

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

**MAIN REPORT**

**1.0 DESCRIPTION OF SITE & HISTORY**

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

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

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

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

Phase A – residential units

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

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

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

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

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

Wheeled bins - £12,500

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

#### Phase B – Mill site public realm (linear park)

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

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

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

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

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

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

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

## **2.0 PROPOSAL**

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

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

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

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

### **3.0 PLANNING CONSTRAINTS**

Potential Archaeological Importance

Environment Agency Flood Zone 3

Section 106 or 52 Agreement

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

The National Planning Policy Framework (NPPF)

National Planning Practice Guidance (NPPG)

Swale Borough Local Plan: E1 and C3

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

Supplementary Planning Documents: Developer Contributions 2009.

### **5.0 LOCAL REPRESENTATIONS**

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

### **6.0 CONSULTATIONS**

- 6.01 The Open Spaces Manager:

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

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

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

## **7.0 BACKGROUND PAPERS AND PLANS**

Site location plan & covering letter.

## **8.0 APPRAISAL**

### **Principle of Development**

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

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

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

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

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

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

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

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

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

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

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

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

### **Other Matters**

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

### **9.0 CONCLUSION**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

Reason: In the interest of visual amenity.

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

Reason: To safeguard the amenities of nearby residential properties.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Reason: In the interests of public amenity and safety.

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

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

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

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

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

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

Reason: In order to prevent pollution of water supplies.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Reason: In the interests of residential amenity.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Reason: In the interests of the residential amenities.

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

Reason: In the interests of residential amenity.

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

Reason: In the interests of residential amenity.

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

Reason: In the interests of residential amenity.

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

Reason: In the interest of the residential amenities.



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

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

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

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

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

Reason: In the interests of residential amenities.

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

Reason: In the interests of residential amenities.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**Informative:**

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

The Council's approach to this application:

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

Offering pre-application advice.

Where possible, suggesting solutions to secure a successful outcome.

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

In this instance:

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

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

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