

**PLANNING COMMITTEE – 13 OCTOBER 2016**

**DEFERRED ITEM**

Report of the Head of Planning

**DEFERRED ITEMS**

Reports shown in previous Minutes as being deferred from that Meeting

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<b>REFERENCE NO - 16/504266/FULL</b>
<b>APPLICATION PROPOSAL</b> Erection of 9 no. 2 storey 3 and 4 bedroom detached and semi-detached dwellings and associated works.
<b>ADDRESS</b> Land At Lavender Avenue Minster-on-sea Kent ME12 3RB
<b>RECOMMENDATION:</b> Grant of Planning Permission subject to:-  <ol style="list-style-type: none"> <li>1) the further views of KCC Archaeology, KCC Ecology, Southern Water and the KCC Flood Risk Project Officer.</li> <li>2) the signing of Section 106 agreement/s for contributions towards:- <ul style="list-style-type: none"> <li>• Education;</li> <li>• Libraries;</li> <li>• Community Learning;</li> <li>• Adult Social Care;</li> <li>• Youth Services;</li> <li>• Provision of ‘wheelie bins’;</li> <li>• Use of local labour / apprenticeships;</li> <li>• SPA mitigation;</li> <li>• Health care contribution; and</li> <li>• An administration charge;</li> </ul> </li> </ol> <p>And for the provision of:</p> <ul style="list-style-type: none"> <li>• Dedication of land for a reptile receptor area including their management and maintenance;</li> <li>• Provision of a financial contribution of £227.00 per dwelling towards an improved play area capacity</li> </ul> <ol style="list-style-type: none"> <li>3) A contribution of £1,006 per dwelling is required towards KCC Highways improvements to the upgrading of the Lower Road/ Barton Hill junction (roundabout scheme)</li> <li>4) A plan showing amended hard and soft landscaping details.</li> </ol>
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b>  <p>The application site is an allocated housing site in the emerging Local Plan ‘Bearing Fruits’ 2031 under Policy A7 and under Policy H9 in the adopted Swale Local Plan 2008.</p> <p>The development would amount to the provision of new residential dwellings within the defined</p>

built up area boundary, on a site allocated by the Adopted Swale Local Plan 2008 and the Emerging 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 and National Planning Policies.

**REASON FOR REFERRAL TO COMMITTEE**

Application called-in by Development Manager at meeting on 15 September 2016

<b>WARD</b> Sheppey Central	<b>PARISH/TOWN COUNCIL</b> Minster-On-Sea	<b>APPLICANT</b> Jones Homes Southern <b>AGENT</b> Britch & Associates Ltd
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<b>DECISION DUE DATE</b> 22/07/16	<b>PUBLICITY EXPIRY DATE</b> 22/08/16	<b>OFFICER SITE VISIT DATE</b> various
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**RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):** this is set out in the original report, which is appended.

**MAIN REPORT**

**1.0 BACKGROUND**

- 1.01 Members will recall that this application was reported to the Planning Committee on the 15<sup>th</sup> of September 2016 where the Development Manager used his Call-in powers. A copy of the original report, minutes of the planning working group are appended.
- 1.02 The proposed development, and the site and context, including the description of development are described in detail in the original report. The nature of the site (described in paragraphs 1.01 to 1.04 of the original report) will be noted together with the fact that the application site forms part of the wider Thistle Hill development (where Members resolved to grant planning permission under planning application ref SW/13/1455). The relevant part of the minute of the 15<sup>th</sup> of September 2016 Planning Committee meeting relating to this application is appended.
- 1.03 As set out in the minute, following a detailed discussion of the application, both in terms of its planning merits (or otherwise) and the appropriate procedural arrangements for its determination by Members, a recorded vote was taken on the motion to approve the application, and the motion to approve the application was lost. A motion was moved to refuse the application on grounds relating to the lack of infrastructure to support continual expansion in the area and on unsustainable development. The Development Manager then drew Members’ attention to the history of the site, that outline planning permission was approved by the Planning Committee on 30 June 2016 for up to 431 dwellings to be built on land adjoining the site under planning permission ref SW/13/1455, and that the reasons suggested by Members for refusing the application and whether these could be supported at any subsequent appeal. Following this there was a motion to defer the application until substantial steps had been taken to resolve the traffic issues at the site. This was not seconded. The Chairman then agreed to a short adjournment for officers to receive advice from the Locum Solicitor.

- 1.04 However, at this point the application was called in by the Development Manager to enable officers to prepare a report to Members on the prospects of such a decision if challenged at appeal and if it becomes the subject of an application for costs.
- 1.05 This report deals with the planning merits of such a potential refusal, and the prospects at appeal, while a separate confidential report addresses the potential adverse financial implications if an application for costs were to be made alongside an appeal against the refusal of planning permission.
- 1.06 The key issues raised by Members at the meeting of 15 September 2016 are that (please also refer to the minutes, which are attached as Appendix 2):
- Development is unsustainable
  - The density of development is too high
  - Developer contributions are not enough and Members feel they were being 'robbed'
  - The infrastructure on the Isle of Sheppey cannot support this development
  - There are traffic issues at the site
  - Reptile studies should not be carried out during autumn or winter
- 1.07 The purpose of this report therefore, is to set out the following:-
- remind Members of the starting point for the assessment of this planning application;
  - set out what would not be defensible and legitimate reasons for refusal;
  - set out the Council's chances of being successful at appeal, should the application be refused and;
  - set out the implications of refusing planning permission in this case.

## **2.0 LOCAL REPRESENTATIONS (update from 15 September 2016 Report)**

- 2.01 Since the writing of the report to 15 September 2016 meeting, one further third party letter of concern has been received from a neighbour raising concern regarding the proposed tandem car parking spaces. This neighbour's concern is that the 2 tandem car parking spaces dedicated to one dwelling are not used to park two vehicles but just one vehicle with the other vehicle being parked on the street, and that the car ports are of limited width and a car cannot fit in.

## **3.0 CONSULTATIONS (update from 15 September 2016 Report)**

- 3.01 Since the writing of the report to 15 September 2016 meeting, further consultation responses have been received as follows:-
- The KCC Ecology Officer is satisfied in theory with the submitted Reptile Survey, however, requests further information from the applicant to enable them to recommend a condition. Following this, further detail was received

from the application and forwarded to KCC for further comments. Comments are awaited and Members will be updated at the meeting.

- There are ongoing discussions between the KCC Archaeology officer and the applicants' consultant (Trust for Thanet Archaeology), and it is understood that A Specification and Written Scheme of Works is currently being prepared and will be forwarded to KCC Archaeology for further comments. Members will be updated at the meeting.
- Details of foul and surface water drainage were received from the applicant and forwarded to Southern Water and the KCC Flood Risk Project Officer for further comments. Members will be updated at the meeting.

#### **4.0 ADDITIONAL INFORMATION RECEIVED (update from 15 September 2016 Report)**

4.01 Since the writing of the report to 15 September 2016 meeting, additional information has been received from the applicant and is as follows:-

- Schedule of external surfacing materials (materials are to match the adjoining 'Shurland Place' development – drawing no. 3652 2.07B Streetscape and 3653 Materials Schedule).

#### **5.0 APPRAISAL**

5.01 The starting point for the assessment of this application is to look at the history of the site. This application site is allocated for residential development in the adopted Local Plan 2008 and the emerging Bearing Fruits 2031 and this is a strong material consideration in the determination of the application. Members will note that the site is part of a wider site that is allocated as a housing development site under Policy H5(4) of the adopted Swale Local Plan 2008, and under Policy A7 of the emerging Bearing Fruits 2031 which carries weight in decision making. This application proposes 9 dwellings, whilst application ref SW/13/1455 proposed 441 units. From the above it is clear that the principle of developing this site for housing is established and that the development is acceptable as a matter of principle. As such, it is not considered wise to refuse this application on sustainability grounds as such a reason cannot be sustained at appeal.

5.02 With regard to the density of development, the provision of 9 dwellings on a site area of 0.20 hectares, would give a gross density of approximately 45 dwellings per hectare. As stated in paragraph 9.02 of the original report presented to Members at the meeting of 15 September 2016 and appended here, the site is subject to a Development Brief that was approved for the wider Thistle Hill site. Development at densities in the range of 40 dwellings per hectare (dph) to 45 dph is anticipated and that between the four parcels of land at the wider Thistle Hill site a total yield of 440 dwellings is anticipated. Given this, it is considered that a density of 45dph is an acceptable form of development and complies with policies. It is not considered wise to refuse this application on grounds of over-development of the site as such a reason cannot be sustained at appeal.

5.03 Turning to issues raised about the capacity of infrastructure on the Isle of Sheppey, it is considered that the Barton Hill Drive/Lower Road junction is a concern for Members, and officers accept that improvements are required to mitigate the impact that the

development will have. It is for this reason that whilst mitigation by way of developer contributions is not normally considered appropriate for developments under 10 dwellings, in this case given that this application site is part of a wider site for the development of houses on the Thistle Hill site, the proposed development is required to provide mitigation measures proportionate to the proposed 9 dwellings. The agent has confirmed, at the outset of the application, that they are willing to provide the requested contribution.

- 5.04 As such, the applicant is required to make a financial contribution towards an improvement scheme that would wholly address the junction issues here. In this respect, a roundabout scheme is being promoted, and it is envisaged that several funding sources, including other proposed developments, be used to fully fund the scheme. The contribution required from the applicant is £1,006.00 per dwelling (giving a total of £1,006 x 9 = £9,0054.00). This figure is standard for all development sites contributing towards this project having been agreed by KCC Highways and Transportation. It is also worth noting that the Committee has agreed this approach for application ref SW/13/1455 (referred to above), and the application for 97 houses at Plover Road which Members resolved to approve at the meeting of the 30<sup>th</sup> of June 2016 under reference 15/507059/OUT. The applicants have indicated a commitment to making a contribution towards these offsite highway improvement works, and these contributions will be secured by way of a S106 agreement. Again, for the above reasons it is not considered wise to refuse the application on infrastructure grounds and on grounds that the funds to be contributed are not enough as the applicant is committed to making a financial contribution towards infrastructure provision. Such a reason cannot be sustained at appeal.
- 5.05 Furthermore, given that the site is an allocated site for housing development, that the roads in the immediate vicinity have been designed to accommodate that level of housing, in accordance with the road types and specifications detailed in the Kent Design Guide and Manual for Streets, and that the site is considered to be well located to connect to the existing Thistle Hill development infrastructure, which includes pedestrian and cycle links, and access to other amenities, it is not considered reasonable to refuse the application on traffic issues, and for reasons that infrastructure on the Isle of Sheppey cannot support the proposed houses, as such a reason cannot be sustained at appeal. As set out in the original report, KCC Highways and Transportation raise no objection to this application.
- 5.06 Regarding reptile studies, KCC Ecology confirm that whilst reptile studies should not be carried out in the autumn/winter, it is acceptable to carry out studies in the month of September. Following this, Members will note that a Reptile Study was submitted by the applicants and this survey concludes that the proposed development site *'supports habitat of low to moderate suitability for reptiles and low suitability for slow worms, and that the site provides very little in the way of cover for reptiles due to the sparse vegetation structure and the absence of potential refuge features.'*

## **6.0 THE COUNCIL'S CASE AT APPEAL**

- 6.01 As set out above, it is not considered that refusing this application on sustainability grounds, on density of development, on the lack of infrastructure on the Isle of Sheppey, on traffic issues and on that the financial contribution is not enough, would be justified as the Borough Council would be likely to lose an appeal for a refusal on these grounds.

## **7.0 IMPLICATIONS OF THE REFUSAL**

- 7.01 Any appeal would be likely to be conducted by way of a Public Inquiry given the unusual nature of the application and that it is part of a wider site allocated for a total of 440 houses. A separate report deals with the potential costs implications.

## **8.0 CONCLUSION**

- 8.01 I therefore repeat the recommendation contained in my original report presented to Members at the meeting of 15 September 2016 that planning permission should be granted in this case.

- 9.0 RECOMMENDATION – GRANT** Subject to the agreement of an acceptable package of developer contributions, the signing of a suitably-worded Section 106 agreement, the receipt of final comments from consultees on additional information received, and the resolution of any issues arising, and to conditions as set out below.

- 9.01 With regard to both the wording of the Section 106 agreement and of conditions, authority is sought to make such amendments as may be necessary.

## **10.0 CONDITIONS**

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

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

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

3653/2.04 Rev A; 3653/2.05; 3653/2.06 Rev A; 3653/2.07 Rev B; 3653/2.08 Rev C; 3653/2.09, and 3653 Materials Schedule.

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

(3) Prior to the commencement of any works hereby permitted samples of all new facing materials and details of all external finishes shall be submitted to and approved in writing by the Local Planning Authority. The development shall then proceed in accordance with the approved details.

Reasons: In the interests of high quality design and the amenities of the area, and to ensure that such matters are agreed before work is commenced.

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

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

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

Reasons: 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 removed, dying, being severely damaged or becoming seriously diseased within five years of planting shall be replaced with trees or shrubs of such size and species as may be agreed in writing with the Local Planning Authority, and within whatever planting season is agreed.

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

(7) The 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 photo voltaic installations shall be incorporated into the development as detailed on the submitted Sustainability Statement, and thereafter the development shall be maintained as approved.

Reasons: In the interest of promoting energy efficiency and sustainable development, and to ensure that such matters are agreed before work is commenced.

(8) A programme for the suppression of dust during construction of the development shall be as detailed in the submitted additional information submitted to the Local Planning Authority. These approved measures shall be employed throughout the period of construction unless any variation has been approved by the Local Planning Authority.

Reasons: In the interests of residential amenity, and to ensure that such matters are agreed before work is commenced.

(9) As an initial operation on site, adequate precautions shall be taken during the progress of the works to prevent the deposit of mud and similar substances on the public highway.

Reasons: In the interests of amenity and road safety, and to ensure that such matters are agreed before work is commenced.

(10) The parking for site personnel / operatives visitors shall be shall be provided prior to the commencement of the development as detailed on the additional information received by the Local Planning Authority and shall thereafter be provided and retained throughout the construction of the development.

Reasons: To ensure provision of adequate off-street parking for vehicles in the interests of highway safety and to protect the amenities of local residents, and to ensure that such matters are agreed before work is commenced.

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

Reasons: In the interests of highway safety and convenience, and to ensure that such matters are agreed before work is commenced.

(12) Notwithstanding the provisions of Class A of Part 1 of Schedule 2 to The Town and Country Planning (General Permitted Development) (England) Order 2015, the dwellings hereby permitted shall not be altered or enlarged.

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

(13) No dwelling hereby permitted shall be occupied until space as shown on the approved drawings has been laid out within the site in accordance with the approved drawings for cycles to be securely parked and sheltered.

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

(14) Notwithstanding the provisions of Class A, Part 2, Schedule 2, of the Town and Country Planning (General Permitted Development) (England) Order 2015 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 the amenities of the area.

(15) Prior to the commencement of development hereby approved, the applicant, or their agents or successors in title, shall secure the implementation of a programme of archaeological work in accordance with a written specification and timetable which has been submitted to and approved in writing by the Local Planning Authority.

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

(16) 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 - 1800 hours, Saturdays 0830 - 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.

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



Reason: In order to prevent pollution of water supplies and localised flooding and to ensure that such matters are agreed before work is commenced.

(18) Prior to first use or occupation, there shall be provision and maintenance of 1.5 metres x 1.5 metres pedestrian visibility splays behind the footway on both sides of each new vehicular access with no obstructions over 0.6m above footway level. Thereafter development shall be maintained as approved.

Reason: In the interest of highway safety.

(19) The area shown on the submitted layout as vehicle parking and turning space shall be provided, surfaced and drained before the use is commenced or the premises occupied, and shall be retained for the use of the occupiers of, and visitors to, the premises, and no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order), shall be carried out on that area of land so shown or in such a position as to preclude vehicular access to this reserved parking space.

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.

(20) Prior to the occupation of any of the dwellings hereby approved the bin and cycle store areas hereby approved shall be constructed and made available for that use at all times.

Reason: to encourage sustainable transport methods and in the interests of visual amenities.

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

Reason: In the interests of the amenities of the area

## INFORMATIVES

1. It is the responsibility of the applicant to ensure , before the development hereby approved is commenced, that all necessary highway approvals and consents where required are obtained and that the limits of highway boundary are clearly established in order to avoid any enforcement action being taken by the Highway Authority. 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>
2. 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.

### **APPENDICES**

Appendix 1 – report to Planning Committee on 15 September 2016  
(page 38 – page 56)

Appendix 2 – extract from minute of Planning Committee on 15 September 2016  
(page 914 – page 916)

**APPENDIX 1**

<b>2.2 REFERENCE NO - 16/504266/FULL</b>		
<b>APPLICATION PROPOSAL</b>		
Erection of 9 no. 2 storey 3 and 4 bedroom detached and semi-detached dwellings and associated works.		
<b>ADDRESS</b> Land At Lavender Avenue Minster-on-sea Kent ME12 3RB		
<b>RECOMMENDATION:</b> Grant of Planning Permission subject to:-		
<p>5) imposition of conditions, the further views of KCC Archaeology, KCC Ecology, LMIDB, KCC Flood Risk Project Officer, Southern Water and Environment Agency and</p> <p>6) the signing of Section 106 agreement/s for contributions towards:-</p> <ul style="list-style-type: none"> <li>• Education;</li> <li>• Libraries;</li> <li>• Community Learning;</li> <li>• Adult Social Care;</li> <li>• Youth Services;</li> <li>• Provision of ‘wheelie bins’;</li> <li>• Use of local labour / apprenticeships;</li> <li>• SPA mitigation;</li> <li>• Health care contribution; and</li> <li>• An administration charge;</li> </ul> <p>And for the provision of:</p> <ul style="list-style-type: none"> <li>• Dedication of land for a reptile receptor area including their management and maintenance;</li> <li>• Provision of a financial contribution of £227.00 per dwelling towards an improved play area capacity</li> </ul> <p>7) A contribution of £1,006 per dwelling is required towards KCC Highways improvements to the upgrading of the Lower Road/ Barton Hill junction (roundabout scheme)</p> <p>8) A plan showing amended hard and soft landscaping details.</p>		
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b>		
<p>The application site is an allocated housing site in the emerging Local Plan ‘Bearing Fruits’ under Policy A7 and under Policy H9 in the adopted Swale Local Plan 2008. The development would amount to the provision of new residential dwellings within the defined built up area boundary, on a site allocated by the Adopted Swale Local Plan 2008 and the Emerging 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 and National Planning Policies.</p>		
<b>REASON FOR REFERRAL TO COMMITTEE</b>		
Authority to enter into Section 106 agreement.		
<b>WARD</b> Sheppey Central	<b>PARISH/TOWN COUNCIL</b> Minster-On-Sea	<b>APPLICANT</b> Jones Homes Southern

		<b>AGENT</b> Britch & Associates Ltd	
<b>DECISION DUE DATE</b> 22/07/16	<b>PUBLICITY EXPIRY DATE</b> 22/08/16	<b>OFFICER SITE VISIT DATE</b> various	
<b>RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):</b>			
SW/95/102	Outline permission for residential development, a village centre, community facilities and open space.	Approved	September 1997
SW/04/1059	This permission effectively extended the deadlines for reserved matters details to be submitted, and for the dwellings to be constructed.	Approved	September 2005
Members will note that in addition to the above permissions, the wider site has been subject to a significant number of planning approvals - predominantly for reserved matters details of the housing layouts, landscaping etc – but these do not warrant specific mention in this instance.			
SW/13/1455	Outline planning application for the residential development (of up to 431 dwellings).	Resolved to approve at the Committee meeting on 18 August 2016.	18/08/2016
15/505670/FULL	Erection of a 1366 sq.m (GIA) foodstore (A1) and four small retail units within Class A1, A2, A3, A5, and D1 (186 sq.m GIA in total) together with associated access, car parking, service yard and plant, click and collect facility, trolley bays and landscaping.	Approved	8/7/2016
15/507059/OUT	Outline application (with all matters reserved other than access into the site) for a residential development with associated landscaping, parking and public open space – Plover Road, Minster.  Members will note that the S106 will include a financial contribution of £1006 for each of the 97 dwellings.	Resolved to approve at the Committee meeting on 30 June 2016.	30/06/2016

**MAIN REPORT**

**1.0 DESCRIPTION OF SITE**

- 1.01 The application site is located to the south of Minster and comprises part of an undeveloped area of scrub land within the defined built up area of Minster. To the North of the site is a housing association development on Lapwing Close. The application site forms part of the wider Thistle Hill development (being considered under application ref SW/13/1455) and lies to the east of Heron Drive at its junction with Lavender Avenue.
- 1.02 The application site comprises of an L shape parcel of fairly flat land that measures 0.20 hectares . The site lies to the south western corner of Parcel G. Parcels D, E, and F lie to the west of Heron Drive, while Parcel G lies to the east of it. Parcels D, E, F and G form the application site of planning application ref SW/13/1455.

- 1.03 For clarity, this application site was initially part of a wider site for 'up to 440 dwellings', that application was amended and numbers reduced to 'up to 431' in order to reflect the fact this full planning application is for nine dwellings (reference 16/504266/FULL) on land that formed part of the original site area for this scheme. Subsequent to receipt of this planning application, the red edge boundary of the original planning application ref SW/13/1455 was amended to omit the land the subject of this application.
- 1.04 The surrounding area is generally residential in character. Thistle Hill is largely built-out and has a number of facilities, including the Sheppey Community Hospital, a primary school, a community hall, and various areas of open space, including an established Community Woodland. As noted above, planning permission has recently been granted for an Asda supermarket, on land at Plover Road, which would serve Thistle Hill and the wider Minster area.

## 2.0 PROPOSAL

- 2.01 This application seeks full planning permission for the erection of 9 two-storey, 3 - and 4-bedroom dwellings with a maximum height of approximately nine metres. Eight of the dwellings would be pairs of semi-detached dwellings, whilst one dwelling would be detached. The dwellings have residential gardens, hard and soft landscaping, tandem parking, and direct vehicular access from Lavender Avenue. The walls of the dwellings would be constructed of facing brickwork, render, tile hanging and weatherboard, whilst the roof would be concrete tiles to match properties in the surrounding area, and all windows and doors would be white UPVC or metal.
- 2.02 The proposed development would be in the form of an L Shape with the frontage of the dwellings addressing Lavender Avenue. The application site faces the 'Shurland Place' housing development. The 9 plots would be spaciouly set out over the site, all being served by reasonably sized front and rear gardens.
- 2.03 The proposed dwellings are carefully designed to be sympathetic to the predominant design of dwellings within the Thistle Hill housing development, and all of the dwellings would be two storey dwellings similar to adjoining dwellings. The proposed materials would be sympathetic to the materials in the area.
- 2.04 Each dwelling would have a car port that would provide tandem parking at 2 spaces per dwelling, and there would be space for cycle storage.
- 2.05 With regard to the density of development, the provision of 9 dwellings on a site area of 0.20 hectares, would give a gross density of approximately 45 dwellings per hectare.
- 2.06 The following documents have been provided to support the application;
- Design and Access Statement
  - Sustainability Statement
- 2.07 **Key extracts from the Design and Access Statement read as follows;**
- The Thistle Hill Development Area was granted outline planning permission in 1997. However this permission has expired. An outline planning application is currently being considered for Parcel D, E, F and G of the Thistle Hill development Area under ref SW/13/1455.

- Land to the south of Parcel G was developed by Jones Homes in two phases. The final few houses on phase 2 are under construction and are expected to be completed in mid 2016.
- This application has been submitted given that application for the bigger site was pending consideration when the current scheme was submitted. If granted, this will maintain continuity and avoid loss of skilled operatives on site
- The proposed houses will form the entrance to the development along Heron Drive
- Heron Drive contains utilities and is serviced
- The application site is allocated for Housing Development on the adopted Local Plan and the emerging Local Plan Bearing Fruits
- The site is well connected and has ready access to local bus services and train services
- There are a number of existing cycle and pedestrian routes in the immediate vicinity
- A number of reports relating to the Landscape and Visual Impact, Trees and Ecology, Environment and Heritage has been submitted as part of outline planning application ref SW/13/1455
- The site is disused farmland
- Vehicular access to the site is from Heron Drive
- The site has constraints and opportunities
- The site is of low landscape and ecological value and as such does not have important wildlife species
- Pre-application advice was sought for the development
- The application proposes 9 houses at 45 dwellings per hectare.
- The dwellings are designed to overlook the streets and so have active frontages
- Houses to the end of the street form feature buildings with fenestration on their flank walls
- Car ports link the dwellings and provide continuity to the street
- Design of the dwelling take local vernacular in terms of scale, form, materials, and details
- Facing materials would be similar to adjoining development e.g. facing brickwork, weatherboard, render and tile hanging with roofs in plain concrete tiles.
- The scheme will provide a high quality development with a sense of identity and character, would be sustainable development, development would be well connected and legible and would be a safe environment
- Two storey properties are proposed ( 8 of these would be 3 bedroom houses whilst 1 would be a 4 bedroom house)
- No affordable housing is proposed
- The scheme incorporates the principles of 'Secured by Design'
- Opportunity to provide planting is limited however, the frontages of the properties will have trees, shrubs and grass
- The application site is sustainable and conforms to the 3 strands of development (social, economic and environmental)
- Parking provision would be in the form of car ports in tandem arrangement
- Cycle storage is provided

**2.08 Key extracts from the Sustainability Statement read as follows;**

- Should planning permission be given the development will incorporate sustainable construction techniques which can be secured via a condition
- The submitted statement details measures included in the proposals that are designed to:-

- Improve the energy performance of the buildings
- Improve the well-being of the occupants and other users of the site
- Improve the environment around the site
- Reduce the use of natural resources
- Reduce emissions and pollution from the buildings

### 3.0 SUMMARY INFORMATION

	Existing	Proposed	Change (+/-)
Site Area (ha)	0.20 hac	0.20 hac	0
Parking Spaces	0	20	20
No. of Residential Units	0	9	9
No. of storeys	0	2	2
No. of Affordable Units	ZERO	ZERO	0

### 4.0 PLANNING CONSTRAINTS

- The application site is located within Flood Zone 1, amounting to an area of low flood risk and being assessed as having a less than 1 in 1000 annual probability of flooding.
- The site is of potential archaeological importance

### 5.0 POLICY AND OTHER CONSIDERATIONS

#### 5.01 The National Planning Policy Framework (NPPF)

The National Planning Policy Framework (NPPF) and the Development Plan (saved policies of the Swale Borough Local Plan 2008) are material considerations in the determination of this application:

The national policy position comprises of the National Planning Policy Framework (NPPF), which was released in 2012. It provides national guidance for Local Planning Authorities on plan making and in determining planning applications. A presumption in favour of sustainable development runs throughout the document and this presumption is an important part of both the plan-making process and in determining planning applications stating;

*“2.31 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. (Para 7 NPPF)*

Paragraphs 47-55 seek to significantly boost the supply of housing. Para. 49 of the NPPF confirms that the lack of a 5-year land supply triggers the presumption in favour of sustainable development as set out by NPPF para. 14. It is necessary to determine what the relevant policies for the supply of housing are in order to identify which are out of date. What constitutes a policy for the supply of housing has been the subject of legal judgement, which can be interpreted as either policies that have specific and direct impacts on housing supply or more indirect, but significant impacts on supply. Regardless of the approach taken, decision makers can and do take into account whether certain aspects of policies accord with the NPPF.

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

Paragraph 49 also confirms that the lack of a 5-year land supply triggers the presumption in favour of sustainable development as set out at Paragraph 14. It is necessary to determine what the relevant policies for the supply of housing are in order to identify which are out of date. What constitutes a policy for the supply of housing has been the subject of legal judgement, which can be interpreted as either policies that have specific and direct impacts on housing supply or more indirect, but significant impacts on supply. Regardless of the approach taken, decision makers can and do take into account whether certain aspects of policies accord with the NPPF. Importantly, the decision maker must apply themselves properly to Paragraph 49.

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

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.”*

Paragraph 96 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 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’.

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.”*

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

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

## 5.02 Development Plan:

The following policies of adopted Swale Borough Local Plan 2008 have been ‘saved’ and are considered to be relevant:

SP1 (sustainable development), SP2 (environment), SP3 (economy), SP4 (housing), TG1 (Thames Gateway Planning Area), SH1 (settlement hierarchy), E1 (general development criteria), E9 (character and quality of landscape), E10 (trees and hedges), E11 (biodiversity in the Borough), E12 (designated biodiversity sites), E16 (archaeology), E19 (design), H2 (new housing), H3 (providing affordable housing), H5 (housing allocations), U1 (servicing development), U3 (renewable energy), U4 (placing services underground), T1 (access to new development), T2 (improvements to highway network), T3 (vehicle parking), T4 (cycle parking), T5 (public transport), C2 (developer contributions), C3 (open space on new housing developments), H8 (housing development at Thistle Hill).

Members should note that the wording for Policy H8 (which allocates land for housing at Thistle Hill) reads as follows:

### ***Policy H8***

#### ***Thistle Hill, Minster***

*Policy H5(3) states that the remaining land to be developed at the Thistle Hill site (as shown on the Proposals Map) will provide a further 500 dwellings in addition to the 1,000 dwellings (approximately) which already have planning permission, 30% of which will be provided as affordable dwellings. The precise number of additional dwellings to be provided will be determined by a revised Development Brief and Master Plan for the site. This will be prepared by the developer(s) and submitted to and approved by the Council and will supersede the Development Brief already approved in accordance with the terms of the conditions of the original 1997 planning permission, amended and consolidated in 2005.*

*To ensure that the totality of the completed development makes provision for about 1,500 dwellings across the whole site at a net density of no less than 30dph, the developer(s) shall either obtain a revised planning permission to this effect or enter into an appropriate form of Legal Agreement or Agreements with the Council.*

*In preparing the revised Development Brief and Master Plan, and in determining the precise number of additional dwellings, particular consideration will be given to:*

1. *The capacity of the local highway network, and any improvements to it that may be required resulting from the traffic arising from the additional number of dwellings to be provided*
2. *The capacity of the existing utility structure and any improvements to it that may be required resulting from the demands placed on it by the additional number of dwellings to be provided;*
3. *The need for new or improved social and community facilities*  
*The Council will only agree to the number of dwellings to be erected on the site to be in excess of the 1,000 (approximately) already permitted after development has commenced on both the Neatscourt and the Ridham and Kemsley employment sites (see [Policy B10](#), [Policy B11](#) and [Policy B21](#)).”*

5.03 Emerging Local Plan ‘Bearing Fruits 2031’ relevant policies include:

ST1 (Delivering Sustainable Development in Swale, 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: which in respect of the Isle of Sheppey specifies that poor viability means that affordable housing will not be sought on housing developments), DM19 Sustainable Design and Construction, DM21 Water, flooding and drainage, DM24 (Conserving and Enhancing Valued Landscapes), DM28 (Biodiversity and Geological Conservation), DM29 (Woodlands, trees and hedges) and DM31 (Agricultural Land).

Members should note that **Policy A7** relates specifically to Thistle Hill and reads as follows:-

**“Thistle Hill, Minster, Isle of Sheppey**

*Planning permission will be granted for land allocated for housing, as shown on the [Proposals Map](#), at Thistle Hill, Minster, Isle of Sheppey. Development proposals will accord with the approved development briefs and satisfactorily address archaeological issues and provide the infrastructure needs arising from the development, including those identified by the Local Plan Infrastructure and Delivery Schedule (including, if justified by a transport assessment, a financial contribution toward improvements to the A2500). Proposals will also 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 the Strategic Access Management and Monitoring Strategy.*

With regard to Policy DM8, Members will note that in respect of development on the Isle-of-Sheppey there will be ‘no affordable housing requirement’. This policy specifies that in respect of the Isle of Sheppey poor viability means that affordable housing will not be sought on housing developments.

The site is also subject to a Development Brief, which was agreed by the Council pursuant to condition (6) of both SW/95/102 and SW/04/1059, the outline planning permissions granted for the development of the Thistle Hill site, in November 2009.

## 6.0 LOCAL REPRESENTATIONS

1 No letter of representation received from neighbouring properties.

Their comments can be summarised as follows;

- The proposed rehoming of creatures would be insufficient as the site has developed its own eco-system
- The development will exacerbate existing congestion problems in the area
- Water saturation will be intolerable and the development will exacerbate existing drainage
- The development will exacerbate existing parking problems
- The development will result in noise nuisance from traffic given that the main access is via Lavender Avenue for housing development planned under ref SW/13/1455

## 7.0 CONSULTATIONS

- 7.01 *Minster-On-Sea Parish Council (PC) 'has concerns about the impact of the proposal on the inadequate local highway network believing this will add to the serious congestion problem along the A2500 Lower Road and other local road networks. In addition, the proposal is not helped by Kent Highway Services' decision to ignore the Parish Council's warnings about its setting of an inappropriate (national) speed limit along the Scocles Road residential route which continues to present serious public safety risks. On more positive note, the Parish Council liked the car port scheme believing it will encourage off street parking.'*
- 7.02 The Lower Medway Drainage Board initially advised that details of the foul and surface water drainage requirements for this development should be submitted for consideration prior to the determination of the application. Subsequent to this, additional information was submitted and comments of the Lower Medway Drainage Board are awaited. Members will be updated about this issue at the meeting
- 7.03 KCC Flood Risk Project Officer advises that details of the foul and surface water drainage requirements for this development should be submitted for consideration prior to the determination of the application. Subsequent to this, additional information was submitted by the applicant and comments of the KCC flood Risk Officer's comments are awaited. Members will be updated about this issue at the meeting
- 7.04 Kent County Archaeology advises that the site has important archaeological remains. Given this, they do not have an objection to the proposed development subject to a condition seeking the securing of an archaeological field evaluation works that would be in accordance with a written specification and timetable which has been submitted to and approved in writing by Swale Borough Council. This is to be done to ensure that features of archaeological interest are properly examined and recorded. Following this, the agent advises that to avoid commencement of development on this site, they recommended that the archaeology condition should be a watching brief condition to enable any excavation to be observed by a qualified archaeologist and approved by the LPA. I have sought advice from the County Archaeologist regarding this, and members will be updated about this issue at the meeting.
- 7.05 Kent County Ecology originally advised that details of the agreed receptor site and the method statement for slow worms should be submitted to the LPA for approval prior to determination of the application. Following this additional information was submitted to support the application. KCC advise that they are not satisfied with the agent's response and still have concerns regarding the impact of the development on the reptile population as a result of the proposed development. They advise that given that this is a full planning application, this matter should be resolved prior to determination.

In addition, they advise that the developer should provide 9 bird bricks or bird boxes into the proposed nine dwellings and not just one and that the proposed landscaping should incorporate native species. The agent has been advised of this concern and Members will be updated about this issue at the meeting.

7.06 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 may have
- The application is not supported by a Habitats Regulation Assessment
- 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 accumulating to £223.58 per dwelling
- The development should provide opportunities to incorporate features into the design which are beneficial to wildlife

7.07 Kent County Council's response in respect of contributions is detailed below:

- Primary education– *‘a requirement does arise. However, making a request towards the new Thistle Hill Primary School from such a small development would not be appropriate under CIL Reg 123 (5 obligation limit). If KCC choose another Primary project (which would be at cheaper extension rates towards another Primary School on the Island) this could frustrate KCC collecting the needed funding from the current larger application (SW/13/1455) towards the new Thistle Hill PS. The attached appeal in Bracknell considered a smaller part application of a wider site be dismissed as it failed to contribute to the wider needs of the overall site because of CIL reg 123’*
- Community Learning – *‘A contribution of £60.43 per dwelling (A total of £543.87) would be required for the provision of additional community learning centres. Again as for Primary, seeking from such a small development creates problems for KCC under CIL Reg 123, but not seeking undermines KCC case upon the wider larger application’*
- Libraries – A contribution of £48.02 per dwelling (total of £432.18) would be required for the provision of additional library books;
- Youth Service – *‘A contribution of £37.58 per dwelling (total of £338.22) would be required for the provision of youth service. Again as for Primary, seeking from such a small development creates problems for KCC under CIL Reg 123, but not seeking undermines KCC case upon the wider larger application’*
- Adult Social Care – *‘A contribution of £60.99 per dwelling (total of £548.91) would be required for the provision of additional adult social care service. Again as for Primary, seeking from such a small development creates problems for KCC under CIL Reg 123, but not seeking could undermine KCC/Swale case upon the wider larger application.’*

- 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.
- 7.08 Comments from Southern Water are awaited and Members will be updated at the meeting.
- 7.09 Comments from The Environment Agency are awaited and Members will be updated at the meeting.
- 7.10 The Environmental Protection Team Leader raises no objection to the principle of development subject to conditions restricting hours of construction.
- 7.11 Green Space Manager advises that a contribution of £227.00 per dwelling (a total of £2,043.00) to an improved play area capacity is required for this development.
- 7.12 The Climate Change Officer raises no objection to the proposal subject to a sustainable measures condition.
- 7.13 KCC Highways and Transportation initially raised concerns regarding the proposed tandem parking and advise that it would not conform to their parking guidance for residential development, namely IGN3. Negotiations have taken place, and to address this concern the applicant has been advised to amend the highway layout in front of the proposed properties so as to provide some additional on street parking to mitigate any potential negative impact of the proposed tandem parking spaces. In addition, the agent has been advised to provide a footway on the frontage of the properties on Lavender Avenue given that this will be the through route for a large proportion of the traffic in the later phase of the development. The applicant is currently preparing the required amendments, and Members will be updated about this at the meeting.

In addition, based on current assumptions of the project cost and other funding opportunities, it is considered appropriate to seek a contribution of a total of £1,006.00 per dwelling (a total of £9,0054.00) to facilitate improvements to the upgrading of the Lower Road/Barton Hill Junction. It is anticipated that with similar pro-rata levels of contribution being obtained from further developments proposed and other sources of funding, that the cost of the roundabout can be met.

- 7.14 The NHS CCG [Clinical Commissioning Group] have requested a total of £7,776.00 for expenditure on the upgrading of primary care to serve the increased population for GP surgeries nearest to the site (Shiva Medical Centre, Broadway Minster and Minster Medical Centre). This request is based on their estimate of 2.4 people per dwelling on average and equates to £360 for each of those people.
- 7.15 The Economy and Community Services Manager advises that there should be a requirement for the use of local labour and the provision of apprenticeship places for the construction of the development.

## **8.0 BACKGROUND PAPERS AND PLANS**

Application papers and correspondence relating to planning application reference 16/504266/FULL.

## **9.0 APPRAISAL**

The key issues in respect of this application are as follows:

- Principle of development;
- Design and Visual impact
- Residential amenity;
- Highway Implications;
- Landscaping
- Ecology;
- Surface water drainage / flood risk;
- Developer Contributions

### **Principle of Development**

- 9.01 This application site is allocated for residential development in the adopted Local Plan 2008 and the emerging Bearing Fruits 2031 and this is a strong material consideration in the determination of the application. Members will note that the site is part of a wider site that is allocated as a housing development site under Policy H5(4) of the adopted Swale Local Plan 2008, and under Policy A7 of the emerging Bearing Fruits 2031 which carries weight in decision making. This application proposes 9 dwellings, whilst application ref SW/13/1455 proposed 441 units.

The applicants have not provided affordable units. No objection is raised to this given that the Borough Council's Affordable Housing Policy modifications were put before the Planning Inspector in 2015, and her interim report confirms that the proposed 0% contribution for all sites in the Isle of Sheppey is sound. This change in policy requirement carries weight and can be used in decision making. As such, and in accordance with Policy DM8 of the emerging Bearing Fruits 2031, this site is no longer required to provide affordable housing.

In the light of these points, it is considered that the development is acceptable as a matter of principle.

### **Visual Impact**

- 9.02 The site is subject to a Development Brief that was approved for the wider Thistle Hill site. Development at densities in the range of 40 dwellings per hectare (dph) to 45 dph is anticipated and that between the four parcels a total yield of 440 dwellings is anticipated. The Brief also gives some pointers to guide the detail of the housing development on these parcels of land.

The proposed scheme proposes a development with a density of approximately 45dph. The layout, design and detailing of the proposed development is considered to comply with the Development Brief, and is similar to the dwellings built on land parcels adjoining the site. The proposed materials would be sympathetic to, and match the adjoining development. Overall it is considered that subject to a condition requiring use of appropriate materials, the proposed scheme would achieve a high quality design which would assimilate well with the existing Thistle Hill housing development.

### **Residential Amenity**

- 9.03 As set out above, the application very closely matches in layout, scale and design the adjoining housing development within the wider Thistle Hill site. The scheme has been carefully designed to ensure that both separation distances and positioning of windows would minimise any harm to the surrounding residential properties to acceptable levels. As such, it is considered that no unacceptable impact would be caused to neighbouring properties as a result of the development. With regards to garden sizes,

these all are of an acceptable size, meeting the required minimum standards for family dwellings.

### Highways

- 9.04 The proposal involves the provision car ports for each dwelling that would provide tandem parking. KCC Highways and Transportation advise that this is contrary to the provisions of IGN3. However, following negotiations with the applicant, they advise that if the highway layout in front of the properties is amended so as to provide some additional on street parking to mitigate any potential negative impact of the proposed tandem parking spaces, and that if a footway is provided on the frontage of the properties on Lavender Avenue, any impact caused would be mitigated to acceptable levels. As a result of this, there is need to move the frontage of the dwellings by approximately 1 metre into the site. The applicant is currently preparing the required amendments and Members will be updated about this at the meeting.

As set out above, overall KCC Highways and Transportation raise no objection to the application, subject to the recommended amendments detailed above, suitable mitigation in the form of planning conditions and, importantly, a financial contribution (a total of £9,0054.00) towards the provision of the proposed road upgrade to the Lower Road / Barton Hill Drive junction, where this authority is working with KCC Highways and Transportation to deliver a roundabout.

The agent has confirmed, at the outset of the application that they are willing to provide the requested contribution, and as such the development is considered to be acceptable in terms of highway matters.

### Landscaping

- 9.05 The landscaping of the site will have a significant impact on the success or otherwise of this scheme. There is limited tree and hedge cover on this site, and clearly this development represents an opportunity to significantly improve the quality and amount of trees on the site. The applicant has submitted a hard and soft landscaping scheme, together with details of biodiversity enhancements to justify the proposed development. Concern is raised regarding this additional information. An amended soft landscaping scheme is awaited and this should incorporate native species. Subject to receipt of the above amendments the proposed development would comply with policies.

### Ecology

- 9.06 As noted above, the site is located in close proximity to the Medway and Marshes 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 requested contribution towards the SPA mitigation (£223.58 per dwelling). *Natural England raise no objection, and subject to the payment of the standard tariff of £223.58 per dwelling to be spent on the mitigation of recreational impacts on the SPA, it is considered that the application is acceptable in this regard.*

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 applicant has submitted details of

biodiversity enhancements. KCC Ecology advise that proposed one bird box is not acceptable, and that there should be a bird brick or bird box for every dwelling.

In addition, KCC Ecology advise that the receptor site for slow worms may not be created prior to works commencing on site and that the mitigation detailed in the submitted report cannot be implemented. They advise that an updated mitigation strategy for this site should be submitted for comments, and that this mitigation strategy is to be informed by updated reptile surveys. The applicant has been advised of this and the additional information required is awaited. Members will be updated at the meeting.

### **Surface water drainage / flood risk**

- 9.07 Members will have noted above that the application site is in Flood Zone 1, and therefore is considered to be at low risk of flooding.

KCC Flood Risk Officer and The Lower Medway Internal Drainage Board (LMIDB) Officer advise that a detailed surface water drainage system (SUDS) should be submitted for approval prior to the determination of the application. Following this, the applicant has submitted the additional information required, and views of the LMIDB officer on the additional details are awaited as are the comments of the KCC SUDS Team. Members will be updated at the meeting.

### **Developer Contributions**

- 9.08 Whilst mitigation by way of developer contributions is not normally considered appropriate for developments under 10 dwellings, in this case given that this application site is part of a wider site for the development of houses on the Thistle Hill site, the proposed development is required to provide mitigation measures proportionate to the proposed 9 dwellings. The agent has confirmed, at the outset of the application, that they are willing to provide the requested contribution.

In accordance with the relevant policies of the Local Plan and the guidance set out in the adopted Supplementary Planning Document, 'Developer Contributions' (2009), a range of developer contributions and other S106 items will need to be included in the legal agreement. Discussions with the applicant's planning agent and with some of the consultees are on-going, and I will update members at the meeting. However, the current position is as follows:

With regard to off-site highway works, Members will note my summary of the comments of KCC Highways and Transportation at Paragraph in the consultations section above and that they are seeking a contribution amounting to a total of £9,0054.00, (or £1006 per dwelling) towards the cost of upgrading the Lower Road / Barton Hill Drive junction.

Members will note the comments in respect of contributions made by KCC Developer Contributions (at paragraph 7.07 above), and that KCC advise that *seeking from such a small development creates problems for KCC under CIL Reg 123, but not seeking could undermine KCC/Swale case upon the wider larger application.* However, with regard to libraries they are seeking a contribution of £48.02 per dwelling (or a total of £432.18 in total).

Members will also note the Greenspaces Manager's requirements for a total of £2,043.00 towards an improved play area capacity is required for this development.



Furthermore, the Section 106 agreement will also need to include a requirement for a contribution in respect of wheelie bins. The total amount payable will be £39.47 per bin or £78.94 per dwelling (or a total of £710.46 for 9 houses)

As set out in the consultations section above, the Clinical Commissioning Group are seeking a total of £7,776 to be spent on providing additional capacity at the two nearest GP surgeries which are Shiva Medical Centre Broadway Minster, and Minster Medical Centre on Plover Road..

As set out in the consultations section above, the Economy and Community Services Manager requests the use of local labour and apprenticeship provision during the construction of the development.

As set out at Paragraph 9.07 above, in accordance with the Habitat Regulations and the strategy that the Council has agreed in conjunction with other north Kent local authorities, a payment of £223.58 per dwelling (or £2,012.22 in total) will payable for the mitigation of potential recreational impacts on the quality and integrity of the Swale SPA.

In accordance with Policy DM8 of the emerging Local Plan Bearing Fruits 2031 (Main Modifications June 2016), and as mentioned above, this development will not include a requirement for the provision of any affordable housing units.

Finally, an administration charge to cover, among other things, costs associated with the administration and monitoring of the Section 106 agreement will be sought.

## 10.0 CONCLUSION

The development would form part of the final part of the Thistle Hill housing development, and accordingly is allocated for housing development in both the adopted Local Plan and the emerging Local Plan, Bearing Fruits 2031 (Proposed Main Modifications, June 2016). As such, the scheme is acceptable in principle.

Overall it is considered that a development as designed will not result in an unacceptable impact upon residential amenities of neighbouring properties. The proposed scheme is of a scale to accommodate acceptably sized units, outside amenity space and parking areas similar to adjoining development. The standard of accommodation proposed is acceptable, and as such it is considered that the development would be reasonably assimilated into existing development. Given this, it is recommended that planning permission is granted.

## 11.0 RECOMMENDATION – GRANT

Subject to the agreement of an acceptable package of developer contributions, the signing of a suitably-worded Section 106 agreement, the receipt of final comments from consultees on additional information received, amended hard and soft landscaping details, and the resolution of any issues arising, and to conditions as set out below.

With regard to both the wording of the Section 106 agreement and of conditions, authority is sought to make such amendments as may be necessary.

CONDITIONS to include:

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

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

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

3653/2.04; 3653/2.05; 3653/2.06; 3653/2.07; 3653/2.08; 3653/2.09, and 1.1250 A3L.

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

- (3) Prior to the commencement of any works hereby permitted samples of all new facing materials and details of all external finishes shall be submitted to and approved in writing by the Local Planning Authority. The development shall then proceed in accordance with the approved details.

Reasons: In the interests of high quality design and the amenities of the area, and to ensure that such matters are agreed before work is commenced.

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

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

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

Reasons: 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 removed, dying, being severely damaged or becoming seriously diseased within five years of planting shall be replaced with trees or shrubs of such size and species as may be agreed in writing with the Local Planning Authority, and within whatever planting season is agreed.

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

- (7) The 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 photo voltaic installations shall be incorporated into the development as detailed on the submitted Sustainability Statement, and thereafter the development shall be maintained as approved.

Reasons: In the interest of promoting energy efficiency and sustainable development, and to ensure that such matters are agreed before work is commenced.

- (8) A programme for the suppression of dust during construction of the development shall be as detailed in the submitted additional information submitted to the Local Planning Authority. These approved measures shall be employed throughout the period of construction unless any variation has been approved by the Local Planning Authority.

Reasons: In the interests of residential amenity, and to ensure that such matters are agreed before work is commenced.

- (9) As an initial operation on site, adequate precautions shall be taken during the progress of the works to prevent the deposit of mud and similar substances on the public highway.

Reasons: In the interests of amenity and road safety, and to ensure that such matters are agreed before work is commenced.

- (10) The parking for site personnel / operatives visitors shall be shall be provided prior to the commencement of the development as detailed on the additional information received by the Local Planning Authority and shall thereafter be provided and retained throughout the construction of the development.

Reasons: To ensure provision of adequate off-street parking for vehicles in the interests of highway safety and to protect the amenities of local residents, and to ensure that such matters are agreed before work is commenced.

- (11) Provision shall be made within the site for the disposal of surface water so as to prevent its discharge onto the highway details of which shall have been submitted to and approved in writing by the Local Planning Authority prior to the commencement or works.

Reasons: In the interests of highway safety and convenience, and to ensure that such matters are agreed before work is commenced.

- (12) Notwithstanding the provisions of Class A of Part 1 of Schedule 2 to The Town and Country Planning (General Permitted Development) (England) Order 2015, the dwellings hereby permitted shall not be altered or enlarged.

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

- (13) No dwelling hereby permitted shall be occupied until space as shown on the approved drawings has been laid out within the site in accordance with the approved drawings for cycles to be securely parked and sheltered.

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

- (14) Notwithstanding the provisions of Class A, Part 2, Schedule 2, of the Town and Country Planning (General Permitted Development) (England) Order 2015 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 the amenities of the area.

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

archaeological work in accordance with a written specification and timetable which has been submitted to and approved in writing by the Local Planning Authority.

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

- (16) 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 - 1800 hours, Saturdays 0830 - 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.

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

Reason: In order to prevent pollution of water supplies and localised flooding and to ensure that such matters are agreed before work is commenced.

- (18) Prior to first use or occupation, there shall be provision and maintenance of 1.5 metres x 1.5 metres pedestrian visibility splays behind the footway on both sides of each new vehicular access with no obstructions over 0.6m above footway level. Thereafter development shall be maintained as approved.

Reason: In the interest of highway safety.

- (19) The area shown on the submitted layout as vehicle parking and turning space shall be provided, surfaced and drained before the use is commenced or the premises occupied, and shall be retained for the use of the occupiers of, and visitors to, the premises, and no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order), shall be carried out on that area of land so shown or in such a position as to preclude vehicular access to this reserved parking space.

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.

- (20) Prior to the occupation of any of the dwellings hereby approved the bin and cycle store areas hereby approved shall be constructed and made available for that use at all times.

Reason: to encourage sustainable transport methods and in the interests of visual amenities.

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

Reason: In the interests of the amenities of the area

## INFORMATIVES

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>
4. The applicant must also ensure that the details shown on the approved plans agree in every aspect with those approved under such legislation and common law. It is therefore important for the applicant to contact KCC Highways and Transportation to progress this aspect of the works prior to commencement on site.

### **Council's approach to 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 instance the applicant/agent was advised of minor changes required to the application and these were agreed, and the application was considered by the Planning Committee where the applicant/agent had the opportunity to speak to the Committee and promote the application.

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

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

**APPENDIX 2**

<b>2.2 REFERENCE NO – 16/504266/FULL</b>		
<b>APPLICATION PROPOSAL</b> Erection of 9 no. 2 storey 3 and 4 bedroom detached and semi-detached dwellings and associated works.		
<b>ADDRESS</b> Land At Lavender Avenue Minster-on-sea Kent ME12 3RB		
<b>WARD</b> Sheppey Central	<b>PARISH/TOWN COUNCIL</b> Minster-on-Sea	<b>APPLICANT</b> Jones Homes Southern <b>AGENT</b> Britch & Associates Ltd

The Planning Officer reported that there had been further discussion with KCC, who had re-evaluated their position and now considered it appropriate and necessary to request contributions towards primary education from this development. The contributions amounted to £4,000 per dwelling (£36,000 total) and would be put towards the Thistle Hill primary school development. This has been included within the terms of the accompanying Section 106 legal agreement.

The Planning Officer further reported that the KCC Flood Risk Officer recommended a condition requiring the submission of the proposed drainage layout and calculations confirming that the discharge from the site was at the rates the existing system was designed to receive.

The Lower Medway Internal Drainage Board had no objection further to the County Flood Risk Officer's response. The County Archaeologist requested that the standard programme of works and watching brief conditions was attached.

The Planning Officer reported that the County Ecologist advised that a reptile survey and mitigation strategy were required to make the application acceptable. The reptile survey must be submitted and agreed before planning permission can be formally granted to avoid conflict with the advice of Circular 06/2005, which stated that ecological matters must be resolved before granting consent other than in exceptional circumstances. KCC Developer Contributions confirmed that this application can be considered as the 5<sup>th</sup> site to contribute towards Thistle Hill Primary School project, thus completing the total number of projects that could contribute to that scheme under the Community Levy Regulations. The Environment Agency had no comments. Southern Water raised no objection subject to a condition requiring the position of water and drainage pipes to be determined, and a standard informative.

The Planning Officer reported that further to KCC Highways and Transportation's initial concerns, a revised drawing had been received (no. 3653/2.08 rev C) showing the highway layout in front of the properties amended, so as to provide additional on street parking. A footway had also been provided on the frontage of the properties on Lavender Avenue.

The Planning Officer sought delegation from Members to approve the application subject to: receipt of an amended landscaping scheme (as referred to at para 9.05

of the report); receipt of the required reptile survey and further comments from the County Ecologist; adding a condition requiring submission of a mitigation strategy and drainage condition; adding a condition requiring submission of drainage layout and calculations; adding the standard archaeological programme of works condition; any further conditions requested by Southern Water; amending the wording of condition (2) to reflect the amended drawings that had been received; and completion of a Section 106 Agreement to secure financial contributions.

A Ward Member welcomed more on-street parking.

In response to queries, the Planning Officer confirmed that the financial contribution to the proposed Lower Road/Barton Hill Drive junction road upgrade was £9,054.00. A condition requiring broadband ducting be installed could be provided, however it was for outside agencies to provide.

Members considered the application and raised the following points: the density of housing was too much; reptile studies should not be carried out during autumn/winter; developer contributions were not enough and feel we are being 'robbed'; and the infrastructure on the Isle of Sheppey cannot support this development.

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

In response to queries from Members, the Planning Officer referred to paragraph 9.08 of the report which set out developer contributions. He stated that whilst it was unusual to request contributions on small developments in this instance it was necessary so as not to prejudice funding on the wider Thistle Hill development.

In accordance with Procedure Rule 19(2) a recorded vote was taken on the motion to approve the application as follows:

For: Councillors Bobbin, Roger Clark, Mike Dendor, James Hunt, Nigel Kay, Mike Henderson, Bryan Mulhern and Ghlin Whelan.

Against: Mike Baldock, Cameron Beart, Andy Booth, Richard Darby, James Hall, Ken Ingleton, Samuel Koffie-Williams, Peter Marchington and Prescott.

The motion to approve the application was lost.

Councillor Andy Booth moved the following motion: That the application be refused due to the lack of infrastructure to support continual expansion in the area, and unsustainable development. This was not seconded.

The Development Manager drew Members' attention to the history of the site and that outline permission for the application was approved by the Planning Committee on 30 June 2016. He was concerned about the proposed reasons suggested by Members for refusing the application and whether these could be supported at any subsequent appeal.

Councillor Ken Ingleton moved a motion to defer the application until substantial steps had been taken to resolve the traffic issues at the site. This was not seconded.

The Locum Solicitor stated that whilst he had some sympathy with Members' concerns in relation to traffic he was not sure they were sound reasons, given that the application was already approved in outline.

The Chairman agreed to a short adjournment for officers to receive advice from the Locum Solicitor.

At this point, the Development Manager 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 would be deferred to the next meeting when the Head of Planning would advise Members of the prospects of such a decision if challenged on appeal and if it becomes the subject for costs.***