport in any event, and that journeys would often combine shopping and the school run with other needs to make use of such transport for work, where the use of public transport, even if available, would not be appropriate. Certainly the traveller lifestyle is based on the need to travel in search of work, but there would be times when work is found closer to home and requiring only day-trips. Such a pattern of work would allow those other journeys to be undertaken at the same time, but would require of necessity, private transport. That aspect of the lifestyle is accepted in paragraph 13 h) of Planning Policy for Traveller Sites which states that some travellers live and work from the same location thereby omitting many travel to work journeys, which can contribute to sustainability.
27. As accepted by the Inspector on the Woodlands Lodge appeal, a settled base has given the occupiers of the appeal site access to healthcare and the same would be true of education for a family living here. The personal circumstances of the appellant will be considered next, but the site is not so remote as to make it unduly difficult to gain ready access to facilities, and Planning Policy for Traveller Sites does provide at Policy C for sites in rural areas.
28. That allowance for rural sites is provided that they do not dominate the nearest settled community. As with consideration on the visual effect, it is necessary to consider a possible cumulative effect, as the Greyhound Road area consists of a number of traveller sites. However, the layout is not sprawling, but is well contained and does not appear to have any adverse effect on the settled community of Brambledown or Minster, either in visual or numerical terms. It is sufficiently removed to avoid dominating the community, whilst being close enough so as not to appear truly isolated.
29. In conclusion on this issue, the site is outside the settlement boundary, but less remote than at the time of an appeal Decision at Woodlands Lodge, due to the progress being made with the Thistle Hill expansion. In the balance between a desirable social inclusion and the operational needs of a traveller site for a countryside location, the situation of Greyhound Road is appropriate and acceptable, in accordance with emerging Policy DM10 and national policies.

*Other Considerations and the Planning Balance*

30. The first consideration is the supply of sites in the Swale Borough area. The decision to not allocate sites is based on there being a reduced need, following the revision in 2015 to the definition of a gypsy and traveller, and to there being as a result, more than a five year supply of sites as required by paragraph 10 of Planning Policy for Traveller Sites.
31. The Council did accept however that where a gypsy or traveller who was occupying a site, falls out of the definition on a permanent basis through old age, they were unlikely in practice to seek their removal from the site. This, coupled with the already low turnover of privately provided sites, would limit site availability.
32. The inclusion of 8 new pitches in the 2015/2016 monitoring update at Orchard Park, Oak Lane, should be treated with some caution on the evidence presented to the Hearing, as the new pitches are the result of sub-division of existing pitches and would share the already existing utility buildings. The appellant's assertion that this sharing would not provide for wholly new

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- occupiers, unconnected with the existing families, to be accommodated carries significant weight. As a result, the appellant's view that this is more akin to a house extension to accommodate a growing family than a wholly new house should also be afforded considerable weight.
33. The appellant says that there will be objections to the resumed Local Plan examination, notwithstanding the Council's view that this matter is settled, and that removing the 8 sites at Orchard Park reduces the supply below the 5 year point. That appears a realistic appraisal.
34. Looking at the particular alternatives open to the appellant, the site at Brotherhood Woodyard at Dunkirk, with its 19 pitches, would appear to offer the possibility of vacancies arising, but the appellant's evidence is that this is occupied by Irish Travellers and that the Romany descended appellant would be most unlikely to settle there. Having mind to the views expressed at the Hearing, this appears a consideration of significant weight.
35. With regard to personal circumstances, the occupiers have access to health care locally at Thistle Hill, the continuity of which could be lost were they to have to leave the site. The presence of other traveller families on Greyhound Road is also a significant consideration when it comes to support.
36. It is appropriate here to consider the objection to the entry onto Lower Road, and the safety of that road. Whilst evidence was brought by Councillors and the Parish Clerk, regarding accidents on the road and at the entry, there is no official data indicating that users of the entry were at fault or even involved, and the Highway Authority raises no objection to the proposal either alone or cumulatively. The entry is on a part of the road subject to the national speed limit, between areas of 40mph, and has good visibility in both directions due to the curve of the road away from the entry. This does not appear a reason to find against the proposal, and the Council's approach is concurred with now. In this respect the proposal accords with Policies E1 and T1.
37. Turning then to the planning balance, there is real doubt over whether the Council can demonstrate a five year supply of sites, which as stated in paragraph 27 of Planning Policy for Traveller Sites is a significant material consideration in the grant of a further temporary permission.
38. However, the grant of a further temporary permission now would be the third on this site and the web-based Planning Practice Guidance states at Paragraph: 014 Reference ID: 21a-014-20140306 that it will rarely be justifiable to grant a second temporary permission – further permissions should normally be granted permanently or refused if there is clear justification for doing so.
39. Considering the findings of the two previous main issues, the visual harm can be mitigated to a considerable degree by the imposition of a landscaping condition, which should include control of hardstanding and site layout. The residual effect would be only in as much as activity and the sites being visible in views filtered, but not blocked, by vegetation secured by condition. Such filtering of views is fully in line with advice in paragraph 26 d) of Planning Policy for Traveller Sites that a site should not be enclosed with so much hard landscaping, high walls or fences, that the impression may be given that the site and its occupants are deliberately isolated from the rest of the community. The location of the site is not so distant from facilities, with the built form of

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- Minster moving closer, as to be considered remote in the terms of paragraph 25 of the national policy document.
40. Further weight in favour of the proposal derives from the Development Plan position with Policy H4, whilst accepted as being out-of-date, is complied with in terms of the effect and the occupiers do now have a connection with the locality and the other criteria would have been considered in 2012.
41. To sum up, the location of the site, singly or cumulatively with others, appears a reasonable balance between isolation and not dominating the nearest settled community. The site scores well when considered against the criteria in paragraph 26 of Planning Policy for Traveller Sites and given the limitations of the Area of Outstanding Natural Beauty in other parts of the Borough, the location appears entirely suitable for a permanent permission.
42. In view of that finding, there is no need to attach particular weight to the personal circumstances of the appellant, other than that they indicate the experience of many gypsies or travellers. On that basis, whilst it would be essential to attach a condition limiting the occupation of the site to a gypsy or traveller as defined, there would be no necessity to limit it to any particular person.

#### **Conditions**

43. The starting point for this consideration is the conditions attached to the 2016 permission. The Council suggested conditions at the Hearing and these were substantially as conditions 2) to 5) of that permission. As stated in the Formal Decision above, condition 1) that limited the occupation to only a temporary period, is removed. It is also appropriate to delete conditions 6) and 8) on access, parking and turning in favour of a new condition seeking a Site Development Scheme that would cover those matters.
44. The provision of such a Site Development Scheme including site layout and hard-standings as well as filtering vegetation is essential for the reasons set out previously and is reasonable in a permanent permission. Due to the fact that the development and stationing of caravans has already taken place, the condition should provide for sanctions in default, ultimately leading to the removal of the items placed on the land.

#### **Conclusions**

45. The development of the Thistle Hill area of Minster has rendered the site less remote than was considered to be the case in an appeal in 2013, and the visual effects are consequently less apparent. The appeal proposal when taken together with the other two sites and accepting the possibility of the other sites in the group also seeking to establish permanent use, would provide much needed accommodation without causing significant and demonstrable harm once conditions have been accorded with. The site is suitable for permanent traveller occupation and Development Plan policies together with those of the Framework and Planning Policy for Traveller Sites do not indicate that development should be restricted. For the reasons given above it is concluded that the appeal should succeed. The planning permission will be varied by deleting some of the conditions and substituting others.

*S J Papworth*

INSPECTOR



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#### APPEARANCES

##### FOR THE LOCAL PLANNING AUTHORITY:

R McCardle	Senior Planning Officer Swale Borough Council
S Rouse	Senior Policy Officer Swale Borough Council

##### FOR THE APPELLANT:

P Brown	Managing Director Philip Brown Associates
D Brazil	Blackthorn Lodge
L Smith	The Hawthorns
D Kerbey	The Peartree

##### INTERESTED PERSONS:

Cllr T Booth	Sheppey Central Ward Swale Borough Council
Cllr C Beart	Queenborough and Halfway Ward Swale Borough Council
T Codrington	Parish Clerk Minster-on-Sea Parish Council

#### DOCUMENTS

Document 1	Notification letter 14 November 2016 submitted by Council
Document 2	Statement of Common Ground signed and submitted jointly, includes track-change deletions for information
Document 3	' <i>Monitoring Update of Gypsy and Traveller Land Supply 2015/16</i> ' submitted by Council
Document 4	Planning Committee Report 16 January 2014 on Orchard Park site
Document 5	Planning Committee Report 13 March 2014 on Orchard Park site
Document 6	Locations for site inspection submitted by Council

#### SCHEDULE OF CONDITIONS

- 1) The site shall not be occupied by any persons other than gypsies and travellers as defined in Annex 1 to the Department for Communities and Local Government '*Planning Policy for Traveller Sites August 2015*'.
- 2) No more than 4 caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 as amended (of which no more than 2 shall be a static caravan) shall be stationed on the site at any time.
- 3) The site shall only be used for residential purposes and it shall not be used for any business, industrial or commercial use. In this regard no open storage of plant, products or waste may take place on the land, no

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- vehicle over 3.5 tonnes and no more than one 3.5 tonne vehicle shall be stationed, parked or stored on the land.
- 4) No floodlighting, security lighting or other external lighting shall be installed or operated at the site, other than in accordance with details that have first been submitted to and agreed in writing by the Local Planning Authority.
  - 5) No building or structure shall be erected or stationed within 8 metres of the adopted drainage ditch.
  - 6) The use hereby permitted shall cease and all caravans, structures, equipment and materials brought onto the land for the purposes of such use shall be removed within 30 days of the date of failure to meet any one of the requirements set out in i) to iv) below:
    - i) Within 3 months of the date of this decision a scheme for the internal layout of the site, including the siting of caravans, utility building, hardstanding, access roads, parking and amenity areas; tree, hedge and shrub planting and where appropriate earth mounding including details of species, plant sizes and proposed numbers and densities; and vehicle parking or turning space (hereafter referred to as the Site Development Scheme) shall have been submitted for the written approval of the Local Planning Authority and the scheme shall include a timetable for its implementation.
    - ii) If within 11 months of the date of this decision the Local Planning Authority refuse to approve the Scheme or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.
    - iii) If an appeal is made in pursuance of ii) above, that appeal shall have been finally determined and the submitted Scheme shall have been approved by the Secretary of State.
    - iv) The approved Scheme shall have been carried out and completed in accordance with the approved timetable.

Upon implementation of the approved Site Development Scheme specified in this condition, that items the subject of the Scheme shall thereafter be retained.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

<b>2.6 REFERENCE NO - 16/508678/FULL</b>			
<b>APPLICATION PROPOSAL</b> Change of use of land to residential caravan site consisting of 3no. caravans and 2no. utility dayrooms and associated development (part retrospective).			
<b>ADDRESS</b> The Willows Munsgore Lane Borden Kent ME9 8JU			
<b>RECOMMENDATION</b> Grant subject to conditions			
<b>SUMMARY OF REASONS FOR RECOMMENDATION/REASONS FOR REFUSAL</b> Proposal is in line with national and local planning policy			
<b>REASON FOR REFERRAL TO COMMITTEE</b> Parish Council objection;			
<b>WARD</b> Borden And Grove Park		<b>PARISH/TOWN COUNCIL</b> Borden	<b>APPLICANT</b> Mr & Mrs Fuller <b>AGENT</b> Murdoch Planning Ltd
<b>DECISION DUE DATE</b> 27/04/17		<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/09/1159	Change of use for stationing of one mobile for a gypsy family	Approved	22/07/2010

## 1.0 DESCRIPTION OF SITE

- 1.01 The site is situated approximately one mile from the centre of Borden and approximately two-thirds of a mile from Oad Street. The site is within a rural area, outside any built-up area boundary. It is well-screened from the highway by mature trees and shrubs and is accessed by its own private driveway.
- 1.02 The site was approved in 2010 for the permanent stationing of one mobile and one touring caravan for occupation by persons of gypsy status under planning reference SW09/1159. As such, the principle of the site being used to accommodate persons of gypsy status has already been approved.
- 1.03 The site is not subject to any local planning designations although the lane has recently been designated a “quiet” land and it is popular with walkers, joggers, cyclists and horse riders.

## 2.0 PROPOSAL

- 2.01 The proposal is to add to the single mobile home on the site to produce a site with three static caravans and three dedicated day rooms, each with a bathroom. The day rooms would be arranged so as to produce one single detached day room, and two adjoining day rooms. These new structures would be situated to the side and rear of the existing mobile home within new tree and hedgerow planting.

- 2.02 The description of the proposal as submitted is somewhat poorly worded; one mobile home is already on site and, as noted above, has the benefit of planning permission. As such, the description of the proposal being part retrospective is not really accurate.
- 2.03 The drawings also show dedicated areas of gardens and landscaping, and a new extension to the existing driveway to create access to the new mobile homes.
- 2.04 The proposed day rooms would be of cavity block construction clad in timber. No elevational details of the proposed mobile homes have been received
- 2.05 The proposed scheme is to add two new mobile units; one for the applicant's daughter, who is coming of age and therefore requires her own unit; and for the applicant's son, who is at present fourteen years of age and has some medical issues which would render any possible move from the family home in the future both difficult and painful. The details of those medical conditions have been sent to the Case Officer within a confidential email, but no details from relevant medical practitioners have been submitted.
- 2.06 The application is accompanied by a short planning statement and a fairly comprehensive proposed landscaping plan, showing proposed hard and soft landscaping.

### 3.0 SUMMARY INFORMATION

	Existing	Proposed	Change (+/-)
Site Area (ha)	0.3	0.3	-
No. of Residential Units	1	3	+2

### 4.0 PLANNING POLICY

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

- 4.01 The national policy position comprises the National Planning Policy Framework (NPPF) and Planning Policy for Traveller Sites (PPTS). Both documents were released in 2012 but the PPTS was re-issued in August 2015 with amendments. Together they provide national guidance for Local Planning Authorities on plan making and determining planning applications for Gypsy and Traveller sites. A presumption in favour of sustainable development runs throughout both documents and this presumption is an important part of both the plan-making process and in determining planning applications. In addition, there is a requirement in both documents that makes clear that Councils should set pitch targets which address the likely need for pitches over the plan period and maintain a rolling five-year supply of sites which are in suitable locations and available immediately.
- 4.02 I consider that the following extracts from paragraph 7 are particularly pertinent:

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

- an economic role – contributing to building a strong, responsive and competitive economy, by ensuring that sufficient land of the right type is available in the right

places and at the right time to support growth and innovation; and by identifying and coordinating development requirements, including the provision of infrastructure;

- a social role – supporting strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations; and by creating a high quality built environment, with accessible local services that reflect the community's needs and support its health, social and cultural well-being; and
- an environmental role – contributing to protecting and enhancing our natural, built and historic environment; and, as part of this, helping to improve biodiversity, use natural resources prudently, minimise waste and pollution, and mitigate and adapt to climate change including moving to a low carbon economy.”

4.03 In relation to rural housing the NPPF (at paragraph 55) states;

- To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. For example, where there are groups of smaller settlements, development in one village may support services in a village nearby. Local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances such as:
  - the essential need for a rural worker to live permanently at or near their place of work in the countryside; or
  - where such development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets; or
  - where the development would re-use redundant or disused buildings and lead to an enhancement to the immediate setting; or
  - the exceptional quality or innovative nature of the design of the dwelling. Such a design should:
    - be truly outstanding or innovative, helping to raise standards of design more generally in rural areas;
    - reflect the highest standards in architecture;
    - significantly enhance its immediate setting; and
    - be sensitive to the defining characteristics of the local area.

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

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

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

### Planning Policy for Traveller Sites (PPTS)

- 4.05 The PPTS was originally published in March 2012 but it was re-issued in August 2015 with minor changes. Its main aims now are:

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

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

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

- 4.06 In terms of plan making the PPTS advice is that;

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

- a) promote peaceful and integrated co-existence between the site and the local community*
- b) promote, in collaboration with commissioners of health services, access to appropriate health services*
- c) ensure that children can attend school on a regular basis*
- d) provide a settled base that reduces the need for long-distance travelling and possible environmental damage caused by unauthorised encampment*
- e) provide for proper consideration of the effect of local environmental quality (such as noise and air quality) on the health and well-being of any travellers that may locate there or on others as a result of new development*
- f) avoid placing undue pressure on local infrastructure and services*

- g) *do not locate sites in areas at high risk of flooding, including functional floodplains, given the particular vulnerability of caravans*
- h) *reflect the extent to which traditional lifestyles (whereby some travellers live and work from the same location thereby omitting many travel to work journeys) can contribute to sustainability.” (para 13 PPTS)*

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

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

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

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

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

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

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

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

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

*“Persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family’s or dependants’ educational or health needs or old age have ceased to travel temporarily, but excluding members of an*

*organised group of travelling showpeople or circus people travelling together as such.”*

The implications for this change in definition has affected the issue with regard to defining need, and this matter is the subject to some very recent changes regarding the Council's emerging Local Plan, which are referred to below.

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

#### **Saved Policies of Swale Borough Local Plan 2008**

- 4.11 Saved policy E1 (General Development Control Criteria) sets out standards applicable to all development, saying that it should be well sited appropriate in scale, design and appearance with a high standard of landscaping, and have safe pedestrian and vehicular access whilst avoiding unacceptable consequences in highway terms.
- 4.12 Within the Borough's countryside saved policy E9 (Protecting the Quality and Character of the Borough's Landscape) seeks to protect the quality, character and amenity value of the wider landscape of the Borough. Within the countryside it expects development to be informed by local landscape character and quality, consider guidelines in the Council's landscape character and assessment, safeguard distinctive landscape elements, remove detracting features and minimise adverse impacts on landscape character.
- 4.13 Saved policy E19 (Achieving High Quality Design and Distinctiveness) requires development proposals to be well designed.
- 4.14 Saved policy T1 (Providing Safe Access to New Development) states (most relevant bit in **bold**);

*“The Borough Council will not permit development proposals that;*

1. *generate volumes of traffic in excess of the capacity of the highway network, **and/or result in a decrease in safety on the highway network, unless these issues can be addressed by environmentally acceptable improvements to the***



- highway network that have been agreed by the Borough Council and the appropriate Highway Authority in accordance with Policy T2; and*
2. *lead to the formation of a new access, or the intensification of any access, onto a primary or secondary road or route, unless it can be created in a location that it acceptable to the Borough Council, or where an access can be improved to an acceptable standard and achieve a high standard of safety through design.*

*Where appropriate, the Borough Council will require the submission of a comprehensive Transport Assessment and Travel Plan with a planning application.”*

### **Swale Landscape Character and Biodiversity Appraisal SPD 2011**

- 4.15 This site is within the Borden Mixed Farmlands landscape character areas as defined in the March 2011 Swale Landscape Character and Biodiversity Appraisal, areas which are seen as in moderate condition and with moderate sensitivity. As such, I do not consider that landscape impact is a significant potential objection to development here.

### **Bearing Fruits 2031: The Swale Borough Local Plan Proposed Main Modifications June 2016**

- 4.16 The Council's Publication version of the draft Local Plan, entitled *Bearing Fruits 2031*, The Swale Borough Local Plan Proposed Main Modifications June 2016 underwent final examination in February 2017. The Local Plan Inspector's relevant interim findings are set out below.
- 4.17 Policy CP 3 of the draft Local Plan aimed to provide pitches for gypsies and travellers as part of new residential developments. Policy DM10 is now a criteria based policy for assessing windfall planning applications and this includes the following points. It seeks to retain existing permanent sites, and favours expansion of existing sites. Further criteria for approval are exceptional mitigating or personal circumstances where there is no overriding harm to the locality or the need for affordable housing. Beyond these points the policy suggests that new sites should;
  - be for applicants who have previously led a nomadic lifestyle, or those who can show why they have stopped travelling, or show intentions for future travelling
  - provide opportunity to integrate with communities
  - be of an appropriate scale without landscape harm or overloading services
  - accommodate living and working
  - cause no significant harm to occupants or others
  - cause no harm to AONB, other national or local landscape or biodiversity designations
  - provide landscaping to enhance the environment in a way that increases openness
  - provide for health lifestyles
  - be safe from flooding
  - have safe and convenient access and parking
  - provide transit or visitor pitches where appropriate

### **Site Assessment**

- 4.18 The Council's February 2014 Gypsy and Traveller Site Allocations: Issues and Options consultations document recommended a new methodology for how to assess site suitability for determining whether or not to allocate a site. Although this was primarily intended to rank potential site allocations, it was agreed by Members of the

LDF Panel in June 2014 to be used as a material consideration in planning applications. Even though this is normally done in relation to the potential suitability of a fresh site a site assessment exercise has been carried out in relation to this site and I have taken this into account in considering this application. The assessment is a Red/Amber/Green staged approach to site suitability, with any site scoring Red in any stage not being progressed to the next stage.

- 4.19 The assessment starts with Stage 1: Availability. The appellant is in occupation of the site. Here the site scores green. This means that the site should proceed to Stage 2.
- 4.20 Stage 2: Suitability/Constraints. The site is not in a flood risk zone (assessment green); it is not in an AONB or with significant landscape impact (green); it has no unacceptable impact on biodiversity (green); no dominating effect on settlements on its own (green); no adverse impacts on heritage/archaeology (green); is not known to be contaminated (green); will not be subject to unacceptable noise or disturbance (green); has access which the highway authority considers can be safely arranged (green); and is a reasonable distance to most services (amber). This means that the site should proceed to Stage 3.
- 4.21 Stage 3: More detailed site suitability: The site is level (green), has no impact on residential amenity (green), has most available utilities (amber), is capable of a live/work mix (green), has ample off road parking (green) and is or could be well-landscaped (green). As such, the site is deemed suitable to be used as a small accommodation site for those with gypsy/traveller status.

#### **Five-year supply position**

- 4.22 The PPTS has since 2012 introduced a need for Council's to maintain a rolling five-year supply of sites which are in suitable locations and available immediately. The Council put measures into place to deal with the PPTS requirements very quickly, but have only recently started down the route of trying to maintain a rolling five-year supply.
- 4.23 The GTAA (2013) set a target of 85 pitches to be provided by the year 2031, with a suggested provision of 35 pitches in the first five years (to 2018). Three pitches were approved during the course of the GTAA's production so the final target was in fact 82 pitches. Since the publication of the GTAA and up to the end of March 2015 a total of 47 permanent pitches were approved in Swale, almost exclusively without an appeal, of which 33 pitches had been implemented. Evidence presented to the recent Local Plan examination (November 2015) shows that at the end of March 2015 the need for pitches identified from the GTAA thus stood at 82 pitches minus the 33 permanent pitches approved and implemented, including the personal permissions granted in the interim. This reduced the need to 49 pitches. These mostly comprised extensions to, or more intensive use of, existing sites and were awaiting occupation. Since then six more wholly new permanent sites (comprising eight (8) pitches) were approved in 2015/2016 including two fresh pitches on a large mixed use development site at Faversham. A further two (2) pitches as an extension to an existing well located site were approved in November 2016, with another wholly new pitch (previously approved only on a temporary basis) was approved in December 2016. Three more permanent pitches were approved at Brambledown on appeal in February 2017. This provision of 61 permanent pitches (47 in 2013 to 2015 plus eight (8) in 2015/2016 and six (6) further pitches in 2016/2017) is a very considerable achievement and indicates the Council's positive attitude to such development in the right location. As at July 2016, monitoring shows that 41 new permanent pitches have been implemented with 13 pitches yet to have their permission implemented. Based on these figures the

Council has already met two thirds of the original pitch target to 2031 and the number of pitches completed exceeds any residual requirement for the five year period. The Council is able to demonstrate a five-year supply and the further two pitches proposed here will strengthen the Council's position further, enabling the Council to resist any proposals which are not in suitable locations. However, this position has been changed somewhat by the revised PPTS published in 2015.

### **The latest position on site provision**

- 4.24 The revised PPTS (2015) has resulted in considerable uncertainty as it changed the planning definition of a traveller and gypsy, and therefore what number of required pitches needs to be identified. Evidence to the recent Local Plan examination was that the Council has re-interrogated the GTAA data to determine the appropriate level of pitch provision based on the new 2015 PPTS revised definition of gypsies and travellers. The data revealed that for all but unauthorised sites some two-thirds of households surveyed for the GTAA either never travel or travel not more than once a year. Overall, only 31% of respondents travel a few times a year, and 55% never travel, meaning that in Swale the gypsy and traveller population is quite settled, slightly more so than elsewhere in the country. Many of the Borough's Gypsy/Traveller population no longer meet the new PPTS definition of having a nomadic habit of life.
- 4.25 Accordingly, the need for pitches in Swale has been re-evaluated, resulting in a reduced estimate of pitch need of 61 pitches over the Plan period to 2031; this being the most generous of the possible reduced pitch numbers scenarios considered. Of these, 58 pitches have already been granted permanent planning permission meaning that the outstanding need for pitches to 2031 has now been met, albeit eight pitches at Upchurch have not been implemented and may now need to be deducted from the figures. The Council considers that on the basis of past trends any remaining need could easily be met from windfall proposals. Moreover it indicates that by proper engagement with the Council, appropriate sites can be found in sustainable and acceptable locations in Swale (outside of the AONB or other designated area) without an appeal, meaning that there is a high probability of being able to find an acceptable alternative site with minimal delay. Indeed, if Members were to approve this application, two more pitches could be added to the list.
- 4.26 As a result of this analysis, the Council is suggesting through Main Modifications to its draft Local Plan (published in June 2016) that the future need be based on a figure of 61 pitches, leaving a need per year of less than one pitch and, that no formal pitch allocations will be needed. Policy DM10 has been revised to deal with these windfall applications and the element of policy CP3 on pitch allocations is to be removed from the Plan. Accordingly, a Part 2 Local Plan would not be required.
- 4.27 The Local Plan Inspector's third interim report (March 2016) fully supports the Council's proposed position regarding gypsy and traveller site provision, accepting that the remaining need for sites can be managed by windfall applications and without a Part 2 Local Plan. The Inspector also accepts that the Council should revise draft Plan policies to reflect progress on site provision whereupon the Plan will be effective and consistent with national policy. In June 2016 the Council published Main Modifications to the draft Local Plan to confirm these intentions and these were considered at the resumption of the Local Plan EIP in January 2017.

## **5.0 PLANNING CONSTRAINTS**

None



## 6.0 LOCAL REPRESENTATIONS

6.01 Five letters/emails of objection and concern have been received from local residents. Their comments may be summarised as follows:

- Not just mobile homes but permanent structures as well
- The applicants do not travel, so should be treated the same as everyone else; also stated in government policy
- Will set a precedent
- ‘Severe visual impact on this exclusive country lane’
- Increase I traffic and noise
- Will introduce multiple dwellings on the site
- Day rooms are in fact self-contained units
- Designated ‘quiet lane’
- Out of keeping with surrounding area
- Site is a visual eyesore

## 7.0 CONSULTATIONS

7.01 Borden Parish Council raises no objection, but requests that permission be restricted to use of the new units by family members only.

7.02 Kent Highways and Transportation raises no objection.

7.03 Natural England raises no objection.

7.04 The Environmental Health Manager raises no objection, subject to a condition referring to construction hours included below.

## 8.0 APPRAISAL

### Principle of Development

8.01 The main issues to consider in this case are the principle of development, the scale of development, and harm to amenity. For the sake of regularity, I will take each issue in turn.

8.02 Principle of development: The site fully complies with the requirements as set down within the NPPF, the PPTS, and the Council’s Gypsy and Traveller Site Allocations: Issues and Options document. As such, I consider the principle of such development on this site to be acceptable.

8.03 I also note the reasons for the proposed development, in a desire to keep a family living together, whilst giving independence and freedom to the applicant’s growing children. I do not consider that these issues affect my recommendation which is independent of them.

8.04 Scale of development: A number of objections note the presence within the proposal of not only mobile homes but also day rooms, thus increasing the level of development on the site. Given the small-scale nature of the mobile homes, it is relatively normal to have day rooms included within gypsy and traveller site applications. Much as these day rooms contain small kitchens and bathrooms, they do not contain bedrooms; as such, they would not be used as fully separate units. Therefore, these are not separate units and the increase in living accommodation

units will be only two. The cumulative floorspace will therefore not be excessive, and the mobile homes and day rooms would be very low key in height and design and, as such, I do not consider that the scale of development on this spacious plot is acceptable.

- 8.05 Amenity: A number of issues of amenity have been raised by local residents. With regard to the status of the 'quiet lane', I do not agree that the addition of two mobile homes on an existing site would compromise the tranquillity and peace of the lane and the immediate area. The lane is indeed narrow in some places, but the addition of two units will have a negligible impact on amenity and highway safety. This view is obviously reflected by the lack of objection to the proposal from Kent Highways and Transportation.
- 8.06 With reference to visual amenity, my visit to the site revealed a site which is neat and tidy. The site is well screened from the lane by mature trees and shrubs, and the proposal includes a comprehensive landscaping plan. As such, I do not believe that the proposal, if approved, would have an adverse effect on the visual amenity of the area.
- 8.07 With regard to residential amenity, as the site is large and not particularly close to other nearby properties, I do not believe that the proposal would have any adverse effect on residential amenity. I also note the comments regarding the applicants' gypsy status, but as the site already has an established use as a site for gypsy accommodation, I see no discrepancy between government policy and the proposal.
- 8.08 I am therefore of the opinion that the question of the acceptability of the proposal with regard to amenity has been proven, and that the proposal, if approved, would not have a negative effect on residential amenity.

## 9.0 CONCLUSION

- 9.01 As the proposal is in accordance with both national and local planning policy, and would not have a negative impact on amenity, I recommend that the proposal be approved, subject to strict conformity with the conditions noted below.

## 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) No development beyond the construction of foundations shall take place until details in the form of samples of external finishing materials to be used in the construction of the day rooms hereby approved 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.

- (3) No floodlighting, security lighting or other external lighting shall be installed or operated at the site.

Reason: In the interests of visual amenity and the residential amenities of occupiers of nearby dwellings.

- (4) 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.

- (5) All hard and soft landscape works shall be carried out in accordance with the approved details shown on drawing number TDA.2262.03. The works shall be carried out prior to the occupation of any part of the development or in accordance with a 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 areas shown on the submitted plan 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 additional caravans hereby permitted.

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

- (8) The day rooms hereby permitted shall not be used at any time other than for purposes ancillary to the residential use of the mobile homes hereby permitted.

Reason: As their use as separate units of accommodation would be contrary to the provisions of the development plan for the area.

- (9) No more than three mobile homes shall be stationed at any one time.

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

- (10) The mobile homes shall only be occupied by persons of Gypsy status as defined in the Planning Policy for Traveller Sites (PPTS).

Reason: To ensure that the site occupants are gypsies.

- (11) The site shall only be used for residential purposes, and it shall not be used for any business, industrial or commercial use. In this regard no open storage of plant, products or waste may take place on the land, and no vehicle over 3.5 tonnes shall be stationed, parked or stored on the land.

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

- (12) The mobile homes and day rooms hereby permitted shall only be sited as shown on approved drawing TDA.2262.03.

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

### **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:

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 case, the application was deemed to be acceptable as submitted.

- 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 1

16/508678/FULL  
THE WILLOWS, MUNGDALE CANT

## Gypsy and Traveller Site Allocations Assessment Methodology

## Stage 1 - Is the site available?

Site Assessment Table: Stage 1 - Site availability

Criteria and Issues	Assessment references	Red – Does not meet criteria	Amber – May be capable of meeting criteria	Green – Fully meets criteria
Availability		Owner confirmed site not available, nor is likely to become available over plan period	Site availability uncertain	Willing landowner
Is the site available and deliverable?				✓

IF RED THE SITE SHOULD BE DISCOUNTED AT THIS STAGE. ALL OTHER SITES SHOULD PROCEED TO STAGE 2.

## Stage 2 – Suitability/ Constraints

Site Assessment Table: Stage 2 - Suitability

Criteria and Issues	Assessment references in addition to National Planning Policy Framework (NPPF), National Planning Guidance (NPG)	Red – Does not meet criteria	Amber – May be capable of meeting criteria	Green – Fully meets criteria
Flood Zone	Swale Strategic Flood Risk Assessment (SFRA) and Environment Agency guidance	Flood zone 3/ cannot be mitigated	Flood zone 2 or 3 but with acceptable mitigation to the satisfaction of the Council and Environment Agency	Flood zone 1
Impact on designations or on landscape character/quality	Kent Downs AONB Management Plan 2009, Landscape Character and Biodiversity Appraisal SPD, Advice from Natural England and other environmental bodies	Site is within: 1. a landscape designation, or 2. will affect the setting of a designation, or 3. is within an Area of High Landscape Value  with unacceptable detrimental impact or where landscape impact cannot be mitigated including cumulative impacts	Within close proximity of a designated area but, and where landscape impact may be mitigated	Outside designated area and not affecting the setting of a designation/ No impact
Impact on biodiversity of known protected species	Advice from KCC Archaeology Officers, UK/ Kent/ Swale BAP, advice from Natural England and environmental bodies	Site is within or affecting international, national or locally designated sites with unacceptable detrimental impact or where impact cannot be mitigated including cumulative impacts	Site is within, close proximity to or affecting international, national or locally designated sites where impact could be mitigated	Outside of any designation and not affecting the setting of a designation/No impact
Scale of site or multiple sites	Officer assessment - considering quantity of existing sites against scale and form of existing settlement/settled community and advice from service providers	Has significant dominating effect	Scale has some impact	Scale has little or no impact
Archaeology and	Heritage asset list and advice from heritage	Unacceptable detrimental impact on scheduled	Possible impact /minor impact on scheduled	Not in close proximity to Scheduled Ancient

<b>Conservation</b> Impact on Scheduled Ancient Monument or other heritage asset/non designated heritage asset	advisors	ancient monument/other heritage asset/non designated heritage assets	ancient monument/other heritage asset/non designated heritage assets	Monument/other heritage asset/non designated heritage assets ✓
<b>Contamination</b> Unacceptable living conditions	Consult Land Contamination Planning guidance Document 2013 and Contaminated Land Strategy 2010	Site is contaminated and cannot be mitigated	Site is or is potentially contaminated - potential impact likely to be mitigated	No known contamination issues ✓
<b>Noise and disturbance issues</b> Unacceptable living conditions	Consult Noise and Vibration: Planning Guidance Document 2013	Site located adjacent to noisy land use - cannot be mitigated	Site located adjacent to noisy land use - potential impact likely to be mitigated or low level	No noisy adjacent land uses ✓
<b>Site access and safety</b> Access/Proximity to major roads and pedestrian routes	Any transport information submitted and Kent Highways Services assessment/advice	Remote location accessed by unmade roads/ poor roads or unresolvable highway safety issue	Some access to road network and site - potentially requiring mitigation or highway safety issue and possibly capable of mitigation	Good site and road access and no significant highway safety concerns ✓
<b>Accessibility to facilities</b> GP surgery, Primary School, Shops, Public Transport	Desk top review	None or few within reasonable distance	Reasonable distance to most services ✓	All within reasonable travelling distance ✓

IF ANY SCORE RED THE SITE SHOULD BE DISCOUNTED AT THIS STAGE. ALL OTHER SITES SHOULD PROCEED TO STAGE 3.

#### Stage 3 - More detailed site suitability

Site Assessment Table: Stage 3 - Detailed suitability

Criteria and Issues	Assessment references	Red – Does not meet criteria	Amber – May be capable of meeting criteria	Green- Fully meets criteria
<b>Topography</b> Uneven or unsafe ground levels and structures	Site survey by Officers and landscape evidence submitted	Steep slope which makes site unsuitable	Sloping land which may require works to make site suitable for use	Level or gently sloping site ✓
<b>Residential Amenity</b> Impact on amenity of proposed and existing residents	Officers' assessment - same as housing, overlooking, disturbance from vehicle movements, loss of light, overcrowding etc	Close proximity to existing adjacent uses especially residential properties where any potential impact (light, visual, other disturbance) Has unacceptable impact which cannot be mitigated	Some impact on residential amenity - likely to be mitigated or low level	No impact on residential amenity ✓
<b>Utilities</b> Electricity, Gas, Water, Drainage/ Sewers (mains or cesspit)	Site visit and utility providers advice	Not applicable as a reason for discounting a site	Yes – most (3 or 4) ✓	Yes – all
<b>Site capable of live/ work mix</b> Priority for sustainable	Site visit/ submitted details	Not applicable as a reason for discounting a site	No or maybe	Yes ✓

locations				
<b>Parking</b>	Site visit and Kent Highways Services advice	No parking/ turning and no potential to provide parking and turning space	Inadequate parking/ turning or limited potential to provide parking and turning space	Sufficient parking and turning space ✓
Sufficient parking and turning space				
<b>Landscaping</b>	Site visit and Swale Landscape Character and Biodiversity Assessment 2010, Planting on New Developments: A Guide for Developers	Not applicable as a reason for discounting a site	No soft landscaping/ landscaping could impact on landscape character area	Site has existing soft landscaping/ option to provide soft landscaping ✓
Sufficient landscaping for amenity/impact on landscape character				

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<b>2.7 REFERENCE NO - 17/500965/FULL</b>		
<b>APPLICATION PROPOSAL</b> Single storey lean to side extension, first floor extension & other window modifications and as amended by drawing number 1397/5 REV A received on 28th March 2017.		
<b>ADDRESS</b> The Paddock Highsted Valley Rodmersham Kent ME9 0AB		
<b>RECOMMENDATION</b> - Approve		
<b>REASON FOR REFERRAL TO COMMITTEE</b> - Parish Council objection		
<b>WARD</b> West Downs	<b>PARISH/TOWN COUNCIL</b> Rodmersham	<b>APPLICANT</b> Mr Craig Provan <b>AGENT</b> Alpha Design Studio Limited
<b>DECISION DUE DATE</b> 30/06/17	<b>PUBLICITY EXPIRY DATE</b> 13/04/17	
<b>RELEVANT PLANNING HISTORY (including relevant history on adjoining site):</b>		
<b>App No</b>	<b>Summary</b>	
SW/05/1047	Revisions to proposed conversion of former garage/games room to a detached three bedroom dwelling, proposed garden store, proposed stables, tack room, hay store and change of use of land for the keeping of horses - granted.	
SW/04/0461	Conversion of former garage/games room to a detached three bedroom dwelling - granted.	
SW/02/0577	Change of use to single residential property - refused.	

## 1.0 DESCRIPTION OF SITE

- 1.01 This property is a former domestic outbuilding converted to a dwelling following permissions granted in 2004 and 2005, and it is located to the rear (east) of dwellings fronting Highsted Road. The origins of the property mean that it has a unique position and design, with multiple pitched roofs, red brick facings and irregular fenestration. The property has a separate access directly off Highsted Road between neighbouring dwellings. The site is located within the defined built-up area of Rodmersham.
- 1.02 The position of the property is very close to/on the rear boundary of neighbouring dwellings and at a higher level. Accordingly, protection of the privacy of neighbours arising from its use as a dwelling has always been of concern here. The original permissions removed rights for further alterations, including new windows, to ensure that the Council would be able to control future alterations.

## 2.0 PROPOSAL

- 2.01 Planning permission is now sought for a single storey lean-to side extension to the northern elevation, a first floor extension/raising the roof of the central part of the property to create a home office area, and other window modifications. The proposal has been amended in response to concerns raised by the Parish Council and myself. These amendments have reduced the scope for loss of privacy to neighbours and the application now includes:
- Lean-to extension on north elevation protruding by 2.5m featuring patent glazing panels in roof.
  - New roof extension in the central range to create a small office with a high level triangular window facing south (into the site) with a sill a minimum of 1.7m above

finished floor level, and a new rooflight with a cill a minimum 1.7m above finished floor level on the west facing new roof slope.

- Introduction of a new obscured glazed window with a cill height of 1.7m above finished floor levels on west elevation (dramatically reducing the scale of fenestration originally proposed here).
- Internal layout changes to re-plan the interior swapping bedrooms for living areas and vice versa, and moving the entrance to the northern end rather than tight behind the neighbours.

### **3.0 PLANNING CONSTRAINTS**

3.01 Enforcement Notice ENF/12/0028

### **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 generally encourage good design and seek to minimise serious amenity concerns.

4.02 Development Plan: Saved policies E1, E19 and E24 of the adopted Swale Borough Local Plan 2008 are relevant in that they relate to general design criteria, alterations and extensions.

4.03 Supplementary Planning Documents: The Council's adopted Supplementary Planning Guidance entitled "Designing an Extension" is also relevant, and remains a material consideration having been through a formal consultation and adoption process. It was adopted in 1993, but is specifically referred to in the supporting text to Policy E24, which was saved (and therefore the subject of review by the SoS) in 2010. It should still be afforded significant weight in the decision making process.

### **5.0 LOCAL REPRESENTATIONS**

5.01 None

### **6.0 CONSULTATIONS**

6.01 Rodmersham Parish Council objected to the scheme as originally submitted on the following grounds:

*"Rodmersham Parish Council object to this application. We feel it is an inappropriate development for this property situation and would greatly impinge on neighbours in particular to neighbours on South and South West side.*

*The extensions and window modifications would all impact on the residential amenity."*

6.02 In response to the amended drawings the Parish Council says:

*"Rodmersham Parish Council do believe these revised drawings are an improvement to the original drawings, especially the window alterations, however they still feel this development for this property situation would still greatly impinge on the neighbours in particular to neighbours on the South and South west side."*

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



7.01 Application papers and drawings for application 17/500965/FULL.

## **8.0 APPRAISAL**

8.01 This property is of an unusual design and it sits in an unusual position relative to its neighbours. Potential for overlooking of private rear gardens is high and I can appreciate the Parish Council's concern to avoid any problems. The property does not currently have any significant first floor windows facing the neighbours, but the main entrance is close to the boundary; attracting movement and possible disturbance. The changes proposed will remove this element of possible disturbance by re-locating the main entrance closer to the driveway and away from the boundary.

8.02 However, in its original form the application proposed a large new window which spanned through two floors and faced the neighbours to the west. This has now been deleted in favour of just a new small high level obscure glazed window at ground floor level. This should now avoid any additional loss of privacy. This and other alterations now also show regard for the neighbours' privacy by stipulating the minimum sill heights of new openings as above eye level, and I have recommended conditions to ensure that these are adhered to.

8.03 In other respects the alterations proposed do not radically alter the overall appearance or scale of the property or appear likely to affect the amenities of neighbours. They do include a significant internal re-arrangement of rooms and I have had regard to the possible implications for neighbours of this, but see no reason for concern here.

## **9.0 CONCLUSION**

9.01 Having taken on board the Parish Council's original concerns and negotiated amendments to address them, I am disappointed that the Parish Council maintain its opposition to these minor works, although they do not describe what problems they now foresee in any detail. I do not consider that there are any reasonable grounds to reject this application and I consider that planning permission should be granted for the amended scheme

**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 approved shall be carried out in accordance with the following approved drawing:

Plans & Elevations as Proposed drawing no: 1397/5 Rev A.

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

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

Reason: In the interests of visual amenity

- (4) The two new kitchen windows in the South West elevation, and the new rooflight to the Office, shall all have cill heights not less than 1.7m above the finished floor levels of the respective room

Reason: To protect the privacy and amenity of neighbours.

- (5) The new kitchen window in the South West elevation marked “Obscured window” on drawing 1397/5 Rev A shall at all times be fitted with obscured glass and shall be fixed so that it cannot be opened.

Reason: To protect the privacy and amenity of neighbours from views from the first floor of the property.

- (6) No further alteration to the property, whether permitted by Classes A, B, C or D of Part 1 of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking and re-enacting that Order) or not, shall be carried out.

Reason: To protect the privacy and amenity of neighbours from views from the first floor of the property.

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

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



<b>2.8 REFERENCE NO - 17/500525/FULL</b>			
<b>APPLICATION PROPOSAL</b> Construction of a single residential dwelling			
<b>ADDRESS</b> Cromac Callaways Lane Newington Kent ME9 7LX			
<b>RECOMMENDATION</b> Grant, subject to conditions			
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b> The site lies within the built up area boundary where the principle of residential development is accepted and the development would not cause harm to the setting of the conservation area or to residential, visual or highway amenities.			
<b>REASON FOR REFERRAL TO COMMITTEE</b> Recommendation contrary to view of Parish Council			
<b>WARD</b> Hartlip, Newington And Upchurch	<b>PARISH/TOWN</b> Newington	<b>COUNCIL</b>	<b>APPLICANT</b> TSP Property Developments <b>AGENT</b> Edwards Planning Consultancy
<b>DECISION DUE DATE</b> 04/04/17	<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>
16/504504/FULL	Construction of a single, detached residential dwelling.	Withdrawn	31.01.2017
16/506068/FULL (Land at Callaways Lane – Adjacent site)	Erection of chalet bungalow with detached double garage/store and associated parking, access and landscaping works	Approved	09.12.2016
SW/91/1070	Outline application for a two bedroomed bungalow.	Refused	17.10.1991

**MAIN REPORT****1.0 DESCRIPTION OF SITE**

- 1.01 The application site comprises a detached bungalow with amenity space to the front, side and rear of the property.
- 1.02 The immediately surrounding residential properties on the opposite side of Callaways Lane and to the northwest along Callaways Lane are detached. There are semi detached properties located approximately 65m away from the application site to the north east.
- 1.03 To the southeast, south and southwest of the application site lies open countryside. However, on the adjacent site, which is currently an undeveloped field, a single dwelling has been approved under 16/506068/FULL as set out above (this permission has not been implemented).

## 2.0 PROPOSAL

- 2.01 This application seeks planning permission for an extension to the existing property to provide an additional dwelling. The plot would be sub-divided with a new vehicle access onto Callaways Lane and separate private amenity areas for both dwellings.
- 2.02 The existing dwelling is a T shaped chalet bungalow and the proposed property would project front and rearwards of the existing dwelling to create a H shaped semi detached property. The main front wall of the proposed property would project by 2.8m from the closest part of the existing dwelling with a gap of 0.7m to the common boundary. At the rear the proposed dwelling would project by 1m with a gap of 0.8m. The dwelling would be set 2m in from the side boundary.
- 2.03 The proposed dwelling would have a front and rear facing gable with two flat roof dormers and a rooflight in the side facing roofslope. It would measure 2.5m to the eaves and 5.9m to the ridge.
- 2.04 An area of landscaping and a parking area is proposed to the front of the dwelling. To the rear, a private amenity space 10m in depth and ranging between 11m and 12m in width would be provided. This would mean that a private amenity space of 11m in depth and ranging between 8.5m and 11.2m in width would remain for the existing dwelling.

## 3.0 PLANNING CONSTRAINTS

- 3.01 Newington Manor conservation area – Would affect the setting of.

## 4.0 POLICY AND OTHER CONSIDERATIONS

### The National Planning Policy Framework (NPPF)

- 4.01 The NPPF and the National Planning Policy Guidance (NPPG) both advocate provision of new residential development within sustainable urban locations close to local shops and services, subject to good design and no serious amenity issues being raised.

### Development Plan

- 4.02 Policy E1 sets out standards applicable to all development, saying that it should be well sited and appropriate in scale, design and appearance with a high standard of landscaping, and have safe pedestrian and vehicular access whilst avoiding unacceptable consequences in highway terms;
- 4.03 Policy E15 sets out that development, within, affecting the setting of, or views into and out of a conservation area, will preserve or enhance all features that contribute positively to the area's special character or appearance.
- 4.04 Policy E19 states that the Borough Council expects development to be of high quality design and should amongst other requirements provide development that is appropriate to its context in respect of scale, height and massing, both in relation to its surroundings, and its individual details;
- 4.05 Policy E24 states that the Borough Council will only grant planning permission for alterations and extensions to existing buildings provided they are of a high quality

design; are in scale in relation to the building's surroundings; maintain or enhance the character of the streetscene; preserve architectural, landscape, or nature conservation features of interest; and protect residential amenity.

- 4.06 Policy H2 states that planning permission for new residential development will be granted for sites within the defined built up areas, in accordance with the other policies of the Local Plan.
- 4.07 Policy T3 states that the Borough Council will only permit development if appropriate vehicle parking is provided in accordance with Kent County Council parking standards.
- 4.08 Policies, CP4 (Requiring good design), DM14 (General Development Criteria); DM16 (Alterations and extensions); DM7 (Vehicle parking) and DM33 (Development affecting a conservation area) of the emerging Local Plan are also relevant.

## **5.0 LOCAL REPRESENTATIONS**

- 5.01 4 letters of objection have been received which raise the following summarised points:
  - Development has already begun on site;
  - A Covenant is in place on the properties in Callaways Lane which says that only one dwelling per plot is allowed;
  - The description of the site is misleading;
  - The plot is of an insufficient size to support the development;
  - The arrangement of the access for the existing and proposed property will mean that cars will either have to exit the sites in reverse or reverse onto the site causing traffic delays on Callaways Lane;
  - The hedges at the front of the site will be required to be removed and existing planting has already been removed;
  - An application was refused in 1991 and the details remain the same;
  - The proposal would block the view of the fields for other properties in Callaways Lane;
  - The site is within 50m of the north west boundary of Newington Manor conservation area and any development at this location would impact on views into and out of the conservation area, therefore the site is sensitive and should not be built on;
  - The application site abuts a small single access track and development may disturb, encroach or even cause the bank to collapse;
  - This application along with others for residential development which are urbanising the countryside;
  - The development will cause disruption to existing residents during the construction phase and there would be difficulty in larger vehicles reaching the site;
  - The proposed property is poorly designed and is not in keeping with the surrounding properties;
  - The owner of the property promised that they would simply refurbish the existing dwelling;
  - The area of the plot is subject to interpretation as the plot actually tapers towards the far side, actually reducing the rear garden size and the application plans show this as a straight square plot;
  - The proposed new property will add additional light pollution to the local wildlife and also the darkness of the countryside at night.

## 6.0 CONSULTATIONS

- 6.01 **Newington Parish Council** object to the application and stated the following. *“The reasons given for the predecessor application (16/504504/FULL: Construction of a single, detached residential dwelling.) remain. Many in the area have been confused by the change of name used for this application.*

1. *The plot is unsuitable and the proposal would be an infill in a plot of insufficient size*
  2. *It is on the edge of the built up area in Newington which opens out to open countryside*
  3. *There is not enough square footage for the dwelling*
  4. *The building proposed is too high*
- (sent by Newington Parish Council, July 2016)*

*This revised application seems to be led by a motive of profit rather than to provide an attractive dwelling, somewhere good to live in, and a building that harmonises with its setting and wider surroundings.*

*There are no semi-detached properties within the vicinity of Cromac/Cromas and the extended property, divided in two would be an anomaly.*

*The current dwelling has been neglected for some time, but is of a size and position appropriate for the site. There is local concern that 'maintenance' work being carried out by the owner is actually the first stage of the building and seems to presuppose the grant of planning permission.*

*We support the views of neighbours that the proposed new dwellings would be too-tightly confined within the site and that the parking available would inevitably mean overspill parking onto the narrow Callaways Lane and would exacerbate problems of visibility when driving.*

*We understand from local residents that a covenant exists limiting building in Callaways Lane to one dwelling per plot. This a matter on which the applicant will have to satisfy himself and neighbours in order to avoid potential future litigation.”*

- 6.02 **Environmental Protection Team** raise no objection subject to a condition relating to hours of construction.

## 7.0 BACKGROUND PAPERS AND PLANS

- 7.01 Application papers and correspondence relating to planning reference 17/500525/FULL.

## 8.0 APPRAISAL

### Principle of Development

- 8.01 I appreciate that reference has been made to an application on this site for an additional dwelling, which was refused under SW/91/1070 for the following reason:

*“In the opinion of the District Planning Authority this development does not constitute infilling (namely the filling of a small gap in an otherwise substantially built up frontage) but is rather an undesirable extension of development in the countryside, detrimental to the character and amenities of the area. As such it is contrary to*

*policies RS2 of the Kent Structure Plan and H6 of the Sittingbourne and Milton Regis Area Local Plan Consultative Draft which seek to restrict unnecessary development in rural areas unless special circumstances apply.”*

- 8.02 The key difference between when the 1991 was refused and now is that the site in planning terms no longer lies in the designated countryside but within the built up area boundary as shown on the proposals map for both the adopted and emerging local plan. As a result, there is a strong national and local policy presumption towards new residential development in locations such as these and therefore I am of the view that the principle of development is accepted.

### **Visual amenity and impact upon the setting of the conservation area**

- 8.03 On receipt of the originally submitted drawings a number of design amendments were suggested to the agent, these were as follows:
- Reducing the width of the front projecting gable and increasing the pitch of the roof to match the pitch of the smaller gable on the front of the existing property;
  - Introduction of a high level window into the front facing gable and two bay windows at ground floor level;
  - Move side facing dormers lower in the side facing roofslope and replacement of middle dormer window with a rooflight;
  - Increasing the gap between the proposed property and the side boundary to 2m;
  - Suitable planting along the side boundary.
- 8.04 An amended drawing has been received which has incorporated all of the suggested amendments as set out above. The form and amount of space around the building is an important factor as to how the dwelling will present itself in the streetscene close to the edge of the conservation area. The increase of the gap to 2m from the boundary in my view has helped to create a development which does not appear unduly cramped on the site. In addition to this, an increased area of soft landscaping has been indicated on the amended drawings. I am also of the opinion that this would soften the appearance of the development. I have recommended a landscaping condition as set out below to ensure that appropriate details can be secured for the front, side and rear of the site.
- 8.05 The other amendments to the scheme relate to the design of the dwelling itself. Initially I was of the view that the frontward projecting gable was poorly proportioned in relation to the gable on the existing dwelling. As a result, as shown on the amended drawing this has been altered by reducing the width and increasing the pitch of the gable. This has, in my view, made a feature of the gable which assists in lifting the overall appearance of the proposed and adjoining dwelling. The side elevation of the dwelling, which faces the lane to the side of the plot, would also be clearly visible from Callaways Lane. The proposed dormer windows in my opinion appear modest in the roofslope but I did have concern that as originally proposed, three dormers would appear congested within this elevation. As such, an amendment has removed the central dormer and replaced it with a rooflight. The result is that I consider the windows within this roofslope to sit comfortably within this space and therefore I do not believe that the impact upon visual amenities would be unacceptable.
- 8.06 In overall terms I am of the view that due to the amendments that have been received the proposed dwelling does not appear overly cramped within the streetscene. Although I appreciate that the immediately surrounding dwellings are detached and on large plots I take the view that on balance the site is able to accommodate adequate parking space, a suitably sized dwelling and an adequately

sized amenity space. I also consider that there are semi detached properties approximately 65m away from the site (properties known as Langarth / Dromore and Red Robin Cottages). Therefore I do not believe that the introduction of an additional dwelling onto the application site to create a semi detached property would be so out keeping as to warrant a reason for refusal. As such, I believe that the proposal as now submitted would not unacceptably harm visual amenities, the streetscene or the setting of the conservation area.

### **Residential Amenity**

- 8.07 As set out above, the main front wall of the proposed property would project by 2.8m from the closest part of the existing dwelling with a gap of 0.7m to the common boundary. The projecting element would be 1.4m away from the closest part of the front living room window of the adjacent property. In this case I take into account the generous width of this window and that the living room is also served by a rear window. As such I do not believe that this frontward projection would have a significantly harmful impact upon the amenities of the neighbouring occupiers. To the rear, the proposed property projects by 1m past the closest part of the existing dwelling, however, it would be set in by 0.8m from the common boundary with a distance of 1.9m from the rear facing living room window. Therefore I do not believe that this element of the scheme would give rise to unacceptable harm to the amenities of neighbouring occupiers.
- 8.08 On the opposite side of the dwelling the site abuts a highway and there are existing residential dwellings on the opposite side of Callaways Lane. The closest point of the dwelling opposite, 'Springtime' is approximately 33m away and therefore I do not believe that the proposal would have any serious impact in this regard.

### **Highways**

- 8.09 The application proposes two vehicle parking spaces and a new access onto Callaways Lane, 3.5m in width. The number of spaces complies with the requirements as set out in the Kent Design Guide Review: Interim Guidance Note 3, 20 November 2008, Residential Parking. I also note that the existing dwelling has a driveway adjacent to the property with hardstanding to the front which would in my view provide ample parking space for the occupants of this property. Therefore, I do not consider that this element of the scheme would give rise to parking on the highway which was inconvenient to other road users.
- 8.10 I note that concern has been raised that cars would either have to enter or exit the site in reverse gear. Although I agree that it would be desirable for cars to be able to enter and exit the site in forward gear, as Callaways Lane is an unclassified road there is no requirement for cars to be able to do so. However, I am of the view that visibility from the new access could be improved if no obstructions over 0.9m in height were allowed within a 2m buffer area from the front of the site. As such I have imposed a condition requiring details of this and as a result do not believe that the application would give rise to significant harm to highway amenities.

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

- 8.11 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.

### **Other Matters**

- 8.12 Although a number of the points raised in the objection letters have been dealt with above, of those that remain I respond as follows. Concern has been raised that development has already begun on site. Having undertaken a site visit I can confirm that works were taking place to the existing dwelling. However, I was content the works fell within the scope of permitted development and as a result would have been able to continue regardless of the outcome of this planning application. The description of the site within the supporting documents is that which the agent has chosen to use, however, regardless of this I have assessed the site independently on the basis of a site visit and by assessing the drawings. The hedges at the front of the property have no formal protection and therefore their removal would not be controlled by the Council. In regards to the point raised about the cumulative impact of housing developments, I give significant weight to the fact that this is a proposal for one dwelling which is located inside of the built up area boundary. Therefore, in this location, I do not believe that the scale of development proposed, even accounting for other dwellings, would give rise to a significantly unacceptable strain on infrastructure and services. I note that concern has been raised regarding the name of the property. However, the application site is represented by the red line on the site location plan and as such I do not believe that this has created any significant confusion. I also note that a comment was raised regarding how the site had been shown on the drawings and that this didn't truly reflect the situation. I contacted the agent regarding this and have received amended drawings which I now believe are consistent. Furthermore, I do not believe that the amount of light created by one dwelling would be likely to give rise to any significant harm to either nearby residents or wildlife.
- 8.13 I also take the view that the disturbance from the construction of one dwelling would be so significant as to substantiate a reason for refusal. However, I have included a condition which restricts hours of construction to protect the amenities of neighbours. Furthermore, due to the relatively small scale of the development I do not consider that the local road network would provide any serious difficulties in construction vehicles reaching the site. Finally, legal covenants, anecdotal promises that the applicant may have made, loss of view and damage to the bank of the adjacent highway are not material planning considerations and as such I will not elaborate on these points.

## **9.0 CONCLUSION**

- 9.01 Although I recognise the concerns of the Parish Council and local residents I am of the view that the proposal provides a dwelling within the built up area boundary, without causing significant harm to residential, visual or highway amenity or the setting of the conservation area. I recommend that planning permission is 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 development hereby permitted shall take place in accordance with the following drawings: 02, Rev D and 03, Rev B (received 31<sup>st</sup> may 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 wall surfaces, external dormer wall surfaces, roof and windows of the dwelling hereby approved shall match those as annotated on drawing 02, Rev D (received 31/5/2017). The finished render shall be smooth in texture and no development beyond the construction of foundations shall take place until details of the colour of the render and details of the materials used in the construction of the roofs of the dormers have been submitted to and approved in writing by the Local Planning Authority.

Reason: In the interest of visual amenities and to protect the setting of the conservation area.

- 5) No development beyond the construction of foundations shall take place until details of the proposed rooflight have been submitted to and approved in writing by the Local Planning Authority. The rooflight shall be of a conservation style with a central glazing bar.

Reason: In the interest of visual amenities and to protect the setting of the conservation area.

- 6) No development beyond the construction of foundations shall take place until full details at a suggested scale of 1:5 of the eaves and verges 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 the interest of visual amenities and to protect the setting of the conservation area.

- 7) 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.



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

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

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

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

- 10) Upon completion, no further development, whether permitted by Classes A, B, C, D or E of Part 1 of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking and re-enacting that Order) or not, shall be carried out.

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

- 11) Notwithstanding the provisions of Class A, Part 2, Schedule 2, of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) or any order revoking and re-enacting that Order, no fences, gates walls or other means of enclosure shall be erected within the application site.

Reason: In the interests of visual amenity.

- 12) No demolition/construction activities shall take place, other than between 0800 to 1800 hours (Monday to Friday) and 0800 to 1300 hours (Saturday) with no working activities on Sunday or Bank Holiday.

Reason: In the interests of visual amenities.

- 13) No development shall take place until details of an area 2m in width, extending rearwards from the front of the boundary of the site have been submitted to and approved in writing by the Local Planning Authority. Within this area as indicated there shall be no obstructions over 0.9m above carriageway level. This shall be provided prior to the first use of the dwelling hereby approved and shall be retained as such in perpetuity.

Reason: In the interests of highway amenities.

### **Habitats Regulations Assessment**

This HRA has been undertaken without information provided by the applicant. The application site is located 2.8km south of Medway Estuary and Marshes Special Protection Area and Ramsar site which is a European designated sites afforded protection under the Conservation of Habitats and Species Regulations 2010 as amended (the Habitat Regulations).

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

In considering the European site interest, Natural England advises the Council that it should have regard to any potential impacts that the proposal may have. Regulations 61 and 62 of the Habitat Regulations require a Habitat Regulations Assessment. 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 as this a proposal for one 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.

### **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>2.9 REFERENCE NO - 17/500325/FULL</b>			
<b>APPLICATION PROPOSAL</b> Change of use and erection of a two storey side extension, including the demolition of existing garages and a loft conversion, to form a total of five self-contained flats			
<b>ADDRESS</b> 55 Murston Road Sittingbourne Kent ME10 3LB			
<b>RECOMMENDATION</b> Grant subject to comments from Southern Water and receipt of amended plans regarding highway issues.			
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b> The development would provide 5 units of accommodation within a sustainable urban location without giving rise to any serious amenity impacts.			
<b>REASON FOR REFERRAL TO COMMITTEE</b> Contrary to the written view of Ward Councillor Hall			
<b>WARD</b> Murston		<b>PARISH/TOWN COUNCIL</b>	<b>APPLICANT</b> Mr Darren Church <b>AGENT</b> Mark Horner Architecture
<b>DECISION DUE DATE</b> 24/04/17		<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>
No planning history for the site.			

## MAIN REPORT

### 1.0 DESCRIPTION OF SITE

- 1.01 55 Murston Road is an end-of-terrace house situated within the built up area of Sittingbourne. It is of a typical design common to the area (and Sittingbourne in general) and features a small front garden with a low front wall against the pavement, and a generous rear garden (currently overgrown as the property has been empty for several months). To the side is a block of two detached garages with parking spaces in front. The plot as a whole measures approximately 34m deep x 12m wide, and the properties to the rear (17 and 19 Cowper Rd) are roughly 41m from the main rear elevation of the existing house.
- 1.02 Murston Road is characterised by traditional, Victorian terraced houses on the western side and blocks of two-storey flats on the eastern side. On-street parking is a significant feature of the road. At this particular point there is a lay-by opposite serving a bus stop.
- 1.03 The site lies roughly 1.3km from the Forum shopping centre (via the High Street), 1.4km from the train station (via Shortlands Road), 470m from the Tesco Express on the A2, 280m from the Murston Co-op, 600m from Sittingbourne Community College, and 280m from the Rectory recreation ground.

### 2.0 PROPOSAL

- 2.01 Application seeks planning permission for demolition of the garage block, erection of a two-storey side extension to no.55, and conversion of the whole property to form 5 self-contained flats.

- 2.02 The extension will be of a scale and design to match the existing building, and will feature face brick, weatherboarding, cast stone cills and concrete roof tiles. It will resemble a continuation of the terrace. Dormer windows will be added to the rear roof slope to facilitate use of the loft space. The rear extension will measure approximately 11m deep x 6m wide, with eaves and ridge height to match existing.
- 2.03 The design of the extension features an overhanging first floor on the southern end, which will allow vehicles to pass under the building to access a parking area and amenity space to the rear. Five parking spots (one per flat) and turning space will be provided, as well as cycle storage and communal amenity space.
- 2.04 Internally the property will be divided to provide 2 x 1-bed flats at ground floor, and then 2 x 1-bed and 1 x 2-bed flats across the first floor and roof space. Each flat will have a bedroom, bathroom, and open plan lounge / kitchen / diner, and all of the proposed internal floor spaces will be in excess of the Council's minimum adopted standard.

### 3.0 SUMMARY INFORMATION

	Existing	Proposed
Site Area	0.04ha (0.1acres)	
Approximate Ridge Height	8.6m	8.6m
Approximate Eaves Height	5m	5m
No. of Storeys	2	2 (with rooms in roof)
Parking Spaces	2 (+2 garage spaces)	
No. of Residential Units	1	5
No. of Affordable Units	0	0

### 4.0 PLANNING CONSTRAINTS

- 4.01 None.

### 5.0 POLICY AND OTHER CONSIDERATIONS

- 5.01 The National Planning Policy Framework (NPPF) and National Planning Practice Guidance (NPPG) provide general guidance in relation to development. They encourage the provision of housing within sustainable areas, subject to consideration of issues such as local and residential amenity, highways, contamination, and noise, amongst others.
- 5.02 Policies SP1 (sustainable development), SP4 (Housing), E1 (general development criteria), E19 (design), H2 (new housing), T3 (vehicle parking), and T4 (cyclists and pedestrians) of the adopted Swale Borough Local Plan 2008 are relevant.
- 5.03 Policies ST1 (delivering sustainable development), ST2 (development targets for jobs and homes), ST5 (Sittingbourne area strategy), CP2 (sustainable transport), CP3 (wide choice of high quality homes), CP4 (good design), DM7 (vehicle parking), DM14 (general development criteria), DM16 (alterations and extensions), DM19 (sustainable design and construction), and DM21 (water, flooding and drainage) of the emerging Swale Borough Local Plan "Bearing Fruits 2031" Main Modifications Draft June 2016 are also relevant. The emerging plan has been through the formal review process and the Council expects the Inspector's report on June 9<sup>th</sup>, with formal adoption likely

to be towards the end of summer. In that regard the above policies can be given substantial weight.

## **6.0 LOCAL REPRESENTATIONS**

6.01 Three letters of objection (from two different people) have been received from local residents, raising concerns on the following summarised grounds:

- The proposed extension is larger than the existing garages;
- Rear windows will provide views into neighbouring gardens;
- Noise and pollution from vehicles accessing the parking area;
- Insufficient parking provision;
- Will add to local parking problems;
- Access to parking for flats at 31-38 Cowper Road has been blocked by the landlord;
- Loss of existing trees and impact on wildlife;
- Damage to neighbouring properties;
- Existing sewers “probably” incapable of dealing with increased demand;
- Security concerns, particularly access to rear gardens of Cowper Road;
- Submitted block plan incorrectly describes area to rear of 31/33 Cowper Road as hardstanding, when it is in fact parking.

6.02 A number of residents raised additional concerns while I was on site, including:

- Pedestrian safety in regards vehicles leaving the site, especially during school times;
- Foxes living in the garden;
- Noise and disturbance during construction;
- Noise and disturbance from the parking area adjacent to neighbour’s gardens; and
- Dust during demolition construction (with one neighbour stating she has a child with breathing difficulties that might be exacerbated).

6.03 A petition has also been submitted , with the heading “Opposition of flats where the garages currently are,” with 39 signatures from 29 addresses (and 1 with no address supplied).

## **7.0 CONSULTATIONS**

7.01 Kent Highways & Transportation have no objection, but request minor alterations to the vehicle access, pedestrian sight lines, and cycle store. I have requested amended drawings in this regard and will update Members accordingly at the meeting.

7.02 I await a response from Southern Water and will update Members at the meeting.

## **8.0 BACKGROUND PAPERS AND PLANS**

8.01 There is no planning history for the site.

8.02 The application is accompanied by a full suite of drawings.

## 9.0 APPRAISAL

### Principle

- 9.01 The application site lies within the built up area of Sittingbourne, and in a sustainable location in close proximity to the town centre, public transport links, and other services and amenities. The principle of development is therefore acceptable.
- 9.02 I have no serious concerns in regards to the loss of the existing garage block. It is of no architectural merit and its loss would not seriously harm the character or appearance of the area.

### Scale and Design

- 9.03 The scale and design of the proposed extension is, in my opinion, acceptable, and would sit comfortably within the context of the existing terraces. Whilst it would feature the slightly unusual projecting first floor side element I consider that this would not in itself be unacceptable or harmful, and is a novel design solution to maximise use of the site whilst retaining vehicle access. The use of external materials that are common to the area would help the development to blend in, and is controlled by condition as set out below. The drawings suggest buff bricks, but these are not a common feature of Sittingbourne and the condition will enable officers to negotiate a more suitable brick finish to the extension.
- 9.04 The extension would sit in-line with the existing building and a 3m gap would be retained to the neighbouring property at no.53. Therefore, whilst quite large in itself, I do not consider that the extension would give rise to significant overshadowing of neighbouring properties.
- 9.05 Two lounge windows and a bedroom window at first floor, and a bedroom window within the loft space would face to the rear, but the scale and position of the extension would minimise the potential for overlooking of neighbouring rear gardens. Views from windows at ground floor would be screened by the boundary fencing. I consider that any overlooking would not be at a significantly greater level than if the extension were to serve a single property. The properties on Cowper Road to the rear are approximately 41m away from the main (two-storey) rear elevation of the property and this distance will greatly reduce the potential for serious overlooking.

### Parking and Highways

- 9.06 Objections have been raised in respect of parking provision. I appreciate that parking is a local concern, and I note that Murston Road can be over-subscribed at peak times. However, the scheme proposes 1 space per flat, which is in excess of the minimum required by the adopted Kent Vehicle Parking Standards. I consider this to be acceptable, and would remind Members that the Council has been unsuccessful in the past when refusing schemes on parking grounds despite the adopted guidance.
- 9.07 During my site visit neighbours also raised concern in respect of pedestrian safety from the new access. I do not share this concern, noting the low boundary walls, wide pavement and generally open aspect to the frontages at this part of the road, and notes that this could be adequately mitigated through the provision of appropriate vision splays, and controlled by the use of condition as below.



9.08 Residents also verbally informed me of concerns regarding access to the parking area and consequent noise and disturbance to neighbouring gardens. I have sympathy with this but the Council has had clear direction by way of appeal decisions that such relationships are acceptable. In allowing the appeal at 8-18 Oak Road, Sittingbourne (ref. SW/13/0685, PINS ref. 2206980), not far from the current site, and granting permission for 5 two and three-bed houses, the Inspector commented that *"I accept that the neighbours may be aware of some of the comings and goings within the development at the appeal site, particularly from within their rear garden"* but *"I am not persuaded that the amount of movements would materially harm the living conditions of these immediate neighbours, through increased noise and disturbance."*

9.09 Whilst I appreciate neighbour's concerns I therefore consider that the proposed arrangement is acceptable.

#### Other Matters

9.10 Whilst on site one of the neighbours raised concern in regards to dust and potential impacts on her young child, who has respiratory problems. I wholly appreciate and understand their concern, but consider that the matter could be adequately mitigated through the imposition of the Council's standard condition re: dust suppression. If the site is damped down the transmission of dust will be minimised, and the standard working hours condition will ensure that any disturbance did not continue through anti-social periods.

9.11 Unfortunately foxes are not a protected species and their presence does not preclude development of the site. Whilst the rear garden is overgrown it does not contain any habitats that might contain protected species beyond those associated with any other rear garden, in my opinion. The Wildlife & Countryside Act 1981 prohibits works that would disturb or harm any protected species, and the developer is required to abide by that in addition to and outside of the planning regulations.

9.12 An assessment under the Habitat Regulations is appended, which screens the site out from needing to provide mitigation, in accordance with the Council agreed policy for developments of less than 10 dwellings.

9.13 Damage to existing properties during construction would be a private legal matter, and I do not consider that development of the site would give rise to any additional security concerns over and above those associated with a vacant property. In fact I consider that conversion to flats would provide more natural surveillance of the rear area and thus discourage unauthorised access.

## **10.0 CONCLUSION**

10.01 The scheme would provide five well-designed flats in a sustainable urban location, and without giving rise to any serious amenity concerns. I note local objections but do not consider that they amount to a justifiable or defensible reason for refusal.

10.02 Taking the above into account I recommend subject to the views of Southern Water and receipt of amended plans to address highway issues, that planning permission should be 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 not be carried out otherwise than in complete accordance with the following approved drawings:

H-1351 12d, H-1351 13d, H-1351 14d, H-1351 15d, H-1351 16d, H-1351 17d, and H-1351 18d.

Reason: In the interests of residential amenity

- 3) 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 demolition and 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.

- 4) 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.

- 5) Notwithstanding the submitted details, 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.

- 6) The amenity area shown on the approved plans shall be retained in perpetuity for use by the residents of all the flats.

Reason: In the interests of residential amenity.

- 7) 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.

- 8) 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.

- 9) 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.

- 10) 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.

- 11) The car parking and turning spaces shown on drawing H-1351 12d 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.

- 12) Before first occupation of the dwellings hereby permitted pedestrian sight lines measuring 2m x 2m shall be provided and thereafter maintained clear of any structure, tree, plant or other obstruction which exceed 1.2 metres above carriageway level within the approved sight lines.

Reason: In the interests of highway safety.

**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.

### Habitat Regulations Assessment.

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

The application site is located approximately 1.5km to the southwest of The Medway Estuary and Marshes Special Protection Area (SPA) 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. For similar proposals NE also advise that the proposal is not necessary for the management of the European sites and that subject to a financial contribution to strategic mitigation and site remediation satisfactory to the EA, the proposal is unlikely to have significant effects on these sites and can therefore be screened out from any requirement for further assessment.

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

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

- Due to the scale of development there is no scope to provide on site mitigation such as an on site dog walking area or signage to prevent the primary causes of bird disturbance which are recreational disturbance including walking, dog walking (particularly off the lead), and predation of birds by cats.
- Based on the correspondence with Natural England, I conclude that off site mitigation is required. However, the Council has taken the stance that financial contributions will not be sought on developments of this scale because of the practicalities of securing payment. In particular, the legal agreement would cost substantially more to prepare than the contribution itself. This is an illogical approach to adopt; would overburden small scale developers; and would be a poor use of Council resources. This would normally mean that the development should not be allowed to proceed. **However, the North Kent Councils have yet to put in place the full measures necessary to achieve mitigation across the area and there are questions relating to the cumulated impacts on schemes of 10 or less that will need to be addressed in on-going discussions with NE.** Developer contributions towards strategic mitigation of impacts on the features of interest of the SPA – I understand there are informal thresholds being set by other North Kent Councils of 10 dwellings or more above which developer contributions would be sought. Swale Council is of the opinion that Natural England's suggested approach of seeking developer contributions on single dwellings upwards will not be taken forward and that a

threshold of 10 or more will be adopted in due course. In the interim, I need to consider the best way forward that complies with legislation, the views of Natural England, and what is acceptable to officers as a common route forward. Swale Council intends to adopt a formal policy of seeking developer contributions for larger schemes in the fullness of time and that the tariff amount will take account of and compensate for the cumulative impacts of the smaller residential schemes such as this application, on the features of interest of the SPA in order to secure the long term strategic mitigation required. **Swale Council is of the opinion that when the tariff is formulated it will encapsulate the time period when this application was determined in order that the individual and cumulative impacts of this scheme will be mitigated for.**

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

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

<b>2.10 REFERENCE NO - 16/506644/REM</b>			
<b>APPLICATION PROPOSAL</b>			
Reserved Matters application following outline approval decided on appeal SW/13/1567 (Outline application for erection of 63 dwellings, open space, pedestrian and vehicular access, car parking, landscaping and associated works.) - Approval being sought for Access, Appearance, Landscaping, Layout and Scale and in relation to conditions 1, 7, 9 and 12 of the outline approval.			
<b>ADDRESS</b> Land Opposite Greenways Brogdale Road Faversham Kent ME13 8YA			
<b>RECOMMENDATION</b> Grant, subject to conditions and the following:			
<ol style="list-style-type: none"> <li>1. Signing of the Deed of Variation</li> <li>2. Receipt of revised drawings addressing the overlooking of the residential garden areas of plots 40 and 45</li> <li>3. Receipt of revised site levels and proposed finished floor levels plan</li> <li>4. Outstanding comments from Faversham Town Council, Kent County Council Ecology team and the Green Spaces Manager.</li> </ol>			
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b>			
This reserved matters application relates to the access, appearance, landscaping, layout and scale 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>			
Faversham Town Council objection.			
<b>WARD</b> Watling	<b>PARISH/TOWN COUNCIL</b> Faversham Town	<b>APPLICANT</b> Matthew Homes Ltd. <b>AGENT</b> BHD Ltd	
<b>DECISION DUE DATE</b> 12/12/16	<b>PUBLICITY EXPIRY DATE</b> 24/11/16	<b>OFFICER SITE VISIT DATE</b>	
<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>
16/503281	Submission of details pursuant to condition 8 Development Brief of approved SW/13/1567	Approved	7 <sup>th</sup> February 2017
SW/13/1567	Outline planning application for 63 dwelling with all matters reserved.	REFUSED	25 <sup>th</sup> March 2014
Appeal reference APP/V2255/A/14/2 224509	Outline planning application for 63 dwelling with all matters reserved.	Appeal allowed	13 <sup>th</sup> May 2015

## MAIN REPORT

### 1.0 DESCRIPTION OF SITE

- 1.01 The site is located just outside the built-up area boundary of Faversham, as defined in the Swale Borough Local Plan 2008, within the designated countryside. The site area is 3.5 hectares, a flat squared shaped open field.
- 1.02 Located adjacent to the northern boundary is a residential area with an access road, Brogdale Place, which also leads to a commercial nursery business which lies along the western boundary. The southern boundary faces out towards the open countryside and the eastern boundary faces onto Brogdale Road. Abbey School is located to the north-east of the site and further to the south is Brogdale Farm.
- 1.03 The site lies within the designated Faversham and Ospringe Fruit Belt as defined by Swale Landscape Character and Biodiversity Appraisal (2011) SPD.
- 1.04 Planning permission for the 63 houses was refused under SW/13/1567 and was then subsequently allowed at appeal in May 2015 and the decision notice is appended.
- 1.05 The immediate surrounding residential area, running along the northern boundary of the site features detached, semi-detached and terraced properties. Located facing onto Brogdale Road are a number of 2 storey Victorian houses with Brogdale Place featuring detached 2 storey properties, built within the last 20 years.
- 1.06 The boundary landscaping currently consists of post and rail fencing along the northern and southern boundaries with large mature conifers forming a boundary screen, with notable gaps along the eastern boundary to Brogdale Road. A mature beech hedgerow runs along the western boundary, adjacent to the commercial nursery. The topography of the site is level with a drop along the eastern boundary to Brogdale Road to the pavement alongside the road.

### 2.0 PROPOSAL

- 2.01 Outline planning permission, with all matters reserved, was approved under appeal reference APP/V2255/A/14/2224509 in May 2015, this decision notice is appended and Members will note the 21 conditions that this permission is subject to. This application seeks permission for the matters that were reserved under the outline permission. The details submitted under this application area: **access, appearance, landscaping, layout and scale**. In addition details have been provided in accordance with conditions 1 (access, appearance, landscaping, layout and scale), 7 (parking), 9 (existing and proposed floor slabs and heights) and 12 (hard and soft landscaping) Please note that condition 8, which required the submission and approval of a Development Brief, has been complied with under reference 16/503281.
- 2.02 The total number of units proposed is 63 and these are a mix of 2, 3, 4, and 5 bedroom houses. The proposal would provide 30% affordable housing, 19 units consisting of a mix of shared ownership and social rented.
- 2.03 The open space would be provided against the eastern boundary of the site and features two areas of open space, consisting of two areas split into 0.6173 hectares and 0.3829 hectares of open public space and amounting to approximately one hectare in total. The submitted landscaping strategy confirms that the Corsican Pine trees running along the boundary to Brogdale Road would be removed and



replaced by native trees with additional hedge planting. The open space areas would also feature two large focal trees and a number of Kent native fruit trees and some low key landscaping. Two balancing ponds would be sited within the open space to encourage a wildflower meadows and biodiversity- please note that the siting of the ponds is still being considered and one option is to have one drainage pond instead of the two proposed. I have received the full details for the hard and soft landscaping and will report back to Members at the meeting.

- 2.04 The proposal has a main access into the site off Brogdale Road with a separate emergency access off Brogdale Place which would also provide an access to Units 23-26. I am awaiting the final details of the emergency access following consultation with Kent County Council Highways and Transportation. The proposal also includes a pedestrian only entry and exit route from the site to the corner of Brogdale Place with Brogdale Road.
- 2.05 In terms of the road network the proposal aims to achieve a more rural approach by using raised platforms to slow traffic and create a more rural feel by providing multi-use surfaces.
- 2.06 The proposal provides a varied use of locally found materials, in line with the details agreed under condition 8 (Development Brief) to reflect the local character. The mix of housing provides a varied mix of house types featuring a traditional design approach. The prominent plots facing onto the public areas or seen from the wider views have interesting architectural features to add interest and create a focal point.
- 2.07 This application has been amended following extensive discussion with the applicant. The design, layout, boundary treatments, public areas and road network have been improved to address our concerns and I am awaiting further drawings to address some plot overlooking. I will update Members at the meeting.

### 3.0 SUMMARY INFORMATION

	Existing	Proposed	Change (+/-)
Site Area (ha)	3.5 hectares	3.5 hectares	0
No. of Storeys	0	2-2.5	+2-2.5
No. of Residential Units	0	63	+63
No. of Affordable Units	0	19	+19

### 4.0 PLANNING CONSTRAINTS

- 4.01 The lies within the designated Faversham and Ospringe Fruit Belt as defined by Swale Landscape Character and Biodiversity Appraisal (2011) Supplementary Planning Document.

### 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), 35 (sustainable transport), 47 (delivering a wide choice of high quality homes), 49, 50, 56 (good design), 69 (healthy communities), 70, 73, 75, 109 (conserving and enhancing the natural environment); 112 (agricultural land); 118, 119, 120, 121, 123, 125, 129 (heritage

assets), 131, 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; Noise; Planning Obligations; Use of planning conditions; water supply, waste water and water quality land affected by contamination; light pollution; natural environment; neighbourhood planning; rural housing.

Development Plan:

- 5.03 The Swale Borough Local Plan Adopted 2008, saved policies SP1 (sustainable development), SP2 (environment), SP3 (economy), SP4 (housing), SP6 (transport and utilities), SP7 (community services and facilities), FAV1 (the Faversham and the rest of Swale planning area), SH1 (settlement hierarchy), E1 (general development criteria), E6 (countryside), E9 (landscape), E10 (trees and hedges), E11 (biodiversity and geological interests), E12 (designated biodiversity and geological conservation sites), H2 (new housing), H3 (affordable housing), T1 (safe access), T4 (cyclists and pedestrians) & C3 (open space on new housing developments).
- 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), ST7 (Faversham and Kent Downs strategy), CP2 sustainable transport), CP3 (high quality homes), CP4 (good design), CP5 (health and wellbeing), CP6 (community facilities and services to meet local needs), CP7 (natural environment), CP8 (conserving and enhancing the historic environment), DM6 (managing transport demand and impact), DM7 (vehicle parking), DM8 (affordable housing), DM14 (general development criteria), DM17 (open space, sports and recreation provision), DM21 (water, flooding and drainage), DM24 (valued landscapes), DM28 (biodiversity and geological conservation), DM29 (woodlands, trees and hedges), DM31 (agricultural land) & IMP1 (implementation and delivery plan).

Supplementary Planning Documents

Swale Landscape Character and Biodiversity appraisal (2011)

Developer Contributions (2009)

## **6.0 LOCAL REPRESENTATIONS**

- 6.01 Two letters of objection have been received making the following summarised comments:
- Concerns about the impact on the struggling local road network
  - Concerned about the loss of agricultural land and thriving wildlife
  - Loss of sunlight and impact on privacy on the adjacent existing properties
  - The development will result in the current peace, quiet and tranquility being taken away
  - Overlooking concerns- existing properties to new properties
  - Excessive noise and environmental pollution in the form of extra traffic
  - The access to the development would create highway safety concerns due to being closely located to the access to Perry Court Oast (Please note that the revised drawings show the access re-site further to the north of Brogdale Road)

- Concerned that infill planting along the southern boundary would reduce light into the adjacent Perry Court Oast
- The leylandii should be removed
- The siting of the 5 bedroom houses in the south east corner will have a detrimental impact on the surrounding area and the open space should be redesigned to prevent this

6.02 Three letters of general comments have been received making the following summarised comments:

- Concern raised about access issues along Brogdale Road during the construction of the development
- Pedestrian crossing should be provided along the A2
- Junction between Brogdale Place and the A2 should be improved due to the increase in traffic
- Parking during the construction phase should be strictly regulated and have no detrimental impact on the surrounding residential amenity, access to the Nursery should remain free
- Noise should be limited during the construction phase
- Outlook for future residents needs to be considered- not just brick walls but good quality landscaping should be provided
- Adequate road network needs to be provided to deal with the additional traffic
- Concerned the house types are incorrectly listed
- Emergency access is not correctly designed
- A footpath should be provided from the south east corner from Brogdale Road to link with the paths/access in front of plot 57 to allow a better wider path than that currently provided which is narrow, close and set higher than the road

6.03 Following the re-consultation on the amended drawings, I have received an additional 5 letters of objection from local residents making the following summarised comments:

- The building of property G25 will remove any view from the front of our property and also remove any privacy both in our garden and our front bedroom. The emergency access road will create a greater footfall and disruption in the direct vicinity of both 1 Nursery Cottage and 2 Nursery Cottage and also all of the residents of Brogdale Place. I continue to feel this development has been designed without any regard or consideration to the existing residents in this area.
- I do not understand why public spaces have been created alongside the Brogdale Road when these could be situated to give a more pleasing outlook to the residents of 1 & 2 Nursery Cottages and other residential dwellings in that area. To look out onto a brick wall shows little empathy or regard for existing property owners
- Continue concerns in relation to the emergency access details
- The houses facing Brogdale Place will have a detrimental impact on the existing residents and will block light into amenity areas
- The outlook for 1 and 1 Nursery Cottages should be improved- it is unfair that the new houses get to look out on to the ponds and trees
- The property immediately adjacent to No 12 Brogdale Road, Plot A1 is less than 15 metres away, brick to brick from the corner of our property and as such will present a towering wall in front of all our windows resulting in loss of sunlight
- Lounge, kitchen, study and 4 bedrooms of No12 face towards the side elevation of Plot A1

- Plot A1 should be re-sited to address the impact on No 12 Brogdale Road
- The junction of Brogdale Place with Brogdale Road is a blind junction, there is not enough viewing angle for an exit from a large development- though only an emergency access is proposed this will eventually slip to be used as a full access
- The layout of the properties needs to change to allow emergency vehicles to access from the proposed main access
- Brogdale Road used to be a track which has now risen some 18” to accommodate draining- unacceptable increase in traffic

## 7.0 CONSULTATIONS

7.01 Faversham Town Council has objected to the application (as originally submitted) and makes the following comments:

- (1) The Landscape Design Statement claims boundaries will be made up of native hedgerow and fruits trees. We do not consider it appropriate to keep the existing Cuprocyparis Leylandii, which adversely affects the reasonable enjoyment of nearby properties. Its replacement of something more suitable would also improve site lines
- (2) The two access points should be swapped, the current Emergency Access becoming the Minor Access, as more traffic is likely to turn north towards Faversham
- (3) The three 5 bedroom properties to the south east corner should be swapped with the open space, preserving the rural nature of the site
- (4) Condition 16 has not been accounted for as a scheme to provide off road parking during construction has not been produced. It is vital that this is undertaken
- (5) The two cul-de-sacs at the rear of the site should be joined and a wider space provided in the south west corner that abuts the nursery in order to future proof the site

I am awaiting comments from Faversham Town Council in relation to the amended drawings which address a number of the concerns raised above, most notably the proposal now includes the removal of the Leylandii and replacement with native species; the properties in the south-east corner have been re-sited elsewhere within the site and road layout changes. I will update Members at the committee meeting regarding any further comments received from Faversham Town Council.

7.02 Ospringe Parish Council has made the following comments:

*‘This is a prominent site which extends the existing residential area into countryside and it is therefore crucial that there is a high quality screening and landscaping. The proposed positioning of the houses on the south east corner of the plot appear out of place as they are to the south of a wide open space and directly in the sight line when looking south from Brogdale Road. We would prefer to see these properties relocated to the west onto the proposed POS with the POS taking their place. We are also concerned to ensure that the access road to the development affords safe egress to and from Brogdale Road, and with adequate sight lines onto this busy road. Also it should be ensured that the access positioning does not conflict with the existing track on the eastern side of Brogdale Road.’*

Following the consultation on the revised drawings Ospringe Parish Council make the following comments:

*'We are pleased to note that housing has been moved to the west of the site leaving an open swathe adjacent to the Brogdale Road. However, we are concerned that a vehicular access is shown onto Brogdale Place which if allowed, will involve traffic entering the Brogdale Road at a difficult corner with poor visibility.'*

- 7.03 UK Power Networks has no objection to the proposal.
- 7.04 Kent Police has no objection to the proposal.
- 7.05 Kent County Council Lead Local Flood Authority have no comment to make on the details submitted in pursuance of the conditions and reserved matters.
- 7.06 SGN raises no objection to the proposal.
- 7.07 Natural England raise no objection subject to mitigation for additional recreational impact on the designated sites and to ensure that adequate means are in place to secure the mitigation before occupation. Natural England has no further comments to make on the revisions.
- 7.08 Southern Water has no new comments to make on the application and refer to their original response dated 15<sup>th</sup> January 2014 which made the following comments:  
  
*'There is currently inadequate capacity in the local network to provide foul sewage disposal to service the proposed development. Additional off-site sewers, or improvements to existing sewers, will be required to provide sufficient capacity to service the development. The applicant should enter into a formal agreement with Southern Water to provide the necessary sewerage infrastructure required to service this development.'*
- 7.09 The Environment Agency has no comment to make on this application.
- 7.10 The Environmental Health Manager raises no objection to the proposal.
- 7.11 Kent Police raises no objection to the proposal.
- 7.12 KCC Highways and Transportation have made the following comments on the original submission:

*'It is appreciated that the application is made to consider the reserved matters that were not included within the earlier Outline application, SW/13/1567, which was subsequently approved through the Planning Appeal process. That outline application had all matters reserved, including Access, although it was supported at the time by the inclusion of a Transport Assessment to consider the highway impacts of the proposed development. As all matters were reserved, it was merely the principle of residential on the site that was accepted, and Transport Assessment was used to demonstrate that the level of traffic that would be generated could be accommodated on the highway network.'*

*Discussions with the Transport Consultant at that time confirmed that highway improvements to the Brogdale Road junction with the A2 could be undertaken, together with the provision of a signalised pedestrian crossing on the A2, just west of*

*Brogdale Road. These works were shown on RGP drawing 2014/2166/001 Revision D, and I would expect these to be delivered.*

*The Transport Assessment also provided details of the possible access into the site, and the location has been carried over onto this Reserved Matters application. It would be appropriate for this application to include the detailed design of the access, to show the footway provision and how the proposed junction would tie into the existing highway alignment, and should not be pre-determined by the approval of the Appeal where access was a reserved matter. Looking at the proposed location of the vehicular access, I would consider that it is too close to the access serving The Oast, Perry Court Cottages and Oastings etc, and should be staggered instead to provide separation between the two access points. I would suggest that a minimum 20m stagger distance between centrelines would be appropriate in this instance.*

*With regard to the remainder of the development proposals, I would offer the following comments:*

- 1. The proposed access carriageway width should be maintained at a minimum 5.5m width over a distance of 20m from the junction onto Brogdale Road;*
- 2. The main internal roads should be designed to Minor Access Road parameters in accordance with The Kent Design Guide, with a design speed of 20mph. This will require speed restraint features designed into the road at 60m intervals;*
- 3. Where provided, footways should be 1.8m wide;*
- 4. The footway around the car layby opposite plot 61 should be maintained at the full 1.8m width;*
- 5. Car parking provision should accord to the current parking document adopted in Kent IGN3. This location, being on the entrance into the countryside and with no parking controls, would suggest that the parking demand likely to be generated by the development is going to fall into the category of Suburban Edge. Here, minimum standards would apply, where more than the minimum number should be considered. Given that a significant number of the proposed dwellings are large 4 and 5 bedroom houses, these are likely to attract high car ownership. It should be noted that IGN3 does not count garages towards the parking provision, and spaces should be independently accessible, rather than in tandem arrangements. This is because the evidence base of IGN3 concluded that garages are often not used for parking, and tandem spaces are inconvenient as they require vehicles to be swapped around, so the second vehicle will often be parked on-street instead, inappropriately or taking up valuable unallocated visitor parking. In general, there is a lot of tandem parking provided, and car ports attached to buildings that are likely to be easily converted into garages;*
- 6. Notwithstanding the above, it is difficult to assess where the parking for each house is allocated, as no parking schedule has been provided. I would ask that a labelled plan is provided to assist;*
- 7. Parking should be conveniently located in respect to each dwelling, so that it is used in preference to more convenient on-street or inappropriate parking on verges and footways. In particular, plots 26 and 30 may encourage parking on the lane outside the front doors. To some extent, this may also apply to plot 29 where their door leads directly to the lane;*
- 8. Parking spaces should be a minimum of 2.5m by 5m, and widened by 200mm on each side that is positioned against a wall or fence. In addition, spaces in front of garages should be lengthened to 5.5m so that the garage door can be opened without the vehicle overhanging the highway;*
- 9. The parking space directly outside plot 12 could be difficult to manoeuvre in or out of due to being off-alignment with the lane carriageway;*

10. *There is no vehicle turning facility along the lane alongside plots 47 to 49. Vehicles should not be expected to reverse more than 25m;*
11. *The emergency access will double as a footway/cycleway connection, so it must be ensured that visibility splays are provided at its junction with Brogdale Place, and a dropped kerb provided on the opposite side of Brogdale Place itself to provide flush passage. I think it would also be appropriate for the footway on Brogdale Road to be extended the short distance into Brogdale Place to link up with the emergency access;*
12. *The extents of the adoptable areas should be identified, to ensure that these will meet the appropriate design standards, and private areas are obvious and are provided with adequate turning facilities;*
13. *Where refuse freighters are not expected to enter certain areas, refuse collection points will need to be provided, with carry distances in accordance with the distances described in the Kent Design Guide; and*
14. *Secure cycle storage should be shown for each dwelling. Generally, garages will count as adequate provision for those houses that include these; otherwise a shed/store in the rear gardens will suffice.'*

Following the consultation on the revised drawings KCC Highways and Transportation have raised no objection to the proposal subject to conditions requiring bicycle storage; pedestrian visibility splays and details of the safeguarding of the emergency access to prevent unauthorised use by other vehicles.

- 7.13 The Strategic Housing and Health Manager raises no objection to the proposal.
- 7.14 The Green Spaces Manager has raised no objection to the proposal and makes the following comments:

*'Generally the size of the open space is adequate and provision has been made for an off-site play contribution and a commuted sum for future maintenance. Currently there is not sufficient detail of the landscaping to make too much comment concerning the final scheme. I believe we would be looking for a reasonably simple scheme given the semi-rural location, but I am particularly interested in boundary treatment/security and profiles of the ponds (wet/dry) and their accessibility.'*

- 7.15 Kent County Ecology Team- I am awaiting the comments and will update Members at the meeting.
- 7.16 I am awaiting comments on the revised drawings from Faversham Town Council, Ospringe Parish Council and the Green Space Officer. I will update Members at the meeting.

## **8.0 BACKGROUND PAPERS AND PLANS**

Proposed plans and elevations; existing plans and elevations; landscape strategy and plans, landscape plans.

## **9.0 APPRAISAL**

### **Principle of Development**

- 9.01 The principle of the development of this site for 63 dwellings has been established under the outline planning permission which was allowed at appeal. This report therefore concentrates on the design implications of the proposal. Members should note that in assessing this development, regards is had to Building for Life 12

(produced by Cabe at the Design Council, Design for Homes and the House Builders Federation) which is a tool for assessing the urban design qualities of the development. It has a traffic light system that highlights areas which offer good design, need to be improved or, would normally lead to a development being refused. I will touch on the results of this assessment in the body of this report. Members should note that this Council has not adopted the Building for Life 12 document and so should only be used for guidance purposes. The key issues in this case are: design, residential amenity and highway safety and amenity.

- 9.02 The site is currently a level field, enclosed by a rail and post fence set within the context of the Brogdale Place residential area, the nursery to the west and the wider countryside. Views from the site are from the public footpath to the south of the site, from Brogdale Place and also from Brogdale Road into the site.
- 9.03 The Building for Life 12 assessment (as mentioned above) focuses on 12 key areas of urban design: connections; facilities and services; public transport; local housing need; character; working with the site and its context; well defined streets and spaces; easy to find your way around; streets for all; car parking; public and private space and; external storage and amenity space. I have assessed various elements of the scheme against the guidance contained within the Building for Life 12 document and will discuss each of these in detail in the subsequent paragraphs.
- 9.04 The site is located at the edge of the built-up area boundary of Faversham with good links to Faversham in the form of formal pavements; it is a shame that this development does not provide for a pedestrian crossing at the A2/Brogdale Road junction (this cannot now be sought under this application). Faversham as a town is well served in terms of public transport with a mainline train station and good road network links to the A2 and the M2. The proposal provides good access points into and out of the site in the form of a footpath and a main access into the site. These have been well designed to encourage sustainable modes of transportation. Kent Highways raise no objection to the revised scheme and have confirmed that the amendments address their original concerns.
- 9.05 In terms of the housing need, the proposed housing mix has taken the advice from the Council's Housing team into full consideration providing 19 affordable housing units.
- 9.06 The proposal meets the aims of Building for Life in respect of the connection providing pedestrian links through the site and out the site. Officers have had a number of discussions in relation to the layout of the scheme and significant changes have been made to improve the layout in terms of connectivity. The proposal includes a direct pedestrian link from the north-east corner to the pavement on Brogdale Road which is very much welcomed. The connectivity to the open space located in the eastern areas of the site is well placed and will encourage use of these areas; the exact boundary treatment will need to be carefully assessed. I have received additional landscaping details as in accordance with condition 12 of the outline permission, I am currently assessing the proposed landscaping and have consulted the Tree Consultant for comment. I will update Members at the meeting.
- 9.07 Another one of the main considerations of this proposal is the design in terms of character. Officers have worked hard with the agent to achieve a development that reflects the local vernacular design styles found at Brogdale Place and the wider area whilst also creating a unique sense of place within the site that sits well within the wider context. The scheme has been significantly amended to create an 'outward' facing development that responds positively to the wider area and respect



the rural character of the area. The design of the individual units is of good quality and the materials proposed reflect some of the local character; higher quality materials are proposed on the prominently sited plots. I have asked for some revisions to the elevations of the units to ensure that there is a high quality finish. I hope that these revisions will be forthcoming.

- 9.08 Working with the site and its context: the site has no features that can be incorporated into the development and I therefore consider that the development responds accordingly to its wider context. The scheme successfully provides views from the site from Brogdale Place, Brogdale Road and the wider countryside and the public footpath.
- 9.09 With regards to creating well defined streets and spaces the design and layout has significantly evolved following discussions with officers. Buildings create interesting focal points within the site and address the road and pedestrian routes thereby creating well defined streets. The public open spaces are faced by a number of the units facing towards the eastern boundary creating an outward facing development whilst creating safe areas for public use. The landscaping is used to create areas of interest within the site, with strategic placements of focal trees. I have asked the agent to incorporate local species into the landscape management plan. Following discussions a number of the side elevations that face a road or footpath now feature side windows ensuring that no blank elevations are present. This is very notable on areas that are located in a prominent setting such as Plots 1, 24 and 25 which now successfully address Brogdale Place.
- 9.10 Another element to consider is the ease in which people can find their way around the site. The development features a hierarchy of roads with the main access road appearing more formal but as you approach into the site the roads become more formal. The development tries to achieve a central green corridor running through the site; I am awaiting the final landscaping plans which should feature significant greenery along this central route. The prominent plots have been designed to provide 'landmark' features to create an easement of movements through landmark recognition within the site.
- 9.11 Streets for all- the agent has addressed concerns that the original surface treatments were considered too formal for this rural site and as such the scheme has been amended using a change in surface materials to the roads. This will also slow down traffic and make the roads more pedestrian friendly creating a shared surface with low kerbstones in certain areas. The final details will be submitted and agreed under condition 11 of the outline approval.
- 9.12 Public and private space: There is a clear distinction between public and private space in my view. The security of the use of the open spaces has been promoted through their overlooking by residential properties. The parking courts to the flats would also be well overlooked. The public open space will mostly feature an informal landscaping approach whilst contributions will be made towards off-site play areas in the surrounding areas.
- 9.13 External storage and amenity space: The bin storage and rear garden areas for the properties are well located and of a good size.
- 9.14 In my opinion, following revisions and the receipt of further revised drawings the proposal responds well to the guidance contained within Building for Life 12.

Landscaping

- 9.15 Under this reserved matters application condition 12 deals with the proposed landscaping. In my view the landscaping proposed forms a key part of this proposal and a number of trees are included within the street and between parking spaces. The maintenance programme is yet to be provided and I have recommended a condition to ensure that this is submitted prior to commencement. I am also awaiting the full details of the proposed boundary treatments- I have confirmed with the agent that the use of large expanses of close boarded timber fencing will not be welcomed. This in parts has been address in the prominent locations and boundaries that face onto public areas. I have raised this issue with the applicant and I have asked that the further boundary treatment details are provided at a later date. I have recommended condition 3 to address this. The applicant seeks to create a native landscape buffer along the eastern boundary with Brogdale Road which includes the removal of the unsightly and non-native leylandii trees. A small informal landscape buffer is proposed along the southern boundary. I am very much of the opinion that it is not necessary to screen the development from the wider but rather create a development that sits well within the wider context through careful landscape and good design.

Design

- 9.16 With regards to the architecture of houses, I consider that a good stranded of design has been achieved. Officers have asked for some interest to be added to some of the side elevations and some minor elevational revisions. Subject to this being resolved, I consider that the architecture of the houses is acceptable. The finishing materials are required to be provided under a separate application for the discharge of condition (5) of the outline planning permission; however the application has been submitted with a materials schedule of which the majority of the materials are acceptable.

Residential Amenity

- 9.17 The houses would have back-to-back distances in most situations, that would ensure that there would be no significant overlooking of garden spaces. There are some instances where the rear of the property would face the rear gardens of other properties with only a 11m separation distance resulting in all private amenity space being directly overlooked. This is the subject of an on-going negotiation with the agent and the applicant; I hope to be able to provide an amended layout plan to Members at the meeting showing that this concern has been addressed. I am of the view that this concern can be easily addressed by changing some of the garage locations, tree planting of an appropriate species and introducing in some cases a small conservatory to provide some private amenity space that is not directly overlooked. The internal and external spaces provided for the future residents of this scheme would be sufficient to ensure that a good quality living environment is achieved.
- 9.18 I have fully considered the impact on the residential amenity of some of the existing residents, most notably residents of properties located directly adjacent to the northern boundary of the site. Though I sympathise with the impact of the development on the outlook from their properties I am not of the opinion that there would be a direct impact on the residential amenity of those residents through overlooking. Residents have raised concerns about Plots 1, 24 and 25 but I am of the view that they have been designed in such a manner that any first floor windows

do not cause loss of privacy. In addition condition 5 requires the submission of a detailed schedule of first floor obscured glazing to avoid any overlooking.

### Highways

- 9.19 Though KCC Highways and Transportation did originally raise concerns about the development following the revisions I can confirm that Kent Highway raise no objection to the proposal subject to a number of conditions in relation to protection of parking areas; cycle parking details; access completion; pedestrian visibility splays; completion of footpaths and pavements and details to be agreed of the emergency access.
- 9.20 I will therefore focus on matters such as parking provision, the layout of the roads within the site and connections to public footpaths. The parking provision is now in accordance with the recommended numbers for this type of location and is provided in locations convenient to the future occupiers so that on-street parking is unlikely to be more convenient than the allocated spaces. Furthermore, whilst there are some elements of tandem parking included in the development I note that these are in addition to the required amount of independently accessible spaces for each dwelling, with the exception of plots 58, 59 and 32. However, it is not considered that on-street parking directly outside of those dwellings will cause difficulty for other road users. On balance, I am of the view that the parking provision is sufficient for this development in this location. There would also be a number of visitor parking spaces provided. The application drawings demonstrate that access and turning for refuse and other service/emergency vehicles has been catered for.

### Other issues

- 9.21 Four clusters of affordable housing would be provided- plots 37-40, 51-53, 57-60 and 45-5, this would equate to 30% of the total number of houses across the site and the mix of housing would be 30% shared ownership and 70% social rented in accordance with the requirements of the Section 106 agreement and our adopted SPD – developer contributions. The mix of house types would be limited to 2, 3 and 4 bedroom houses. Members will note that there would be no 4 or 5 bedroom affordable housing. The Head of Housing has been in discussions with the agent and the tenure mix/type and size of affordable housing is acceptable.
- 9.22 The open space provides a total public useable area, split into two areas of 0.6173 hectares and 0.3829 hectares and would provide sufficient amenity value to the future residents. The majority of the open space would be level with two feature drainage ponds and a small informal footpath running along the boundary of the open space area. Not only does the open space provide amenity value it also provides a view into the wider countryside views which is something that the Planning Inspector was keen to see incorporated into the final design.
- 9.23 I have fully considered all comments received from local neighbours and I am of the view that the revisions go some way to addressing the concerns raised. I fully acknowledge that there will be some impact on the residents of neighbouring properties but through careful design and achieving a high quality layout, I consider that the scheme responds well to the context of the wider area. The leylandii trees on the southern boundary are now to be removed and replaced with a local tree species. The three 5 bedroom properties previously located on the south east corner of the site have been re-sited elsewhere within the site layout and this is area is now public open space. Condition 16 which requires the provision of off road parking during the construction phase is not dealt with under this reserved matters

application- a compliance with conditions application will need to be submitted prior to commencement of development. The revisions provide a more permeable road and pedestrian network which addresses some of the concerns raised by the Town Council. I am awaiting comments on the revised drawings and will update Members at the meeting. The revisions also address the concerns raised by Ospringe Parish Council. Following the re-consultation Ospringe Parish Council have raised concern regarding the new vehicular access entering from Brogdale Place resulting in vehicles entering Brogdale Place at a difficult corner with poor visibility. The new access proposed is an emergency access and will also only serve Units 23, 24, 25 and 26. The exact details of the emergency access will need to be submitted to and approved by the Local Planning Authority as in accordance with the requirements of condition 8 below. This access will not serve the entire development and its future occupants and I am therefore of the opinion that this increase in use would not lead to any additional highway safety concerns. I have also consulted KCC Highways and Transportation who have raised no objections to the proposal and the revised access details.

- 9.24 I have added a number of conditions in relation to the finish of the road network, boundary treatments, removal of permitted development rights, details of obscured glazing, maintenance programme for landscaping, visibility splays and emergency access details.

## **10.0 CONCLUSION**

- 10.01 Having considered the relevant planning policies, comments from local residents and consultees, but subject to additional comments, I consider that the design of the development is largely acceptable with the need for some amendments as set out in the report. Some overlooking would be introduced but overall subject to some revisions as outlined above, I consider that the scheme would achieve good standards of privacy for rear gardens. Parking provision, turning and access for service vehicles would be acceptable in my view. The mix of affordable housing is to be considered acceptable by the Head of Housing. The development provides opportunities for the enhancement biodiversity and provides sufficient open space.
- 10.02 I therefore recommend that planning permission is granted subject to the signing of the Deed of Variation; receipt of revised drawing addressing the overlooking of the residential garden areas of plots 40 and 45; receipt of revised site levels and proposed finished floor levels plan and outstanding comments from Faversham Town Council, Kent County Ecology Team and the Green Spaces Manager.

- 11.0 RECOMMENDATION** – GRANT Subject to the outstanding comments from Faversham Town Council; Kent County Council Ecology Team; Green Spaces Manager; signing of the Deed of Variation; receipt of revised drawings addressing the overlooking of the residential garden areas of plots 40 and 45; receipt of existing site levels and proposed finished floor levels; an additional condition setting out the final list of approved drawings and the following conditions:

CONDITIONS to include

1. No development beyond the construction of foundations shall take place until a five year maintenance programme for the landscaping within the open spaces and other public spaces has been submitted to the Local Planning Authority for approval in writing and the development shall then be implemented in accordance with the approved details and subsequently maintained in accordance with it.

Reasons: In the interests of visual amenities.

2. Notwithstanding the details that have been submitted under this application, no development beyond the construction of foundations shall take place until full details of the boundary treatments within and around the site boundary have been submitted to the Local Planning Authority for approval in writing and shall be implemented in accordance with the approved details.

Reasons: In the interests of visual and residential amenity.

3. No dwelling shall be occupied until space has been laid out for cycles to be securely sheltered and stored for that dwelling within the site in accordance with details to be submitted to and approved in writing by the Local Planning Authority.

Reasons: To ensure the provision and retention of adequate off-street parking facilities for cycles in the interests of sustainable development and promoting cycle visits.

4. No development beyond the construction of foundations shall take place until a detailed schedule identifying all first floor obscured glazing, which shall not be less than the equivalent of Pilkington Glass Privacy Level 3 and these windows shall be incapable of being opened except for a high level fanlight opening of at least 1.7m above inside floor level has been submitted to and approved in writing by the Local Planning Authority and shall subsequently be maintained as such.

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

5. The access details shown on the approved plans shall be completed prior to the occupation of any buildings hereby approved, and the access shall thereafter be maintained.

Reasons: In the interests of highway safety.

6. Pedestrian visibility splays 2 m x 2 m with no obstruction over 0.6 m above the access footway level shall be provided at each private vehicular access prior to it being brought into use and shall be subsequently maintained.

Reasons: In the interests of highway safety.

7. Before the first occupation of a dwelling / premises the following works between that dwelling / premises and the adopted highway shall be completed as follows:
  - (A) Footways and/or footpaths shall be completed, with the exception of the wearing course;
  - (B) Carriageways completed, with the exception of the wearing course, including the provision of a turning facility beyond the dwelling together with related:
    - (1) highway drainage, including off-site works,
    - (2) junction visibility splays,
    - (3) street lighting, street nameplates and highway structures if any.

Reasons: In the interests of highway safety.

8. Prior to the works commencing on site details of the safeguarding of the emergency access to prevent unauthorised use by other motor vehicles shall be submitted to

and approved in writing by the Local Planning Authority. The emergency access shall be constructed in accordance with the approved details prior to the vehicle access from Brogdale Place being brought into use.

Reasons: In the interests of highway safety and to protect the amenities of local residents.

9. Notwithstanding the provisions of Class A, Part 2, Schedule 2, of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) or any order revoking and re-enacting that Order, no fences, gates walls or other means of enclosure shall be erected within the application site.

Reasons: In the interests of residential amenity.

10. Upon completion, no further development, whether permitted by Classes A, B, C or D of Part 1 of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking and re-enacting that Order) or not, shall be carried out.

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

11. Notwithstanding the information provided, a section (s) through the ponds (s) hereby approved and including information about proposed planting to the margins and the ponds themselves shall be submitted and approved by the Local Planning Authority before the 1<sup>st</sup> dwelling is occupied. The agreed details shall be implemented in full before the 5<sup>th</sup> dwelling is occupied.

Reasons: In the interest of sustainable drainage, improving biodiversity and visual amenity.

### INFORMATIVES

The applicant is advised to consider the content of Kent Highway Services letter dated 7<sup>th</sup> June 2017.

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 1



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## Appeal Decision

Hearing held on 27 January 2015

Site visit made on 28 January 2015

by **C J Anstey BA (Hons) DipTP DipLA MRTPI**

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

Decision date: 13 May 2015

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**Appeal Ref: APP/V2255/A/14/2224509**

**Brogdale Road/Brogdale Place, Faversham, Kent, ME13 8SX.**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Shepherd Neame Ltd. against the decision of Swale Borough Council.
  - The application Ref SW/13/1567, dated 23 December 2013, was refused by notice dated 25 March 2014.
  - The development proposed is the erection of 63 dwellings, open space, pedestrian and vehicular access, car parking, landscaping and associated works.
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### Decision

1. The appeal is allowed and outline planning permission is granted for the erection of 63 dwellings, open space, pedestrian and vehicular access, car parking, landscaping and associated works at Brogdale Road/Brogdale Place, Faversham, Kent, ME13 8SX., in accordance with the terms of the application Ref SW/13/1567, dated 23 December 2013, and the plans submitted with it, subject to the conditions set out in the attached Schedule.

### Preliminary Matters

2. At the Hearing an amended red-line site plan (drawing no. D-SLP- Rev A) was submitted on behalf of the appellant to replace that considered by the Council as part of the planning application (drawing no. D-SLP). The amended plan excludes a narrow sliver of land along the southern boundary of the site to reflect the appellant's land ownership. I have considered the appeal on the basis of this amended site plan given that it constitutes a non-material amendment and no interests would be prejudiced by this small reduction in the size of the site.
3. The planning application was also accompanied by a 1:500 scale illustrative layout plan. This layout plan shows the disposition of the dwellings on the site, the road layout and the location of the open space. As part of the appeal documentation a revised illustrative plan was submitted (drawing no. DACA-DWG) to reflect the revised site boundary. I have taken account of this plan in my consideration of the appeal.
4. A finalised Section 106 agreement, signed by the appellant, the Borough Council and the County Council, was submitted by the County Council after the close of the Hearing. I have taken this into account in my decision.

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[www.planningportal.gov.uk/planninginspectorate](http://www.planningportal.gov.uk/planninginspectorate)

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### Main Issues

5. The main issues in this case are:

- whether relevant policies for the supply of housing in the Borough are up-to-date, having regard to the 5-year supply of housing land;
- the effect on the rural character of Brogdale Road and the rural approach to Faversham, having regard to the historical development and form of the town;
- whether there would be a significant loss of the best and most versatile agricultural land;
- whether the scheme should include provision for gypsy and traveller accommodation; and
- whether the appeal scheme represents sustainable development, to which the *National Planning Policy Framework's 'presumption in favour'* applies.

### Reasons

#### Description

6. The appeal site, which is about 3.4ha in area, is a rectangular, fairly flat, grassed field. It is situated in an urban fringe location on the southern edge of Faversham and to the south of London Road (A2). The site is bounded to the south and north by post and wire fencing and to the west by a 2m high deciduous hedgerow. Along the eastern boundary are a number of mature *leylandii* conifer trees.
7. To the north, between the site and London Road, there is a small housing estate, Brogdale Place, and other dwellings. Brogdale Road marks the site's eastern boundary and joins London Road to the north. On the east side of Brogdale Road there are a few scattered houses, school playing fields and beyond that the Abbey Secondary School. Immediately to the west is a commercial nursery, where there is a dense coverage of green houses and poly-tunnels. To the south there is gently rising open farmland extending to the M2 motorway which lies some 600m to the south.
8. The illustrative layout shows 63 dwellings, including 2, 3 and 4/5 bedroom houses. Of these 30% would be affordable housing. The developable area would measure about 2.3ha with some 1.1ha of open space located next to Brogdale Road and the southern boundary. The main vehicular access would be from Brogdale Road, towards the southern boundary of the site, with a pedestrian access in the north-east corner.

#### Development plan policies

9. There are a number of saved development plan policies in the adopted *Swale Local Plan 2008 [2006-2016] (SLP)* that are considered to be relevant to the determination of this appeal. The amount of weight to be attached to each of these policies is dealt with under the various issues, having regard to the government's *National Planning Policy Framework (the Framework)* and *Planning Policy Guidance (the Guidance)*.



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10. *SLP Policy SP1: Sustainable Development* is a general policy that seeks to ensure that new development accords with the principles of sustainable development. Amongst other things the policy indicates that development proposals should: avoid harming areas of environmental importance; secure the efficient use of previously-developed land; and reduce the need to travel.
11. *SLP Policy SP4: Housing* is designed to ensure that sufficient land is provided to satisfy housing need in accordance with the *SLP's* spatial strategy. *SLP Policies SH1: Settlement Hierarchy* and *H5: Housing Allocations* seeks to direct the majority of the Borough's housing growth (5,428 dwellings) to the Thames Gateway Planning Area (Sittingbourne and Isle of Sheppey) with limited development to meet local needs in Faversham and the Rest of the Swale Planning Area (377 dwellings). *SLP Policy H2: Housing* specifies that permission for new residential development will be granted for sites that are allocated or within defined built-up areas. Outside of the defined built-up areas and allocated sites new residential development will only be granted for certain limited exceptions.
12. *SLP Policy E6: Countryside* is designed to protect the quality, character and amenity value of the countryside and ensure that development outside the defined built-up boundaries is restricted to that which needs to be there. *SLP Policy E9: Protecting the Quality and Character of the Borough's Landscape* confirms the importance of protecting the quality, character and amenity value of the wider landscape of the Borough.
13. *SLP Policy FAV1: The Faversham and Rest of Swale Planning Area* specifies that the conservation of the historic and natural environment is the prime and overriding consideration. One of the priorities identified in the policy is support for meeting Faversham's development needs within the urban area so as to minimise greenfield land development.

#### *Emerging local plan policies*

14. *Bearing Fruits 2031: The Swale Borough Local Plan Part 1 [Publication Version December 2014] (SBLP)* is the emerging local plan. It was made available for consultation during December 2014 and January 2015 and the Council intend to submit the plan to the Planning Inspectorate for independent examination in the coming months. I have been referred by the Council to several policies in this plan and these are set out below under the relevant issue as is the weight to be attributed to them.

#### *Issue 1: Supply of housing*

15. On the basis of the housing requirement contained in the adopted *SLP* the Council accepts that within the Borough there is 3.17 years of housing land supply and a shortfall of 1,437 dwellings. These figures include provision for a 5% buffer and take account of the shortfall of dwelling completions in past years in accordance with the Sedgefield method. In my judgement, having regard to the material submitted, this is a reasonable assessment of the current position as regards housing land supply within the Borough.
16. In my view, therefore, there is a significant shortfall of deliverable housing sites in the Borough. Although I am aware of the distribution of housing development inherent in the *SLP* and the Council's recent endeavours to identify and release additional housing sites in Faversham this does not change

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my finding that in the Borough there is a shortage of deliverable housing sites. As the Council cannot demonstrate a 5-year supply of deliverable housing sites paragraph 49 of the *Framework* makes it clear that relevant policies for the supply of housing should not be considered up to date.

17. It is evident that certain of the adopted development plan policies are solely concerned with the supply of housing. These include *SLP Policy SP4: Housing*, *SLP Policy SH1: Settlement Hierarchy*, *SLP Policy H5: Housing Allocations* and *SLP Policy H2: Housing*. Although these policies remain part of the development plan they attract very little weight in view of the marked shortfall of housing land in the Borough.
18. Other adopted development plan policies contain elements that relate to the supply of housing. *SLP Policy SP1: Sustainable Development* endeavours to steer development to previously developed land within urban areas. *SLP Policy FAV1: The Faversham and Rest of Swale Planning Area* develops this approach by stating that Faversham's development needs will be met within the urban area so as to minimise green field development. *SLP Policy E6: Countryside*, amongst other things, seeks to restrict development outside built-up areas. Again although these policies remain part of the development plan those elements of the policies that relate to the supply of housing attract very little weight in view of the marked shortfall of housing land in the Borough.
19. Emerging *SBLP Policies ST3: The Swale settlement strategy* and *ST7: The Faversham area and Kent Downs strategy* indicate that Faversham will be a secondary urban focus for growth at a scale compatible with its historic and natural assets. Clearly these are housing supply policies. As the *SBLP* has not yet been submitted for examination and there are outstanding objections relating to the supply of housing very little weight can be attributed to these policies.
20. Applying *paragraph 215 of the Framework* it is considered that the local policies and elements of certain policies referred to above are inconsistent with the housing supply policies contained in *paragraph 47 of the Framework*.
21. I conclude, therefore, on the first main issue that since the Council cannot demonstrate a 5-year supply of deliverable housing sites, all relevant policies and parts of relevant policies for the supply of housing have to be regarded as out of date. In turn this means that in determining this appeal very little weight can be attributed to housing supply policies related to the distribution of development across the Borough, the release of previously developed sites in preference to the use of green field sites, and resisting housing outside built-up areas.

#### ***Issue 2: Rural character and appearance***

22. Historically Faversham has mainly developed to the north of the A2. As a result the Council argues that development to the south of the A2 should not be allowed as it fails to respect the historical development and form of the town. From the material submitted and the discussion at the Hearing I am unclear as to why the historical development of Faversham and its current form is seen as being so significant that it merits protection. In reaching this view I am mindful that the historic core of Faversham lies some distance to the north of the A2 whilst a considerable amount of the land to the north of the A2 is occupied by housing estates of more recent origin. Furthermore there is already existing

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development south of the A2 including housing and a large secondary school and associated playing fields.

23. Notwithstanding this an important element of adopted *Policy SLP Policy E6: Countryside* is the protection of the quality, character and amenity value of the countryside. Similarly one of the elements of *SLP Policy SP1: Sustainable Development* is the avoidance of harm to areas of environmental importance. As these elements accord with national guidance these parts of the policies need to be accorded significant weight. *SLP Policy E9; Protecting the Quality and Character of the Borough's Landscape* also accords with national guidance and should be attributed significant weight.
24. Although the appeal site is not within a landscape designated for its quality or within the setting of the Ospring Conservation Area it forms part of the attractive open countryside to the south of Faversham and is clearly valued by local people. Consequently in its present state the site positively contributes to the rural character of Brogdale Road and the rural approach to Faversham. The proposal, therefore, would detract from the rural character and appearance of the local area.
25. There are a number of factors, however, that have a bearing on the degree of harm that would result. The appeal site is relatively small compared to the considerable amount of agricultural land extending southwards towards the M2 and is bounded by residential development to the north, glasshouses and poly-tunnels to the west, and school playing fields and several houses to the east. It is also at a slightly lower level than the agricultural land further to the south. As a result it is much more self-contained than other sites in the area. In my judgement these particular characteristics of the site and the surroundings would lessen the development's impact on the wider landscape. Furthermore the submitted illustrative layout makes provision for sizeable areas of open space and planting along the Brogdale Road frontage and southern boundary. In time this would help soften the appearance of the development and provide an appropriate area of transition between the developed part of Faversham and the countryside. Taking account of these factors it is my view that the proposed scheme would have a moderate adverse impact on the rural character of Brogdale Road and the rural approach to Faversham.
26. I conclude, therefore, on the second main issue that the proposal would have a moderate adverse impact on the rural character of Brogdale Road and the rural approach to Faversham. This brings the proposal into conflict with elements of *Policies SLP Policy E6: Countryside* and *SP1: Sustainable Development*, and with *SLP Policy E9; Protecting the Quality and Character of the Borough's Landscape*.

### ***Issue 3: Agricultural land quality***

27. The Council contend that the development of the site would lead to the unnecessary loss of the best and most versatile agricultural land and increase the pressure to develop other such land in the area. In support of this the Council refer to emerging *SBLP Policy DM31: Agricultural Land* which indicates that apart from in a limited number of specified instances development will not generally be permitted on the best and most versatile agricultural land (specifically Grades 1, 2 and 3a).



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28. I accept that in accordance with *paragraph 216 of the Framework*, account can be taken of emerging policies. However the *SBLP* has not yet been submitted for examination. Furthermore the wording of *SBLP Policy DM31* is different from that set out in *paragraph 112 of the Framework* which advocates the use of poorer quality land in preference to that of a higher quality where significant development of agricultural land is demonstrated to be necessary. The *Framework* does not rule out the development of the best and most versatile land as a matter of principle. In the light of this I consider very little weight can be attached to *SBLP Policy DM31*.
29. In my view the proposal does not involve a significant loss of the best and most versatile agricultural land. At 3.4 ha in area the field is very small in comparison to the amount of agricultural land around Faversham, most of which is of similar quality. I also note that the Council has recently identified other good quality agricultural land around Faversham for development. As it is not related to any other land-holding in the area its loss would not prejudice the continued operation of any farming business. Whilst acknowledging the Council's concerns about the release of other high quality land in the area south of the A2 each proposal needs to be determined on its particular merits, including its overall scale and relationship with existing development.
30. I conclude, therefore, on the third main issue that the proposal would not involve a significant loss of the best and most versatile agricultural land.

***Issue 4: Gypsy and Traveller site accommodation***

31. Emerging *SBLP Policy CP3: Delivering a wide choice of high quality homes*, in particular Criterion 6, indicates that for housing developments of 50 dwellings or more provision should be made for on-site gypsy and traveller pitches. The supporting text states that pitch provision should be at the rate of 1% of the total number of dwellings. The Council considers that in accordance with this policy a single gypsy and traveller pitch should be provided on the appeal site. I note that there is no support for this approach in the *SLP*.
32. I accept that in accordance with *paragraph 216 of the Framework*, account can be taken of emerging policies. However the *SBLP* has not yet been submitted for examination and there are unresolved objections to that part of *SBLP Policy CP3* relating to the provision of gypsy and traveller sites. Furthermore the particular approach to site provision inherent in the policy is not one that is set out in *the Framework* or in the *Planning Policy for Traveller Sites*. Consequently I believe that very little weight can be attached to *SBLP Policy CP3*. As a result I find no policy justification for the Council's approach of seeking the provision of a gypsy and traveller pitch on the site.
33. It is evident from the material submitted and the discussion at the Hearing that there is a need for additional gypsy and traveller site provision in the Borough. However it is less clear how this need is currently distributed and where it should be met. As a result it has not been established that Faversham is an appropriate location for additional gypsy site provision or whether there are more suitable areas available. Furthermore at a more detailed level gypsy sites usually include several pitches so that families can live together in small family groups. Consequently there is uncertainty as to whether a single pitch would address the need or prove attractive to would-be occupiers. In the light of this I do not believe that it has been established that there is sufficient evidence to support the provision of a single gypsy and traveller pitch on the appeal site.

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34. I conclude, therefore, on the fourth main issue that the development need not include provision for gypsy and traveller accommodation.

*Issue 5: Sustainable development*

35. *Paragraph 14 of the Framework* makes it clear that there is a presumption in favour of sustainable development, which has three dimensions: economic, social and environmental. In my judgement the proposal would fulfil the economic role of sustainable development and would contribute to building a strong, responsive and competitive economy, by helping to ensure that sufficient land is available to support growth. In terms of the social dimension the scheme would contribute to boosting housing supply by providing a range of sizes and types of housing for the community, including a number of affordable housing units. The site is available and in the absence of any significant constraints could be developed in the near future.

36. As regards environmental considerations the site is reasonably well located in terms of accessibility to the various services and facilities available in the town, including schools. Although the historic medieval core of Faversham town centre is located some distance away it is not so far as to rule out access by walking or cycling. For longer trips alternatives to the private car are readily available with regular train services from Faversham station to London St Pancras and Victoria, Canterbury and Dover. There is also a regular bus service operating along the nearby A2 to Sittingbourne. The proposed 1ha of land to be given over to public open space will increase the opportunity for recreational activities, whilst the proposed pedestrian crossing will make it safer and easier to cross London Road.

37. It is clear from my consideration of the second main issue that in terms of the environment the proposal would have a moderate adverse impact on the rural character of Brogdale Road and the rural approach to Faversham. However it is my view that the positive attributes of the development, in terms of the economic, social and environmental gains outweigh the negative visual impact, and that when taken as a whole the scheme would constitute sustainable development. Consequently the *Framework's* presumption in favour of sustainable development applies.

38. I conclude, therefore, on the fifth main issue that the proposed scheme constitutes sustainable development and therefore the *Framework's* 'presumption in favour' applies.

*Other matters*

39. Local people have raised a number of other concerns including the impact on highway safety, traffic congestion, residential amenity, biodiversity, drainage, and the capacity of local services and facilities. However, having considered all the material before me, including the views of statutory authorities and the various reports submitted, none of these matters individually or cumulatively would be likely to cause overriding harm, and they are not, therefore grounds for dismissing the appeal. In particular I note that the Highway Authority has acknowledged that there would be no unacceptable impacts to the safe and free flow of traffic on London Road and Brogdale Road.

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#### *Overall planning balance*

40. I have concluded that the proposal does not involve a significant loss of the best and most versatile agricultural land, and that the proposed development need not include provision for gypsy and traveller accommodation. These considerations, therefore, are neutral and do not weigh against the scheme.
41. I have found that the proposed scheme constitutes sustainable development and therefore the *Framework's* 'presumption in favour' applies. In determining this I have found that there are a number of economic, social and environmental benefits associated with the scheme. These factors weigh heavily in favour of allowing the appeal.
42. I have found that since the Council cannot demonstrate a 5-year supply of deliverable housing sites, all relevant policies and relevant parts of policies for the supply of housing have to be regarded as out of date and accorded very limited weight. *Paragraph 14* of the *Framework* makes it clear that planning permission should be granted, where relevant policies in the development plan are out-of-date, unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the *Framework* taken as a whole.
43. My conclusion on the second main issue is that the proposal would have a moderate adverse impact on the rural character of Brogdale Road and the rural approach to Faversham, and is therefore contrary to development plan policy. In my judgement, however, this adverse impact would not significantly and demonstrably outweigh the identified benefits of the proposed development.

#### *Conditions*

44. I have considered the planning conditions put forward and discussed at the Hearing in the light of the advice in *the Guidance*. I have applied the standard outline conditions (*Conditions 1, 2 & 3*). To ensure that the development proceeds in accordance with what has been approved the plans are specified (*Condition 4*). The submission of samples of materials for approval is required to make sure that those used are in keeping with local character (*Condition 5*). In the interests of public amenity and safety the development needs to be laid out in accordance with the principles of 'Secure by Design' (*Condition 6*). Parking space, and the retention of such areas, is necessary to minimise on-street parking and associated disturbance to residents (*Condition 7*).
45. Given the sensitive location of the site on the edge of Faversham and the need to ensure a high quality development a Development Brief for the site needs to be produced to guide the scheme (*Condition 8*). Most of the material required for the production of this Brief is contained in the application and hearing documents. In order to control the height of the new dwellings, thereby minimising the impact on the surrounding area, details of existing and proposed levels are required (*Condition 9*).
46. The provision of appropriate sewerage and drainage works to serve the site are necessary (*Condition 10*). The roads and associated elements need to be laid out in a satisfactory and timely manner (*Condition 11*). Landscaping details are required to ensure that the site is suitably landscaped and in keeping with local character (*Conditions 12 & 13*). In the event that any contamination is found on the site a remediation scheme strategy will be required (*Condition 14*). The



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dwellings need to meet appropriate levels of sustainable construction  
(*Condition 15*).

47. During the construction period various matters, including the parking of vehicles and plant, hours of operation, burning of waste, condition of roadways and dust emissions, need to be controlled to protect highway safety or residential amenity (*Conditions 16-21*).
48. As no exceptional reasons have been put forward the removal of permitted development rights is not justified. As provision for cycle parking would be within domestic curtilages there is no need to require the provision of covered secure cycle parking facilities.

***Section 106 Agreement***

49. The finalised section 106 agreement, which will make provision for affordable housing, public open space and social and community infrastructure, is compliant with *paragraph 204 of the Framework and Regulation 122 of the CIL Regulations 2010*.

***Overall Conclusion***

50. My overall conclusion, therefore, is that there are compelling grounds for allowing the appeal subject to appropriate planning conditions. None of the other matters raised outweigh the considerations that have led to my decision.

*Christopher Anstey*

Inspector

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## APPEARANCES

### FOR THE APPELLANT:

Michael Bedford	Barrister (acting as legal representative)
Simon Milliken	Principal, Milliken & Company , Chartered Surveyors & Town Planners
Jonathan Billingsley	Director, The Landscape Partnership
Chris Blamey	Director, RGP (Transport Planning)
Michael Bax	Senior Partner (Rural), BFT Partnership

### FOR THE LOCAL PLANNING AUTHORITY:

Tracey Day	Development Management
Shelly Rouse	Planning Policy
Libby McCutcheon	Senior Planning Solicitor
Richard Lloyd-Hughes	Rural Planning Ltd.
Alan Best	Planning Policy
Claire Dethier	Development Management

### INTERESTED PERSONS:

Bryan Lloyd	Council for the Protection of Rural England
Janet Turner	Faversham Society
Joan Tovey	Local resident
David Bass	Local resident (also representing other local residents)
Priscilla Walker	Local resident

## DOCUMENTS

1. Swale Local Plan Policy H4 Providing Accommodation for Gypsies and Travelling Show-persons handed in for the appellant
2. Statement on behalf of Mr D Bass and Mrs P Walker and 46 other local residents
3. Section 106 Agreement
4. Council's statement on housing land supply (27/1/2015)
5. Extract from SHLAA handed in for the appellant
6. Mr Lloyd's statement
7. LDF Panel report (23/2/2012)
8. Statement of Common Ground
9. Council's Committee Report relating to mixed use development on land east of Love Lane, Faversham
10. Mr Bedford's closing statement on behalf of the appellant
11. Statement of Common Ground relating to housing land supply
12. Bearing Fruits 2013 The Swale Borough Local Plan Part 1 Publication Version (December 2014)
13. Finalised Section 106 Agreement



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#### **PLANS**

- A. 1:1250 scale red-line site plan submitted with outline application (drawing no. D-SLP)
- B. 1:1250 scale amended red-line site plan submitted during hearing (drawing no. D-SLP- RevA)
- C. 1:500 scale illustrative layout plan submitted with application
- D. J C White – Topographical survey plans submitted with application
- E. Boundary of Faversham Conversation Area handed in for the appellant.
- F. Illustrative Masterplan for mixed use development on land east of Love Lane, Faversham
- G. Revised Figure 01A from Appendix 1 of Mr Billingsley's hearing statement
- H. Revised 1:500 illustrative layout plan (drawing no. DACA-DWG)

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## SCHEDULE OF CONDITIONS

- 1) Details of the access, 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 referred to in Condition 1 above 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) The development hereby permitted shall be carried out in accordance with the approved plans [i.e. drawing no. D-SLP-Rev A at 1:1250 scale, illustrative layout plan - drawing no. DACA-DWG - at 1:500 scale, and J C White - Topographical survey plans].
- 5) No development shall commence until samples of the materials to be used on the external elevations of the dwellings hereby permitted, have been submitted to and approved in writing by the local planning authority. Thereafter, the development shall not be constructed other than in accordance with these approved materials.
- 6) Prior to the commencement of development full details of how the development will meet the principles of 'Secure by Design; shall be submitted to the local planning authority for approval in writing and shall be implemented in accordance with the approved details.
- 7) The details pursuant to condition (1) above shall show adequate land to the satisfaction of the local planning authority reserved for the parking or garaging of cars (in accordance with the currently adopted Kent County Council Vehicle Parking Standards). The land so identified shall be kept available for this purpose at all times and no permanent development, whether permitted by the Town and Country Planning (General Permitted Development Order 1995) or not, shall be carried out on such land (other than the erection of a private garage or garages) or in a position as to preclude vehicle access thereto.
- 8) The details submitted in pursuance of condition (1) shall be in accordance with a Development Brief that shall first have been agreed by the local planning authority and which shall include the following:
  - (a) details of the road layout for the site;
  - (b) connectivity for pedestrians between the site and the town centre;
  - (c) an overall landscape strategy for the site;
  - (d) an overall sustainable surface water drainage strategy for the site (based on a network of open ditches and ponds);
  - (e) a strategy for the architectural treatment of the buildings on the site, including elevational treatment, roof design and palette of colours;
  - (f) a strategy to maximise opportunities for biodiversity across all parts of the application site;

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- 9) The details submitted in pursuance of condition (1) shall show details of existing and proposed ground levels across the site and the levels of the proposed floor slabs and heights of the proposed dwellings and shall be submitted to and approved in writing by the local planning authority. Development shall be carried out as approved.
- 10) Prior to the commencement of development hereby approved full details of the method of disposal of foul and surface waters as part of a drainage strategy shall be submitted and approved in writing by the local planning authority. This drainage strategy shall be based on SuDS principles and shall be designed to ensure that run-off rates are no greater than existing conditions. A drainage infrastructure Maintenance Plan should be incorporated into the strategy which should set out the information and procedures the owners/operators of the development will adhere to. The approved details shall be implemented before the first use of the development hereby permitted.
- 11) The proposed estate roads, footways, footpaths, verges, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, vehicle overhang margins, embankments, visibility splays, accesses, carriageway and driveway gradients, and street furniture, as appropriate, shall be constructed and laid out in accordance with details to be submitted at the reserved matters stage and approved in writing by the local planning authority before their construction begins. For this purpose plans and sections indicating as appropriate the design, layout, levels, gradients, materials and method of construction shall be submitted to the local planning authority. The works as approved shall be completed prior to the occupation of the fiftieth dwelling.
- 12) All hard and soft landscape works approved pursuant to condition (1) above shall be carried out in accordance with the approved details. These details shall include existing trees, shrubs and other features, planting schedules, noting species (which should be native species where possible and of a type that will enhance or encourage local biodiversity), plant sizes and numbers where appropriate, means of enclosure, hard surfacing, materials and an implementation programme. The works shall be carried out prior to the occupation of the fiftieth dwelling or in accordance with a programme first agreed in writing with the local planning authority.
- 13) 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 and shrubs of such size and species as may be agreed with the local planning authority, and within whatever planting season is agreed.
- 14) If during development contamination not previously identified is found to be present at the site then no further development (unless agreed in writing by the local planning authority) shall be carried out until the developer has submitted a remediation strategy to the local planning authority detailing how the unsuspected contamination shall be dealt with and obtained written approval from the local planning authority. The remediation strategy shall be implemented as approved.
- 15) The dwellings shall meet at least the Level 3 Rating of the Code for Sustainable Homes or any other specification approved by the local

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planning authority. 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 will be taken to ensure that the development incorporates sustainable construction techniques such as rainwater harvesting, water conservation, energy efficiency, and where appropriate, the use of local building materials, and provisions for the production of renewable energy such as wind power, or solar, thermal or solar voltaic installations. Upon approval the details shall be incorporated into the development as approved.

- 16) During construction of the development adequate space shall be provided on site, in a position previously agreed with the local planning authority, to enable all employees and contractors and construction vehicles to park, load and off-load, and turn within the site.
- 17) 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 and Saturdays 0730-1300 hours, unless in association with an emergency or with the prior written approval of the local planning authority.
- 18) No impact pile driving in connection with the construction of the development hereby approved shall take place on site on any Saturday, Sunday or Bank Holiday, nor any other day except between the following times: Monday to Friday 0900-1700 hours, unless in association with an emergency or with the prior written approval of the local planning authority.
- 19) No burning of waste or refuse shall take place on the site during construction works other than may be agreed in writing by the local planning authority.
- 20) No development shall take place until measures, including wheel washing facilities, to prevent the deposit of mud and other debris on the public highway have been agreed in writing by the local planning authority. The agreed measures shall be implemented and retained on site during the construction period unless any variation has been agreed by the local planning authority.
- 21) No development shall take place until a programme for the suppression of dust during the construction period has been agreed in writing by the local planning authority. The agreed programme shall be implemented during the construction period unless any variation has been agreed by the local planning authority.

<b>2.11 REFERENCE NO - 16/507689/OUT</b>		
<b>APPLICATION PROPOSAL</b>		
Outline Application (with all matters reserved other than access into the site) for mixed use development including up to 300 dwellings; employment area (Use Classes B1(a), B1(b) and B1(c) (offices, research and development, and light industrial) (up to 26,840sqm); sports ground (including pavilion/changing rooms); open space (including allotments and community orchard); access, including new link road and roundabout on A2; other vehicular/pedestrian / cycle accesses (including alterations to Frogmal Lane); reserve site for health centre; and associated parking and servicing areas, landscaping, wildlife areas, swales and other drainage / surface water storage areas, and related development		
<b>ADDRESS Land Between Frogmal Lane And Orchard View, Lower Road, Teynham.</b>		
<b>RECOMMENDATION - Grant subject to conditions as set out below and to:</b>		
<p><b>1) The signing of a Section 106 agreement for contributions towards:-</b></p> <ul style="list-style-type: none"> <li>• <b>Education;</b></li> <li>• <b>Libraries;</b></li> <li>• <b>Highways (in respect of both the local and the strategic road networks);</b></li> <li>• <b>Provision of 'wheelie bins';</b></li> <li>• <b>Use of local labour and apprentices</b></li> <li>• <b>SPA mitigation;</b></li> <li>• <b>Local health care;</b></li> <li>• <b>Management of the open space. If it is to be transferred to Swale Borough Council – a ten-year commuted sum (otherwise, the legal agreement will need to include arrangements for transfer to a management company)</b></li> <li>• <b>Public rights of way improvements; and</b></li> <li>• <b>An administration charge;</b></li> </ul> <p><b>[Members will also note the full list at paragraphs 9.33 to 9.47 below]</b></p> <p><b>2) The s106 agreement will also need to secure the provision of the pavilion / changing room building; and</b></p> <p><b>3) Clarification of the contributions required by KCC Highways and Transportation, Highways England, the Environmental Protection Team Leader, and KCC Public Rights of Way.</b></p>		
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b>		
The application site is an allocated housing site in the Emerging Local Plan 'Bearing Fruits' under Policy MU3.		
The development would amount to the provision of new residential dwellings and employment floorspace within the defined built up area boundary, on a site allocated under the Emerging Local Plan, Bearing Fruits 2031 for residential development, and in a sustainable location, without giving rise to any serious harm to amenity, landscape, ecology, archaeology, and the highway network. As such the proposal is considered to be in accordance with Adopted Local Plan 2008, the Emerging Local Plan Bearing Fruits 2031 and National Planning Policies.		
<b>REASON FOR REFERRAL TO COMMITTEE</b>		
The application is subject to an objection from Lynsted with Kingsdown Parish Council.		
<b>WARD</b> Teynham And Lynsted	<b>PARISH/TOWN COUNCIL</b> Teynham	<b>APPLICANT</b> Trenport Investments Ltd  <b>AGENT</b> Vincent And Goring
<b>DECISION DUE DATE</b> 07.02.2017 EOT given	<b>PUBLICITY EXPIRY DATE</b> 23.12.2016	<b>OFFICER SITE VISIT DATE</b> Various

**RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites): No relevant planning history**

## **MAIN REPORT**

### **1.0 DESCRIPTION OF SITE**

- 1.01 The application site is in two parts. The majority of the site is to the east of Frognal Lane ( 21.26 hectares) and the rest of the application site is to the west of Frognal Lane ( 8.59 hectares). The application site lies to the north of the A2 and is located just outside, but adjoining, the built-up area boundary of Teynham. The land to the east of Frognal Lane adjoins the rear gardens of residential properties and is used as an agricultural field and sports ground, whilst land to the west of Frognal Lane is an open, agricultural field.
- 1.02 The dwellings adjacent to the application site are mainly two storey dwellings and a few bungalows. The application site is generally flat, however, the southern part of the field is on slightly higher ground than the rest of the site. The site was worked for minerals in past years and has been restored. The site is enclosed by hedgerows and there is a public footpath running along the eastern boundary of the application site.

### **2.0 PROPOSAL**

- 2.01 Outline planning permission is sought for residential development with all matters (namely appearance, landscaping, layout and scale) reserved for future consideration except access, which is to be assessed as part of this application. All other reserved matters are to be considered only in terms of the principle of the development at this stage and not in detail. The layout drawings submitted with the application are therefore only intended to illustrate how the development would be accommodated within the site and proposes, as set out above, up to 300 dwellings, up to 26, 840 square metres of employment space (for B1 uses only), and ancillary space for – among other things – various forms of open space and provision of pavilion / changing room building. .
- 2.02 For the avoidance of doubt, the application seeks to establish the principle of the mix and amounts of the uses proposed and to agree the access arrangements for the development.
- 2.03 One of the submitted drawings (namely the layout plan drawing no. 4300 305 Rev A) – which is indicative only – showing up to 300 dwellings, employment areas of 26,840 square metres of floor-space, a new sports field with a pavilion and changing room facilities, and car parking space, a health centre and, green spaces including community orchards and allotments.
- 2.04 The indicative details suggest – with respect to the residential development - that the development could comprise a mix of link detached, semi-detached, and terraced, two-storey dwellings with detached and attached single and double garages spread across the site. Site density would be approximately 40 dwellings per hectare. Car parking would be provided within the residential curtilage of individual dwelling, and also as communal parking areas in close proximity to dwellings.
- 2.05 The employment area would, as noted above, be limited to B1 floorspace (a, b and c, namely offices, research and development and light industrial with an element of start-up businesses. For the avoidance of doubt, no general industrial (Class B2) or storage and distribution (Class B8) space is proposed. The existing playing fields would be



replaced with improved sports ground (at least three hectares of sports pitches) including a new pavilion and changing room. The sports field would be located in between the residential development (to the south) and the employment area (to the north). To the west of Frognal Lane, there would be at least six hectares of open space (including allotments, community orchard, grass land, an informal open space and areas of wetland).

- 2.06 The site layout indicates vehicular, pedestrian and cycle access including alterations to Frognal Lane and a new emergency vehicular access to the development and highway improvements including a new roundabout on the A2 and closure of a section of Frognal Lane. In addition, the development would include land for the possible provision of a new health facility (which is to be located to the west of Frognal Lane, opposite Frognal Close). The submitted indicative layout shows soft landscaping throughout the boundaries of the site, and a landscaping buffer on the northern part of the site that is 60 -70m deep. Wildlife zones, biodiversity enhancements and surface water storage areas are also proposed within the scheme, together with associated parking and servicing areas.
- 2.07 The new roundabout – to measure 24 metres in diameter - is proposed to the west of Frognal Lane, and would incorporate re-alignment of the northern part of Claxfield Road. The A2 would be re-aligned for a total of 55 metres. Frognal Lane would be closed approximately 25m north of the junction with Frognal Close. There would be an emergency access that links Frognal Lane to the new housing development. The new roundabout and vehicular access will be connected right up to the employment areas to be located on the northern part of the.
- 2.08 The applicants are also committed to making highway improvements to mitigate the impact of the traffic generated by the development to acceptable levels. These improvements include Frognal Lane/Lover Road junction; A2 London Road Environmental Improvement Scheme (further to Section 7.9 of the Transport Assessment), including provision of a lay-by in front of the co-op; Swanstree Avenue with the A2 (upgraded to increase capacity) and Murston Road / Rectory Road junctions, and provision of a pedestrian link along the alignment of public footpath ZR256, together with improvements to the Public Right of Way. Further information relating to the highway changes is given in paragraph 7.17 below.
- 2.09 The indicative layout (drawing no. 4300 305 Rev A) shows the dwellings arranged over an irregular street pattern of meandering roads and dead ends. Pedestrian footpath links are shown within the development together with footpaths linking the development to adjoining established residential areas.
- 2.10 Two pockets of communal public open spaces are proposed within the development. Buffer soft landscaping is proposed around the boundary of the application site to enclose the development, and, a planting buffer is proposed between the proposed residential development and the sports field and between the sports field and the employment area. There is also a landscaping buffer on the northern part of the site (adjoining Frognal Lane and the Lower Road) that is 60 to 70m deep. Wildlife zones, biodiversity enhancements and surface water storage areas are proposed within the development and associated parking and servicing areas are proposed.
- 2.11 In addition to the provision of communal open spaces on-site, as outlined above, the applicant intends to provide a financial contribution to off-site formal sports contribution towards the improvement in capacity of local formal sports provision.

2.12 The applicants are committed to providing 40% affordable housing as required by Policy DM8 of the Emerging Local Plan Policy: Bearing Fruits 2031.

2.13 The application is supported by the following reports:

- Design and Access Statement
- Desk-Top Contamination Survey
- Phase 1 Geo-environmental and Geotechnical Risk Assessment
- Ecological Assessment
- Transport Assessment
- Heritage Statement
- Tree Report and Impact Assessment
- Archaeological Desk Based Assessment
- Statement of Community Involvement
- Flood Risk Assessment
- Heritage Statement
- Landscape and Visual Impact
- Utilities Statement
- Noise Assessment
- Air Quality Assessment
- Mineral Assessment Report
- Affordable Housing Statement
- Topographical Survey
- Environmental Risk Assessment
- A statement justifying provision of up to 300 dwellings (rather than approximately 260 as suggested in Policy MU3)

### 3.0 SUMMARY INFORMATION

	Existing	Proposed	Change (+/-)
Site Area (hectares)		29.97	0
No. of Storeys	0	unknown	unknown
No. of Residential Units	0	Up to 300	+300
No. of Affordable Units	0	40% (or up to 120)	+120
'B' Class employment use	0	Up to 26,840 square metres	Up to +26,840 square metres

### 4.0 PLANNING CONSTRAINTS

- There are three Listed building nearby (Frognal Farmhouse and outbuilding, and Claxfield House)
- The site is in close proximity to Teynham AQMA
- Potential Archaeological Importance
- The site is located just outside the built-up area boundary of Teynham, in a countryside location on an arable agricultural field
- Part of the application site is a sports field
- The site was used in the 19<sup>th</sup> century for brick earth extraction (Minerals)

### 5.0 POLICY AND OTHER CONSIDERATIONS

The National Planning Policy Framework (NPPF)



- 5.01 The NPPF was adopted on 27<sup>th</sup> March 2012 and is a material consideration in determining planning applications. Also of importance to the determination of this application is the guidance as set out in the National Planning Practice Guidance (NPPG).
- 5.02 The NPPF sets out the Government's position on the planning system explaining that "The purpose of the planning system is to contribute to the achievement of sustainable development. The policies in paragraphs 18 to 219 of the NPPF, taken as a whole, constitute the Government's view of what sustainable development in England means in practice for the planning system. At the heart of the National Planning Policy Framework is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision taking. For decision taking this means:
- Approving development proposals that accord with the development plan without delay; and
  - Where the development plan is absent, silent or relevant policies are out of date granting permission unless:-
    - Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole; or
    - Specific policies in this Framework indicate development should be restricted."

It further outlines a set of core land use planning principles (para 17) which should underpin both plan-making and decision taking including to contribute to conserving and enhancing the natural environment and reducing pollution and encourage the effective use of land by reusing land that has been previously developed (brownfield land), provided that it is not of high value.

Members will be familiar with the requirements of Paragraphs 47 and 49 of the NPPF in respect of the requirement for Local Authorities to be able to demonstrate a five-year housing land supply. However, given the imminent publication of the Inspector's report into the new Local Plan, Bearing Fruits 2031 and the continued implementation of the allocated housing sites, the Council should be in a position to demonstrate a 5 year housing supply, which this site would make a significant contribution towards.

Paragraph 64 of the NPPF states *"Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions."*

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

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

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

**Paragraph 100** stipulates that *"Inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk, but*

*where development is necessary making it safe without increasing flood risk elsewhere.”*

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

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

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

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

**Paragraph 129** requires local planning authorities to “*identify and assess the significance of any heritage asset that may be affected (including by development affecting the setting of a heritage asset) and to take this assessment into account when considering the impact of a proposal on a heritage asset, to avoid or minimise conflict between the heritage asset’s conservation and any aspect of the proposal.*”

**Paragraphs 132 and 134** sets out that “*where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.*”

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

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

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

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

“*Planning Obligations should only be sought where they meet all of the following tests:*  
 \_ *Necessary to make the development acceptable in planning terms*  
 \_ *Directly related to the development; and*  
 \_ *Fairly and reasonably related in scale and kind to the development.*”

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

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

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

#### National Planning Practice Guidance (NPPG)

- 5.03 The 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, urban design / architecture, and ecology, amongst others.

#### The Local Plan

- 5.04 The Development Plan for Swale comprises the adopted 2008 Local Plan as amended by paragraph 1(3) of Schedule 8 to the Planning and Compulsory Purchase Act 2004 in respect of those policies directed to have expired as of 20<sup>th</sup> February 2011. The emerging Local Plan (Bearing Fruits 2031 Main Modifications, June 2016), is at an advanced stage and having been subjected to an Inquiry by an independent Planning Inspector carries significant weight, particularly as there are considered to be good prospects of the Plan being found to be sound.

#### Swale Borough Local Plan 2008

- 5.05 Also of relevance to the determination of this application are the following saved Local Plan policies;

SP1 (Sustainable Development)  
 SP2 (Environment)  
 SP3 (Economy)  
 SP4 (Housing)  
 SP7 (Transport and Utilities)  
 E1 (General Development Criteria)  
 E6 (Countryside)  
 E9 (Protecting the Quality and Character of the Boroughs Landscape)  
 E10 (Trees and Hedges)  
 E11 (Protecting and enhancing the Borough's Biodiversity and Geological Interest)  
 E12 (Sites designated for their importance to biodiversity or geological conservation)  
 E19 (Good Quality Design)  
 H2 (Providing for New Housing)  
 T1 (Providing Safe Access to the Highway Network)  
 T2 (Essential Improvements to the Highway Network)  
 T3 - (Vehicle Parking for New Development),  
 T4 - (Cyclists & Pedestrians) are relevant to this proposal  
 C2 (Housing Developments and the Provision of Community Services and Facilities)  
 C3 (Open Space within Residential Development)  
 H5 (Housing Allocations)  
 B2 - (Providing for New Employment)

## H2 - (Providing for New Housing)

## 5.06 Emerging Local Plan 'Bearing Fruits 2031' relevant policies include:

- ST1 (Delivering Sustainable Development in Swale)
- ST2 - (Development targets for jobs and homes 2011-2031)
- ST3 (Swale Settlement Strategy)
- ST4 (Meeting the Local Plan Development targets)
- CP2 (Promoting Sustainable Transport)
- CP3 (Delivering a wide choice of high quality homes)
- CP4 (Requiring Good Design)
- CP7 (Conserving & Enhancing the Natural Environment – Providing for Green Infrastructure)
- DM6 (managing transport demand and impact)
- DM7 (Vehicle Parking)
- DM8 (Affordable Housing)
- DM19 (Sustainable Design and Construction)
- DM21 (Water, flooding and drainage)
- DM24 (Conserving and Enhancing Valued Landscapes)
- DM25 (The Separation of Settlements – Important Local Countryside Gaps)
- DM28 (Biodiversity and Geological Conservation)
- DM29 (Woodlands, trees and hedges)
- DM31 (Agricultural Land)
- MU3 (Land at Frognal Lane, Teynham missed use development approximately 260 dwellings, 26,840 sq.m employments use B use class, open space, landscaping. Preparation of a development brief, landscape strategy, open space, sports facilities, pedestrian and cycle links, highway improvements, transport assessment and mix of housing).

5.07 Members should note that Policy MU3 of the Emerging Local Plan: Bearing Fruits (modifications) – Land at Frognal Lane, Teynham states that:-  
*'Planning permission will be granted for mixed uses comprising approximately 260 dwellings, 26,840 sq. m and o 'B' use class employment, open space and landscaping on land at Frognal Lane, Teynham, as shown on the proposals map. Development proposals will:-*

1. *Provide an integrated landscape strategy that will achieve a net gain in biodiversity and natural/semi-natural greenspace, integrate the development and its access road within the wider landscape and create a strong landscape structure to incorporate existing vegetation and create new planting and habitats;*
2. *Prepare a heritage assessment and, if necessary, provide for adequate mitigation measures to be put in place;*
3. *Provide open space and sports facilities to meet the needs of both the existing and new residents, with no net loss in existing provision;*
4. *Secure pedestrian and cycle links between the existing community, the proposed development area and the service and facilities within Teynham*
5. *Avoid increased use of the Lower Road and junction of the A2 and Frognal Lane by bringing forward, as appropriate, traffic management measures within Frognal Lane and on the A2 within the village;*
6. *Bring forward such transport improvements and other mitigation as required by a transport assessment*
7. *Achieve a mix of housing in accordance with Policy CP3 and any village/parish housing needs assessment, including provision for affordable housing in accordance with Policy DM8*

8. *Locate and provide employment uses appropriate to the amenity of existing residents*
9. *Ensure waste water connections at points that are adequate in their capacity*
10. *Ensure that, through both on and off site measures, any significant adverse impacts on European sites through recreational pressure will be mitigated in accordance with Policies CP7 and DM28, including a financial contribution towards Strategic Access management and Monitoring Strategy*
11. *Achieve improvements to education. Library and health facilities at the village*
12. *Address air quality impacts arising in the Teynham AQMA, including the implementation of innovative mitigation measures; and*
13. *Provide infrastructure needs arising from the development, including those identified by the Local Plan Implementation and Delivery Schedule, in particular for health and primary school provision’.*

The difference between the original Emerging Local Plan and the modifications is that:-

- The policy now says planning permission will be granted for mixed uses comprising of **approximately** 260 dwellings, 26,840 sq.m of ‘B’ use class employment, open space and landscaping on land at Frognal Lane, Teynham as shown on the Proposals Map.
- There is no longer a requirement for a developer brief to be prepared and adopted as a Supplementary Planning Document
- The reference to provision of a transport assessment that will additionally address the timing of development relative to the proposed Sittingbourne Relief Road Bapchild Link has been deleted
- The reference to provision for Gypsies and travellers has been deleted

Supplementary Planning Documents:

- 5.08 The Swale Landscape Character and Biodiversity Appraisal SPD (2011) seeks to support landscape and other policies of the Swale Borough Local Plan 2008. The SPD states that there is a need to retain pattern and diversity in the landscape of the Borough to ensure that character and local distinctiveness are maintained. The Borough Council needs to ensure that landscapes are visually satisfying, and give enjoyment to those who visit them and those who live and work in them. The SPD states that the document should be analysed to gain an impression of whether development would be appropriate and, if so, how it might be accommodated within the landscape and mitigated sensitively.

- 5.09 Developer Contributions SPD (2009)

- 5.10 The Swale Borough Council: Implementation and Delivery Schedule 2016/2017: Published June 2016

## 6.0 LOCAL REPRESENTATIONS

- 6.01 Seventy-one representations have been received, which generally raise objection. The points made are summarised below a number of sub-headings. Members will note that the full representations are also available for inspection.

### *Consultation*

- Consultation letters should have been distributed more widely.
- There were no planning notices out up on “Ash path”.

- Support Teynham Parish Council's stance that this application should be deferred and a public meeting held, for people who are not computer literate to view the proposals.
- This and many other similar applications are listed as delegated decisions. No application which could cause harm to residents should be subject to a delegated decision.
- Every time I make comments they are blithely dismissed.
- The developer should engage with residents of 121-135 (odds) of Honeyball Walk) to discuss increasing the length of the gardens to increase the distance between them and the new development.

#### *Principle*

- We do not need this development – unsuitable for siting in this is a village.
- The new Swale Local Plan is not yet adopted, and in the 2008 Local Plan this development is outside of the built up area boundary and there is still a considerable consultation timetable to be completed on the new Local Plan which makes granting this application premature.
- This proposed development is not sustainable as defined in the NPPF.
- SBC should focus primarily on brown-field sites to return decrepit sites to community use. There are other brown field sites that are better placed for development. Use a more suitable site such as Norton Ash garden centre.
- This application is for well over the number of houses as set out for this land in the developing Swale Local Plan.
- Use all the empty properties in Kent for housing; most have been empty too long. They should be refurbished and either sold on or rented out.
- Whilst I accept that there is a shortage of housing in the south east, the size of this development is completely inappropriate for Teynham. It is much larger than has been originally proposed and now includes light industrial units.

#### *Transport Issues*

##### *A2*

- The A2 already carries large volumes of traffic and HGVs which will further increase. There will be approximately an extra 200 cars.
- Proposed road/junction changes could make the junction less safe.
- The solution proposed for the Co-op delivery lorry is hardly a solution.
- It is clear that no development should take place along the A2 until KCC and the Government have provided an adequate road network.
- The A2 is often used when the M2 is closed and this causes traffic build up/standstill.
- Living on the A2 we have already seen increased traffic and congestion as a result of the developments at Fowler Welch which were given permission despite considerable local opposition. Not only have the extra lorries increased vibrations, noise and pollution but it is frequently impossible to cross the road safely.
- Noise and light pollution from the new roundabout on A2 will impact me.

##### *Frognal Lane/Lower Road*

- Lower Road will be used as a rat run, both for the business units and proposed residential units. Any increase in Lower Road use is utterly wrong.
- Frognal Lane/Lower Road junction: existing garage users will face more danger using their garages.

- Lower Road is very narrow and at times floods and there is also farm traffic on it and therefore unsuitable for extra traffic.

### *General*

- Safety is already poor on the local roads.
- Traffic congestion is already “terrible”.
- Need to consider traffic impact in conjunction with all of the other proposed developments.
- There is nothing to stop vehicles from simply using the new road and, instead of continuing straight on into the new development, simply turn left and use Frognal Lane as before (if they are prohibited from turning left then so too would the residents who live down it).
- The proposed highway works will not work. (See full representations for junction analysis, etc.)
- In order to prevent a single extra car movement in the lane, the only way would be to make Frognal Lane a dead-end.
- Putting barriers up outside the coop so vehicles can't abandon outside cause disruption, traffic delays or being dangerous.
- Question a lot of the facts contained in this document especially vehicle movements in the village, did this company actually carry out a survey. The traffic assessment doesn't come close to reflecting the reality of rush hour traffic to and from Sittingbourne / A249 / M2.
- The only way a site like this would be feasible, in a small village like Teynham, is if a link to the M2 was built through farmers' fields to the south of the site in Bapchild, this would also provide better access to the Fowler Welch site and restrict the number of HGVs that currently hinder traffic flow in and out of Teynham,
- Emergency vehicles already struggle to get through Teynham.
- There's no work in the village so more cars leaving and entering for commuting to work.
- KCC Growth, Environment and Transport's response requires a crossing point where Public Right of Way ZR256 joins London Road. KCC now want to add a further obstruction that will, at times, further reduce flow of traffic through the Air Quality Management Area (AQMA). This is unsatisfactory. Upgrading PRW ZR256 to a public bridleway should be considered.
- The train service at Teynham is very limited and unreliable.

### *Parking*

- Concerned about parking especially with 300 extra houses as at the moment it is really bad. It is dangerous with cars parking either side of the road in Frognal Gardens.
- Not enough car park spaces proposed.
- Parking restrictions on the north side of the A2, without suggesting an alternative, just moves the problem somewhere else.

### *Air Quality*

- Air pollution is already high and there is existing AQMA. Under the three AQMA's along our "corridor", there is a formal obligation on SBC to identify and demonstrate the effectiveness of mitigation measures before adding to that harm through planning approvals.
- Concerns about the effect on public health.

- There are alternative sites in Swale with better air quality.
- Need to consider the cumulative impact of new developments on Air Quality.
- The developers have tried to blind us with science with their impact on air quality assessment report which ignores the measurement of PM2.5 particles.
- Was disturbed and angered by the “lily-livered dithering” in the response to this outline application by the Environmental Health Department. Despite accepting there will be an increase in pollution that argues against approval, the officer “waxes lyrically” on the size and quality of the report. Constant reference to “negligible affects” with each application along the A2 in Swale has to be challenged by SBC.

### *Housing*

- What is affordable?
- The houses should be for local people.
- It is too high density.
- Concerns that the development will not be in keeping with the properties already here in terms of design.
- Making the houses more environmentally friendly using solar panels, wind turbines and grey water systems, good insulation and green building products could make this a prestigious project instead of just another greedy developer proposal.

### *Employment*

- The industrial units will require deliveries with no access via Frogmal Lane which will mean more traffic going down Station Road and Lower Road which is very narrow and sometimes floods.
- The industrial units will be vandalised.
- There are empty units on the euro link and elsewhere in Sittingbourne so there is no need for them.
- The industrial units do not have enough parking spaces for employees or customers.
- Too many units have been squashed in; landscaping is pathetically inadequate.

### *Environmental Issues*

- Concerned about our reducing water resources as everyone is now water metered.
- The soil has been abstracted for London clay for bricks in the past.
- Concerned about loss of wildlife.
- Will the field be thoroughly drained before work begins?
- Kent has already lost too much green belt land.
- Why develop over green field sites and archaeological ones?
- The natural environment should not suffer purely for monetary reasons.
- Teynham is supposed to be a village. Another industrial area will spoil the character of the village, do not forget large parts of Greenstreet are conservation areas and have listed buildings.
- What happened to the landscaping in keeping with a village? There are the token trees and the public open spaces are minimal and very sparse.

### *Sports Field*



- Concerns re the cost of leasing of the sports field as Trenport have already increased the rent.
- It was originally a living memorial for the troops who fell in the First and Second World wars.
- It should remain where it is as the football pitches have excellent drainage.

#### *Agricultural Land*

- In 1998 this site was considered to be grade one agriculture land.
- Concerned about the loss of agricultural land.

#### *Swapping Employment and Open Space around*

- Should swap the industry with the public space for safety reasons. Blighting of existing houses, removing field views and sunsets is illogical, unfair or immoral.
- Swapping the industrial estate and public space would give a large open space in the heart of the village, create a safe exercise space, take away a horrid and blighted view from approximately 94 houses and instead impacts on only around 12 by the A2 (excluding Henley Place flats), cut fuel emissions by allowing access immediately from the A2, reduce air pollution and stop lorries passing playing fields.
- The planned Community Orchard & allotments would be better placed where the industrial site is.

#### *Social/Infrastructure Issues*

- The infrastructure of Teynham (doctors, dentists, schools, shops) cannot support the development proposed. I have no confidence in the developer's promises to address this.
- There will be extra demand for utilities/communications, etc. The local electrical supply is currently flimsy.
- The NHS response gives rise to serious concerns. Emergency services are unable to respond in a timely manner already.
- Concerned that a site is only reserved for a health centre, not actually proposed. Our local hospital offers a limited service
- The police response recommends measures that further urbanise the village to aid crime prevention.
- Policing in Kent could go into 'meltdown' with current cuts.
- A sports pavilion and community orchard "sound lovely", but we already have a sports area and there is an orchard at Lynsted that is open to the public at certain times of the year. No doubt these things will get left out once the houses are up

#### *General Comments*

- Our properties will be devalued.
- It would cause a lot of disruption in the village during the building works.
- I understand the need for more houses but ramming them in the middle of an already over occupied and over stretched village is not the answer.
- It will destroy my open, rural view.
- We will suffer from overlooking and will be over-shadowed.
- This rush to push through these developments at all cost is financially driven; the Council receives from Central Government a sum of money for each house built.

- SBC are obliged to look to provide six themes that together provide the starting point for the Local Plan Strategy:
  - "A place where everyone feels they belong.
  - Healthy people.
  - A fun place to be.
  - A healthy environment with healthy homes and modern infrastructure.
  - A place that feels safe and is safe.
  - A strong local economy with good employment opportunities." This is not the case with this proposal on any of the above.
- This expansion is yet another Government example of the pressure they put on local councils to help with the huge immigration expansion.
- Improve our roads, street lighting and other things instead of wasting money on an industrial estate which will completely ruin the village.
- Many of the items listed are not within the control of SBC or its planning department. It is morally and possibly criminally wrong for SBC to approve or encourage applications where harm may be done to inhabitants.
- I want my children to grow up in Teynham village, not a town.
- The new access road to the new development will open up the whole area from Coolchain to Frognal Lane, right down to the Lower Road, for house building, which will surely follow.
- Would the development be 'legal'?

#### *Support*

- Will reduce the use of Frognal Lane as a rat run and traffic flows will be improved.

## **7.0 CONSULTATIONS**

### **7.01 Teynham Parish Council**

Comments dated 24 November 2016

The time given within which to assess the application is very short given the scale of development proposed. The developer should be requested to arrange a public exhibition for both community members and parishioners to review the latest information and proposals. The PC requests an extension given the Christmas and New Year break

Comments dated 26 Jan 2017

- The provision of a community orchard is questioned given that Teynham is part of a fruit belt of Kent and surrounded by Orchards. The orchard will need to be maintained and this will be a problem;
- There is a need for affordable housing as stated in the applicant's supporting statement;
- The proposed highway improvement works allows for the siting of a new gateway design feature on the A2 western arm on entry to Teynham. The Theme for the design could be centred on Richard Harris (Henry VIII's Fruiteres) who established England's first large fruit collection at Teynham;
- Teynham does not have strong level of services and facilities providing residents with their day to day needs;
- Train services are poor and there is need for a half-hourly service;
- The Road changes at Station Road/A2 and Lynsted Lane/A2 junctions may significantly affect the pollution levels on the A2;

- Can the Local Planning Authority review the traffic reports submitted with the application?
- The Parish Council are concerned that each application is judged on its own merits without including the cumulative effects on the traffic flows and air quality issues on this and other sections of the A2;
- The new roundabout on the A2 by Claxfield Road seems a good solution for the Frognal Lane development but concerns are raised regarding the vision lines;
- There could be a rat run via the A2 [southern] end of Frognal Lane via Frognal Gardens to Station Road;
- It is not clear what measures will be put in place to prevent those from employment area using the parking provided for the adjacent sports facilities and local adjoining streets;
- Teynham has a poor bus service and the off peak train service is an hourly service;
- The submitted Travel Plan promotes the use of alternative forms of travel such as cycling or use of public transport. The high street shopping area is not equipped with cycle storage areas and most bus stops in rural areas are not equipped with passenger shelters;
- Is any of the s106 money going to be allocated to Teynham Parish Council given the size of this development so that Teynham can make improvements to local infrastructure e.g. improvements to The Meadow, the children's playing field off Belle Friday Close, and conversion of street lights to LED?
- Are there any plans to improve the Teynham Library?
- It is prudent to provide a fully equipped and staffed health centre in Teynham given that the current two doctors are due for retirement;
- Whilst provision has been made for space for a health centre and that the NHS has required monies from the developer, it is not clear how the funding of the building of a new health centre will be achieved. This needs clarification;
- It is not clear how the funding of three extra primary school classes plus supporting facilities will be provided;
- The foul drainage is not fit for purpose;
- The planning for the management and control of surface water does not appear fully developed and there are a number of design issue;
- Outreach should be tasked with replacing the old cable technology throughout Teynham and its surroundings;
- It is unclear why the boundary of the employment use extends over and includes Lower Road; and
- The recreational areas of the scheme should help form a central focus for the village and should reflect village park concept, with grassed areas, flowering shrubbery, and be surrounded with solid perimeter footpaths, sitting areas with benches and play areas suitable for all age groups.

Comments dated 22 May 2017

- It is reassuring that KCC Highways and Transportation have challenged a lot of points and requested improvements and therefore the Parish Council is happy to leave KCC to negotiate all the necessary improvements with the applicant;
- If there is room for a lay by outside the Co-op? Can there be one as this may solve ongoing traffic problems along the A2;
- The additional traffic could also lead to further problems at the junction of Station Road with London Road (A2); and
- The serious air pollution problems in London Road [the A2] are not addressed.

7.02 **Lynsted with Kingsdown Parish Council** object to the application and raise the following concerns:

- traffic congestion and air quality pollution in the surrounding roads/areas;
- the submitted application has increased from 260 to [up to] 300 dwellings and the increase is more than 15%;
- vehicle congestion is a major consideration especially where Station Road and Frognal Lane join the A2;
- The Air Quality levels in Teynham already exceeds the legal limits and extra traffic would exacerbate the situation;
- The additional residents will result in increased pollution, including to the air;
- Drainage and road capacity are currently under strain and the development will exacerbate the existing situation; and
- Light pollution will also be of concern.

7.03 **Tonge Parish Council** has no adverse comments to make on the application.

7.04 **Southern Water** advise that they do not raise an objection regarding the application, however, they advise that no new development or new tree planting shall be located within 3 metres either side of the centreline of the public sewer and that all existing infrastructure should be protected during construction, and that no new soakaways should be located within 5 metres of a public sewer. If planning permission is given for the development, an informative should be attached advising the applicant that a formal application for connection to the public sewerage system is required in order to service the development and that the applicant is advised to contact Southern Water directly.

7.05 The **Lower Medway Drainage Board (LMIDB)** advises that the development is outside IDB's district and as surface water is proposed to be disposed of by infiltration IDB interests will not be affected. The comments made by KCC Sustainable Drainage Team Leader are supported. Should disposal by infiltration be considered impracticable, further views of the IDB should be sought.

7.06 **KCC Sustainable Drainage Team Leader** advises that the overall concept presented in the submitted Flood Risk Assessment (prepared by WSP Parson Brinckerhoff October 2016) that surface water could be managed within the site is acceptable. However, at reserved matters stage the following need further consideration: a drainage schematic should be included within the application to clearly indicate where these features will be located; testing will be required to be undertaken at the locations proposed for infiltration and the appropriate depth with detailed design to confirm infiltration rates and ground conditions; and, there is a definite overland flow route through the westerly area of the site and this flow route appears to only cross proposed open space but may impact the proposed attenuation storage area. This should be looked into. There is insufficient information to comment on surface water management. With further development of the layout, issues may arise from an inability to provide gravity connection for surface water drainage, an inability to provide surface water features for attenuation due to housing density objectives, and an impact resulting from overland flow paths on location of attenuation basins. For these reasons it is recommended that any layout presented for reserved matters should clearly demonstrate how surface water is accommodated within the site. Notwithstanding the above comments, it is considered that surface water management can be accommodated within the site and permission can be granted subject to conditions requiring submission of a finalised detailed surface water drainage strategy; that the drainage strategy can demonstrate that silt and pollutants

from the site can be adequately managed to ensure there is no pollution risk to receiving waters; infiltration should only be allowed where it has been demonstrated that there is no unacceptable risk to uncontrolled waters and infiltration is feasible; submission of a detailed design for the attenuation basins; submission of a phasing plan for the surface water drainage scheme; submission of a Drainage Management Plan containing details of the implementation, maintenance, and management of the sustainable drainage scheme; and the submission of a Verification Report for approval prior to commencement of development.

- 7.07 The **Environment Agency** has no objection to the application subject to a condition requiring a remediation strategy that will deal with risks associated with contamination of the site, together with a verification report demonstrating completion of the works set out in the approved remediation strategy, that no further development should take place if contamination not previously identified is found no further development should take place until the developer has carried out a remediation strategy to the satisfaction of the local planning authority, that piling or any other foundation designs using penetrative methods should not be permitted, and that no drainage systems for the infiltration of surface water drainage into the ground is permitted other than with the express consent of the local planning authority. Informatives relating to piling, foul drainage, surface water drainage, land contamination, waste and above ground storage should be attached if permission is given for the development.
- 7.08 **Kent County Council Archaeology** advises that the development is located in an area that is archaeologically sensitive and where prehistoric and Roman findings have been made in the past. The submitted archaeological survey advises that the site has been affected in majority by brickearth quarrying and other areas may remain intact and with potential for archaeology. The proposed development is acceptable subject to a condition requiring the implementation of a programme of archaeological work in accordance with a written specification and timetable. The form of programme of archaeological works should include initial evaluation through trial trenching of areas that cannot be demonstrated to have been not affected by brock earth extraction.
- 7.09 **Kent County Ecology** advise that the ecological surveys done recorded breeding populations of slow worms and common lizards, at least 4 species of foraging bats, foraging badgers, 32 species of birds recorded within the site (including red and amber listed species and species of principle importance) of which 17 species were recorded breeding, and 3 species of wintering birds within and adjacent to the development site. KCC also advise that the submitted information is satisfactory and a detailed mitigation strategy should be conditioned if outline permission is granted for the development, and update surveys ay be required to be submitted with the detailed mitigation strategy.

They also note that, regrettably, up to three skylark territories were recorded within the proposed development site and, if granted, the development will result in the complete loss of nesting opportunities for skylark. Unfortunately, replacement skylark habitat cannot be re-created within the development site and as such the impact on ground nesting birds should be addressed strategically within the district. In addition, the submitted illustrative plan demonstrates that the development will result in an increase in green space which will in turn enhance biodiversity inline with policy requirements. In addition to these enhancements, KCC require the integrated incorporation of bat roosting and bird nesting features in the dwellings particularly those adjacent to hedgerows/green spaces. There is a need for these biodiversity enhancements to be properly managed and this should be conditioned if planning permission is given for the development. Furthermore, the site is within 2km of the Swale SA, Ramsar and SSSI, and it is acknowledged that the applicant has shown a

commitment to make a financial contribution towards the Strategic Access Mitigation and Management Plan.

**7.10 Natural England** makes the following summarised comments:

- The proposed site is located in close proximity to a European designated site and therefore has the potential to affect its interest features;
- The site is close to The Swale Special Protection Area (SPA) and is also listed as the Swale Ramsar Site and also notified at a national level as The Swale Site of Special Scientific Interest (SSSI);
- The Local Authority should have regard for any potential impacts the development may have;
- Swale Borough Council should determine whether the proposal is likely to have any significant effects on any European site ;
- The Local Authority should secure contributions towards mitigating impact of the development on the SPA; and
- The development should provide opportunities to incorporate features into the design which are beneficial to wildlife.

**7.11 Kent County Council** seek the following developer contributions:

- Primary education (Phase1) – A contribution of £2,360.96 per applicable house ('applicable' means: all dwellings except 1 bed of less than 56sqm GIA, and sheltered accommodation) and £590.24 per applicable flat. Therefore a contribution of up to £708,288.00 is required for primary education provision;
- Secondary education – the development will generate up to 60 secondary pupils and these cannot be accommodated within the existing capacity in locals schools and therefore additional spaces will be required. The proposed development will contribute towards Phase 2 of the new Sittingbourne Secondary School in North West Sittingbourne at £5,091.60 per applicable house and £1,272.90 per applicable flat. Therefore a total contribution of £1,527,480.00 is required towards secondary education provision;
- Secondary education land acquisition costs –there is a requirement for the applicant to make a proportionate contribution towards Secondary School land acquisition up to a maximum of £1,932.16 per applicable house and £483.04 per applicable flat. Therefore the total financial contribution towards secondary education land acquisition costs is up to £579,648.00;
- Libraries and Community Learning - A contribution of £287.43 per dwelling (A total of up to £86,229.00) would be required and directed towards the construction costs of the Library element of the new Sittingbourne Hub in Sittingbourne;
- Youth Service – A contribution of £37.58 per dwelling (total of up to £11,274.96) would be required and this will be directed towards a new Youth bus and trained driver;
- Adult Social Care – A contribution of £63.33 per dwelling (total of up to £18,999.00) would be required for the provision of additional adult social care service and will be directed towards equipment for the Teynham Age UK dementia day service. In addition, a contribution of 3 wheelchair accessible units is required; and

- Broadband connection - Details are required for the installation of fixed telecommunication infrastructure and High Speed Fibre Optic (minimal internal speed of 100mb) connections to multi point destinations and all buildings.

- 7.12 **Highways England** advise that, having examined the proposed development, they are concerned about the impact of the development on the M2 principally at junction 6 and junction 7, and that the cumulative impact in conjunction with other committed and emerging sites may be severe and as such the impact needs to be mitigated. The initial impacts are on M2 junction 6 where peak hour traffic conditions regularly lead to queues along the A251 from the A2 junction and without mitigation measures such queues will in the future extend to M2 junction 6. This could in turn prevent traffic from leaving the eastbound off slip road at the junction and queues could form and lead to blocking back on M2 eastbound main carriageway.

There should be an improvement to the A2/A251 junction as a means of prevention so that the future northbound queues along the A251 do not extend back to M2 Junction 6. The supporting evidence shows an increase in vehicles of 99 in the morning peak and 89 in the evening peak hour resulting from this development once it's fully occupied.

With regards to M2 junction 7 shows 6 to 55 vehicle trips through M2 junction 7 in the morning and evening peak hours respectively as a result of the development. This junction regularly experiences peak hour queues and delays and the proposed development will exacerbate the current delays. To mitigate this impact, a proportionate financial contribution is required and will be directed towards a scheme to cover likely impacts from this development as part of a wider mitigation for cumulative development impacts in the area.

Finally, Highways England have indicated that once an appropriate level of financial contribution has been agreed to by the applicant they will be in a position to confirm no objection. I will update Members at the meeting.

- 7.13 The **Environmental Protection Team Leader (EPTL)** comments as follows:

Three very detailed reports are submitted to justify the proposed development. These reports look at air quality, noise impact and contamination. The proposed development is considered, he suggests, to be a significant proposal which will potentially put the local road network under more strain and therefore likely increase congestion, in and around Teynham and as a consequence, increase air pollution and noise levels.

#### *Air Quality*

The EPTL advises that the submitted report states that background levels of NO<sub>2</sub> are expected to decline over time and from this table the conclusion is that this development will have a negligible effect on local air quality, and because the highest predicted value was less than 30 ug/m<sup>3</sup>, the report concludes that there is enough leeway, even taking into account any "experimental inaccuracies", for this to be sufficient reassurance. The EPTL advises that they concur with this evidence. In addition, the applicant proposes a significant list of mitigation measures listed in Appendix D of the submitted report, and a damage cost calculation of £480,106. This figure is derived from the variables discussed above and an indication of the mitigation measures involved. Given the above, and that mitigation measures with a damage cost calculation of £480,106 are proposed, there is no objection to the development on air quality grounds.





*Noise*

The EPTL advises that the submitted noise assessment is very detailed and that the methodology used is satisfactory. The assessment is based on various noise sources captured from the vicinity of the site and was taken over various time periods of the day and night as well as weekdays and weekends, and a vibration survey was carried out.

The results of these measurements, traffic noise places the site in between Lowest Observed Adverse Effect Level (LOAEL) and Significant Observed Adverse Effect Level (SOAEL). As a consequence of this indication, the report proposes mitigation measures to achieve the internal noise levels suggested in BS 8233: 2014. The required sound reduction for each of the measured locations was highlighted in table 6.1 on page 30. The author recommends use of suitable glazing to provide the necessary sound protection. Rail noise and vibration was not considered significant for this site. The EPTL raises no objection to the development on this ground subject to recommended mitigation measures.

*Land Contamination*

A detailed phase 1 assessment of the site was carried out, with numerous appendices and research into the history of the site, together with the geological setting of the site and its surroundings.

The recommendations are that a further phase two intrusive investigation takes place and the EPTL concurs with this.

*Conclusion*

Overall, based on the submitted reports, no objection to the development subject to conditions completion of land contamination work; a site investigation; a remediation method statement; and a closure report; and subject to a condition restricting working hours during development.

- 7.14 The **Green Spaces Manager** advises that based on the population likely to be generated by a development of up to 300 dwellings and a standard of 1.09 hectares per 1000 population, thereby requiring approximately 0.6 ha of sports pitches to be provided. The proposed development provides 0.67ha which is over and above the requirement. Car parking and changing pavilion are also added value although it is important that the pitch facilities are properly constructed to ensure their playability given increased population/users. The plans make provision for informal open space, community orchard (picking up on the local historic orchard theme) and allotment, but there does not appear to be provision for equipped play which will need to be incorporated. This could be provision located on the informal open space or a combination of the informal open space and enhancement of the Parish Play Area located off site near the village hall if adequate access from the development can be included. Provision will need to be made for future ownership maintenance/management of all the open space provision.
- 7.15 The **Strategic Health and Housing Manager** advises that 40% affordable housing provision is required on this site and this amounts to up to 120 affordable homes. Policy DM8 in Bearing Fruits 2031 requires a 90:10 split in favour of affordable rented housing. However the applicant's statements suggest 60% shared ownership (72 dwellings) and 40% affordable rented tenure (48 dwellings). This is considered to be an acceptable approach. There is a requirement for affordable housing in Teynham

and surrounding areas for all types of affordable accommodation. If the development is phased, 40% of the houses should be provided on each phase with the agreed tenure split and ensuring a proportionate mix is provided across each phase. The mix of houses should be 1, 2, 3 and 4 bedroom dwellings and these should be a proportionate mix to the open market homes to include both flats and houses and should be evenly distributed across the site. A small number of wheelchair adapted affordable housing should be provided and these will be agreed with the preferred Registered Provider (RP). In addition, the site may be suitable for starter homes, the percentage of which will need to be agreed in accordance with national and local policy.

7.16 The **Climate Change Officer** raises no objection to the proposal subject to a 'sustainable measures' condition.

7.17 **KCC Highways and Transportation** advise as follows:

Initial comments received 24 February 2017.

Concern is raised on the following grounds:-

#### Site Access Arrangements

The site is proposed to be served from a new 4 arm roundabout onto the A2, at the location of the existing junction with Claxfield Road. The principle of creating a roundabout at this location is acceptable, and the design appears to be in compliance with the standards contained in the Design Manual for Roads and Bridges. The A2 is subject to a 30mph speed restriction along this length, and KCC concurs with the TA that the roundabout will introduce a feature to help reinforce this restriction in this location.

The new access road into the site has been designed to a 6m width. However, in accordance with Kent Design Guide, a 6.75m wide carriageway is required given the scale of development.

A 2m wide footway is shown along the length of the access road, to link into the existing 2m wide footway on the A2. The opportunity should be taken to provide a 3m shared use footway/cycleway along the length of this new piece of highway infrastructure, as it is expected that cyclists will use it to reach the A2, and further cycle routes may be able to link to this in the future.

The target speed for the proposed access road will need to be 30mph, as both the A2 and Frogmal Lane are subject to 30mph speed limits, and the length of the proposed road between these two is less than 600m.

The alignment and design of the road should be reviewed in association with a Road Safety Audit to consider the suitability of the road to cater for the expected vehicle types and likely speed of traffic. It is noted that the site access onto Frogmal Lane is to be restricted in order to encourage development traffic onto the A2, rather than rat running through Lower Road and Tonge to access Sittingbourne.

The design of the junction is likely to be abused by development traffic if it is still physically possible for vehicles to turn right into Frogmal Lane from the access road, or left into the access road from Frogmal Lane. The junction arrangement should be revisited to ensure that vehicles do not turn right into Frogmal Lane or left into the access road from Frogmal Lane.

The angle that Frognal Lane would join the new access road is too sharp, making the right turn from Frognal Lane onto the access road awkward. Kent Design Guide requires that roads such as this should join the main road at 90 degrees, so that drivers turning onto the main road can view the visibility splays through the front windows. The current arrangement might also result in higher than expected vehicle speeds for those turning left onto Frognal Lane, as the junction radius is large with little deflection.

The new roundabout on the A2 to provide the access into the development requires the formation of a service road in front of the houses immediately to the east of Claxfield Road. It must be ensured that sufficient turning area is provided within this service road to allow vehicles to turn around. No swept path analysis has been given to demonstrate that the facility is appropriate, and the current proposals appear incapable of being able to accommodate large vehicles that may need to deliver to or service the affected properties. It would be inappropriate for these vehicles to have to park directly on the A2 on the approach to the proposed roundabout.

The service road junction should be relocated further west so that vehicles can reverse within this service road past the junction, enabling them turn around and exit onto the A2 again in a forward gear.

#### Junction Assessments

The modelling predicts that the queues at the A2/Swanstree Avenue traffic signals would increase by 40 vehicles on the A2 (East) arm with the development proposals. This equates to approximately 230m additional length, and potentially impacts across other junctions. Despite the introduction of MOVA, the Highway Authority does not consider that the potential improvement in performance of the junction will be sufficient to mitigate the proposed development, and the developer should investigate this junction more closely to consider what improvements can be made to resolve the issue. This should be modelled to determine how the impact of the development can be mitigated, and what can be achieved to accommodate the emerging Local Plan development.

The A2/Murston Road signalised junction is considered a sensitive asset that operates at or around capacity, and traffic is expected to increase above the 5% impact threshold discussed during pre-application correspondence. The Highway Authority considers that this junction should be assessed properly to understand the impact on the movement of traffic on the highway network. Although under the suggested 5% impact threshold, the A2/Crown Quay Lane signalised junction is known to be a sensitive constraint on the highway network, and the TA predicts that the development will add a further 95 and 88 movements through it during the AM and PM peaks respectively. It is therefore considered that the junction is worthy of further assessment of its capacity to ascertain what impact the development related traffic will have on it.

Whilst below the 5% impact threshold, the TA suggests that the development will generate 99 trips through the A251/A2 junction during the AM Peak hour, and 89 during the PM Peak. This is a sensitive junction, and already operates over capacity at the peaks, so additional traffic will exacerbate the current difficulties. Highway improvements have been identified for this junction, and it will be expected that this development should contribute towards the cost of these in line with recent developments that are predicted to have a similar level of impact.

The Lower Road/Frognaal Lane junction should be reviewed to consider improvements at this location, as this may become more active if existing traffic reassigns itself through here from what otherwise would use Station Road or Hempstead Lane, given that the roundabout will provide an easier opportunity for traffic to join the A2 than at the latter two.

Visibility is restricted at this junction, and marks the transition from the 30mph section of Lower Road into the unrestricted length towards Tonge.

#### A2 London Road Environmental Improvement Scheme

Section 7.9 of the Transport Assessment acknowledges that the proposed development will lead to an increase in traffic on the A2 through Teynham, and notes that the key junctions with Lynsted Lane and Station Road would operate within acceptable levels.

Unlike Station Road, where the new development will provide an alternative route with easier right turn movement onto the A2, no comparable alternative exists for Lynsted Lane. The assessment will need to include an appraisal of this junction.

No details of A2 London Road Environmental Improvements have been provided in order for the Highway Authority to assess the suitability of the scheme, particularly in respect to the delays that are experienced by eastbound traffic due to parked vehicles and deliveries to the Co-op store opposite Lynsted Lane. It is therefore not possible at this time to comment on the appropriateness of a scheme through Teynham, and whether it would be likely to contribute towards improving the free flow of traffic to reduce vehicle delay, assist air quality, and enhance road safety as suggested.

As noted in the TA, parking along the A2 within Teynham does cause delays to traffic flows, and the TA has suggested that parking restrictions could be implemented to assist with the free flow of traffic. If this were to be brought forward, consideration would need to be given to mitigate against the loss of available on-street parking. In general, it is the parking of larger vehicles, particularly associated with service deliveries to the existing shops, that cause the most difficulty to vehicle flows. It should be explored whether improvements can be introduced to alleviate those specific issues.

It is appreciated that the new roundabout junction serving the development could act as the gateway feature to restrict vehicle speeds entering Teynham from the west. It is requested that an appropriate feature is considered at the eastern approach too, and the addition of further features provided through the wider carriageway section at the eastern end the village to help reinforce the speed limit. Whatever improvements are proposed through Teynham, these will require a further Road Safety Audit to be supplied in support of the highway works.

#### Public Transport

The Public Transport team have commented that it would be appropriate to seek improvements to the current level of bus services operating in Teynham. They have initially suggested that the existing service 8 could increase its frequency and divert through the development. This matter will require further discussion between the Applicant, the public transport team and bus operators to explore the feasibility of promoting enhancements. In addition this should include the possible provision and/or upgrading of bus stops in the vicinity of the development to encourage greater use of public transport. This would be the provision of new bus stops and bus shelters.



### Footway/Cycleways

Public Footpath ZR247 running along the eastern boundary of the development site should be enhanced, as this will provide a strategically important route to link the site to local facilities. It should be surfaced to a width of 3m and be defended at each end to prevent unauthorised vehicle access, including where it would connect onto Honeyball Walk and Donald Moor Avenue.

The changes in the design of the Frognal Lane junction onto the proposed access road that have been requested above to resolve the alignment concern, may impact on the appropriateness of the form of pedestrian/cycle crossing to be provided at this location. Given this crossings proximity to the junction, special attention should be given to the design to incorporate a suitable facility, and supported by a Road Safety Audit.

In addition, Public Footpath ZR256 will cross the proposed access road, and this should be considered within the Road Safety Audit for these development proposals. Whilst it is unlikely to be a frequently used route, limited mainly to leisure use, it may be appropriate to consider a refuge island at this location that could be used to influence vehicle speed along this road, given the speed limit matter I have raised elsewhere in my comments.

### Response to amended highway arrangement - Comments received on 9 May 2017

KCC are satisfied that the amendments to the roundabout, service road and link road are appropriate, as detailed below:

1. The link road carriageway width has been increased from 6m to 6.75m in accordance with the Kent Design Guide, applicable to roads serving developments of over 300 dwellings. This is considered the appropriate width, given the combined scale of the development with 300 dwellings and circa 27k sqm of B class employment in addition to any existing levels of traffic that will be diverted from Frognal Lane.
2. The footway along the link road has been widened to 3m to accommodate a shared use cycleway.
3. A standard sized pedestrian refuge is now included to provide a crossing facility on the link road along the alignment of public footpath ZR256. The refuge island also introduces a visual feature to the link road that could help encourage compliance with the speed limit applicable to that stretch of road.
4. It is considered that the amended layout of the link road junction with Frognal Lane is now appropriate, as the sharper exit from the link road will force vehicles making this manoeuvre to do so more slowly than would have been the case with the layout initially proposed. The splitter island will also help prevent vehicles associated with the development from using Frognal Lane and Lower Road. The physical restriction will also need to be formalised by the use of a Traffic Regulation Order, which will allow enforcement to take place and discourage abuse.

The pedestrian crossing provision at this location is also considered acceptable, providing a refuge to give a less complicated facility where vehicle movement can be more easily anticipated by pedestrians as they wait to cross this staged arrangement.

However, I note that contrary to the statement in the Technical Note, drawing ITB11129-SK-105 Rev A was not included within the attachments, so the swept path analysis cannot be verified. This drawing will need to be submitted for clarification - the drawing has been submitted and forwarded to KCC for final comments)

5. The layout of the new service road arrangement near Claxfield Road has been revised to accommodate refuse and delivery vehicles within it, so that these will not be required to service the existing dwellings from the A2 or obstruct the carriageway in the vicinity of the proposed roundabout. As with point 4 above, drawing SK-105 Rev A was not included within the attachments, so the swept path analysis cannot be verified.

### **Frognal Lane / Lower Road Junction**

The proposals now include a revised layout of this junction, whereby the priority has been changed in favour to Frognal Lane. This has enabled the introduction of deflection into the horizontal alignment of Lower Road, and this will restrict vehicle speeds on the east/west straight through route past Frognal Lane. Although the junction is within the 30mph length of Lower Road, it is close to the transition from the national speed limit, and it has been suggested that some vehicles do travel noticeably in excess of 30mph along this straight, uninterrupted section of road. As visibility is limited for vehicles emerging from Frognal Lane, the changes proposed will force traffic to slow down at this point, and removes the visibility issue that currently exists at the junction. The swept path analysis submitted demonstrates that HGVs and cars will be able to pass one another through the 90 degree bend, and the appropriate amount of forward visibility is also available for vehicles using the revised layout.

This includes sightlines in respect to the private access for the garage on the northern side of Lower Road, just east of the junction. The sightline distance measured around the bend into Frognal Lane from this access will be 51m, some 8m longer than the 43m distance sought for a 30mph restriction. Given the alignment of the road, it is expected that vehicles will also be travelling materially slower than 30mph around this bend, so visibility will be more than adequate. It is also proposed to extend the 30mph section of Lower Road further west to a position more appropriate to the approach of the junction, where it can be seen more easily and from further away. This will give motorists travelling from the west adequate advance warning of the change in speed limit, so they can alter their driving.

### **A2 London Road Environmental Improvement Scheme**

A drawing has now been submitted to identify a scheme that could be provided along the A2 through Teynham. I consider that it would offer some improvement to this part of Teynham, particularly in respect to accommodating delivery vehicles to the Co-op and nearby businesses.

The layby proposed would allow a 5.5m road width to be maintained so that two HGVs could pass one another along the A2 while a delivery vehicle is parked there. Currently, an HGV parked there blocks the eastbound carriageway, causing delays through the village, will can tail back towards Bapchild during the AM and PM peaks. Whilst it would involve the reduction in footway width, the Co-op is set back behind the neighbouring buildings, so is quite wide at this location. It would narrow down to a minimum of 1.5m for a short length in front of part of the surgery building, but this is

not less than the minimum acceptable, and is sufficient for a wheelchair and pedestrian to pass one another.

The introduction of red surfacing through the central hatched area and new islands to the eastern section of the village are likely to change the environment of the highway to give it a narrower appearance for motorists, which may influence driver behaviour to reinforce the 30mph speed limit that exists through there. The islands will also provide the opportunity to create pedestrian refuges, as there are currently no opportunities to cross the road east of the signalised crossing. The scheme also intends to refresh the existing gateway feature on the A2 eastern approach to the village, and the red surfacing on the central hatching is not expected to create a maintenance liability, as it would not be subjected to constant overrunning that would quickly wear off the colour.

### **Junction Assessments**

The Technical Note has now modelled the operation of the A2 corridor junctions requested, and developed two improvement schemes for each of the Swanstree Avenue and Murston Road/Rectory Road junctions, to show mitigation against the impact of their scheme alone, and what would be required to support the cumulative impact of all development over the local plan period. It is accepted that the mitigation schemes are appropriate. However, whilst paragraph 4.1.6 refers to the bus/taxi drop-off access into Sittingbourne Community College that is programmed to commence construction shortly, it is noted that the submitted drawings for the Swanstree Avenue junction improvements do not include that scheme. It is understood that this has been included on other drawings that were meant to be submitted with this Technical Note instead, and it is expected to be received in due course. The mechanism to deliver the mitigation schemes and consideration of the longer term Local Plan schemes will need to be secured through the S106 Agreement and this will be subject to ongoing negotiations in due course. The cost of these schemes will need to be calculated in order to inform the S106 negotiations.

KCC is pleased that the Technical Note acknowledges the additional traffic movements that the development will pass through the A251/A2 junction, and has recognised that a contribution towards the highway improvements being progressed by KCC is appropriate. Again, this should be secured through the S106, and will be based on the proportion of traffic generated by the development.

Provided that the outstanding drawings referred to above are received, and the appropriate contributions are secured via the Section 106 Agreement, no objections are raised to the development subject to conditions requiring development should be carried out in accordance with the detailed offsite highway works; provision of areas for construction vehicles and loading and offloading and turning on the site during development; provision of parking areas for personnel, operatives and visitors throughout the construction of development; provision within the site for disposal of surface water so as to prevent discharge onto the highway; adequate precaution to guard against the deposit of mud onto the highway; provision and retention of cycle facilities; roadways, footpaths, verges, junctions etc. to be laid out and constructed in accordance with details approved by the local planning authority; and the completion of footpaths, footways, carriageways etc between a dwelling and the adopted highway prior to first occupation of the dwelling.

- 7.18 **KCC Minerals and Waste:** advise that as set out in the submitted Mineral Resource and Reserve Appraisal the economic mineral present in the application site has been worked and any remnants of the economic would not be viable for extraction. In terms



of waste management facilities, to accommodate the increased demand from growth outlined in the emerging Local Plan, additional capacity will be required. KCC are currently doing work to identify the additional demand generated by housing growth and appropriate mitigation projects and details of these will be made available as they emerge.

- 7.19 **SBC Economic Development Manager** advises that they would generally be supportive of the scheme from an employment perspective and also it's potential to deliver local labour through the section 106 agreement. Given its setting, we would like to encourage a more "campus style" of development as opposed to larger scale, potentially distribution, operations.
- 7.20 **Swale Footpaths Group** advises that Public Right of Way (PROW) ZR256 [which runs north-south through the western part of the site] will be affected by the proposed new road link to the A2. Given this, a safe road crossing on the definitive alignment of the footpath to cross the new road will be required. If KCC concludes that the position of the existing footpath is not in a safe location to cross the new road, consideration should be given to diverting the alignment of the PROW. In addition it is requested that the section of the PROW ZR256 within the proposed development is surfaced by the developer to the same standard as the proposed new paths through the informal open space located to the west of Frogmal Lane. Furthermore, the proposed development will have a significant impact on the PROW ZR247 as it is a strategically important route through the site [running along its eastern edge], providing access links with the local doctors' surgery, primary school and village hall. Given this, it is recommended that the status of this footpath be upgraded to a Public Bridleway to facilitate walking and cycling.
- 7.21 **KCC Public Rights of Way** advise that In order to secure provision of the above, the developer shall enter into a legal agreement with them to agree to dedicate the length of Public Footpath ZR247 in their ownership as a Public Bridleway; Thus the path should be surfaced by the developer to a width of three metres, with the specification agreed in writing with them; Appropriate barriers should be installed to prevent unauthorised vehicle access; given that the southern section of the Public Footpath ZR247 is located outside the proposed development site, in order to have a continuous Bridleway Link through the development (between Orchard View and Frogmal Gardens this section will need to be dealt with separately unless if the developer is able to acquire the land. However, if the developer is unable to acquire the land, a minimum financial contribution of £8, 000.00 is required; planting is to be kept to a minimum to ensure there are clear lines of view from properties and in turn enhance security and as such no hedging or shrubs should be planted within 1.5m from the edge of the PROW. The developer should make a commitment to maintenance of the new paths; and that new shared user routes should have a minimum width of 3m to ensure there is sufficient space for all path users. In addition, where new paths and cycle tracks are created their legal status (public right of way or 'permitted') needs to be clear from the outset as does who is responsible for their upkeep.
- 7.22 The **Rural Planning Consultant** advises that the application site is comprised of land that is largely agricultural except for the three hectares occupied by a sports field. The majority of the site is Grade 1 agricultural land and the remainder is Grade 2 and a very small area of approximately 0.5 hectares is Grade 3b. The applicant's supporting statement advises that most of the site was damaged by earlier brick earth workings. The site therefore comprises of approximately 26.5 hectares of BMV land which is therefore a significant loss. The Local Planning Authority will therefore need to assess

whether this loss is ‘necessary’ in accordance with paragraph 112 of the NPPF, and with the consequent preference for poorer land to be chosen instead.

- 7.23 The **NHS Clinical Commissioning Group (CCG)** advise that the new development will place additional pressure on existing local health services, especially GP services which are already at capacity. Given this they advise that there is need for a contribution of £360 per new resident (£360 x 700, if all 300 dwellings are built) which equates to a total financial contribution of £504,000 towards expanding existing facilities within the vicinity of the development.
- 7.24 **Kent Police** do not object to the application, but advise that based on their assessment of the likely increase in the local population as a result of this development and using a generic assessment of current crime levels (for 2015 – 2016) in Swale and using a standard methodology they have calculated the amount of additional crime expected to result from the increased population. Applying this to their current resources, they advise that a contribution of £77, 510 will be required to fund additional infrastructure to mitigate this impact.

## 8.0 BACKGROUND PAPERS AND PLANS

- 8.01 Application papers and correspondence relating to planning application reference 16/507689/OUT.

## 9.0 APPRAISAL

- 9.01 I consider that the key material considerations in the assessment of this application are as follows:
- The principle of development (mixed use development comprising of housing and class ‘B’ employment uses in this location)
  - Residential amenity implications
  - Impact on the surrounding landscape quality and visual amenity
  - Archaeology
  - Biodiversity and Ecology implications
  - Flood risk /Surface water drainage
  - Loss of BMV land
  - Developer contributions
  - Highway network impact

### Housing land supply and commercial uses

- 9.02 The site is allocated as a mixed use development site for housing and B class employment use under Policy MU3 of the Emerging Swale Local Plan, Bearing Fruits 2031 (Main Modifications June 2016). As noted above, the Policy requires the site to provide approximately **260** dwellings including a mix of affordable units in accordance with Policy DM8 of the Emerging Bearing Fruits 2031, together with 26, 840 square metres of ‘B’ use class employment. Members will be considering this application on 22<sup>nd</sup> June 2017 when we would have received the Inspector’s report on the emerging Local Plan. As Bearing Fruits 2031 is soon to be adopted, its policies, including MU1, can be afforded significant weight in the decision making process.
- 9.03 However, the application proposes the construction of up to **300** units and 40% (120 units) of these would be affordable units, together with 26, 840 square metres of B1 use class employment, which as noted above is office, research and development and light industrial uses. Given that the proposed 300 houses would be on land that is

7.5 hectares of land, such a development would be at a density of 40 dwellings per hectare and is considered to be an appropriate density in this location, making efficient use of land. Members will also appreciate that as details other than access are reserved, there will be an opportunity to control the quality of the final development at the point when the reserved matters applications are submitted.

- 9.04 It is also worth noting that the application does not envisage either B2 (general industrial) or B8 (storage and distribution) uses, which – in contrast to B1 uses – would be less well suited to being sited on land adjoining existing housing, and would potential generate higher volumes of commercial traffic.
- 9.05 Whist the submitted layout plan is indicative, it is considered that the development has the potential to be assimilated well into existing surrounding development creating a quality mixed use residential and commercial scheme that has no unacceptable harmful impact on the surrounding established residential development. At detailed planning application stage, it will be important to consider the design, size, scale, detailing and materials of the dwellings so as to ensure that the development relates well to existing Teynham housing development. If planning permission is given for the proposed development, suitably worded conditions would be used to help ensure that a high quality design should ultimately be achieved.
- 9.06 It is also important to consider, and give weight to, the contribution the development would make to the local area such as the provision of a quality communal open space, allotments, provision of housing, provision of much need affordable housing, provision of land for a potential health centre, provision of a sports field and pavilion, provision of employment land, and improvement of existing transport infrastructure, which is arguably much needed in the area.

### **Residential Amenity**

- 9.07 In terms of residential amenity, the impact can only be looked at in general terms at this stage because, as noted above, the specific design and layout will be determined at the reserved matters stage which would be subject to further consultation with local residents and technical consultees. Again, this is a matter that has already been considered in general terms when the site was assessed for allocation in the Emerging Local Plan. The proposed development has the potential to form a natural extension to the existing residential development in Teynham. The Borough Council is required to provide additional housing, and the impact of this development has been considered by Members and Officers alike to be not so significant so as to warrant allocating an alternative site over this one. It will be important at reserved matters stage to ensure that the development is designed in a manner that minimises this impact to an acceptable level. It is considered that the residents most likely to be affected by the proposal are the residents fronting Frognal Close, Frognal Gardens, Cherry Gardens, Frognal Lane, Lower Road, Orchard View, Donald Moor Avenue and Honeyball Walk. It is imperative that at the detailed stage of planning, the amenity of these neighbouring properties is given careful consideration, and the layout and other reserved matters dealt with in a way that minimises the impact upon them.
- 9.08 It is also worth saying that the broad principle of locating the housing at the southern end of the site - close to the centre of Teynham, where the majority of the amenities in the village are located – is considered .to be appropriate
- 9.09 Members will also note that the Environmental Protection Team Leader (see paragraph 7.13 above) raises no objection.

### **Impact on the surrounding landscape quality and visual amenity**

- 9.10 At this stage, the visual impact of the proposal can only be considered in broad terms due to the uncertainty of all matters of design, height of buildings, materials, precise location etc. However, if carefully designed the site will result in a natural extension to the built up area boundary of Teynham, however, given that it will mark the edge of the settlement confines, it is imperative that design of the entire scheme is given careful consideration and is of a high quality with appropriate design, size, scale and detailing to ensure that visually the development is appropriate to its surroundings. The development needs to be less dense around the edges so as to provide a gradual change in the density of the development from centre of the site to the edges. At reserved matters stage, the applicant is encouraged to consider using more rectilinear and regular street patterns with regular building lines on straight roads similar to the established street in Teynham. To add variety along the street, the applicant is encouraged to use genuinely individually designed buildings which respond to their location in the street plan, for example, use of corner plots as focal points. This housing development should aim to be a seamless natural extension to the existing housing development in Teynham and should integrate itself with the existing street plan as well as its architectural character, and with the needs of the local residents
- 9.11 The submitted illustrative master plan shows landscaping, grasslands, allotments, informal open spaces, and wetlands to help soften the appearance and character of the development. A sportsground is also proposed in between the housing development (towards the southern end of the site) and business uses (at the northern end) with soft landscaping to separate the uses and it is considered that if sensitively designed, an attractive scheme would be achieved.
- 9.12 Whilst the submitted illustrative masterplan has gone some way in providing a good scheme, it is considered that additional landscaping is required to separate the housing development from the sports field and employment areas. A soft landscaping belt of approximately 10m width is recommended and such amendments can be incorporated at detailed application stage given that the submitted plan is an illustrative master plan of the development, and Members will note the conditions recommended below.
- 9.13 Overall, it is considered that the application site can accommodate up to 300 dwellings, Class 'B1' employment uses of approximately 26, 840sq.m, a sports field, and communal open spaces and allotments, and that the development has the potential to be assimilated well into the existing context, creating a high quality mixed use residential and commercial scheme that has no unacceptable harmful impact on the surrounding established residential development. As such the development complies with policy. However, at detailed application stage, it will obviously be important for the applicant to give careful consideration the design, size, scale, detailing and materials of the dwellings so as to ensure that the development is assimilated well into the established Teynham housing development. The applicant is strongly encouraged to involve the Design Panel at the reserved matters stage.

### **Loss of BMV Agricultural land**

- 9.14 The site is, as noted above, defined as containing best and most versatile agricultural land (BMV). As well as economic benefits, as indicated within the NPPF, there are other benefits of BMV land. These include social/ strategic benefits in terms of securing the best land for local and national food production and environmental benefits in that better quality land is generally easier and more efficient to work, and

not unduly subject either to drought or to bad drainage and more likely to achieve good and consistent yields. Its unnecessary loss should therefore be strongly resisted, particularly in cases where development results in loss of a significant area of land.

- 9.15 However, while the requirements of paragraph 112 of the NPPF are noted, the site is allocated for mixed use development under Bearing Fruits 2031, and it is considered that this development is necessary in order to meeting the Council's housing supply. As such there is justification for loss of this area of BMV and into houses.

### **Biodiversity and Ecology implications**

- 9.16 As noted above, the site is located in close proximity to the Swale estuary Special Protection Areas (SPA) and as such it is likely that the future occupiers of the site will be using the SPA for recreational purposes in some instances. It is therefore likely that there will be some impact on the SPA, which would need to be addressed through appropriate mitigation measures. The agent has confirmed, at the outset of the application, that they are willing to provide the required contribution towards the SPA mitigation (£223.58 per dwelling or a total of £67,074 for 300 dwellings. Members will also note the appended Habitats Regulations Assessment.
- 9.17 The NPPF states 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'*. The applicants have proposed as significant amount of biodiversity enhancements and this is welcome. KCC Ecology and Natural England have no objection to the development subject to conditions as detailed below. As such it is considered that the proposed development is in accordance with the emerging Local Plan policies in respect of biodiversity..

### **Flood risk /Surface water drainage**

- 9.18 With respect to surface water drainage, Members will have noted above, at paragraphs 7.06 and 7.07, that neither KCC SUDS or the Environment Agency raise objection to this application, subject to imposition of suitable planning conditions. Similarly, with regard to foul drainage, Members will have noted the comments of Southern Water Services (see paragraph 7.04), who also raise no objection.
- 9.19 Appropriate conditions are included below, and the development is considered to be acceptable from a drainage point of view.

### **Impact on Minerals and Waste**

- 9.20 The site is partly located within the Swale Borough Mineral Safeguarding Area map for brick earth as defined in policy CSM5 of the Minerals and Waste Local Plan for Kent. The application site was worked for minerals in past years and has been restored. The submitted application is accompanied by a Minerals Resource Assessment that demonstrates the acceptability of non-mineral development in accordance with Policy DM7 of the plan, and as such it is not considered that the proposed development would result in sterilisation of economically important minerals.
- 9.21 KCC Minerals and Waste confirm that the economic mineral present in the application site has been worked and any remnants of the mineral would not be viable for extraction. Given this the development complies with policies Members will note that KCC Minerals and Waste raise no objection.

### Highways implications

- 9.22 A significant number of local residents refer to highways issues likely to arise from the proposed development, with particular reference to the existing congestion in the area, that the proposed development will exacerbate existing congestion, noise and air pollution.
- 9.23 KCC Highways and Transportation advise – see paragraph 7.17 above (which provides considerable detail in respect of local highway matters) - that they are satisfied with the submitted mitigation measures which mainly relate to changes to the highway network (notably the A2 and Frogmal Lane) at the site and in the immediate vicinity and to highway works that will be required elsewhere, to junctions in Sittingbourne and the A2/A251 junction in Faversham.
- 9.24 Members will also note the comments of Highways England above, who have raised issues in respect of possible impact on strategic road network at junctions 6 and 7 of the M2.
- 9.25 Neither organisation has a fundamental objection to the application, and I expect to be able to provide Members with an update on local and strategic highway matters at the meeting.

### Affordable Housing

- 9.26 As noted elsewhere (see paragraph 7.15 above), 40% of the dwellings will be provided as affordable housing. The Section 106 Agreement will need to include the relevant wording to ensure the appropriate tenure split, phasing, mix of dwelling types and sizes, and pepper-potting is secured.

### Air Quality

- 9.27 Members will note that Paragraph 109 of the NPPF states: *The planning system should contribute to and enhance the natural and local environment by...preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of soil, air, water or noise pollution or land instability.*
- 9.28 Furthermore, Paragraph 124 of the NPPF states: *“Planning policies should sustain compliance with and contribute towards EU limit values or national objectives for pollutants, taking into account the presence of Air Quality Management Areas and the cumulative impacts on air quality from individual sites in local areas. Planning decisions should ensure that any new development in Air Quality Management Areas is consistent with the local air quality action plan.”*
- 9.29 It is noted that the Environmental Protection Team Leader (further to paragraph 7.13 above), has considered the possible implications of the development in respect of air quality, notably in respect of the AQMA designated for part of the A2 through Teynham. He considers that provided that mitigation to value set out in the damage cost calculation – which amounts to £480,106 – is secured then the impact will have been adequately mitigated.
- 9.30 I have included a condition below [see (43)(xii)] in order to ensure that the appropriate mitigation is secured.

## Heritage

9.31 As noted above, the application is supported by a detailed Heritage Statement, and Members will note the conclusions on page 23 of the document. Members will also note that the application site is not located in, or close to, a Conservation Area. Members will also note that the three listed buildings in the vicinity of the site - two at Frognal Farm and a third, Claxfield House – are not within the application site. The applicant has though assessed the impact of the development on the setting of these heritage assets, and concluded that there will be “*no harm to the significance...*” of the listed buildings at Frognal Farm and that the “*...harm to the significance of [Claxfield House] is considered to be less than significant and should be weighed against the public benefits of the scheme.*”

9.32 I agree with this assessment and consider that the public benefits of the scheme are considerable in respect, among other things, of the provision of much-needed housing across a mix of tenures and the likely significant local job creation.

### Developer contributions

9.33 A section 106 agreement to secure a package of financial contributions – and other measures - to mitigate potential impacts arising from this development will be required. These are as follows.

9.34 As discussed above, the developer is making contributions towards the mitigation of the impacts on the Swale SPA of £223.58 per dwelling or £67,074 if all 300 dwellings are built.

9.35 As described above, highway improvements consisting of the construction of a roundabout, and off-site improvement to the A2 through Teynham and to junctions (both in Teynham) and on the A2 to the west of the site where improvements to existing signalised junctions are required. Mitigation is also required, as noted above, in respect of the impact on the A2 / A251 junction to the east of the site, in Faversham. The Section 106 agreement will either need to include provisions to secure the timely delivery of all the highway works or allow for the payment of appropriate financial contributions to ensure that they can be delivered by KCC Highways and Transportation.

9.36 Further to paragraphs 7.20 and 7.21 above, provision will need to be made in respect of upgrading the two public rights of way that cross. This could include the £8000 contribution referred to above and requirements to carry out the specified works within the site. Authority is sought to negotiate appropriate measures.

9.37 With regard to waste and recycling bins, £92 per dwelling and £471 per six flats (rounded up to the nearest 6).

9.38 Further to paragraph 7.11 above, Kent County Council seeks a total contribution of £2,931,989 assuming all 300 dwellings are built out) in planning contributions. This sum is broken down as follows:

Contribution	Amount
Primary education	£2,360.96 per applicable house and £590.24 per applicable flat (or a total of £708,288.00 for 300 houses).
Secondary Education	£5,091.60 per applicable house and £1,272.90 per applicable flat (or a total of

	£1,527,480.00 for 300 houses).
Secondary School land acquisition	Maximum of £1,932.16 per applicable house and £483.04 per applicable flat. Therefore a total financial contribution of £579,648.00 i.e. requested towards secondary education land acquisition costs.
Libraries	£287.43 per dwelling (or a total of total of £86,229.00 for 300 houses)
Youth Service	£37.58 per dwelling (or a total of £11,274.96 for 300 houses)
Adult Social Care	£63.33 per dwelling (or a total of £18,999.00 for 300 houses) In addition, a contribution of 2 wheelchair accessible units is required.

Together with the following:

- 3 Wheelchair adaptable homes

- 9.39 The Section 106 agreement will also need to include provisions to ensure the timely delivery – at the applicant's expense - of the pavilion / changing rooms building, associated car parking, and the allotments, and a specification to ensure that these amenities are delivered for the benefit of the community and to a sufficient level of quality.
- 9.40 Further to paragraph 7.12 above, a financial contribution is required to mitigate potential impacts on traffic flow on the strategic road network. I will update Members on this matter at the meeting.
- 9.41 Further to the Green Spaces Manager's comments at paragraph 7.14 above, the legal agreement will also need to ensure the timely delivery of the proposed sports pitches, equipped play space and other public open space. In addition, provision will need to be made for the on-going management of these areas, either by a management company (with suitable safeguards in place) or by the Council (for which a sufficient commuted sum – to cover a 10-year period - would be payable).
- 9.42 As set out at paragraph 7.24 above, a contribution of £77,510 is sought by Kent Police. However, notwithstanding the justification that has been submitted in support of the request, I do not consider that the request satisfies the relevant tests in the NPPF for the payment of developer contributions, noting that it is based on a broad assessment of crime levels and policing costs, rather than relating to the specific circumstances in Teynham.
- 9.43 A contribution may also be required for air quality monitoring in Teynham. I am in correspondence with the Environmental Protection Team Leader about this matter and will update Members at the meeting.



- 9.44 As set out at paragraph 7.23 above, a total financial contribution of £504,000 towards enhanced health care provision will also be required.
- 9.45 The Section 106 agreement will also need to make provision for the use of local labour during the construction phase.
- 9.46 A phasing plan dealing with the entire development.
- 9.47 A Section 106 administration charge of up to 5% of the total value of developer contributions will also be payable.

#### **10.0 CONCLUSION**

- 10.01 As set out above, the site is allocated – under Policy MU3 - for residential and employment development in the soon to be adopted Local Plan, Bearing Fruits 2031. Significant weight should be given to the fact that this proposal is broadly in line with the allocation under Policy MU3.
- 10.02 The proposed development would be in line with the aims of the housing policies and would bring significant benefits. The housing would help the Council towards meeting a five year supply of sites and enable it to be in a more secure position at appeals, and will also make a positive contribution towards affordable housing. The employment uses will bring about much needed employment for the locals. Furthermore, the scheme brings other positive benefits which include land for a potential health centre, open spaces, allotments, improvements to an existing formal sports field and pavilion, and local – and off-site - highway improvements. No significant impact would be caused to visual and residential amenities of neighbouring properties, and the surrounding development and landscape as a result of the proposed development.
- 10.03 It is therefore recommended that planning permission be granted subject to the signing of a suitably-worded Section 106 Agreement to secure the contributions and other matters as described above, to the further comments of KCC Highways and Transportation, Highways England and KCC Public Rights of Way, and to conditions as set out below.

- 11.0 RECOMMENDATION – GRANT** Subject to the further comments of KCC Highways and Transportation, Highways England, the Environmental Protection Team Leader and KCC Public Rights of Way; the signing of a suitably-worded Section 106 agreement; and to the conditions as set out below. Authority is also sought to make reasonable amendments to Section 106 clauses and to condition wording, and to add a condition setting out the approved drawings.

#### CONDITIONS to include

- 1. Details relating to the appearance, landscaping, layout and scale (the reserved matters) of the proposed buildings shall be submitted to and approved by the Local Planning Authority before any development is commenced.

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

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

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 include a schedule setting out the areas that shall be reserved as public open space (including formal sports pitches, allotments, informal recreation areas, structural landscaping, SUDS features, and equipped and unequipped play areas). No permanent development whether permitted by the Town and Country Planning (General Permitted Development) Order 1995 (as amended) or not shall be carried out in the areas so shown without the prior written approval of the Local Planning Authority.

Reason: In accordance with the terms of the application and to ensure that these areas are made available in the interests of the residential amenities of the area.

5. The details submitted pursuant to condition (1) above shall provide full details of how the residential part of the development will meet the principles of 'Secure by Design'. The development shall be implemented in accordance with the approved details.

Reason: In the interests of public amenity and safety.

6. The details submitted pursuant to condition (1) above shall include cross-sectional drawings through the site, of the existing and proposed site levels. The development shall then be completed strictly in accordance with the approved levels.

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

7. No development shall take place until a detailed strategic landscape scheme (which shall consist of native species and of a type that will encourage wildlife and biodiversity) designed in accordance with the principles of the 'Swale Landscape Character and Biodiversity Appraisal' (2011) has been submitted to and approved in writing by the Local Planning Authority. The scheme shall show all existing trees, hedges and blocks of landscaping on - and immediately adjacent to - the site and indicate whether they are to be retained or removed. It shall detail measures for protection of species to be retained, provide details of on-site replacement planting to mitigate any loss of amenity and biodiversity value together with the location of any habitat piles, and buffers between proposed and existing development, and include a planting specification, a programme of implementation and a minimum five year management programme.

Reason: No such details have been submitted and to ensure a satisfactory setting and external appearance to the development

8. The details submitted pursuant to condition (1) above shall show the residential development and the employment development restricted to the corresponding areas as identified indicatively on the 'Development Parameters' plan, number 304 B.

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

9. Prior to the commencement of the development hereby approved full details of the method of disposal of surface waters as part of a detailed drainage strategy (including measures to prevent runoff on to public highways) shall be submitted to and approved in writing by the Local Planning Authority. This drainage strategy should be based on Sustainable Urban Drainage Systems (SUDS) principles – incorporating features designed to enhance biodiversity where possible - and shall be based on the recommendations of the Flood Risk Addendum prepared by Rural and GTA Civils (January 2016) and shall demonstrate that both the rate and volume of run-off leaving the site post-development will be limited to 7 litres / second / metre squared. No building shall be occupied until details of the implementation, maintenance and management of the SUDS have been submitted to and approved in writing by the Local Planning Authority and thereafter the scheme shall be implemented, managed and maintained in accordance with the approved details. Such details shall include:-

- 1) a timetable for its implementation
- 2) a management and a maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public or statutory undertaker, or any other arrangements to secure the operation of the SUDS 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.

10. Any finalised detailed layout for submission of reserved matters for layout shall demonstrate that requirements for the surface water drainage strategy can be accommodated within the proposed development layout.

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

11. Where infiltration is to be used to manage the surface water from the development hereby permitted, it will only be allowed within those parts of the site where it has been demonstrated to the Local Planning Authority's satisfaction that there is no resultant unacceptable risk to controlled waters and infiltration is feasible. The development shall only then be carried out in accordance with the approved details.

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

12. A detailed design for the attenuation basins has been submitted to (and approved in writing by) the local planning authority. The attenuation ponds shall be designed with appropriate side slopes, such that they may be unfenced for free recreational access within country open space and provide an area of permanent water to provide biodiversity enhancements. The detailed design shall include, but not be limited to details of all outfall structures, cross-sections, and landscaping specifications for within the ponds and surrounds.

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

13. The development shall not begin until a phasing plan for the surface water drainage scheme has been submitted to (and approved in writing by) the local planning authority and which demonstrates the provision of drainage network to serve early phases prior to occupation. The phasing plan shall also indicate and provide details of any temporary works associated with the construction of the surface water drainage system.

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

14. No building hereby permitted shall be occupied until a Drainage Management Plan containing details of the implementation, maintenance and management of the sustainable drainage scheme has been submitted to and approved in writing by the local planning authority. The DMP shall include:
- i. a timetable for its implementation and
  - ii. management and maintenance arrangements for the lifetime of the development including 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. Such management and maintenance arrangements shall include details of the following:
    - a. design criteria;
    - b. management techniques
    - c. maintenance schedules and frequency of operations, whether regular, occasional, remedial or monitoring action
    - d. health and safety matters
    - e. timescales for the replacement of any elements to ensure operation
    - f. public access issues
- The Plan shall be implemented and thereafter managed and maintained in accordance with the approved details

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

15. No development shall take place (including any demolition, ground works, site clearance) until a method statement for ecological mitigation, including (but not necessarily limited to) reptiles, invertebrates, bats, nesting birds and the Roadside Nature Reserve, has been submitted to and approved in writing by the Local Planning Authority. The content of the method statement shall include the:
- a) Purpose and objectives for the proposed works;
  - b) Detailed design(s) and/or working method(s) necessary to achieve stated objectives, informed by detailed botanical (NVC), invertebrate, reptile and other update ecological surveys (as appropriate), carried out in accordance with good practice guidelines;
  - c) Extent and location of proposed works (including identification of an appropriate reptile receptor site and RNR mitigation) shown on appropriate scale maps and plans;
  - d) Timetable for implementation, demonstrating that works are aligned with the proposed phasing of construction;
  - e) Persons responsible for implementing the works, including times when specialist ecologists need to be present on site to oversee works.

The works shall be carried out strictly in accordance with the approved details and shall be retained in that manner thereafter.

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

16. For each phase of the development hereby approved, no development shall take place within a relevant phase until details have been submitted to the Local Planning Authority and approved in writing, which set out what measures will be taken to ensure that the development in that phase incorporates sustainable construction techniques such as water conservation and recycling, renewable energy production including the inclusion of solar thermal or solar photo voltaic installations, and energy efficiency. Upon approval, the details shall be incorporated into the development of the phase of development in question as approved, and retained as such in perpetuity.

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

17. 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 historic building features are properly examined and recorded.

18. Prior to each phase of development approved by this planning permission being commenced a remediation strategy that includes the following components to deal with the risks associated with contamination of that phase shall be submitted to and approved, in writing, by the local planning authority
1. A site investigation scheme to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
  2. The results of the site investigation and the detailed risk assessment referred to in (1) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
  3. A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (2) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these components require the express written consent of the local planning authority. The scheme shall be implemented as approved. Sufficient information has been provided to satisfy part 1 of the above condition.

Reasons: To ensure any possible land contamination related to historic site activities is addressed in line with current planning guidance on sustainable development. To protect controlled waters and comply with the NPPF: Paragraph 109 states that the planning system should contribute to and enhance the natural and local environment by preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of water pollution.

19. No occupation of any part of the permitted development shall take place until a verification report demonstrating completion of works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved, in writing, by the local planning authority. The report shall include results of sampling and monitoring carried out in accordance with the approved

verification plan to demonstrate that the site remediation criteria have been met. It shall also include any plan (a “long-term monitoring and maintenance plan”) for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan. The long-term monitoring and maintenance plan shall be implemented as approved.

Reason: To prevent pollution of controlled waters and comply with the NPPF.

20. No drainage systems for the infiltration of surface water drainage into the ground are 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 approved details.

Reason: Infiltration through land contamination has the potential to impact on groundwater quality.

21. If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until the developer has submitted a remediation strategy to the local planning authority detailing how this unsuspected contamination shall be dealt with and obtained written approval from the local planning authority. The remediation strategy shall be implemented as approved.

Reason: To protect groundwater which is a controlled water and comply with the NPPF.

22. Piling or any other foundation designs using penetrative methods shall not be permitted other than with the express written consent of the local planning authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to groundwater. The development shall be carried out in accordance with the approved details.

Reason: To protect groundwater and to comply with the NPPF.

23. Prior to the commencement of development hereby approved, a report demonstrating how the proposal will incorporate measures to encourage and promote biodiversity shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out fully in accordance with those approved details and shall thereafter be retained.

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

24. 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. The agreed details shall then be retained throughout the demolition of development.

Reason: In the interests of amenity and road safety.

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

development. The approved parking shall be provided prior to the commencement of the development.

Reason: To ensure provision of adequate off-street parking for vehicles in the interests of highway safety and to protect the amenities of local residents.

26. During construction provision shall be made on the site, to the satisfaction of the Local Planning Authority, to accommodate operatives' and construction vehicles loading, off-loading or turning on the site.

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

27. The details submitted in pursuance of reserved matters shall show adequate land, reserved for parking or garaging in accordance with the Approved County Parking Standards and, upon approval of the details this area shall be provided, surfaced and drained to the satisfaction of the Local Planning Authority before any building is occupied and shall be retained for the use of the occupiers of, and visitors to, the premises. Thereafter, 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 the land so shown or in such a position as to preclude vehicular access to the reserved vehicle parking area.

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

28. No dwelling shall be occupied until space has been laid out within the site in accordance with details to be submitted to and approved in writing by the Local Planning Authority for cycles to be securely sheltered and stored. The agreed provision shall then be permanently retained.

Reason: To ensure the provision and retention of adequate off-street parking facilities for cycles in the interests of sustainable development and promoting cycle visits.

29. The access details shown on the approved plans shall be completed in accordance with a timetable, and to a specification, that shall be agreed in writing by the Local Planning Authority prior to the commencement of the development hereby approved, and the access shall thereafter be maintained as such.

Reason: In the interests of highway safety

30. The proposed estate roads, footways, footpaths, verges, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, vehicle overhang margins, embankments, visibility splays, accesses, carriageway gradients, drive gradients, car parking and street furniture shall be constructed and laid out in accordance with details to be submitted and approved by the Local Planning Authority in writing before their construction begins. For this purpose, plans and sections, indicating as appropriate, the design, layout, levels, gradients, materials and method of construction shall be submitted to the Local Planning Authority.

Reason: To ensure that the roads are laid out and constructed in a satisfactory manner.

31. Before the first occupation of a dwelling the following works between that dwelling and the adopted highway shall be completed as follows:

- (A) Footways and/or footpaths shall be completed, with the exception of the wearing course;
- (B) Carriageways completed, with the exception of the wearing course, including the provision of a turning facility beyond the dwelling together with related:
  - (1) highway drainage, including off-site works,
  - (2) junction visibility splays,
  - (3) street lighting, street nameplates and highway structures if any.

Reason: In the interests of highway safety

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

Monday to Friday 0800 – 1800 hours, Saturdays 0800 – 1300 hours unless in association with an emergency or with the prior written approval of the Local Planning Authority.

Reason: In the interests of residential amenity.

33. No external lighting shall be constructed at the site other than on private domestic residences or in accordance with a scheme that has first been submitted to and approved in writing by the Local Planning Authority. The lighting scheme shall be designed in a manner that minimises impact on neighbouring residential amenity and bats.

Reason: In order to prevent potential harm to neighbouring residential amenity and the local bat population.

34. No clearance of the site shall take place in the months March to August inclusive, this being the breeding season for birds.

Reason: In the interests of biodiversity.

35. 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 0900-1700 hours unless in association with an emergency or with the written approval of the Local Planning Authority.

Reason: In the interests of residential amenity.

36. All hard and soft landscape works shall be carried out in accordance with a landscaping scheme that shall be submitted to and approved by the Local Planning Authority pursuant to condition (1) above. The approved works shall thereafter be carried out prior to the occupation of any part of the development.

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



37. Upon completion of the approved landscaping scheme, any trees or shrubs that are removed, dying, being severely damaged or becoming seriously diseased within ten 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.

38. Notwithstanding the provisions of Class A, Part 2, Schedule 2, of the Town and Country Planning (General Permitted Development) Order 1995 (as amended) or any order revoking and re-enacting that Order, no fences, gates walls or other means of enclosure shall be erected within the application site without the prior written approval of the Local Planning Authority.

Reasons: In the interests of residential amenity.

39. All land allocated for development as employment land, Use Class B1 and shown on the submitted 'Development Parameters' plan, number 304 B shall be retained for such uses and for no other purpose.

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

40. Details relating to the upgrade of the existing public rights of way (known as ZR247 and ZR256) within the site shall be submitted to, and approved in writing by, the Local Planning Authority before the development is commenced and shall be implemented in accordance with the agreed details and a timetable that shall have been agreed in writing with the Local Planning Authority before the development is commenced.

Reason: In the interests of highway and pedestrian safety and convenience.

41. No development shall take place until a Green Infrastructure and Biodiversity Management Plan (GIBMP) – which shall include a comprehensive network of SUDS features - has been submitted to and approved in writing by the Local Planning Authority, and the development shall be implemented in accordance with the agreed details.

Reasons: In the interests of protecting and encouraging biodiversity

42. Construction of any phase of the development hereby approved shall not commence until details of the proposed means of foul drainage for that phase have been submitted to and approved in writing by the Local Planning Authority

Reasons: In the interests of achieving an acceptable scheme of foul drainage and in the interests of minimising flood risk and ground water contamination.

43. No development of the residential phase and the highway works within the application site boundary of the scheme - nor of the commercial phase - hereby approved shall take place until a Construction and Environmental Method Statement for that phase has been submitted to and approved in writing by the Local Planning Authority. The approved Statements for both the residential and commercial elements of the scheme shall be adhered to throughout the construction period for those phases. These shall include details relating to:

- (i) The control of noise and vibration emissions from construction activities including groundwork and the formation of infrastructure, along with arrangements to

- monitor noise emissions from the development site during the construction phase;
- (ii) The loading and unloading and storage of plant and materials on site;
  - (iii) The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
  - (iv) The control and suppression of dust and noise including arrangements to monitor dust emissions from the development site during the construction phase;
  - (v) Measures for controlling pollution/sedimentation and responding to any spillages/incidents during the construction phase;
  - (vi) Measures to control mud deposition off-site from vehicles leaving the site;
  - (vii) The control of surface water drainage from parking and hard-standing areas including the design and construction of oil interceptors (including during the operational phase);
  - (viii) The use if any of impervious bases and impervious bund walls for the storage of oils, fuels or chemicals on-site;
  - (ix) The location and size of temporary parking and details of operatives and construction vehicle loading, off-loading and turning and personal, operatives and visitor parking;
  - (x) Lighting strategy for the construction phase, designed to minimise light spillage from the application site;
  - (xi) Phasing of the development in accordance with the phasing plan in the S.106; and
  - (xii) A package of measures to mitigate the impact of the development on local air quality, particularly within the designated Teynham Air Quality Management Area.

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

44. The off-site highway works indicated on drawings ITB11129-SK-006 revision C and ITB11129-SK-013 revision B shall be implemented in accordance with a timetable to be agreed in writing by the Local Planning Authority before the development is commenced.

Reason: In the interests of highway safety and convenience.

45. No development shall take place until a tree protection plan and arboricultural method statement in accordance with the recommendations of BS 5837:2012 have been submitted to and approved in writing by the Local Planning Authority. The method statement shall detail implementation of any aspect of the development that has the potential to result in the loss of or damage to trees, including their roots, and shall take account of site access, demolition and construction activities, foundations, service runs and level changes. It shall also detail any tree works necessary to implement the approved scheme.

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

46. The employment floor space hereby approved shall be used for purposes falling with Class B1 of the Town and Country Planning (Uses Classes) Order (as amended) only and for no other purpose, including any purposes in Class B8 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended).

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

INFORMATIVES

1. The applicant may be required to apply for other consents directly from the Environment Agency and the applicant is advised to contact 03708506506 or to consult EA website to establish whether a consent will be required.
2. All nesting birds and their young are legally protected under the Wildlife and Countryside Act 1981 (as amended) and as such any vegetation must be removed outside the breeding bird season, and if this is not possible an ecologist must examine the site prior to works starting and if any nesting birds are recorded all works must cease within that area.
3. The IDB's formal consent will be required for any works affecting any watercourse on this site, including drainage outlets, so further details would be appreciated in due course.
4. Any ditch or watercourse on this site (including the receiving Scrapsgate Drain) falls under the jurisdiction of the Lower Medway Internal Drainage Board.
5. Any works whatsoever in, under, over or within 8km of any ditch or watercourse will require the full, formal written Consent of the Medway IDB. They can be contacted at [enquiries@medwayidb.cu.uk](mailto:enquiries@medwayidb.cu.uk).
6. Medway IDB should be consulted on the requirements for the ongoing maintenance of the existing and proposed ditch systems with regard to the two options presented (i.e. either having the title deeds make specific mention of the home-owner's responsibilities or having the ditch-line fenced and maintained by a third [party]). Whichever option is pursued, sufficient access should be provided for any machinery that may be required for any such works.
7. 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.
8. The applicant or developer should enter into a formal legal agreement with Southern Water to provide the necessary sewerage infrastructure required to service the development. Please contact Southern Water, Sparrowgrove House, Sparrowgrove, Otterbourne, Hampshire SO21 2SW (Tel 0330 3030119 or [www.southernwater.co.uk](http://www.southernwater.co.uk)).
9. A formal application for connection to the public sewerage system is required in order to service the development. Please contact Southern Water, Sparrowgrove House, Sparrowgrove, Otterbourne, Hampshire SO21 2SW (Tel 0330 3030119 or [www.southernwater.co.uk](http://www.southernwater.co.uk)).

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: <https://www.gov.uk/guidance/check-if-you-need-an-environmental-permit>

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.

Case Officer: Jim Wilson

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: 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 scale of housing development proposed around the North Kent SPAs, the North Kent Environmental Planning Group (NKEPG) commissioned a number of reports to assess the current and future levels of recreational activity on the North Kent Marshes SPAs and Ramsar sites. NKEPG comprises Canterbury, Dartford, Gravesham, Medway and Swale local authorities, together with Natural England and other stakeholders. The following evidence has been compiled:

- Bird Disturbance Study, North Kent 2010/11 (Footprint Ecology).
- What do we know about the birds and habitats of the North Kent Marshes? (Natural England Commissioned Report 2011).
- North Kent Visitor Survey Results (Footprint Ecology 2011).
- Estuary Users Survey (Medway Swale Estuary Partnerships, 2011).
- North Kent Comparative Recreation Study (Footprint Ecology 2012).
- Recent Wetland Bird Surveys results produced by the British Trust for Ornithology.
- Thames, Medway and Swale Estuaries – Strategic Access Management and Monitoring Strategy (Footprint Ecology 2014).

In July 2012, an overarching report summarised the evidence to enable the findings to be used in the assessment of development. The report concluded (in summary):

- There have been marked declines in the numbers of birds using the three SPAs.
- Disturbance is a potential cause of the declines. The bird disturbance study provided evidence that the busiest locations support particularly low numbers of birds.
- Within the Medway, the areas that have seen the most marked declines are the area north of Gillingham, including the area around Riverside Country Park. This is one of the busiest areas in terms of recreational pressure.
- Access levels are linked to local housing, with much of the access involving frequent use by local residents.
- Bird disturbance study - dog walking accounted for 55% of all major flight observations, with a further 15% attributed to walkers without dogs along the shore.
- All activities (i.e. the volume of people) are potentially likely to contribute to additional pressure on the SPA sites. Dog walking, and in particular dog walking with dogs off leads, is currently the main cause of disturbance.
- Development within 6km of the SPAs is particularly likely to lead to increase in recreational use.

Natural England's advice to the affected local authorities is that it is likely that a significant effect 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 assessment dated October 2016 entitled 'Updated Baseline Surveys and Ecological Assessment of Land at Teynham, Kent Final' contains information to assist this HRA.

Natural England's letter to SBC dated 11<sup>th</sup> November 2016 has also been considered; in particular that they have raised no objections subject to contributions towards strategic mitigation, which will be secured under the proposed Section 106 agreement.

### **The Assessment of Land Between Frogmal Lane and Orchard View, Lower Road, Teynham**

The application site is located approximately 1.5km from The Swale SPA. Therefore, there is a medium possibility that future residents of the site will access footpaths and land within these European designated areas.

Measures are to be taken to reduce the impact on the SPA and these would be built into the development in respect of the provision of public open space..

This assessment has taken into account the availability of other public footpaths close to the site and to a lesser extent, the open space proposed within 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 SAMM 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. At this stage it can therefore be concluded that the proposals can be screened out for purposes of Appropriate Assessment.

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**PLANNING COMMITTEE – 22 JUNE 2017****PART 3**

Report of the Head of Planning

**PART 3**Applications for which **REFUSAL** is recommended

3.1

REFERENCE NO - 17/502452/FULL

APPLICATION PROPOSAL

Erection of a two storey side and rear extension and pitched roof front porch (Resubmission).

ADDRESS

8 Park Avenue, Sittingbourne, Kent, ME10 1QX.

RECOMMENDATION - REFUSE

SUMMARY OF REASONS FOR RECOMMENDATION

The proposal would give rise to unacceptable harm to residential and visual amenity.

REASON FOR REFERRAL TO COMMITTEE

Called in by Councillor Conway.

WARD

Woodstock

PARISH/TOWN COUNCIL

N/A

APPLICANT

Mr D Hilden

AGENT

C & B Designs Ltd

DECISION DUE DATE

03/07/17

PUBLICITY EXPIRY DATE

08/06/17

OFFICER SITE VISIT DATE

18/05/17

RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):

App No	Proposal	Decision	Date
17/501944/PAMEET	Two storey side and rear extension to property	Advised unlikely to obtain support	27/04/17
16/501689/FULL	Two storey side and rear extension plus pitched roof front porch	Refused	10/05/16

**MAIN REPORT****1.0 DESCRIPTION OF SITE**

- 1.01 8 Park Avenue is a two storey, detached house situated within the defined built up area boundary of Sittingbourne.
- 1.02 There is a large gravelled driveway and garden to the front, with private amenity space to the side leading to a long but narrowing garden to the rear.
- 1.03 The street scene is built in mainly detached and semi-detached dwellings, though of varying designs and sizes. In general, the pattern of development is open, spacious and creates a pleasant street scene.

## **2.0 PROPOSAL**

- 2.01 The proposal seeks planning permission for the erection of a wrap around two storey side and rear extension, as well as a front porch.
- 2.02 The porch would measure approximately 2.4m in width x less than 1m in depth. It would have a pitched roof measuring 2.4m in height to the eaves with a ridge height of 3.2m.
- 2.03 The rearwards element of the two storey extension would have a depth of 4m at both ground and first floor level. It would measure 4.8m in width and approximately 7.1m in height with a flat topped roof.
- 2.04 The sideways element of the two storey extension would have a width of approximately 1.5m.

## **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, E19, E24 and T3 of the adopted Swale Borough Council Local Plan 2008 and policies CP 4, DM 7, DM 14 and DM 16 of the emerging Swale Borough Council Local Plan Bearing Fruits 2031 are relevant in that they relate to general development criteria and design, alterations and extensions, and parking considerations.
- 4.03 Supplementary Planning Documents: The Council's adopted Supplementary Planning Guidance entitled "Designing an Extension" is also relevant, and remains a material consideration having been through a formal review and adoption process. The Adopted SPG entitled "Designing an Extension - A Guide for Householders", was adopted by the Council in 1993 after a period of consultation with the public, local and national consultees, and is specifically referred to in the supporting text for saved policy E24 of the Local Plan. It therefore remains a material consideration to be afforded substantial weight in the decision making process.
- 4.04 National Planning Policy Framework (NPPF)
- 4.05 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."
- 4.06 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.
- 4.07 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, E19, E24 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 None received.

## **6.0 CONSULTATIONS**

6.01 Kent County Council Archaeology has confirmed that the site is within an area of potential archaeological importance, and has requested the standard archaeological condition. If Members should be minded to approve the application, this will need to be included with the standard conditions (time, materials and plans).

## **7.0 BACKGROUND PAPERS AND PLANS**

7.01 A similar proposal was applied for through application 16/501689/FULL and was refused via delegated powers, for the same reasons outlined in the appraisal below.

7.02 Over the following months, correspondence was received from the agent, discussing whether a slight reduction in the width of the sideways element of the extension would overcome our objections. The agent was advised that this would be unlikely.

7.03 A request for pre-application advice was then made, in which it was further stated that the slight reduction in width would not overcome our objections (reference 17/501944/PAMEET).

## **8.0 APPRAISAL**

8.01 The application site is located within the defined built up area boundary in which the principle of development is acceptable subject to the other relevant policy considerations outlined below. I would also note here that the proposed porch is compliant with the SPG and is considered acceptable. The main consideration is the impact of the two storey side and rear extension.

### Residential Amenity

8.02 Firstly, I would note that the placement of the windows, when taking into account the surroundings, is considered acceptable, and that no significant overlooking would likely occur.

8.03 However, paragraph 5.7 of the SPG states that ground floor rear extensions should have a maximum projection of 3m, while first floor rear extensions should project no more than 1.8m. In this case, the rearwards projection of the extension would be 4m at both ground and first floor levels.

8.04 At ground floor level, there would remain an approximate 1.9m gap to the side boundary for most of the depth of the extension, and 10 Park Avenue itself has a ground floor rear extension. As such, I believe the 4m ground floor projection in this case would be acceptable.

8.05 However, the 4m projection at first floor level would be considerably in excess of the 1.8m guidance, even when taken in context with the separating gap. Furthermore, the sideways element of the extension would project to within 1.1m of the side boundary with 10 Park Avenue. 10 Park Avenue has a number of windows in its flank

elevation, and in my view the proposal would be unacceptably overbearing upon, and give rise to the loss of outlook from, the side and rear of 10 Park Avenue.

- 8.06 As such, I consider the proposal to be unacceptable in terms of residential amenity. I note the lack of objection from the neighbour; however this does not overcome the harm identified.

#### Visual Amenity

- 8.07 In terms of visual amenity, the main issue is the impact of the sideways part of the extension upon the character and appearance of the street scene.
- 8.08 Paragraph 5.0 of the SPG states that first floor side extensions should retain a 2m gap to the side boundary in areas of mainly detached and semi-detached housing. This is to prevent a terracing effect in the street scene.
- 8.09 In this case, there would remain a 1.1m gap to the side boundary, increasing to 1.9m as you move rearwards. In my view there would not be a sufficiently sized retained gap at first floor level to prevent a significant erosion of the space between 8 and 10 Park Avenue. This would give rise to a terracing effect in a manner harmful to the character and appearance of the street scene, and contrary to the advice of the adopted SPG. Whilst I appreciate that the extension is set well back from the principal elevation, it would remain visible in the street scene and I do not believe this would mitigate the harm identified.
- 8.10 It is accepted that the building line in Park Avenue does not provide a consistent and significant gap between all the dwellings. However, there are a number of dwellings in which there has remained significant and spacious gaps between them. This, taken with the fact that most dwellings are set significantly back from the main road, does give rise to the impression of an open and spacious street scene, in my opinion. As such I believe that where there are such gaps, they should be protected.
- 8.11 In support of this view, an appeal has previously been dismissed for a two storey side and rear extension at 23 Park Avenue. Although this was for a larger scale proposal that would have extended all the way to the side boundary, the Inspector did agree that a characteristic of Park Avenue is the visual relief provided in the gaps between dwellings.
- 8.12 The application has provided a number of examples in which houses, at first floor level, have been built up to or close to the side boundary in nearby roads Park Drive and Woodstock Road. Whilst I acknowledge that the area as a whole has a somewhat similar character, I do not believe these are reasons to approve such development in Park Avenue. In my view, the decision in this regard should be based upon the context of Park Avenue.
- 8.13 I consider the proposal unacceptable in terms of visual amenity.

#### Parking

- 8.14 The remaining driveway to the front would be sufficiently sized for the parking of at least 2 cars. As such, the parking arrangements would meet with the standards set out in the Residential Parking Advice and would be acceptable.

## 9.0 CONCLUSION

- 9.01 Taking into account all of the above; I consider the proposal to be significantly harmful to both residential and visual amenity. It is appreciated that effort has been made to reduce the width of the extension since the 2016 submission, however this has not overcome the harm identified and I recommend that planning permission be refused.

## 10.0 RECOMMENDATION – Refuse for the following reasons:

- (1) The proposed two storey side and rear extension, by virtue of its projection rearwards of, and sideways towards 10 Park Avenue would be significantly overbearing and oppressive upon, and give rise to the loss of outlook from, the side and rear of 10 Park Avenue. The proposal would therefore be unacceptably harmful to residential amenity in a manner contrary to policies E1, E19 and E24 of the adopted Swale Borough Local Plan 2008, policies CP 4, DM 14 and DM 16 of the emerging Swale Borough Local Plan Bearing Fruits 2031 and the adopted Supplementary Planning Guidance entitled “Designing an Extension A Guide for Householders”.
- (2) The proposed two storey side extension, by virtue of its projection close to the side boundary of 10 Park Avenue at first floor level, would fail to preserve the sense of openness and generally spacious pattern of development which characterises Park Avenue. It would subsequently give rise to a terracing effect in a manner harmful to the character and appearance of the street scene and visual amenity. The proposal would therefore be contrary to policies E1, E19 and E24 of the adopted Swale Borough Local Plan 2008, policies CP 4, DM 14 and DM 16 of the emerging Swale Borough Local Plan Bearing Fruits 2031 and the adopted Supplementary Planning Guidance entitled “Designing an Extension A Guide for Householders”.

### 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 NPPF
- the applicants/agent received pre-application advice stating that a proposal of this nature would unlikely be acceptable
- the application was considered by the Planning Committee where the applicants/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.

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<b>3.2 REFERENCE NO - 15/505069/FULL</b>		
<b>APPLICATION PROPOSAL</b> Erection of replacement maintenance shed, 2.5m high palisade fencing surrounding the building to create a compound in addition to a concrete hardstanding		
<b>ADDRESS</b> Sheerness Holiday Park Halfway Road Minster-on-sea Kent ME12 3AA		
<b>RECOMMENDATION: REFUSE</b>		
<b>SUMMARY OF REASONS FOR REFUSAL</b> The development harms the visual amenities of the area and the setting of the adjacent Scheduled Ancient Monument		
<b>REASON FOR REFERRAL TO COMMITTEE</b> Parish Council support		
<b>WARD</b> Minster Cliffs	<b>PARISH/TOWN COUNCIL</b> Minster-On-Sea	<b>APPLICANT</b> Cosgrove Leisure <b>AGENT</b> Stratford Planning
<b>DECISION DUE DATE</b> 28/08/15	<b>PUBLICITY EXPIRY DATE</b> 09/12/15	

**1.0 DESCRIPTION OF SITE**

- 1.01 The application site is a holiday park, which lies on Halfway Road, close to but outside the built up boundary of Sheerness. The site abuts the Queenborough Lines, a scheduled ancient monument to the north west; Monkey Farm breakers yard to the south west; fishing lakes to the south; and open marshes to the east and north east.

**2.0 PROPOSAL**

- 2.01 This retrospective application seeks consent for a large maintenance shed. The shed is located on the north western boundary of the site, adjacent to the Queenborough Lines, and measures 18.35 metres deep, 9.12 metres wide and 6.4 metres high to the ridge of its roof. It is dark coloured, constructed of sheet metal.

**3.0 PLANNING CONSTRAINTS**

Potential Archaeological Importance

Environment Agency Flood Zone 3

Adjacent to a Scheduled Ancient Monument.

**4.0 POLICY AND OTHER CONSIDERATIONS****The National Planning Policy Framework (NPPF)**

- 4.01 The NPPF gives great weight to the preservation/conservation of heritage assets. In this case, the Queenborough Lines is such an asset. The NPPF advises:

*In determining planning applications, local planning authorities should take account of:*

- *the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation*
- *the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality*
- *the desirability of new development making a positive contribution to local character and distinctiveness*

*When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. As heritage assets are irreplaceable, any harm or loss should require clear and convincing justification. Substantial harm to or loss of a grade II listed building, park or garden should be exceptional. Substantial harm to or loss of designated heritage assets of the highest significance, notably scheduled monuments, protected wreck sites, battlefields, grade I and II\* listed buildings, grade I and II\* registered parks and gardens, and World Heritage Sites, should be wholly exceptional.*

*Where a proposed development will lead to substantial harm to or total loss of significance of a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss, or all of the following apply:*

- *the nature of the heritage asset prevents all reasonable uses of the site*
- *no viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation*
- *conservation by grant-funding or some form of charitable or public ownership is demonstrably not possible*
- *the harm or loss is outweighed by the benefit of bringing the site back into use*

*Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.*

#### **Development Plan:**

4.02 The following saved policies of the Swale Borough Local Plan 2008 are relevant:

- E1 (General Development Criteria)
- E6 (The Countryside)
- E16 (Scheduled Ancient Monuments)
- E19 (Achieving High Quality Design and Distinctiveness)
- B6 (Holiday Parks)

4.03 The corresponding Policies in Bearing Fruits 2031 – The Swale Borough Local Plan (the emerging Local Plan) are:

- DM4 (New Holiday Parks or Extensions to Existing Holiday Parks)
- DM14 (General Development Criteria)
- DM21 Water, Flooding and Drainage)
- DM25 (Important Local Countryside Gaps)
- DM34 Scheduled Monuments and Archaeological Sites



## 5.0 LOCAL REPRESENTATIONS

- 5.01 One representation has been received, which states the following:

Please can you confirm that there will be no noticeable impact on the visual appearance for all neighbours including the houses in Park Road, that there will be no adverse effect on any historic monuments, that the height and size of the building is not excessive and that the height is required for its usage and that the waterways nearby will not be put at risk;

## 6.0 CONSULTATIONS

- 6.01 The Environment Agency advises that the development is covered by their standing advice. The standing advice states that the development is unobjectionable in flood risk terms.
- 6.02 Historic England raise objection, commenting as follows:

*The Queenborough Lines were built on the recommendation of the 1859 Royal Commission on the Defences of the United Kingdom to defend the Royal Naval dockyard at Sheerness from landward attack following an invasion scare caused by the strengthening of the French Navy. There were eventually some 70 forts and batteries in England that were due wholly or in part to the Royal Commission. These constitute a well-defined group with common design characteristics, armament and defensive provisions. They are the most visible core of Britain's coastal defence systems and are known colloquially as 'Palmerston's Follies' after Lord Palmerston (1784-1865), who was Prime Minister at the time. The Queenborough Lines are a line of defensive earthworks across the Sheerness peninsula consisting of an earth and shingle rampart with a wide wet ditch, a military road behind the rampart, and two narrow catch-water ditches (to regulate water levels in the ditch). At each end the ditch turned southwards to encompass gun batteries, although they were never built; the Barton's Point battery at the east end was a later addition. The west end was breached by the Sittingbourne to Sheerness railway line from the beginning.*

*The Lines were more or less complete by 1868 though they were never tested. They were manned again during the World Wars, which is attested by several air-raid shelters and a mortar position built into the rampart.*

*The Heritage Statement mentions that the original intention was to keep a distance of about 800 metres from the Lines clear of buildings and other obstructions in order to maintain a clear field of fire over approaching enemy troops. This is an important aspect of their design and important in understanding their purpose and function.*

### *Impact*

*We note that the development is described as a replacement maintenance shed but we don't know what it replaces, and the application doesn't seem to give details. We note that the building was constructed on a hitherto undeveloped footprint during the early part of this year. When writing our last letter to you (on the 21st July 2015) we hadn't appreciated the height of the new building, which is why we declined to give detailed comments at that time.*

*We agree with the Heritage Statement that the breakers yard, caravans and flood bank on the south side of the ditch have a harmful effect on the heritage significance of the Lines and might have also reduced the sensitivity to further changes there. However, we don't think that it has entirely negated any positive contribution to the Lines' heritage significance. The surrounding development is generally low-level and dispersed so it is still possible to appreciate that there is low-lying open land to the south of the Lines. We think that the generally open aspect and views southwards are important for understanding the purpose and function of the Lines.*

*The height of the new building makes it distinct from the low-level and dispersed development around it. It juts up against the skyline and is consequently much more noticeable than lower building would have been. In a small segment of the vista it intrudes upon the southward view from the Lines and begins to enclose the open aspect. If more buildings of a similar height were ever constructed along the south bank the enclosing effect would quickly become very apparent.*

#### *Policy*

*Under the NPPF it is a core planning principle to conserve heritage assets in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of this and future generations (para.17 NPPF). When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. No other planning concern is given a greater sense of importance in the NPPF. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. As heritage assets are irreplaceable, any harm or loss should require clear and convincing justification (para.132 NPPF). The onus is therefore on you to rigorously test the necessity of any harmful works.*

*Your authority should also aim to achieve sustainable development, seeking economic, social and environmental gains jointly and simultaneously through the planning system. The planning system should play an active role in guiding development to sustainable solutions. (para.8 NPPF). Pursuing sustainable development involves seeking positive improvements in the quality of the built, natural and historic environment (para.9 NPPF).*

*If a proposal cannot be amended to avoid all harm (but the harm is less than substantial) then this harm should be weighed against the public benefits of the proposal (para.132, NPPF).*

*The significance of a heritage asset is determined not only by the physical fabric of a place but also by its appearance, its associations with other places and its relationship with its surroundings. Setting is the surroundings in which an asset is experienced and it embraces all of the surroundings in which the asset can be experienced. Your authority should look for opportunities for new development within the setting of heritage assets to enhance or better reveal their significance (para.137 NPPF). However, for a scheduled monument, the requirement to consider setting is not a statutory duty.*

#### *Position and recommendation*

*We acknowledge that, given the large size of the fortification, other views from its rampart toward open ground continue to be available. We also acknowledge that the immediate setting of the Lines has already been compromised to some degree by modern development. However, we don't think that the effect on the heritage significance of the Lines is negligible. In our opinion, the new building is too high and as a result it juts up above the skyline, intrudes upon southwards views and begins to enclose the open vista to the south of the Lines. The effect is not large relative to the scale of the Lines but we think that there is minor to moderate harm to heritage significance. Harm to the monument would grow considerably if development on the southern side of the Lines were to proliferate. We doubt that the new building could be said to bring public benefits and so, in accordance with national planning guidance, we advise against permission being granted.*

6.03 The LMIDB do not raise objection.

6.04 Minster Parish Council supports the application, commenting as follows:

*The Parish Council's support is subject to adequate drainage being put in place and safeguards for the protection from pollution to the Ancient Monument (Queenborough Lines). It also supports KCCS Archaeological Officers advice that Historic England needs to be included as a statutory consultee. MPC is disturbed by the presentation of the application because the description does not show it as being retrospective and questions why SBC did not make this important information more easily available.*

## **7.0 BACKGROUND PAPERS AND PLANS**

7.01 The application is accompanied by plans, drawings, a design and access statement, a flood risk assessment and a heritage statement.

## **8.0 APPRAISAL**

8.01 Whilst the site is at risk of flooding, the use proposed is not high risk in terms of impact on life in the event of a flood. The EA class it as being low risk and as such, I do not consider this to amount to a reason for refusal. Whilst the site lies within an Important Local Countryside Gap, it lies in an already developed area, and whilst I consider the visual impact of the development elsewhere in this report, I do not consider that the proposal is unacceptable as a matter of principle in this regard.

8.02 There would be no highway impacts arising from the proposal, and the building is located a sufficient distance from the closest dwellings (those in Park Road, on the other side of the Queenborough Lines) so as not to cause harm to residential amenity.

8.03 The site is located in the countryside, and is an existing holiday park. The adopted Local Plan and the emerging Local Plan both offer broad support for the upgrading of holiday parks, and I consider the development acceptable as a matter of principle.

8.04 The key issues here are the impact on visual amenity and on the Scheduled Ancient Monument.

### **Visual Impact**

8.05 The landscape in the vicinity of the site is generally flat, and development is, with the exception of the houses to the north west, generally low lying and single storey. The

shed is substantial in scale, and draws the eye. Its design is utilitarian, as might be expected, and it adds nothing of merit to the character of the area. In my view it amounts to an obtrusive, prominent structure, which harms the visual amenities of the area. I am firmly of the opinion that the development is contrary to policy DM14 of the emerging Local Plan and saved policies E1 and E19 of the adopted Local Plan.

- 8.06 With regards the impact of the development on the Important Local Countryside Gap, it seems to me that whilst, by virtue of its scale, and in particular its height, the shed is prominent, it does not in itself give rise to the encroachment of development into the gap, not the piecemeal erosion of the gap. As such, I do not consider it contrary to policy DM25 of the emerging Local Plan.

### **Impact on the Scheduled Ancient Monument**

- 8.06 The setting of the scheduled monument is particularly important to its heritage significance given the very specific nature of its physical form and the historical function it performed. In my view, Historic England have correctly identified that this setting has been compromised. However – it is important to note that decisions made in the past (in the 1950s/60s/70s) which have compromised the setting (and as a result, to some degree, an understanding of the historic function) of the structure were made at a time when the heritage significance of the structure was not really appreciated, let alone understood. The position in this respect is of course very different today, and it must be further noted that the defence structure was not scheduled until the 22<sup>nd</sup> June, 2012.
- 8.07 Leading on from this, in my view what might reasonably be deemed previous mistakes (from an overall planning and heritage management perspective) should not now be repeated given our much greater appreciation and understanding of the historic environment and the value that this provides.
- 8.08 Primarily because of the height of the storage building, and the manner in which it pierces the skyline directly adjacent to the defence structure (in contrast to the lower, other man-made structures on the south side of the structure – in what would have historically formed part of the field of fire area), the development in question impacts on the significance of the heritage asset by further compromising its setting and as a result, in terms of the proposal's consideration in the context of the NPPF, it would result in an 'impact of less than substantial harm' to the significance of the heritage asset.
- 8.09 The public benefits against which this harm must be balanced are at best very minimal/marginal and in all reality could reasonably be considered zero. On this basis, and in accordance with the NPPF, and Policies DM14 and DM34 of the emerging Local Plan and saved policies E1 and E16 of the adopted Local Plan, I conclude that the impact on the Scheduled Ancient Monument is such that planning permission should be refused.

### **Other Matters**

- 8.10 There are obvious operational benefits at the wider park from having a maintenance building on site. However – I am unconvinced that scale of this building, nor its location, are wholly necessary. The applicant has put forward little justification for the proposal, and in the circumstances, I am unaware of any material considerations which would outweigh the harm I have identified nor the conflict with the policies of the Development Plan and the NPPF.

## 9.0 CONCLUSION

- 9.01 Given the above, I am firmly of the view that the development is unacceptable, and I recommend that planning permission is refused.

## 10.0 RECOMMENDATION – REFUSE for the following reasons:

- (1) By reason of its location, height and overall bulk, the storage building amounts to an obtrusive and prominent structure, which harms the visual amenities of the area, and which intrudes significantly into the skyline from locations where the Queenborough Lines scheduled monument can best be appreciated and understood. As such, the already compromised setting of the designated heritage asset is further compromised in a manner which harms its overall heritage significance. Whilst the harm in this respect is not considered to be substantial within the terms of the National Planning Policy Framework, the identified 'less than substantial' harm is not outweighed by any public benefit, and the development therefore fails to accord with the guidance set out in the NPPF on Conserving and Enhancing the Historic Environment. The development is contrary to saved policies E1, E16 and E19 of the adopted Swale Borough Local Plan 2008, and policies DM14 and DM34 of the emerging Local Plan (Bearing Fruits 2031).

### 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.

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>3.3 REFERENCE NO - 17/500313/OUT</b>		
<b>APPLICATION PROPOSAL</b>		
Outline application for mixed use development comprising up to 49 residential dwellings with associated commercial (B1) and retail (A1) units, hard and soft landscaping, and associated infrastructure (Access being Sought) (Resubmission).		
<b>ADDRESS</b> Land North Of Canterbury Road Dunkirk Kent ME13 9LH		
<b>RECOMMENDATION</b> Refusal subject to the views of the Council's Landscape Consultant		
<b>SUMMARY OF REASONS FOR RECOMMENDATION/REASONS FOR REFUSAL</b>		
The proposed development falls outside of the built-up area boundary and is not identified as one of this Council's preferred housing allocations within the soon to be adopted Local Plan. The social and economic benefits of the proposal have little weight within this policy context and moreover, there would be significant and demonstrable harm to the character and amenity value of the countryside and harm to the landscape which is designated as an Area of High Landscape Value within the soon to be adopted Local Plan. This harm would outweigh the benefits of the proposal and as such, the proposal would not constitute sustainable development.		
<b>REASON FOR REFERRAL TO COMMITTEE</b>		
Request made by Cllrs Bowles for the application to be reported to the Planning Committee for their consideration.		
<b>WARD</b> Boughton And Courtenay	<b>PARISH/TOWN</b> Dunkirk	<b>COUNCIL</b>
		<b>APPLICANT</b> Quinn Estates Limited <b>AGENT</b> Montagu Evans
<b>DECISION DUE DATE</b> 25/04/17	<b>PUBLICITY EXPIRY DATE</b> 24/02/17	<b>OFFICER SITE VISIT DATE</b> 01.02.2017
<b>RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):</b>		
<p>SW/98/0189 – erection of poly tunnels – approved</p> <p>SW/00/0080 - Outline Application for residential development of four dwellings with garages – refused</p> <p>SW/00/0698 - Outline application for four dwellings with garages - refused</p> <p>SW/01/0845 - Renewal of temporary planning permission SW/98/0189 for erection of polytunnels – approved</p> <p>SW/01/0066 - Erection of 2 greenhouses – approved</p> <p>16/501118/OUT – Outline application with access being sought for mixed-use development comprising up to 77 residential dwellings with associated commercial (B1) and retail (A1) units, hard and soft landscaping, and associated infrastructure. Planning permission was refused on 16<sup>th</sup> November 2016 on the following grounds:</p> <ol style="list-style-type: none"> <li><i>The proposed development would be located outside of the defined urban boundaries of Dunkirk (as established by Local Plan Policy SH1 and Emerging Local Plan Policy ST3 which place emphasis on the use of previously developed land within the defined built up areas and on sites allocated by the Local Plan) and is not proposed as an allocated housing site within the emerging local plan. The proposed development would detract from the intrinsic value, tranquillity and beauty of the countryside and the quality and character of the landscape which is designated as being within a Special Landscape Area. Given the advanced status of the emerging plan, the allocation of further sites to meet objectively assessed housing needs for the Borough, and the progress made by the Council in achieving a 5 year housing land supply as part of the local plan process, the development of this site is unnecessary and the harm it would cause, as identified above, would significantly and demonstrably outweigh the benefits of the development and would fail to result in a sustainable form of development. This would be contrary to</i></li> </ol>		

*policies SP1, SH1, E6 and E9 of the Swale Borough Local Plan Adopted 2008; policies ST1, ST3, ST7 and DM24 of the emerging Swale Borough Local Plan “Bearing Fruits 2031” (Proposed Main Modifications June 2016), and the National Planning Policy Framework.*

The applicant has lodged an appeal against this refusal. The Public Inquiry is due to commence on 26<sup>th</sup> September 2017.

## MAIN REPORT

### 1.0 DESCRIPTION OF SITE

- 1.01 The site lies on the edge of Dunkirk village within the eastern part of the Borough. Dunkirk village is small with approximately 110 houses set out in a linear pattern which follows Canterbury Road and Courtenay Road and is rural in character. It comprises of mainly detached and semi-detached houses and bungalows, a former school building (now closed), a farm shop, public house, a caravan park, two plant nurseries and, village hall. There are also some commercial/industrial buildings/land to the east of the site. Dunkirk village lies to the west (approx. 1km) of Boughton under Blean. This neighbouring village is identified as a Local Service Centre within the adopted Local Plan (Rural Local Service Centre in the Emerging Local Plan) and is a larger settlement than Dunkirk with amenities such as a convenience shop, post office, comparison retail units, restaurants, public house, medical centre (although it is reported that this closed on 30<sup>th</sup> September 2016), village hall (with library) and primary school. There are bus stops within Dunkirk along Canterbury Road with services to Canterbury and Faversham. The site is approximately 5 miles from Faversham and 5 miles from Canterbury.
- 1.02 The site is bounded to the west by the rear gardens of detached and semi-detached houses. Further to the west, beyond the houses, is the Scheduled Monument site of Dunkirk Radar Tower which is also a grade II listed building. Blean Woods Nature Reserve (National Nature Reserve) which is also a Site of Special Scientific Interest (SSSI) lies to the northeast. The northeast corner of these woods (approx. 1mile from the application site) is designated as a Special Area of Conservation (SAC). This is ancient semi-natural woodland managed by the RSPB with public access. There are pathways through the woods which can be accessed from various different points. Notably, there is an access point 215m to the east of the proposed access to the application site. The closest designated car park (known as Rough Common) for recreational access to the woods is some 2.5 miles to the east. The eastern boundary of the application site lies approximately 50m from the edge of the ancient woods at its closest. The north of the site is bounded by horse paddocks. Residential properties lie immediately to the east of the site fronting Canterbury Road. A car/motorhome sales garage, Dunkirk Industrial Park and Agrii – suppliers of agricultural equipment and services also lie to the east of the site with access from Canterbury Road. Larger parcels of agricultural land lie to the south on the other side of Canterbury Road and the Boughton Bypass.
- 1.03 The application site is identified as a Special Landscape Area under the adopted Local Plan and an Area of High Landscape Value (Kent level) under the Emerging Local Plan. Blean Woods is identified as an Area of High Landscape Value (Swale level) under the Emerging Local Plan and as a Special Landscape Area under the adopted Local Plan. Canterbury Road is identified as a Rural Lane under the adopted Local Plan.



- 1.04 The application site area totals 3.16ha (or 7.8 acres). It has an irregular shape which can be described as a smaller rectangle fronting Canterbury Road and a larger rectangle forming the rear section of the site. There is a narrow strip of land extending eastwards from the eastern boundary of the site towards Blean Woods Natural Reserve (necessary for drainage from a proposed attenuation pond). The front part of the application site is currently used informally (and without consent) for the parking of HGVs. There are some piles of waste material scattered around and a small patch of fruit growing adjacent to a 19m x 6m greenhouse. The remaining land (the larger of the two rectangles) within the application site is overgrown, rough grassland with some evidence of cauliflower growing. Some hedgerows exist along the southern and eastern boundaries.
- 1.05 The land is largely flat with a gentle slope down from west to east so that there is a difference of 3.5m (in height above Ordnance Datum, AOD level) between the western and eastern boundaries. A water main easement runs along the western boundary of the site.
- 1.06 The site is 2.5 miles to the south of The Swale Special Protection Area (SPA) Ramsar site and SSSI.

## **2.0 PROPOSAL**

- 2.01 The application seeks outline planning permission for the residential development of the site for up to 49 dwellings with some business use (B1 Use Class) measuring 648sqm and retail (village shop) requiring 167sqm. The only detailed matter to be considered at this stage is the access to the site. This access is shown to be taken from Canterbury Road. This application follows on from a previous outline application (16/505118/OUT) for up to 77 dwellings at the same site, covering a slightly larger area. Members will note above that this application is now the subject of an appeal due to be considered at a four day Public Inquiry commencing 26<sup>th</sup> September 2017. The obvious difference between the refused scheme and the current application is the reduction in the number of dwellings now proposed (77 reduced to 49) as well as a reduction in the site area by 0.14ha with the northern boundary moved inwards by approximately 9m. Additionally, the floor area of the proposed B1 units has increased by a total of 370m<sup>2</sup>. The applicant has also shown indicatively that the area of open space/landscaping along the northern boundary would be increased by approximately 45-50m in width with an area of open space across the site totalling approximately 1.51 ha. The applicant seeks to address the Council's previous reason for refusal by introducing these changes.
- 2.02 The indicative plans show that the retail use would be located towards the front of the site, within the southeast corner. The two B1 units are shown to be provided adjacent to the eastern boundary of the site, close to the proposed pumping station. Parking would be provided close to the B1 and retail units and the applicant suggests that there would be a total of 37 full-time jobs created at the site.
- 2.03 The remainder of the site would be for the housing with a mixture of terraced, semi-detached and detached dwellings. Each house is shown to be provided with off-street parking and medium to large sized gardens. The application form suggests a total of 128 car parking spaces would be provided, though layout including car parking is a reserved matter. The houses and commercial buildings are shown to be of a traditional design. An attenuation pond would be provided within the northeast corner of the site and a pumping station would be located on the eastern boundary. The access would continue into a main service road (looks to be to adoptable

standard) but would then narrow and splinter off into smaller streets serving the residential properties.

- 2.04 Soft landscaping is shown to be provided in the form of trees and shrubs placed at strategic points within the site and along the boundaries. Landscape 'buffer zones' are shown to be provided adjacent to the western and northern boundaries. The applicant has submitted a detailed landscaping strategy for these areas but Members should bear in mind that landscaping is still to be considered as a reserved matter. A small play area is shown to be provided to the north of the houses. An 8m wide water mains easement is incorporated into the indicative landscaping scheme along the western boundary. This area would also be used as the reptile receptor site for reptiles found elsewhere within the site.
- 2.05 The applicant has offered to provide 30% of the dwellings as affordable housing, equating to 15 affordable dwellings based on a total of 49.

### 3.0 SUMMARY INFORMATION

	<b>Proposed</b>
Site Area (ha)	3.16ha
Approximate Ridge Height (m)	min 8m/max 11m
Resi storeys	Max 2
Parking Spaces	Not set
No. of Residential Units	49 (not set)
No. of Affordable Units	30%
Density	28 dph (not set)

### 4.0 PLANNING CONSTRAINTS

- 4.01 Potential Archaeological Importance
- 4.02 Dunkirk Airfield
- 4.03 Adjacent Site Of Special Scientific Interest Church Woods, Blean
- 4.04 Special Landscape Area under the adopted Local Plan and an Area of High Landscape Value (Kent level) under the Emerging Local Plan.

### 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), 19 (economy), 28 (rural economy), 32 (sustainable transport), 34, 47 (delivering a wide choice of high quality homes), 49, 50, 55, 56 (good design), 58, 69 (healthy communities), 70, 73, 75, 109 (conserving and enhancing the natural environment); 112 (agricultural land); 118, 119, 120, 121, 123, 125, 129 (heritage assets), 131, 159 (housing), 162 (infrastructure), 185 (neighbourhood plans), 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; Noise; Planning Obligations; Use of planning conditions; transport assessments and statements in decision taking; Water

supply, waste water and water quality land affected by contamination; light pollution; natural environment; neighbourhood planning; rural housing.

#### Development Plan:

- 5.03 The Swale Borough Local Plan Adopted 2008, saved policies SP1 (sustainable development), SP2 (environment), SP3 (economy), SP4 (housing), SP5 (rural communities), SP6 (transport and utilities), SP7 (community services and facilities), FAV1 (the Faversham and the rest of Swale planning area), SH1 (settlement hierarchy), E1 (general development criteria), E6 (countryside), E9 (landscape), E10 (trees and hedges), E11 (biodiversity and geological interests), E12 (designated biodiversity and geological conservation sites), E16 (scheduled ancient monuments), B2 (new employment), B4 (new retail), H2 (new housing), H3 (affordable housing), RC1 (rural economy), RC2 (rural services and facilities), RC3 (rural housing needs), RC7 (rural lanes), T1 (safe access), T4 (cyclists and pedestrians) & C3 (open space on new housing developments).
- 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), ST7 (Faversham and Kent Downs strategy), CP2 sustainable transport), CP3 (high quality homes), CP4 (good design), CP5 (health and wellbeing), CP6 (community facilities and services to meet local needs), CP7 (natural environment), CP8 (conserving and enhancing the historic environment), DM2 (main town centre uses), DM6 (managing transport demand and impact), DM7 (vehicle parking), DM8 (affordable housing), DM9 (rural exceptions housing), DM14 (general development criteria), DM17 (open space, sports and recreation provision), DM21 (water, flooding and drainage), DM24 (valued landscapes), DM26 (rural lanes), DM28 (biodiversity and geological conservation), DM29 (woodlands, trees and hedges), DM31 (agricultural land), DM34 (Scheduled monuments) & IMP1 (implementation and delivery plan).

#### Supplementary Planning Documents

Swale Landscape Character and Biodiversity appraisal (2011)

Developer Contributions (2009)

### **6.0 LOCAL REPRESENTATIONS**

- 6.01 Thirty-three letters of representation from local residents have been received. Twelve of these representations are in support of the development with the remaining twenty-one objecting.
- Increased traffic would cause safety concerns at the access point, pollution, noise and congestion through Dunkirk and Boughton village, particularly at school run time;
  - Traffic impact on Brenley Corner;
  - Insufficient parking proposed within the site;
  - The primary school in Boughton is at capacity already;
  - Secondary schools are also at capacity;
  - Disruption to protected wildlife;
  - Desire to keep village small;
  - Proposed houses are not in keeping with the single storey dwellings currently in the village;

- Loss of privacy to rear gardens;
- The underlying soil is clay and the development would add to the instability of the ground causing possible subsidence and sinkholes.
- Potential increased risk of flooding and drainage to Bossenden Woods would be harmful;
- Negative impact on nearby Blean Woods and the wildlife, including from domestic cats;
- Commercial building would increase traffic;
- The land has always been used for agriculture and shouldn't change. It is not scrubland;
- Negative impact on water supply, electricity and foul waste system;
- There is no need for a village shop, there is already one in Dunkirk and the one in Boughton is sufficient. A new village shop could put the others out of business;
- The Neighbourhood Plan proposes suitable sites for housing in Dunkirk/Boughton and this site is not included.
- Concerns from Dunkirk Industrial Estate about surface water drainage from the site onto his land. Has the sewer and pump system that runs under their site been considered?
- Noise and light pollution;
- The affordable housing is unlikely to go to local people;
- The development is well-designed that will enhance this part of the borough and bring jobs for local people and new facilities;
- Previous scheme 16/505118/OUT was refused as a matter of principle. Sure it doesn't matter whether there are 5 houses or 60 if it would be unacceptable in principle.
- Disturbance to the horse on firework night.
- Detrimental to Special Landscape Area.

6.02 The Faversham Society object to the development and comment that the site is in a Special Landscape Area and Area of High Landscape Value and has not been identified for development within the Boughton and Dunkirk Neighbourhood Plan; Dunkirk is not a sustainable location; the site is not allocated within the emerging Local Plan and the scheme does not offer the required amount of affordable housing.

## 7.0 CONSULTATIONS

- 7.01 Kent Police invites the applicant to consult them if the application proceeds. They note the intention to deliver the equivalent of Code 4 of the Code for Sustainable Homes and BREEAM good on the commercial space. They also draw the applicant's attention to document "Q" building regulations for doors and windows specifications. They recommend Secure by Design and recommend a condition to ensure that the development incorporates measures to minimise the risk of crime.
- 7.02 The Head of Housing comments that the scheme would require 40% affordable homes across the site which would equate to 20 dwellings. Policy DM8 requires a 90:10 tenure split in favour of affordable rented and the overall mix of property types/sizes should be proportionate to the open market homes and evenly distributed across the site. they seek 'a small number' of adaptable homes.
- 7.03 KCC Public Rights of Way Officer has no comments on the proposal.
- 7.04 The Environment Agency have no comment on the proposal.

- 7.05 Southern Gas Networks note that there is a low/medium pressure gas main near the application site. They state that there should be no mechanical excavations taking place above or within 0.5m of the low/medium pressure main or within 3m of an intermediate pressure system.
- 7.06 KCC Ecology note that the current scheme increases the landscaping to the north and that this is an improvement in terms of the potential to protect biodiversity. They would welcome an increase in the areas designated as reptile receptor sites to provide additional habitats to allow the population to expand. Mitigation measures have been provided to ensure that there will be no significant impact upon the designated sites. Natural England Standing Advice on ancient woodland suggests that developments establish a 15 metre buffer zone between new proposals and any ancient woodland. As a result of reviewing the submitted site plan, it appears that there is a 20 metre buffer zone between the housing/gardens and the ancient woodlands and is therefore adequate. In addition, open space is proposed along the border as well as additional native planting to form a thick buffer to protect the woodland. They advise that these measures should ensure that there is not a significant increase in recreational pressure on the ancient woodland. Any direct lighting on the SSSI/ancient woodland should be taken into consideration. They suggest a condition to address lighting within the site. With regards to protected species, they are satisfied that no further surveys are required and they recommend conditions to secure ecological mitigation and enhancement. Lastly they suggest an informative to address the potential for invasive species on the site.
- 7.07 The Forestry Commission refer to their joint Standing Advice with Natural England regarding ancient woodland and veteran trees. This Standing Advice considers the impact of development on ancient woodland and veteran trees in respect of hydrology, change of landscape context, changes to light pollution and increased predation from cats.
- 7.08 The KCC Archaeological officer notes that the site is 100m to the east of the Scheduled Monument Dunkirk Chain Radar Station but finds no historic evidence to link the application site to it. There is moderate potential for archaeology (Roman and Neolithic) on this site and he therefore recommends a condition to secure a programme of geophysical survey and trial trenching as an initial step to inform the extent of further investigation.
- 7.09 The KCC Flood Risk Project Officer acknowledges the submitted Flood Risk Assessment/Drainage Strategy and notes how it aims to dispose of surface water in a manner that seeks to mimic the runoff from the existing site whilst providing improvements to any existing local flood risk problems. Confirmation of the exact location of attenuation features, calculations of runoff and a maintenance strategy are expected at the reserved matters stage. Conditions are recommended that require the submission of a detailed sustainable surface water drainage scheme and no infiltration of surface water drainage into the ground without the consent of the Local Planning Authority.
- 7.10 Southern Water state that the exact position of foul rising main, sewer and water main must be determined on site before the layout of the proposed development is finalised and that a diversion might be possible. They request a condition to ensure that the Local Planning Authority is informed of the diversion/protection of the main. They conclude that they cannot accommodate the needs of this application without providing additional local infrastructure. The proposed development would increase flows into the wastewater sewerage system and as a result increase flooding in and around the area. There are no public water sewers in the area and alternative

means of draining water from the development are required. A drainage strategy should therefore be approved by the Local Planning Authority. They recommend a suitably worded condition. Any use of SUDs will need to be maintained in perpetuity and managed properly.

- 7.11 Natural England (NE) has no objection to the application. They note that the site is in close proximity to European designated sites - Blean Complex Special Area of Conservation (SAC) and The Swale Special Protection Area (SPA) and Ramsar site. These sites are also identified as SSSIs at a national level. The LPA should produce a Habitats Regulations Assessment (HRA) for the proposal. NE has assumed that the LPA will adopt the applicant's findings in their ecological assessment as its HRA. The ecological assessment concludes, subject to mitigation measures (including a fence around the site, that the proposal is unlikely to have a significant effect on the internationally designated sites, either alone or in combination. On the basis of the information provided, NE concurs with this view and request a contribution towards the Thames, Medway and Swale Estuaries Strategic Management and Monitoring (SAMM) Strategy and should take measures to ensure that the dwellings covered by this planning application are not occupied until this strategic mitigation is in place. NE is satisfied that the proposed development being carried out in strict accordance with the details of the application, will not damage or destroy the interest features for which the site is notified. The SSSI does not therefore represent a constraint in determining the application. They suggest referring to their standing advice on protected species and encourage biodiversity enhancements.
- 7.12 KCC Development Contributions team request primary and secondary education contributions at a total of £437,129.98. They also request contributions towards libraries at a total of £2352.78 and that 1 wheelchair adaptable home is provided on site. They also request that the development incorporates superfast fibre optic broadband.
- 7.13 The Lower Medway Internal Drainage Board note that the site is not within 20m of a watercourse but proposes to include surface water discharge, at a restricted rate, to an ordinary watercourse which flows to Swalecliffe Brook. It is essential that downstream flood risk is not increased as a result of the development. They support the comments of KCC SUDs.
- 7.14 The Environmental Services Manager has no objection subject to conditions to remediate contamination if found at the site. They note that levels of air pollution from the A2 will have dropped significantly at the application site due to the distance between them.
- 7.15 The NHS have requested a contribution of £38,160 for improvements to Newton Place Surgery and Faversham Medical Practice.
- 7.16 The RSPB note that they raised an object to the earlier application 16/505118/OUT on the grounds of increased recreational pressure on protected sites – Blean Woods without effective mitigation measures proposed. They welcome the reduction in the number of dwellings now proposed but still require appropriate mitigation measures to be put in place. The applicant has suggested a mitigation package, with funding to be provided by them and secured via a section 106 legal agreement. Bossenden Woods is directly adjacent to the application site and is managed by the RSPB as a non intervention, low disturbance area. The RSPB consider that its value as a quiet and undisturbed area of woodland would be compromised by the inevitable increased disturbance from people accessing the wood from the new development. In order to prevent this, they would have to close the current permissive path into Bossenden

Wood and instead direct visitors to the main visitor entrance at Rough Common car park. This would need some infrastructure improvements to ensure it can handle additional visitors. The mitigation measures include:

1. A new chestnut fence along the boundary of Bossenden Woods on the Canterbury Road to curtail direct access to this part of the site;
2. Upgrading of the Rough Common car park entrance;
3. New signage, leaflets and information board panels and;
4. Delivery of a project to encourage responsible access.

The RSPB clarify that if the above mitigation measures cannot be secured via a Section 106 agreement or by other means, they would continue to object.

7.17 Kent Highways and Transportation note that the scheme has no material changes to the access onto Canterbury Road when compared to the previous scheme. They raise no objection to this access which has been through a Stage 1 Road Safety Audit. The submitted TA is considered to be sound in its methodology. They recommend conditions to ensure that precautions are taken against mud on the road during construction, there is adequate parking for construction vehicles on site, that residents parking is retained on site, that cycle parking is provided, that the access onto Canterbury Road is provided and completed prior to the occupation of the buildings and that the roads and footways are designed to an acceptable standard.

7.18 Dunkirk Parish Council object to the proposal on the following grounds:

- The site was submitted to Boughton and Dunkirk Neighbourhood Plan but was not considered to be sustainable, out of keeping with the village of Dunkirk and would conflict with the protection of views.
- It is in an unsustainable location outside acceptable walking distance of local services, including medical centres. The closest doctors surgeries are now either in Blean or Faversham;
- The closest school and pre-schools are in Boughton which is over 2km away. The footpath from the site to Boughton is in a poor state of repair and it unlit;
- The predicted traffic levels from the site seem to be unduly low. The proposal would result in harm to highway safety and convenience;
- Boughton primary school is oversubscribed and there is no capacity for additional children; and residents will have to travel outside of the area for their children to attend school, most likely Faversham, exacerbating the congestion through Boughton;
- Nearby Secondary Schools will need to expend significantly to cope with increased numbers and the local bus service is often under strain with the numbers of school children;
- The development will increase recreational use of Blean Woods to its detriment and no amount of mitigation will reduce this;
- The development will have a 'substantial' negative impact on the SSSI, Nature Reserve, Area of High Landscape Value and Special Area of Conservation;
- The development will result in the loss of outlook to the detriment of residential amenity for the properties along Courtenay Road;
- The development is 'badly designed', visually intrusive and out of keeping with the majority of bungalows close by.
- The Swale Rural Sustainability Study (December 2011) identifies Dunkirk as having no capacity for residential development due to extremely limited facilities and services and the linear form of settlement and surrounding countryside would be adversely affected;

- The site was ranked 96<sup>th</sup> out of 116 in the ‘Ranked Assessment of Reasonable Non-allocated Site Options to inform Modifications to the Swale Borough Local Plan June 016.
- The indicative plans do not seem to provide enough parking spaces for residents;
- Negative impact on air quality;
- Questions the safety of the visibility splays;
- This is not sustainable development;
- The application should be refused as per the previous scheme. The new scheme is not that different and it is noted that the % of affordable homes has reduced – there should be 40%;
- The development is similar to appeals in Bobbing and Newington that was dismissed on the grounds of harm to the character and appearance of the area/landscape harm;
- The capacity of drainage, electrical and water systems is not sufficient to cope with the additional dwellings.

7.19 The Greenspaces Manager notes:

*“...the majority of my concerns have been dealt with. More usable open space, play area sufficiently spaced from dwellings and properties facing out onto boundary open space in key areas.*

*Future maintenance of the open space should include the space being offered for transfer to the Council with a 10 year commuted sum first, but with a back-up of management company should we not wish to take on the open space.”*

He asked for a total of £94,459.67 for the commuted sum.

## **8.0 BACKGROUND PAPERS AND PLANS**

## **9.0 APPRAISAL**

### **Principle of Development**

#### **9.01 Planning Policy and the Housing Land supply position**

9.02 This Council is on the cusp of adopting its new Local Plan – Bearing Fruits 2031. Members will be considering this application on 22<sup>nd</sup> June 2017 when we would have received the Inspector’s report on the emerging Local Plan. It is assumed that the Plan will have been found sound and that the Inspector’s findings will be binding on the Council. Formal adoption is anticipated to be agreed by Members of the Full Council on 26<sup>th</sup> July 2017. I therefore write this report on the assumption that the emerging Local Plan is given significant weight with limited weight given to the 2008 Local Plan. Technically, however, the current adopted Local Plan will remain in place until the new plan is adopted on 26<sup>th</sup> July 2017.

9.03 For the purposes of the development plan, the site is located outside of the built confines of Dunkirk and falls to be considered as within the countryside. Policy E6 of the adopted local plan seeks to protect the quality, character and amenity of the countryside. Policy SP4 seeks to provide sufficient land for housing need, and policies SH1 and H5 of the adopted local plan seek to concentrate this in the Thames Gateway Planning Area, with limited development to meet local needs in the Faversham and rest of Swale area. Policy H2 of the adopted plan states that permission for new residential development will be granted for sites that are allocated



or within defined built-up areas. Outside of these, new residential development will only be granted for certain limited exceptions.

- 9.04 The application site being outside of the built-up area boundary would be contrary to the above policies and not in accordance with the development plan.
- 9.05 The NPPF was published in 2012 and is a material consideration in the determination of planning applications. It sets out a presumption in favour of sustainable development. Paragraph 7 identifies three strands to sustainable development, an economic role (supporting the economy and growth), a social role (providing strong, healthy, accessible communities), and an environmental role (contributing to protecting our natural, built and historic environment). Paragraph 14 sets out that, for the purposes of decision taking, this means where the development plan is absent, silent or relevant policies are out of date, permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits.
- 9.06 Paragraph 47 of the NPPF seeks to significantly boost housing supply, and requires LPA's to meet full objectively assessed needs for housing in their area, and to identify and update a supply of deliverable sites to provide a five year housing supply. Paragraph 49 of the NPPF sets out that policies for the supply of housing should be considered out of date if the LPA cannot demonstrate a 5 year supply.
- 9.07 Based on current Objectively Assessed Needs (OAN) for housing within the Borough, the Council cannot currently demonstrate a 5 year housing supply. Given that the Council cannot demonstrate an existing 5 year housing supply, and the above policies for housing delivery pre-date the OAN, they must be considered as out of date.
- 9.08 The emerging local plan has been through an Examination in Public, and following the Inspector's findings, the Council has sought to significantly boost its housing allocations to meet objectively assessed housing needs with a further examination of the main modifications concluding in February this year. A number of policies within the emerging plan seek to deliver housing development in order to meet the OAN for housing in the Borough. These policies are ST1 (sustainable development including delivery of homes to meet OAN), ST2 (delivery targets), ST3 (Swale settlement strategy), ST4 (site allocations to meet OAN), and ST7 (Faversham area strategy to provide housing at allocations or other appropriate locations where the role and character of Faversham and rural communities can be maintained / enhanced).
- 9.09 The background evidence base on housing allocations has been endorsed by the Local Plan Inspector in her Interim findings as a sound basis for the council to deliver additional sites to meet OAN. On this basis, there is a high likelihood that the additional site options will be acceptable to the Inspector given the soundness of this evidence base.
- 9.10 The Council has shown in the last examination of the emerging Local Plan that it can demonstrate a five-year supply. Whilst at the time of writing, and until the Inspector's report has been received, a five-year supply cannot be demonstrated, it is the progress towards and prospects of achieving that supply within a reasonable timeframe that is an important consideration and one which has been upheld on Appeal.
- 9.11 Paragraph 216 of the NPPF sets out that decision makers may give weight to emerging plans, depending on the stage of preparation of the plan (the more advanced, the greater the weight), the extent to which there are unresolved

objections, and the degree of consistency of relevant policies to policies in the NPPF. Given the endorsements made by the Local Plan Inspector and the very advanced stages towards adoption, I am of the opinion that significant weight can be given to the emerging plan and demonstration of a five year housing supply. The applicant in their Planning Statement seeks to question the housing land supply figures put forward by this Council for support the emerging Local Plan. They assert that the Council needs to provide more housing per year than has been put forward and they also question the deliverability of the housing development within the timescale predicted. However, we are now in a very strong position in terms of the imminent adoption of our new Local Plan - Bearing Fruits 2031 in which the Inspector is expected to have accepted our housing land supply figures for the next five years.

- 9.12 When considering the NPPF test as to whether this application constitutes sustainable development and whether any harm arising from the proposal would significantly outweigh the benefits, the position of the emerging plan as set out above, should be taken into account.

Is the proposal sustainable development?

- 9.13 Within the Emerging Local Plan, Dunkirk is a fifth-tier settlement and is therefore ranked at the bottom in terms of where this Council wishes to direct new homes and jobs. As such when tackling the housing need in the Borough on a strategic level, this Council has identified sites that would be far more sustainable i.e. those adjacent to the towns of Sittingbourne and Faversham and other much larger settlements. We are able to demonstrate through the housing allocations identified in the emerging local plan that there are many more sites within the Borough that can meet the housing need in a sustainable way. The application site is therefore not necessary to meet the housing needs of this Borough. Developing the application site for housing would be at odds with the strategic and sustainable approach to delivering housing that this Council has shown it can achieve through the emerging local plan (to be given significant weight). I therefore consider that the development would be unsustainable in this respect and do not consider that the changes to the proposal represented in the current application overcome this.
- 9.14 On a local level, it is my view that this development would not constitute sustainable development. Economically, the proposal would offer some benefit in terms of a small amount of job creation and a boost to the local economy by introducing additional residents to the area who will hopefully support local businesses. However, I am not convinced that this economic benefit would be so great as to outweigh the harm that I identify below in terms of harm to the environment. The applicant also highlights benefits to the economy in respect of the New Homes Bonus, job creation during construction, and council tax. However, it is arguable that these particular benefits to the economy could equally be matched by other more strategically sustainable sites.
- 9.15 Mixed-use development such as this is inherently more sustainable than just purely residential because of a reduced need to travel by car. However, in this case, the benefits of one small shop and two business units on site would have only a limited impact on reducing car usage and does not therefore outweigh the harm identified below. I do not consider that the increase in the floorarea for the proposed B1 units (370m<sup>2</sup>) in respect of the current application would enable me to view the scheme any more favourably than the previously refused scheme. There are already a number of commercial units close to the application site. I question the need for one more business unit which would be likely to demand a higher rent than the established units. The applicant asserts that the development would create 37 full time jobs. I

consider that this is somewhat optimistic for a village shop and 2 small business units but acknowledge that there is certainly capacity for this number of employees. This has been confirmed by the Economic Development Officer. However, I attach less weight to the economic benefits of the development given our strong position on the 5 year supply of housing as set out above.

- 9.16 In terms of the social aspect of sustainable development, the potential provision of much needed housing is of course a positive impact. The applicant is offering to provide 30% affordable houses across the site. The soon to be adopted Local Plan seeks to secure 40% affordable housing in rural areas. I will address the shortfall in affordable housing in terms of the policy requirement in the section on developer contributions below. The provision of even a small amount of affordable housing on this site should be noted as a benefit of the scheme but given the shortfall proposed, I consider that Members should not give this significant weight. However, as discussed above, the emerging local plan demonstrates that the housing needs of this Borough can be met in locations that are far more sustainable than the application site. Dunkirk and Boughton under Blean Parish Councils are currently in the early stages of producing a Neighbourhood Plan within which the housings need of the villages have been identified. Despite being in its early stages, the Parish Councils have identified other sites within their parishes for housing and have ruled out the application site. The implication being that even at a local level, better, more sustainable, sites for housing can be identified. Members should though only attach very limited weight to this owing to the very early stages of the Neighbourhood Plan process.
- 9.17 The application site would be located near the settlement that has very limited amenities and use of the car is highly probable in order to access necessary services and facilities such as a doctor's surgery, primary and secondary schools. I acknowledge that there is a fairly frequent bus service to Canterbury and Faversham with a bus stop very close to the site. However, whilst it might make the site slightly more sustainable from a transport point of view, it does not mean that the application site is sustainably located.
- 9.18 In terms of the environmental aspect of sustainable development, I note the intention of the applicant to build houses to the equivalent of code level 4 of the Code for Sustainable Homes and the commercial units to BREEAM 'Good'. However, the proposal would cause significant and demonstrable harm to the environment for the reasons set out below. I therefore consider that the proposal does not constitute sustainable development.
- 9.19 The applicant argues that by approving this development, the village of Dunkirk would become more sustainable. They are of the view that Dunkirk is in danger of decline and isolation with an ageing population. The fact is that this development is at odds with this Council's preferred settlement strategy – to expand existing larger settlements first and foremost. Such an approach to development across the Borough has been widely supported by Members and local residents for its sustainability and this has ultimately resulted in the strategy that we have taken forward in Bearing Fruits 2031. The Local Plan Inspector has already endorsed this strategy and is expected to find the emerging Local Plan 'sound'. Should Members look to approve this application, they would need to be clear as to why and how this development offered such significant benefits in terms of the three strands of sustainable development (economic, environmental and social), that this would outweigh the undermining of this Council's settlement strategy as well as the harm to the landscape that I set out below. Members should be clear that the applicant is not offering anything in the way of landscaping, affordable housing, or other developer

contributions that would not otherwise be necessary to mitigate against the development or that it required under planning policy. I cannot see how an argument could be made that this development is 'exceptional' in any way that would allow this Council to make a decision that is contrary to the settlement strategy within the soon to be adopted Local Plan.

### **Rural character and appearance/impact on Special Landscape Area**

9.20 Policy E9 of the adopted Local Plan identifies the site as a Special Landscape Area. Within North Kent Marshes Special Landscape Areas (SLAs), the priority is the long-term protection and enhancement of the quality of the landscape of these county assets, whilst having regard to the economic and social wellbeing of their communities. Policy DM24 of the Emerging LP identifies the site as an Areas of High Landscape Value (Kent and Swale Level). These areas are designated as being of significance to Kent or Swale respectively, where planning permission will be granted subject to the: conservation and enhancement of the landscape being demonstrated; avoidance, minimisation and mitigation of adverse landscape impacts as appropriate and, when significant adverse impacts remain, that the social and or economic benefits of the proposal significantly and demonstrably outweigh harm to the Kent or Swale level landscape value of the designation concerned.

9.21 This particular landscape is identified within the Swale Landscape Character and Biodiversity appraisal (2011) (SPD) as falling within the "Woodland Landscape Types" category and the Blean Wood West character area. The landscape is described as follows:

*"Deciduous woodlands are dominant on the higher ground and these include many areas of managed hornbeam and chestnut coppice....The domed high ground is dominated by ancient woodland...*

*This remains one of the most extensive semi-natural woodlands in the south east of England contained many varied habitats of national and international importance reflected in their designations. However, significant areas have been cleared to make way for horse related activities, grazing livestock and dairy farming....*

*This is an area largely enclosed by topography and woodland but views are present from the higher domed open grazing land...*

*The A2 divides the area north-south and immediately north of this major trunk road lays the main settlement of Dunkirk. This is a linear village located on the high grounds east of Boughton under Blean. Many of the residential dwellings of Dunkirk are of mixed vernacular character. Otherwise the area possesses a sense of remoteness, accessible only by quiet lanes. Settlement is limited to isolated farms and cottages, many dating back from 1800s are, built in brick and of a vernacular style.*

*At Dunkirk there are a number of structures that were part of a chain of radar stations that played an important roll in the Battle of Britain. These are Scheduled Ancient Monuments."*

9.22 The SPD concludes that the Western Blean woodland character should be "conserved and reinforced". Importantly, it recommends conserving the woodland fringe which provides the unique interface between open and wooded area and

conserve the largely undeveloped and heavily wooded character of the landscape which forms part of the wider Blean Woods complex.

- 9.23 The submitted Landscape Assessment asserts that the existing land use of the site and also those land uses/features surrounding the site have influenced and reduced intrinsic value, tranquillity and beauty of the countryside and quality and character of the landscape of the 'Site and Special Landscape Area' to the east of Dunkirk. The applicant has also provided a plan showing the proximity and extent of the adjacent commercial uses in order to seek to demonstrate that the development of this site for housing should also be allowed, presumably on the grounds that the adjacent commercial uses already compromised the quality of the application site. The submitted assessment asserts that the landscape condition/character of the site is 'medium to low' due to its various uses, its poor visual appearance and the state of the existing boundary hedgerows and trees as they are generally in a poorly maintained condition. The report concludes that the proposed development would have some local impacts/harm, but the effects of the development on character and visual appearance of the open countryside/Special Landscape Area will not be significant. It is fair to say that the scheme before Members is a modest improvement on the previously refused development which had much less landscaping/open space proposed within the site. However, I still have serious concerns about the landscape impact of the current proposal, set in a landscape designated as of importance at the Kent level and thus of no little value.
- 9.24 Officer's have commissioned an independent review of the potential landscape effects of this development by Huskisson Brown Associates. Their conclusions on the likely landscape and visual impact of the development will be reported at the meeting.
- 9.25 The above review will have a significant influence on my conclusions in respect of landscape and visual impact. However, I would still assert that despite the conclusions of the submitted Landscape Assessment, the proposed development would be visible from Canterbury Road, Courtenay Road and from Blean Woods. There is no doubt, in my view, that the presence of buildings on this site will have a significant impact on the character of the landscape. The proposal would represent a substantial extension of the existing village envelope representing an incursion into open countryside. It would interrupt views towards Blean Woods from Courtenay Road in a way that would be significantly harmful to the character and visual amenities of the area. The scale of the development and the likely layout of houses would be at odds with the existing linear pattern of well-spaced houses within Dunkirk village. The application site creates a buffer that is open and rural in character between the houses along Courtenay Road and Blean Woods. This relationship is important as Blean Woods adds significantly to the special character of the landscape. There would be some views of the application site from Blean Woods, although it is acknowledged that these would be reduced with the current scheme. The proposed development would lead to a detrimental erosion of the special setting of Blean Woods and the isolated/remote nature of Dunkirk village in my view.
- 9.26 The proposal would introduce landscape screening to the adjacent industrial use which would be of benefit to the visual amenities of the area and the character of the landscape to a certain extent. However, the provision of any open space and/or landscaping within the application site would be viewed as mitigation necessary to aid in the integration of the housing development within the countryside and not as planning gain. I do not consider that this soft landscape would go far enough to reduce the harm that I have identified to the Special Landscape Area.

## Ecology/biodiversity

- 9.27 Natural England are satisfied that the development would have no adverse effect on The Swale Special Protection Area, Blean Complex Special Area of Conservation and SSSIs. The following measures would be incorporated into the scheme to reduce the impact on these designated sites and also the ancient woodland having regard to the relevant Standing Advice:
- tree protection fencing;
  - secure boundary along woodland edge, including drainage channel, to deter access;
  - additional native planting (incorporating thorny species) along woodland edge forming a buffer to the woodland and;
  - contribution towards the Thames, Medway and Swale Estuaries Strategic Management and Monitoring (SAMM) Strategy;
  - control of surface water run-off to greenfield rates and measures that would result in a reduction of surface waters from this site onto adjacent land.
- 9.28 Members will have noted the comments from the RSPB who do not object to the proposal subject to mitigation measures being secured for the adjacent woodland. This would include closing off the access to the Bossenden Woods part from Canterbury Road. This may be unpopular to some local residents but it would be the best way of managing the site in order to guard against a more intensive use. I have included the mitigation measures proposed in the list of Section 106 obligations below.
- 9.29 With regards to the potential impact on wildlife within the site, the applicant has submitted an Ecology Appraisal which details surveys that have taken place on the site and identifies measures to minimise the impact on protected species and wildlife in general, including ecological enhancements. This includes the translocation of reptiles from the site to a suitable open space which is likely to be within the western part of the site. KCC Ecology accept the mitigation measures proposed but ask for additional reptile receptor areas within the site if possible. There is certainly potential for additional areas of reptile receptor areas to be provided with the site. Such details could be considered at the reserved matters stage.
- 9.30 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.

## Residential Amenity

- 9.31 The proposal is in outline form only and so the impact on existing local residents in terms of overlooking and overshadowing cannot be considered at this stage. In terms of noise from the residential use of the site, I do not consider that there would be any harmful increase in this respect.
- 9.32 It is anticipated that noise from the proposed commercial units could be adequately controlled with the use of appropriate conditions and through their design to ensure that there would be no undue impact on future residents of the development and/or the residential properties directly adjacent to the eastern boundary of the site.

- 9.33 The proposed dwellings would experience some noise impact from the road and a 'significant adverse' impact from the industrial units. However, the applicant has proposed mitigation in the form of double glazing to all living, dining and bedroom windows within dwellings throughout the development, with upgraded double glazing (no trickle vents) to habitable rooms that face the industrial park. Only specially designed trickle vents should be allowed to living and bedroom windows within the south, east and west facing elevations and located within 100m of Canterbury Road. In addition, 2m high acoustic fencing to properties adjacent to the industrial park. Since opening windows would reduce insulation of the buildings, mechanical ventilation is proposed to all rooms with windows facing the industrial units. The Environmental Services Manager reviewed the submitted noise assessment on the previous application and was satisfied that these mitigation measures will ensure there is no material harm to future residents of the development. The current scheme does not change the development in respect of the noise implications and so the previous advice from the Environmental Services Manager still stands.

### Highways

- 9.34 KCC Highways and Transportation have no objection to the scheme subject to various conditions as noted at paragraph 7.17 above. The access to the site from Canterbury Road is considered to be safe and they have raised no concerns about the development causing congestion on the local highway. A section 278 agreement will be required to make changes/improvements to the highways network close to the proposed access to the site.
- 9.35 Whilst it is acknowledged that this development would increase the number of vehicles using local roads, it is not considered that this would cause material harm to highway safety or amenity. I acknowledge that there is often congestion through Boughton under Blean but there is no evidence to suggest that this development would add significantly or demonstrably to this congestion. The submitted Transport Statement concludes that the local road network has sufficient capacity to accommodate the proposed development.
- 9.36 I have considered the proposal against adopted Local Plan policy RC7 – Rural Lanes but do not consider that this proposal would have a detrimental effect on the character of this part of Canterbury Road by way of significant traffic levels or the appearance of the new access/highway improvements.
- 9.37 Members will be aware that as this application is in outline form only, details of parking arrangements and road layouts within the site will be considered under a separate reserved matters application.

### Developer contributions

- 9.38 The applicant has agreed to meet the various requests for developer contributions/obligations within a Section 106 agreement. These are as follows:
- primary education (improvement to a school in Faversham) £222,215.00 or £4535/dwelling;
  - primary land (new primary school in Faversham) £99,284.78 or £2026.22/dwelling;
  - secondary education (expansion of Abbey School) £115,630.20 or £2359.80/dwelling;
  - libraries at a total of £2352.78 or £48.02/dwelling;

- 1 wheelchair adaptable home is provided on site;
- £223.58 per dwelling contribution towards the Thames, Medway and Swale Estuaries Strategic Management and Monitoring (SAMM) Strategy;
- commuted sum for the maintenance of the open space of £94,459.67 or agreement to appoint a management company to manage the open space and landscaped areas within the site in perpetuity;
- Section 278 agreement for improvements to junction off Canterbury Road with London Road and provision of ghost island for right hand turn off Canterbury Road;
- RSPB mitigation measures. Developer to fund:
  - A new chestnut fence along the boundary of Bossenden Woods on the Canterbury Road to curtail direct access to this part of the site;
  - Upgrading of the Rough Common car park entrance;
  - New signage, leaflets and information board panels and;
  - Delivery of a project to encourage responsible access.
- Local labour agreement.
- Admin + monitoring fee.

Total contributions = £450,438.18 + administration and monitoring fee = £472,960.08 plus commuted sum for open space, plus RSPB mitigation measures.

- 9.39 The agreement by the applicant to enter into a section 106 agreement covering the above requirements should be honoured if the application is determined at appeal.
- 9.40 The applicant has submitted a Viability Assessment in which they seek to demonstrate that the development cannot support any more than 30% affordable housing across the site. Policy DM8 of the soon to be adopted Local Plan seeks to secure 40% affordable housing for rural areas. As such, the proposal would not be policy compliant in this respect. Officers have therefore sought the advice of an independent viability consultant and await their response. Members will be updated at the meeting. Should the independent assessment reveal that the 40% affordable housing can be achieved on this site, Officers may look to add a reason for refusal on these grounds.

### Other Matters

- 9.41 With respect of the loss of agricultural land, I have considered paragraph 112 of the NPPF and policy DM31 of the emerging Local Plan which states:

*“Development on agricultural land will only be permitted when there is an overriding need that cannot be met on land within the built-up area boundaries. Development on best and most versatile agricultural land (specifically Grades 1, 2 and 3a) will not be permitted unless:*

- *The site is allocated for development by the Local Plan; or*
- *There is no alternative site on land of a lower grade than 3a or that use of land of a lower grade would significantly and demonstrably work against the achievement of sustainable development; and*
- *The development will not result in the remainder of the agricultural holding becoming not viable or lead to likely accumulated and significant losses of high quality agricultural land.”*

- 9.42 The application site is shown on the Provisional Agricultural Land Classification (ALC) map as Grade 4 - which is poor quality agricultural land. The applicant has submitted evidence of soil analysis at the application site and this indicated that the



land falls within Grade 3b and is not therefore classified as ‘best and most versatile’ for the purposes of applying policy DM31 and paragraph 112 of the NPPF. I also acknowledge that this site is relatively small and cut-off from other agricultural land. This would limit its potential contribution to the agricultural economy further. I therefore consider that the loss of agricultural land should not prevent its redevelopment in this case.

- 9.43 Archaeological desk-based study confirms that the application site has moderate potential for archaeological finds. KCC confirm that they have no objections to this development subject to a condition to secure a programme of geophysical survey and trial trenching as an initial step to inform the extent of further investigation. In terms of the impact of this proposal on the setting of the Scheduled Monument Dunkirk Chain Radar Station, no historic link has been identified between the two sites. The separation of the application site and Scheduled Monument by way of distance and the line of houses along Courtenay Road also reduces the impact on the setting of this designated heritage asset in my view. On this matter, I conclude that there would be no harm to the setting of the Scheduled Monument.
- 9.44 In respect of the pressure that this development would have on local schools, I note that KCC have asked for a contribution towards a new primary school, improvements to an existing primary school and an extension to the secondary school within Faversham. This is a strategic issue that KCC and Swale Borough Council are tackling at a borough and county level. It is not therefore a matter upon which this application should fail.
- 9.45 I am content that foul and surface water drainage can be designed to meet the requirements of the relevant consultees. I note that a pumping station is proposed, the details of which would require further approval under the reserved matters application. Surface water is to be managed so that run-off from the site is minimised. This is via the attenuation pond and a ditch leading to the woods. I therefore consider that there would be no harm to the adjacent woods or an increase in the likelihood of flooding by way of increased surface water run-off.
- 9.46 Despite the concerns of local residents in respect of water supply issues, Southern Water have not identified this as a potential problem. Similarly, with respect of gas and electricity supply, the various providers have not objected. I therefore consider that connection and supply of utilities to this site would be adequate.
- 9.47 The submitted phase 1 contaminated land report concludes that there is moderate potential for contamination at the site. The Head of Environmental Services accepts the findings of this report and recommends an appropriate condition to remediate contamination that may be found at the site.

## **10.0 CONCLUSION**

- 10.01 This outline application seeks permission for housing and commercial development on land outside of the built-up area boundary of Dunkirk within both the 2008 Local Plan and the soon to be adopted Local Plan – Bearing Fruits 2031. It is my strong view that this Council can now attach significant weight to the policies within the emerging local plan that relate to housing land supply due to its advanced stages in the examination process.
- 10.02 The fact is that this development is at odds with this Council’s preferred settlement strategy – to expand existing larger settlements first and foremost. Such an approach to development across the Borough has been widely supported by

Members and local residents for its sustainability and this has ultimately resulted in the strategy that we have taken forward in Bearing Fruits 2031. The Local Plan Inspector has already endorsed this strategy and is expected to find the emerging Local Plan ‘sound’. Should Members look to approve this application, they would need to be clear as to why and how this development offered such significant benefits in terms of the three strands of sustainable development (economic, environmental and social), that this would outweigh the undermining of this Council’s settlement strategy as well as the harm to the landscape that I set out above.

- 10.03 The benefits of the proposal can be identified as economic and social as discussed above. However, it is argued that these benefits can be given less weight given the status of the emerging local plan. In addition, the harm to the environment as set out above, specifically the character and amenity of the landscape, significantly and demonstrably outweighs the benefits. It is my view that this development does not constitute sustainable development and should therefore be refused.

**11.0 RECOMMENDATION – REFUSE** subject to the views of the Council’s Landscape Consultant for the following reason:

1. The proposed development would be located outside of the defined urban boundaries of Dunkirk (as established by Local Plan Policy SH1 and Emerging Local Plan Policy ST3 which place emphasis on the use of previously developed land within the defined built up areas and on sites allocated by the Local Plan) and is not proposed as an allocated housing site within the emerging local plan. The proposed development would detract from the intrinsic value, tranquillity and beauty of the countryside and the quality and character of the landscape which is designated as being within a Special Landscape Area. Given the advanced status of the emerging plan, the allocation of further sites to meet objectively assessed housing needs for the Borough, and the progress made by the Council in achieving a 5 year housing land supply as part of the local plan process, the development of this site is unnecessary and the harm it would cause, as identified above, would significantly and demonstrably outweigh the benefits of the development and would fail to result in a sustainable form of development. This would be contrary to policies SP1, SH1, E6 and E9 of the Swale Borough Local Plan Adopted 2008; policies ST1, ST3, ST7 and DM24 of the emerging Swale Borough Local Plan “Bearing Fruits 2031” (Proposed Main Modifications June 2016), and the National Planning Policy Framework.
- 11.01 Members should note the depending on when the decision is issued, policies relating to the 2008 adopted Local Plan will need to be removed with only the policies within the soon to be adopted Local Plan cited.

**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:

- 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 development gave rise to fundamental concerns, which could not be overcome.

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: HABITATS REGULATIONS ASSESSMENT**

### **Context**

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

For proposals likely to have a significant effect on a European site, the Conservation of Habitats and Species Regulations (2010) requires the Council to make an appropriate assessment of the implications for the site. Para. 119 of the NPPF states that *"The presumption in favour of sustainable development ... does not apply where development requiring appropriate assessment under the Birds or Habitats Directives is being considered, planned or determined."*

Given the scales of housing development proposed around the North Kent SPAs, the North Kent Environmental Planning Group (NKEPG) commissioned a number of reports to assess the current and future levels of recreational activity on the North Kent Marshes SPAs and Ramsar sites. NKEPG comprises Canterbury, Dartford, Gravesham, Medway and Swale local authorities, together with Natural England and other stakeholders. The following evidence has been compiled:

- Bird Disturbance Study, North Kent 2010/11 (Footprint Ecology).
- What do we know about the birds and habitats of the North Kent Marshes? (Natural England Commissioned Report 2011).
- North Kent Visitor Survey Results (Footprint Ecology 2011).
- Estuary Users Survey (Medway Swale Estuary Partnerships, 2011).
- North Kent Comparative Recreation Study (Footprint Ecology 2012).
- Recent Wetland Bird Surveys results produced by the British Trust for Ornithology.
- Thames, Medway and Swale Estuaries – Strategic Access Management and Monitoring Strategy (Footprint Ecology 2014).

In July 2012, an overarching report summarised the evidence to enable the findings to be used in the assessment of development. The report concluded (in summary):

- There have been marked declines in the numbers of birds using the three SPAs.
- Disturbance is a potential cause of the declines. The bird disturbance study provided evidence that the busiest locations support particularly low numbers of birds.
- Within the Medway, the areas that have seen the most marked declines are the area north of Gillingham, including the area around Riverside Country Park. This is one of the busiest areas in terms of recreational pressure.
- Access levels are linked to local housing, with much of the access involving frequent use by local residents.
- Bird disturbance study - dog walking accounted for 55% of all major flight observations, with a further 15% attributed to walkers without dogs along the shore.
- All activities (i.e. the volume of people) are potentially likely to contribute to additional pressure on the SPA sites. Dog walking, and in particular dog walking with dogs off leads, is currently the main cause of disturbance.
- Development within 6km of the SPAs is particularly likely to lead to increase in recreational

use.

Natural England's advice to the affected local authorities is that it is likely that a significant effect 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 Land north Canterbury Road, Dunkirk**

The application site is located 1.8km to the southwest of Blean Complex Special Area of Conservation (SAC) and 4km to the south of The Swale Special Protection Area (SPA). Therefore, there is a medium possibility that future residents of the site will access footpaths and land within these European designated areas.

Measures are to be taken to reduce the impact on the SAC and SPA and these would be built into the development. Natural England agree with the conclusions set out in the submitted Ecological Assessment, that 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 and to a much lesser extent, the open space proposed within 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 SAMM 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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**PLANNING COMMITTEE – 22 JUNE 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 – Land to rear of 30 Preston Park, Faversham**

**APPEAL DISMISSED**

**Observations**

**DELEGATED REFUSAL**

The Council's arguments here related purely to the impact on the on the protected copper beech tree which the appellants have previously sought removal off due to the proximity of the tree to their own house. The proposed house is far closer to the tree with its small garden partly under the tree. It seemed to me unlikely that inevitable pressure to remove the tree could be resisted if the house was built, and the Inspector has agreed with this.

The Inspector also agreed with some other points made by neighbours about the form of the development, which I consider to be subjective and specific to the site; and issues which the Council might well have been vulnerable to a costs claim on if it had sought to defend them.

- **Item 5.2 – Harts Holiday Park, Leysdown Road, Leysdown**

**APPEAL DISMISSED**

**Observations**

**DELEGATED REFUSAL**

Full support for the Council's longstanding position regarding the occupation of holiday accommodation.

- **Item 5.3 – Land south of 30 Seaside Avenue, Minster**

**APPEAL ALLOWED**

**Observations**

**DELEGATED REFUSAL**

A disappointing decision, where the Inspector rejected the Council's arguments regarding the impact of the development on the character and appearance of the area.

- **Item 5.4 – Land south east of 1-3 Wells Way, Faversham**

**APPEAL DISMISSED**

**Observations**

**DELEGATED REFUSAL**

A very good decision fully supporting the Council's arguments in terms of the impact on the spacious and open-plan character of the streetscene, and one which has been welcomed by local residents. The Inspector has not, however, found the amenity area too small despite it being smaller than the actual bungalow which, at 79sq m, was itself quite small.





## Appeal Decision

Site visit made on 24 April 2017

by David Reed BSc DipTP DMS MRTPI

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

Decision date: 11 May 2017

**Appeal Ref: APP/V2255/W/17/3169125**

**30 Preston Park, Faversham ME13 8LN**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr & Mrs Couchman against the decision of Swale Borough Council.
- The application Ref 16/507131/FULL, dated 29 September 2016, was refused by notice dated 23 January 2017.
- The development proposed is the erection of new dwelling with associated car parking and garden.

### Decision

1. The appeal is dismissed.

### Main Issue

2. Although the primary concern of the Council relates to the protected tree, other representations raise wider concerns which should be taken into account. The main issue therefore is the effect of the proposal on the character and appearance of the area, including the effect on the protected tree.

### Reasons

#### *Character and appearance*

3. The irregular shaped appeal site comprises a detached piece of garden, planted with bushes and shrubs and enclosed by a low picket fence, situated within an area of garages grouped around the end of Forge Close. The single storey garages, in three blocks with hardstanding in front, serve a row of two storey houses in Preston Lane which back onto the cul-de-sac and a group of nearby bungalows. The proposal is for a bespoke design two bedroom dwelling with a square garden at one end, which together would fill the site.
4. The dwelling would be one and a half storeys in form with a steeply pitched roof and orientated sideways across the site due to its limited depth. However, it would be sited immediately next to a garage block with the side elevation of the dwelling about twice its height giving an awkward and cramped relationship between the two buildings. The dwelling would also be sited hard up to the road, with the front elevation next to the kerb at one point, leaving little or no space in front to soften its appearance unlike the nearby bungalows which are set back behind front lawns. The projecting front facing gable and balcony with an internal parking space below and high eaves along the front elevation would also be unusual features. Overall the proposal would appear unduly prominent

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in the street scene, out of place amongst the single storey garage blocks and an incongruous one-off dwelling poorly related to its surroundings.

5. The property would be served by a side garden, about 6.2 m x 5.5 m in size, which would extend towards a large Copper Beech tree situated within the rear garden of No 30 Preston Park. The tall and mature tree is an important feature which makes a significant contribution to the character of the area and is protected by a tree preservation order. The dwelling would be located well outside the root protection area (RPA) of the tree, and the decking behind the dwelling would only encroach into about 1% of it. There is consequently no dispute that the tree would not be adversely affected by construction.
6. However, just under a third of the relatively small garden would lie under the canopy of the tree and most would lie within the RPA. This would lead to some nuisance from falling leaves and beech mast, fear of falling branches, potential disruption to paths and paved areas from roots and difficulties in cultivation. Most importantly, the canopy of the tree, up to about 12 m across and 15 m tall, would be only about 4 m away from the end elevation of the dwelling. This elevation would include the bi-fold doors serving the living room and main window serving bedroom 1. Whilst the tree, sited to the north of the house, would not affect the sunlight reaching the property it would significantly reduce the daylight reaching these two important rooms which would only have small secondary windows. Being in such close proximity, the large tree would also be overbearing in the outlook from these principal windows and when in the garden. The extension to Raglans nearby was not permitted by the Council and therefore does not amount to a precedent in support of the scheme.
7. These inherent conflicts between the tree and the living conditions of future occupiers would be likely to lead to pressure to cut back or remove the tree, thus adversely affecting its visual contribution to the character of the area. Whilst the tree is protected and such requests could be resisted, there is an expectation that the interests of residents should take priority and in the medium term such arguments are likely to prevail. Indeed, there is already pressure to remove the tree - an application to fell the tree on nuisance grounds by the occupier of No 30 was dismissed on appeal in 2016<sup>1</sup>. The new dwelling would be significantly closer to the tree than the end-terrace house No 30 and so the occupiers would be even more affected.
8. For these reasons the proposal would cause significant harm to the character and appearance of the area and would be likely to result in works to cut back or remove the protected tree, resulting in further significant harm. This would conflict with Policies E1, E10 and E19 of the Swale Borough Local Plan 2008 which seek to ensure development is of a scale, design and appearance that is appropriate to its context and protects trees that make an important contribution to the amenity of the surrounding area.

#### *Other matters*

9. There would be sufficient separation distance between the surrounding properties and the new dwelling for the effect on the outlook from their rear facing windows to be acceptable. The loss of daylight and sunlight would be minimal. In addition, with no windows proposed on the south elevation and only two small roof lights on the west elevation, the privacy of adjacent

<sup>1</sup> APP/TPQ/V2255/4797

Appeal Decision APP/V2255/W/17/3169125

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occupiers would be protected. The window of bedroom 1 would have oblique views into the rear garden and windows of Raglans to the north west; a projecting timber screen is proposed to prevent these views but this illustrates the contrived nature of the proposal on this constrained site.

10. All the arguments in favour of the proposal have been carefully considered. An additional convenient sized dwelling would be provided in a sustainable location which would make a small but useful windfall contribution to housing supply and offer important social and economic benefits for the area. The proposal would be a bespoke contemporary design, of suitable materials, make good use of a spare piece of garden land and provide natural surveillance for the end of the cul-de-sac and nearby garage blocks. However, these benefits, even in combination, do not outweigh the significant harm that has been identified under the main issue.

#### **Conclusion**

11. Having regard to the above the appeal should be dismissed.

*David Reed*

INSPECTOR

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## Appeal Decision

Site visit made on 11 April 2017

by Kevin Gleeson BA MCD MRTPI

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

Decision date: 11 May 2017

**Appeal Ref: APP/V2255/W/16/3165477**

**Harts Holiday Park, Leysdown Road, Leysdown ME12 4RG**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under Section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Park Holidays UK Ltd against the decision of Swale Borough Council.
- The application Ref 16/503292/FULL, dated 20 April 2016, was refused by notice dated 13 July 2016.
- The application sought planning permission to allow caravans and chalets on the site to be used for human habitation between 1 March and 14 February in the following year without complying with a condition attached to planning permission SW/11/1129 dated 11 November 2011 which itself was a variation of condition 2 of planning permission SW/08/0982.
- The condition in dispute is No. 2 which states that: No chalets / caravans shall be occupied except between 1 March and 3 January in the following calendar year, and no chalet / caravan shall be occupied unless there is a signed agreement between the owners and operators of the Park and all chalet / caravan owners within the application site, stating that: a) The chalets / caravans are to be used for holiday and recreational use only and shall not be occupied as a sole or main residence, or in any manner which might lead to any person to believe that it is being used as the sole or main residence; and b) No chalet / caravan shall be used as a postal address; and c) No chalet / caravan shall be used as an address for registering, claiming or receipt of any state benefit; and d) No chalet / caravan shall be occupied in any manner, which shall or may cause the occupation thereof, to be or become a protected tenancy within the meaning of the Rent Acts 1968 and 1974; and e) If any chalet / caravan owner is in breach of the above clauses their agreement will be terminated and / or not renewed upon the next expiry of their current lease or licence. On request, copies of the signed agreement(s) shall be provided to the Local Planning Authority.
- The reason given for the condition is: In order to prevent the chalets / chalet / caravans from being used as a permanent place of residence, and in pursuance of policies E1 and E6 of the Swale Borough Local Plan 2008.

### Decision

1. The appeal is dismissed.

### Main Issues

2. The main issues are:
  - whether the condition is reasonable or necessary having regard to the effect of the proposal on the character and appearance of the area; and



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- whether the proposal provides appropriate mitigation measures in respect of the Habitat Regulations.

### Reasons

#### *Character and Appearance*

3. Permission is sought to allow caravans and chalets on the appeal site to be used between 1 March and 14 February in the following year. The existing condition allows occupancy between 1 March and 3 January of the subsequent year. Consequently, occupancy would extend from a 10 month period to an 11½ month period.
4. The character of Leysdown is that of a small and remote village which serves a holiday market. The village reflects the changing seasons of rural life, as quiet periods of the year when the holiday parks are not operating contrast with the activity of large numbers of tourists during the main holiday periods. The appeal site is outside of the existing development boundary but is within an area designated for holiday parks.
5. Policy E6 of the Swale Borough Local Plan, 2008 (the Local Plan) aims to protect the quality, character and amenity value of the wider countryside. Development proposals in the countryside will not be permitted except for limited reasons which do not apply in this case.
6. Policy B7 of the Local Plan prevents the use of holiday parks as a sole or main residence and limits occupation to seasonal occupancy periods of effectively 8 months. Policy B7 has been superseded and replaced by a corporate policy for holiday homes which supports applications to extend occupancy periods to 10 months. It is on this basis that Condition 2 was amended through application SW/11/1129.
7. Policy DM5 of the emerging Swale Borough Local Plan (the eLP) formalises the corporate policy on holiday park occupancy in planning terms. To protect the character of the countryside planning permission will not be granted for the permanent occupancy of caravans and chalets but where higher quality standards of holiday accommodation can be secured, permission will be granted to extend the occupancy of holiday parks to 10 months subject to a number of tests.
8. I have seen no evidence that the extension of occupancy at the appeal site to 10 months has led to complaints in terms of the operation of the holiday park. In the statement '*Seasonal and Holiday Occupancy Conditions for Caravan and Chalet Parks*' the appellant demonstrates the effectiveness of controls. Moreover, there is merit in the appellant's argument that as Condition 2 works effectively for 10 months it would work effectively for 11½ months. I also recognise that the appellant is seeking 11½ month occupancy to bring the park in line with other locations around the country. Accordingly I do not accept the Council's suggestion that the park would be used as a main residence and therefore I have no reason to believe that the suggested impacts would give rise to a requirement for additional social and community facilities. Consequently I do not consider that Policies H2 or Policy SP4 of the Local Plan which address proposals for new residential development and deal with the provision of new housing, or Policy CP3 of the eLP which aims to deliver a wide choice of homes, apply in this case.

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9. However, limiting the occupancy of holiday parks serves to highlight the changing character of the rural area throughout the year. It ensures that permanent residents locally are able to experience the tranquillity of the area when it is free from visitors. Extending the period of occupation to 11½ months would alter the character of the local area and would not provide the respite which occurs with the 10 month occupancy period. It would therefore lead to a noticeable change in the rural character of the area in the quiet early months of the year.
10. The Council stated that the park accommodation has not been designed to the same standard as permanent residential accommodation in terms of private gardens, privacy and parking among other features. It argued that extending the occupancy period would effectively give approval to a standard of housing which does not meet the standard of other homes across the Borough. However, as a holiday park the standards required for permanent residential accommodation are not necessary.
11. Paragraph 28 of the National Planning Policy Framework (the Framework) supports economic growth in rural areas whilst Policy RC1 of the Local Plan indicates that proposals to help diversify the rural economy and provide new rural jobs and services will be supported. As well as direct benefits to the park itself the longer occupancy would bring economic benefits to the local economy as set out in the appellant's report '*Caravan Market Assessment – Swale*'. These elements count in favour of the proposal. However, there is no evidence before me that the local economy is currently suffering because of the 10 month occupancy limit.
12. The extension of the occupancy period by six weeks would change the character of the local area contrary to the aims of Policies E6 and SP1 of the Local Plan and ST1 of the eLP which together seek to protect the character of the countryside, respect local distinctiveness and maintain the individual character, integrity, identity and setting of settlements. Similarly the proposal would be contrary to the aims of Policy SH1 of the Local Plan and Policies ST3 and ST6 of the eLP which establish the locational strategy for both the borough and the Isle of Sheppey including restricting development outside the built-up area boundaries. The proposal would also be contrary to Policy E1 of the Local Plan in failing to reflect the positive characteristics and features of the locality and Policy SP5 which seeks to prevent the countryside from unnecessary development.
13. Most importantly, the proposal would conflict with Policy DM5 of the eLP to which I attach substantial weight given the stage which this policy has reached in the emerging plan. This is in line with the advice of paragraph 216 of the Framework. It clearly sets out the Council's approach to the occupancy of holiday parks and whilst not yet formally adopted policy has been endorsed by the Inspector examining the eLP. I find that the benefits of a longer holiday season do not provide the justification to allow the 11½ month occupancy period contrary to Policy DM5. Furthermore, to elevate the importance of the social and economic benefits advanced by the appellant would be in direct conflict with one of the core planning principles set out in paragraph 17 of the Framework, that planning should genuinely be plan-led.

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#### *Mitigation*

14. The Council argued that extending the use of the site from 10 months to 11½ months would give rise to harm to nature conservation interests requiring a contribution to towards the Strategic Access Management and Monitoring Strategy (SAMMS). In the absence of a contribution the proposal would be contrary to policies E1, E6 and E9 of the Local Plan and Policies CP7, DM14 and DM28 of the eLP which together aim to protect the natural environment and ensure that adverse effects on the integrity of sites subject to the Habitats Regulations are minimised and where necessary impacts would be mitigated through the SAMMS.
15. The appellant argued that the appeal site and its immediate environs are not directly associated with any identified areas under pressure and any additional recreational impact which might flow from the proposal considered would be negligible. However, on the basis of the evidence before me I consider that mitigation is required in this case. Accordingly the appellant was content to make the relevant payment and a draft Unilateral Undertaking under Section 106 of the Town and Country Planning Act 1990 was submitted. However, as I am dismissing this appeal for other reasons I have not pursued this matter with the parties.

#### *Other Matters*

16. Both the appellant and the Council have made reference to various appeal decisions relating to occupancy conditions. I have carefully considered the situations which they relate to but their contexts differ from the case before me and therefore they do not lead me to a different view. I have also taken account of comments from interested parties but again, those comments have not proved decisive.

#### **Conclusion**

17. For the reasons set out above, I conclude that Condition 2 is reasonable and necessary in the interests of the character and appearance of the local area. Consequently, having considered all other matters raised, I conclude that the appeal should be dismissed and the condition retained in its current form.

*Kevin Gleeson*

INSPECTOR





## Appeal Decision

Site visit made on 24 April 2017

by David Reed BSc DipTP DMS MRTPI

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

Decision date: 22 May 2017

**Appeal Ref: APP/V2255/W/17/3169416**

**Land south of 30 Seaside Avenue, Minster on Sea, Sheerness, Kent ME12 2HA**

- 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 Malro Investments Limited against the decision of Swale Borough Council.
- The application Ref 16/507410/FULL, dated 11 October 2016, was refused by notice dated 9 December 2016.
- The development proposed is the construction of a one bedroom bungalow with associated parking.

### Decision

1. The appeal is allowed and permission is granted for the construction of a one bedroom bungalow with associated parking on Land south of 30 Seaside Avenue, Minster on Sea, Sheerness, Kent ME12 2HA, in accordance with the terms of the application, Ref 16/507410/FULL, dated 11 October 2016, subject to the attached schedule of conditions.

### Main Issue

2. The main issue is the effect of the proposal on the character and appearance of the area.

### Reasons

#### *Character and appearance*

3. The proposal is for the construction of a one bedroom bungalow on a narrow disused building plot on the western side of Seaside Avenue. The bungalow would be about 4.3 m wide, 13.4 m long and 5 m to the ridge which would run the full length of the building with a gable end facing the road.
4. Seaside Avenue forms part of a grid pattern of roads lined on both sides with building plots, which together comprise a well-established residential estate near to the coast. The plots have been developed and many subsequently redeveloped with a variety of individual bungalows, chalet bungalows and two-storey houses, mostly detached. In each road the plots are generally of similar depth but there is some variation in plot widths.
5. On one side of the appeal site lie three low profile bungalows, Nos 30-34, with plot widths between about 12 m and 13.5 m. Alongside these the proposal, on a plot just 6 m wide, would appear unusually narrow. However, the bungalow

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would not appear cramped on its plot or overdevelopment as there would be gaps of about 1 m and 0.8 m from the two side boundaries which would be similar to other side gaps in the area. The proposal would also respect the height and front building line of Nos 30-34 and not project beyond the rear of those properties. On the other side of the appeal site lies an individual two storey house on a large corner plot, No 26. The new bungalow would sit back slightly behind the front elevation of this house, which together with existing and proposed vegetation on the common boundary would largely screen it from view when approaching from the south.

6. The various bungalows and two storey properties on the opposite side of the road are also on wider plots, with the narrowest, Nos 25-27, being about 10 m wide<sup>1</sup>. Within this short stretch of Seaside Avenue, which is the immediate context in which the proposal would be seen, the bungalow would certainly appear unusually small on its narrow plot. However, although noticeably of different width, it would simply add a further individually designed dwelling to the existing variety of properties along the road.
7. A wide variety of properties along the grid pattern of roads, each set back behind a front garden/driveway with consistent building lines, is the key characteristic of this residential area. The proposal would conform to this pattern. Whilst most of the building plots along the roads are significantly wider than the appeal site, others are similarly only about 6 m wide. Some of these are developed with terraced houses, a different building type and thus not comparable, but there are a few examples of detached properties on narrow plots and these were seen on the site visit.
8. There are narrow fronted bungalows very similar to the appeal proposal at No 31 Seathorpe Avenue, two together at Nos 63 and 69 Abbey View Drive, and a narrow fronted two storey house at No 36 Augustine Road. These properties are also unusually small in their immediate context but add acceptable variety to the street scene. Narrow properties may be unusual on the estate but do not harm the character and appearance of the area and this would also be true of the appeal proposal.
9. For these reasons the proposal would not cause significant harm to the character and appearance of the area and would therefore comply with Policies E1 and E19 of the Swale Borough Local Plan 2008, Policies CP4 and DM14 of the emerging Local Plan and paragraph 64 of the National Planning Policy Framework. These seek to ensure development is of a scale, design and appearance that is appropriate to the location and of high quality design in relation to its surroundings.

#### *Other matters*

10. The bungalow would be well screened from No 26 by close boarded fencing and tall vegetation along the common boundary. There is also an intervening single garage. A two storey house to the rear known as Justem would have oblique views into the rear garden of the bungalow, but intervening vegetation, the garden depth of 10 m and a condition to require adequate boundary screening would be sufficient to protect the mutual privacy of the occupiers.

<sup>1</sup> Nos 33-35 are narrower, but as semi-detached houses these are not a comparable building type.

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11. In relation to the adjacent bungalow No 30, the proposal would lie just 1 m from the common side boundary which is marked by a medium height close boarded fence. No 30 has an irregular layout with windowless flank walls to the front and rear but a small courtyard in between which adjoins the appeal site. The proposed layout of the new property would include two side windows facing this courtyard which, unless relocated, would allow mutual interlooking into a side facing bedroom window and oblique interlooking into a secondary lounge window from close quarters. However, a condition to ensure obscure glass in these two windows would protect the mutual privacy of the occupiers. In addition, privacy from those using the passage could be protected by raising the fence height at this point under a condition to ensure satisfactory boundary treatment. The relationship of the courtyard windows to the boundary fence already creates a sense of enclosure and the flank wall/pitched roof of the bungalow would not add significantly to this or lead to an undue loss of light.
12. Representations were made to the effect that the rights of the adjoining occupier of No 26 under the Human Rights Act 1998, Article 1 of the First Protocol, would be violated if the appeal were allowed. This argument is not considered to be well-founded because the proposed development would not cause unacceptable harm to the living conditions of the occupier. The degree of interference that would be caused would be insufficient to give rise to a violation of rights under Article 1 of the First Protocol.
13. All the other objections raised against the scheme have been carefully considered. The single parking space proposed meets the standards of the local highway authority and parking to the front is not uncommon in the vicinity. Any effect on the demand for on-street parking and thereby highway safety would only be marginal. Use as a holiday let is not precluded in the area generally and the appearance of a small chalet is not objectionable in itself. The noise and disturbance arising from additional residents would be minimal and to be expected in a built up area. Finally, each case must be judged on its own merits and there are few other plots of similar width.
14. The Council suggested several conditions should the appeal be allowed and these have been assessed against the relevant tests. In addition to the standard implementation time limit it is necessary to define the approved plans in the interests of certainty and to control the materials to be used to ensure the satisfactory appearance of the dwelling. Further conditions are necessary to ensure sustainable construction techniques are employed, to require a landscaping scheme and its maintenance and to ensure the parking space is provided in the interests of sustainability, appearance and highway safety respectively. Finally, conditions are necessary to control working hours and, as explained above, to ensure obscure glazed windows and adequate boundary screening to protect the interests of adjacent occupiers.

#### **Conclusion**

15. The proposal would provide an additional dwelling in a sustainable location which would have social and economic benefits for the area and make a small but useful contribution to housing land supply. It would not cause significant harm to the character and appearance of the area, would make good use of an untidy, disused plot and, with appropriate conditions in place, the living conditions of adjacent occupiers would be adequately protected. The Parish Council fully supports the proposal.

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16. Having regard to the above the appeal should be allowed.

*David Reed*

INSPECTOR

#### **Schedule of conditions**

- 1) The development hereby permitted shall be begun before the expiration of three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 16.56-SK01 and 16.56-SK02.
- 3) No development above slab level shall take place until full details of the materials to be used in the construction of the external surfaces of the dwelling hereby permitted have been submitted to and approved in writing by the local planning authority. The development shall then be carried out strictly in accordance with the approved details.
- 4) No development shall take place until full details have been submitted to and approved in writing by the local planning authority which set out what measures are proposed 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. The development shall then be carried out strictly in accordance with the approved details.
- 5) No development above slab level 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, hard surfacing materials, and an implementation programme. All hard and soft landscape works shall then be carried out strictly in accordance with the approved details prior to first occupation of the dwelling hereby permitted or in accordance with the programme agreed in writing by the local planning authority.
- 6) Any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written consent to any variation.



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16. Having regard to the above the appeal should be allowed.

*David Reed*

INSPECTOR

#### **Schedule of conditions**

- 1) The development hereby permitted shall be begun before the expiration of three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 16.56-SK01 and 16.56-SK02.
- 3) No development above slab level shall take place until full details of the materials to be used in the construction of the external surfaces of the dwelling hereby permitted have been submitted to and approved in writing by the local planning authority. The development shall then be carried out strictly in accordance with the approved details.
- 4) No development shall take place until full details have been submitted to and approved in writing by the local planning authority which set out what measures are proposed 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. The development shall then be carried out strictly in accordance with the approved details.
- 5) No development above slab level 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, hard surfacing materials, and an implementation programme. All hard and soft landscape works shall then be carried out strictly in accordance with the approved details prior to first occupation of the dwelling hereby permitted or in accordance with the programme agreed in writing by the local planning authority.
- 6) Any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written consent to any variation.

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## Appeal Decision

Site visit made on 2 May 2017

by A Napier BA(Hons) MRTPI MIEMA CEnv

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

Decision date: 26 May 2017

**Appeal Ref: APP/V2255/W/17/3168402**

**Land south east of 1-3 Wells Way, Faversham ME13 7QW**

- 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 Billy McQuoid against the decision of Swale Borough Council.
- The application Ref 16/507270/FULL, dated 4 October 2016, was refused by notice dated 8 December 2016.
- The development proposed is 2 bedroom bungalow with parking spaces.

### Decision

1. The appeal is dismissed.

### Main Issues

2. Whilst the potential impact of the proposal on privacy is not referred to specifically within the Council's decision notice, it is considered within the Council's officer report and has been raised by a number of interested parties. The appellant has had an opportunity to respond to these concerns as part of the appeal process. As such, I am satisfied that my intention to consider the appeal on this basis will not prejudice the interests of any party.
3. The main issues in this appeal are:
  - The effect of the proposal on the character and appearance of the area; and
  - Whether or not the proposal would achieve acceptable living conditions for its potential future and neighbouring occupiers, with particular regard to amenity space and privacy.

### Reasons

#### *Character and appearance*

4. The appeal site is located within an established housing estate and comprises a relatively modest area of grassed open space, which contains three trees. The site is irregular in shape, with public footpaths bordering it to the rear and side and, to the front, a parking area adjacent to the estate road turning head. Pairs of two-storey semi-detached dwellings exist around the site. The siting of these existing dwellings follows a clear pattern, with most of the houses in regular rows facing towards the highway, but separated from it by front gardens and driveways.
5. This layout, the largely unenclosed front gardens and the relatively wide road with footways to either side results in this part of the estate having a generally open and spacious residential character. The appeal site, due to its prominent siting and verdant appearance, is a distinctive element within the streetscene and contributes

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significantly to this sense of openness. In addition, the three trees within it, whilst not excessively large, make a positive contribution to the visual qualities and character of the area.

6. The proposal seeks to develop the appeal site with a single-storey dwelling. Whilst relatively modest in size, its built form would extend across a significant part of the site, with the remainder largely occupied by two parking spaces and an area of amenity space, which would be enclosed by a boundary wall. Due to the single-storey form of the dwelling, the limited space around it and the partial enclosure of the site, the proposal would be materially at odds with the broadly consistent character of the established neighbouring development.
7. Furthermore, as a result of its prominent siting, visually and physically detached from other development nearby and materially at odds with the existing pattern of built form, the single-storey appeal dwelling would appear as an obtrusive and incongruous form of development, unrelated to the other development around it. As such, overall, it would be an unsympathetic addition to the streetscene and significantly detrimental to the character of the area. The loss of the existing area of green space and trees would exacerbate this harm.
8. Consequently, I conclude that the proposal would be unacceptably harmful to the character and appearance of the area. It would conflict with the *Swale Borough Local Plan 2008* (LP) Policies E1 and E19, where they seek to protect local character and appearance. It would also not meet the aims of paragraph 17 of the National Planning Policy Framework (the Framework) to achieve high quality design and take account of the different roles and character of different areas.

#### *Living conditions*

9. From the highway, the proposed boundary wall would restrict views into the main living area of the dwelling. Some limited separation from the adjacent footpaths would be provided by areas of planting to the bedroom, kitchen and dining room windows to the side and rear elevations of the dwelling. Due to their size and relationship to the windows, these areas would be unlikely to provide significant screening. As a result, due to the siting and design of the proposal and its close proximity to the adjacent paths, I am not satisfied that the development would provide an appropriate level of privacy for its potential future occupiers.
10. Notwithstanding my findings on character and appearance above, the proposed boundary wall would enclose an area of private garden within the site. I recognise that individual requirements for amenity space are likely to vary and, taking into account the relatively limited size of the proposed dwelling, I consider that, whilst modest, the amount of space proposed would not be unacceptable and would be reasonably likely to meet the needs of some potential occupiers.
11. Due to the limited height, single-storey form, modest scale and detached siting of the proposal, some distance from other properties, I am satisfied that the appeal scheme would not lead to a harmful loss of light, privacy or outlook for existing occupiers neighbouring the site. However, neither this matter nor the provision of amenity space would address the harm identified above.
12. As a result, overall, I conclude that the proposal would not achieve acceptable living conditions for its potential future occupiers. Whilst it would meet LP Policy E1, where it seeks to avoid harm to existing residential amenities, the proposal would not be in accordance with the overall cumulative aims of LP Policies E1 and E19, where they seek high quality siting and design to ensure the creation of an appropriate living environment for future occupiers. It would also not meet the



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aims of paragraph 17 of the Framework, to achieve good standards of amenity for all existing and future occupants of land and buildings.

*Other matters*

13. The proposal would result in the development of one new dwelling, which would be designed to be particularly suitable for older people and would be located within reach of a wide range of local facilities and services. As such, it would make some contribution to meeting local housing needs, as well as being very likely to lead to support for local services, both during construction and after occupation. Given the scale of the proposal, I consider these benefits would be likely to be relatively limited. Nonetheless, having regard to the general support for such development in the Framework, I give them moderate weight.
14. The three roles of sustainable development are mutually dependent. Paragraphs 6-9 of the Framework indicate that 'sustainability' should not be interpreted narrowly. Elements of sustainable development cannot be undertaken in isolation but should be sought jointly and simultaneously. Sustainable development also includes 'seeking positive improvements in the quality of the built, natural and historic environment as well as in people's quality of life'.
15. For the reasons given, I conclude that the harm identified to the character and appearance of the area would significantly and demonstrably outweigh the benefits of the proposal. The potential harm that would result from unacceptable living conditions for future occupiers adds further weight to those findings. Consequently, considered overall, I find that the appeal scheme would not represent sustainable development and, from the evidence available to me, would not be in accordance with the development plan as a whole.
16. My attention has also been drawn to two other dwellings nearby, which were allowed in recent appeal decisions. I saw these properties on my visit to the area. I do not have full details of these other developments or the background to those decisions. Nevertheless, from the evidence available to me, the siting and context of these new dwellings and their relationship to the established development around them, including in relation to their design and layout, do not appear to be directly comparable to the scheme before me. As such, these previous decisions do not represent a compelling reason to allow the appeal, which I have considered on its merits and in light of all representations made.
17. Concerns have also been raised in respect of number of other issues, including in relation to access, parking and restrictions on the use of the site. However, given my findings above, it is not necessary for me to consider these further, as they would not lead me to alter these findings.

**Conclusion**

18. For the above reasons and having regard to all other matters raised, I conclude that the appeal should be dismissed.

*A Napier*

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