

PLANNING COMMITTEE – 10 NOVEMBER 2016

PART 3

Report of the Head of Planning

PART 3

Applications for which **REFUSAL** is recommended

3.1 REFERENCE NO - 16/505118/OUT		
APPLICATION PROPOSAL		
Outline Application with access being sought for mixed-Use development comprising up to 77 residential dwellings with associated commercial (B1) and retail (A1) units, hard and soft landscaping, and associated infrastructure.		
ADDRESS Land North Of Canterbury Road Dunkirk Kent		
RECOMMENDATION Refuse subject to the expiration of the consultation period for the adjacent landowner (8 th November 2016) and the further views of KCC Highways and Transportation.		
SUMMARY OF REASONS REASON FOR REFUSAL		
The proposed development falls outside of the built-up area boundary and is not identified as one of this Council's preferred housing allocations within the emerging Local Plan. The emerging Local Plan can now be given significant weight owing to its advanced stages in the examination process. The social and economic benefits of the proposal have little weight within this policy context and moreover, there would be significant and demonstrable harm to the character and amenity value of the countryside and harm to the landscape which is designated as a Special Landscape Area within the adopted Local Plan and an Area of High Landscape Value in the emerging Local Plan. This harm would outweigh the benefits of the proposal and as such, the proposal would not constitute sustainable development.		
REASON FOR REFERRAL TO COMMITTEE		
Request made by Cllrs Bowles (Leader) for the application to be reported to the Planning Committee for their consideration.		
WARD Boughton And Courtenay	PARISH/TOWN Dunkirk	COUNCIL
		APPLICANT Quinn Estates Limited AGENT Montagu Evans
DECISION DUE DATE 23/09/16	PUBLICITY EXPIRY DATE 02/11/16	OFFICER SITE VISIT DATE 13.10.16
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):		
SW/98/0189 – erection of poly tunnels – approved SW/00/0080 - Outline Application for residential development of four dwellings with garages – refused SW/00/0698 - Outline application for four dwellings with garages - refused SW/01/0845 - Renewal of temporary planning permission SW/98/0189 for erection of polytunnels – approved SW/01/0066 - Erection of 2 greenhouses – approved		

MAIN REPORT

1.0 DESCRIPTION OF SITE

- 1.01 The site lies on the edge of Dunkirk village within the eastern part of the Borough. Dunkirk village is small with approximately 110 houses set out in a linear pattern which follows Canterbury Road and Courtenay Road and is rural in character. It comprises of mainly detached and semi-detached houses and bungalows, a former school building (recently closed), a farm shop, public house, a caravan park, two plant nurseries and, village hall. There are also some commercial/industrial buildings/land to the east of the site. Dunkirk village lies to the west (approx. 1km) of Boughton under Blean. This neighbouring village is identified as a Local Service Centre within the adopted Local Plan (Rural Local Service Centre in the Emerging Local Plan) and is a larger settlement than Dunkirk with amenities such as a convenience shop, post office, comparison retail units, restaurants, public house, medical centre (although it is reported that this closed on 30th September 2016), village hall (with library) and primary school. There are bus stops within Dunkirk along Canterbury Road with services to Canterbury and Faversham. The site is approximately 5 miles from Faversham and 5 miles from Canterbury.
- 1.02 The site is bounded to the west by the rear gardens of detached and semi-detached houses. Further to the west, beyond the houses, is the Scheduled Monument site of Dunkirk Radar Tower which is also a grade II listed building. Blean Woods Nature Reserve (National Nature Reserve) which is also a Site of Special Scientific Interest (SSSI) lies to the northeast. The northeast corner of these woods (approx. 1mile from the application site) is designated as a Special Area of Conservation (SAC). This is ancient semi-natural woodland managed by the RSPB with public access. There are pathways through the woods which can be accessed from various different points. Notably, there is an access point 215m to the east of the proposed access to the application site. The closest designated car park for recreational access to the woods is some 2.5 miles to the east. The eastern boundary of the application site lies approximately 50m from the edge of the ancient woods at its closest. The north of the site is bounded by horse paddocks. Residential properties lie immediately to the east of the site fronting Canterbury Road. A car/motorhome sales garage, Dunkirk Industrial Park and Agrii – suppliers of agricultural equipment and services also lie to the east of the site with access from Canterbury Road. Larger parcels of agricultural land lie to the south on the other side of Canterbury Road and the Boughton Bypass.
- 1.03 The application site is identified as a Special Landscape Area under the adopted Local Plan and an Area of High Landscape Value (Kent level) under the Emerging Local Plan. Blean Woods is identified as an Area of High Landscape Value (Swale level) under the Emerging Local Plan and as a Special Landscape Area under the adopted Local Plan. Canterbury Road is identified as a Rural Lane under the adopted Local Plan.
- 1.04 The application site area totals 3.3ha (or 8.2 acres). It has an irregular shape which can be described as a smaller rectangle fronting Canterbury Road and a larger rectangle forming the rear section of the site. There is a small extended narrow point at the northeast corner of the site that adjoins Blean Woods Natural Reserve (necessary for drainage from a proposed attenuation pond). The front part of the application site is currently used informally (and without consent) for the parking of HGVs. There are some piles of waste material scattered around and a small patch of fruit growing adjacent to a 19m x 6m greenhouse. The remaining land (the larger of the two rectangles) within the application site is overgrown, rough grassland with

some evidence of cauliflower growing. Some hedgerows exist along the southern and eastern boundaries.

- 1.05 The land is largely flat with a gentle slope down from west to east so that there is a difference of 3.5m (in height above Ordnance Datum, AOD level) between the western and eastern boundaries. A water main easement runs along the western boundary of the site.
- 1.06 The site is 2.5 miles to the south of The Swale Special Protection Area (SPA) Ramsar site and SSSI.

2.0 PROPOSAL

- 2.01 The application seeks outline planning permission for the residential development of the site with some business use (B1 Use Class) measuring 278sqm and retail (village shop) requiring 167sqm. The applicant suggests that the site could accommodate 77 dwellings. The only detailed matter to be considered at this stage is the access to the site. This access is shown to be taken from Canterbury Road.
- 2.02 The indicative plans show that the business and retail uses would be located towards the front of the site, within the southeast corner. Two units are shown on the plans in one building of 13m x 23m. Parking would be provided to service these units. The remainder of the site would be for the housing with a mixture of terraced, semi-detached and detached dwellings. Each house is shown to be provided with off-street parking and medium to large sized gardens. The application form suggests a total of 157 car parking spaces would be provided, though layout including car parking is a reserved matter. The houses and commercial buildings are shown to be of a traditional design. An attenuation pond would be provided within the northeast corner of the site and a pumping station would be located on the eastern boundary. The access would continue into a main service road (looks to be to adoptable standard) but would then narrow and splinter off into smaller streets serving the residential properties.
- 2.03 Additional soft landscaping is shown to be provided in the form of trees and shrubs placed at strategic points within the site and along the boundaries. A small play area is shown adjacent to the eastern boundary. The water mains easement is incorporated into the indicative landscaping scheme.
- 2.04 The applicant has offered to provide 40% of the dwellings as affordable housing, equating to 31 affordable dwellings based on a total of 77.

3.0 SUMMARY INFORMATION

	Proposed
Site Area (ha)	3.3ha
Resi ridge height	min 8m/max 11m
Resi storeys	Max 2
Parking Spaces	Not set
No. of Residential Units	77 (not set)
No. of Affordable Units	40%
Density	28 dph (not set)

4.0 PLANNING CONSTRAINTS

- 4.01 Potential Archaeological Importance
- 4.02 Dunkirk Airfield
- 4.03 Adjacent Site Of Special Scientific Interest Church Woods, Blean

5.0 POLICY AND OTHER CONSIDERATIONS

- 5.01 The National Planning Policy Framework (NPPF): paras 7 (three dimensions of sustainable development), 8, 11 (presumption in favour of sustainable development), 12, 14, 17 (core planning principles), 19 (economy), 28 (rural economy), 32 (sustainable transport), 34, 47 (delivering a wide choice of high quality homes), 49, 50, 55, 56 (good design), 58, 69 (healthy communities), 70, 73, 75, 109 (conserving and enhancing the natural environment); 112 (agricultural land); 118, 119, 120, 121, 123, 125, 129 (heritage assets), 131, 159 (housing), 162 (infrastructure), 185 (neighbourhood plans), 186 (decision taking), 187, 196 (determining applications); 197, 204 (planning obligations) & 216 (weight to emerging policies).
- 5.02 National Planning Policy Guidance (NPPG): Design; Natural environment; Housing and Economic Development needs assessment; Noise; Planning Obligations; Use of planning conditions; transport assessments and statements in decision taking; Water supply, waste water and water quality land affected by contamination; light pollution; natural environment; neighbourhood planning; rural housing.

Development Plan:

- 5.03 The Swale Borough Local Plan Adopted 2008, saved policies SP1 (sustainable development), SP2 (environment), SP3 (economy), SP4 (housing), SP5 (rural communities), SP6 (transport and utilities), SP7 (community services and facilities), FAV1 (the Faversham and the rest of Swale planning area), SH1 (settlement hierarchy), E1 (general development criteria), E6 (countryside), E9 (landscape), E10 (trees and hedges), E11 (biodiversity and geological interests), E12 (designated biodiversity and geological conservation sites), E16 (scheduled ancient monuments), B2 (new employment), B4 (new retail), H2 (new housing), H3 (affordable housing), RC1 (rural economy), RC2 (rural services and facilities), RC3 (rural housing needs), RC7 (rural lanes), T1 (safe access), T4 (cyclists and pedestrians) & C3 (open space on new housing developments).
- 5.04 The emerging Swale Borough Local Plan "Bearing Fruits" – ST1 (sustainable development), ST2 (targets for homes and jobs), ST3 (settlement strategy), ST4 (meeting local plan development targets), ST7 (Faversham and Kent Downs strategy), CP2 sustainable transport), CP3 (high quality homes), CP4 (good design), CP5 (health and wellbeing), CP6 (community facilities and services to meet local needs), CP7 (natural environment), CP8 (conserving and enhancing the historic environment), DM2 (main town centre uses), DM6 (managing transport demand and impact), DM7 (vehicle parking), DM8 (affordable housing), DM9 (rural exceptions housing), DM14 (general development criteria), DM17 (open space, sports and recreation provision), DM21 (water, flooding and drainage), DM24 (valued landscapes), DM26 (rural lanes), DM28 (biodiversity and geological conservation), DM29 (woodlands, trees and hedges), DM31 (agricultural land), DM34 (Scheduled monuments) & IMP1 (implementation and delivery plan).

Supplementary Planning Documents

Swale Landscape Character and Biodiversity appraisal (2011)

Developer Contributions (2009)

6.0 LOCAL REPRESENTATIONS

6.01 Thirty-three representations – all of which raise objection have been received from local residents. A summary of their responses is as follows:

- Increased traffic would cause safety concerns at the access point, pollution, noise and congestion through Boughton village, particularly at school run time;
- Housing here is not needed as Swale has a 5 year housing supply. The application disregards the Local Plan;
- The primary school in Boughton is at capacity already;
- Secondary schools are also at capacity;
- Disruption to protected wildlife;
- View from house spoiled and negative impact on property values;
- Desire to keep village small;
- Proposed houses are not in keeping with the single storey dwellings currently in the village;
- The underlying soil is clay and the development would add to the instability of the ground causing possible subsidence and sinkholes. Work to stabilise Boughton Hill has already been necessary and additional traffic will cause further disruption;
- Potential increased risk of flooding;
- Negative impact on nearby Blean Woods and the wildlife;
- Commercial building would increase traffic;
- The land has always been used for agriculture and shouldn't change;
- Negative impact on water supply and foul waste system;
- The development will change the character of the village. It would effectively double the size of the village;
- There is no need for a village shop, the one in Boughton is sufficient;
- The village already has a lovely atmosphere and there is no need to improve it;
- The Neighbourhood Plan proposes suitable sites for housing in Dunkirk/Boughton and this site is not included. The number of houses proposed under this application is more than the Neighbourhood Plan proposes;
- Concerns from adjacent land owner – Timber Tasks about surface water drainage from the site onto his land. Adequate controls need to be put in place;
- Density of housing is too high;
- Light pollution;
- The affordable housing is unlikely to go to local people;
- The development is well-designed that will enhance this part of the borough and bring jobs for local people and new facilities.

6.02 The RSPB object to the proposal on the grounds that the development would have an adverse impact on the protected sites, Blean and Church Woods. They are concerned that it is not clear from the documents whether the mitigation proposed will be sufficient. The use of fencing will not mitigate the impact of domestic cats as the planning statement suggests. It is unclear whether the contribution towards the Strategic Access Management and Monitoring (SAMM) will mitigate against impact on the Special Protection Area (SPA). In 2014, the RSPB alongside advisors from NE, the Forestry Commission and Woodland Trust developed a long term vision for Blean

Woods forecasting forward to 2053. The Bossenden end of the woods is under a Tree Preservation Order and has traditionally received very little disturbance as it is far from any dense residential areas and has no car park. It was therefore decided that this should be left as a largely non intervention area of high forest for the benefit of high forest specialist species. With housing adjacent, it could become a high use zone which could disturb specialist bird species (red listed) and its value as a historically quiet, undisturbed area of woodland would be compromised. Any potential increase in visitors to the woods in general would be a concern. Potential impacts include:

- Increased disturbance from dog walkers, especially during breeding season;
- Damage to the ride and track network by cyclists and horse riders;
- Increased strain on the car park and associated track;
- Risk of increased anti-social behaviour.

They note that the consultant states that *“the woodland is not specifically designated for features likely to be particularly sensitive to recreational disturbance (such as ground nesting birds or rare woodland flora)”*. However this is not correct, as the SSSI designation lists by name several scarce bird species that nest on or close to the ground and are which are likely to be impacted by recreational disturbance. These are: nightingale, woodcock, nightjar and wood warbler (wood warbler, which is particularly prone to disturbance, is already absent from the site). Furthermore, the citation also lists a number of rare woodland plants that might be vulnerable to disturbance or destruction with greater public access. They consider that effective mitigation could potentially require the RSPB to close the Bossenden permissive pathway and then upgrade the visitor infrastructure around the car park area to include a stronger track surface, stronger footpaths, gated ‘dogs on leads’ areas and signage explaining the ecological significance of the reserve so that visitors treat the site respectfully. The developer could be required to cover the costs of this additional work. They do not consider that the applicant has provided enough information to adequately carryout an Appropriate Assessment as required by regulation 21 of the Conservation of Habitats and Species Regulations 2010.

- 6.03 An adjacent landowner to the east of the site is currently disputing the ownership of a parcel of land which is included within the application site. For the purposes of considering this application, such a dispute would only be material in respect of the notices served on persons with an interest in the land. I note that the required notice has been served on the adjacent landowner in question and as such, the application site does not need to be amended.

7.0 CONSULTATIONS

- 7.01 The Greenspaces Manager comments on the indicative plans and encourages usable green open space within the site and discourages ‘corridor’ green spaces around the boundaries as this leaves rear fences vulnerable. The location of the attenuation pond within the corner of the site is a missed opportunity as it has no setting and the ‘recreation’ area would be too close to the dwellings, pond and road. He requests a commuted sum for the maintenance of any open space.
- 7.02 The Head of Housing confirms that in accordance with planning policy, they require 40% affordable housing with a 70:30 split of affordable rented and shared ownership respectively. The site may be suitable for starter homes. Affordable housing should be evenly distributed across the site and should represent a mix of house types with some that are wheelchair adaptable.

- 7.03 The Economic Development Manager welcomes any additional employment space and would wish to secure a local labour agreement through the Section 106.
- 7.04 The KCC Archaeological officer notes that the site is 100m to the east of the Scheduled Monument Dunkirk Chain Radar Station but finds no historic evidence to link the application site to it. There is moderate potential for archaeology (Roman and Neolithic) on this site and he therefore recommends a condition to secure a programme of geophysical survey and trial trenching as an initial step to inform the extent of further investigation.
- 7.05 The Environmental Services Manager has no objection subject to conditions to remediate contamination if found at the site; require the submission details of the mechanical ventilation system to be installed within the houses; submission of a Code of Construction Practice and; that the recommendations set out in the MRL Acoustic Report are submitted in the form of a verification report prior to occupation of the dwellings.
- 7.06 The Environment Agency have no objection to the proposal noting that the site lies in Flood zone 1 and is on clay geology.
- 7.07 Southern Water state that the exact position of foul raising main, sewer and water main must be determined on site before the layout of the proposed development is finalised and that a diversion might be possible. They request a condition to ensure that the LPA is informed of the diversion/protection of the main. They conclude that they cannot accommodate the needs of this application without providing additional local infrastructure. The proposed development would increase flows into the wastewater sewerage system and as a result increase flooding in and around the area. There are no public water sewers in the area and alternative means of draining water from the development are required. A drainage strategy should therefore be approved by the LPA. Any use of SUDs will need to be maintained in perpetuity and managed properly.
- 7.08 Natural England (NE) has no objection to the application. They note that the site is in close proximity to European designated sites - Blean Complex Special Area of Conservation (SAC) and The Swale Special Protection Area (SPA) and Ramsar site. These sites are also identified as SSSIs at a national level. The LPA should produce a Habitats Regulations Assessment (HRA) for the proposal. NE has assumed that the LPA will adopt the applicant's findings in their ecological assessment as its HRA. The ecological assessment concludes, subject to mitigation measures, that the proposal is unlikely to have a significant effect on the internationally designated sites, either alone or in combination. On the basis of the information provided, NE concurs with this view and request a contribution towards the Thames, Medway and Swale Estuaries Strategic Management and Monitoring (SAMM) Strategy and should take measures to ensure that the dwellings covered by this planning application are not occupied until this strategic mitigation is in place. NE is satisfied that the proposed development being carried out in strict accordance with the details of the application, will not damage or destroy the interest features for which the site is notified. The SSSI does not therefore represent a constraint in determining the application. They suggest referring to their standing advice on protected species and encourage biodiversity enhancements.
- 7.09 The KCC Flood Risk Project Officer acknowledges the submitted Flood Risk Assessment/Drainage Strategy and notes how it aims to dispose of surface water in a manner that seeks to mimic the runoff from the existing site whilst providing

improvements to any existing local flood risk problems. Confirmation of the exact location of attenuation features, calculations of runoff and a maintenance strategy are expected at the reserved matters stage. The use of pumps should be avoided and all attenuation provided in open, above ground/conveyance features that can drain by gravity alone. Conditions are recommended that require the submission of a detailed sustainable surface water drainage scheme and no infiltration of surface water drainage into the ground without the consent of the LPA.

- 7.10 UK Power Networks confirm that they hold a LV overhead wire and underground cable within the application site. A quote should be obtained from them for the removal of this network should the development go ahead.
- 7.11 KCC Development Contributions team request primary and secondary education contributions at a total of £593,545. They also request contributions towards libraries at a total of £3697.22 and that 1 wheelchair adaptable home is provided on site. They also request that the development incorporates superfast fibre optic broadband.
- 7.12 Southern Gas Networks note that there is a low/medium pressure gas main near the application site. They state that there should be no mechanical excavations taking place above or within 0.5m of the low/medium pressure main or within 3m of an intermediate pressure system.
- 7.13 KCC Highways and Transportation have requested an up to date traffic survey for Canterbury Road, details of visibility splays and forward visibility at the proposed right turn lanes, vehicle tracking to show turning movements in and out of the proposed junction and an amendment to the submitted Transport Statement to address the closure of Dunkirk Primary School and amalgamation with Boughton Primary School. The applicant has submitted the requested information and we are awaiting the response from Kent Highways and Transportation. Members will be updated at the meeting.
- 7.14 Kent Police invites the applicant to consult them if the application proceeds. They note the intention to deliver the equivalent of Code 4 of the Code for Sustainable Homes and BREEAM good on the commercial space. They also draw the applicant's attention to document "Q" building regulations for doors and windows specifications. They recommend Secure by Design and recommend a condition to ensure that the development incorporates measures to minimise the risk of crime.
- 7.15 KCC Ecology consider that the 20m buffer between the housing and ancient woodland is adequate to protect the woodland and that as long as there is no direct access to the woods from the site, the mitigation measures should ensure that there is no undue recreational pressure on the woodland. They recommend conditions to control lighting, the disposal of invasive species on the site, to ensure no harm to protected species, and to ensure biodiversity enhancements. They also ask for additional information in respect of a map showing the location of the reptile receptor site detailing reptile fencing and reptile enhancements features.
- 7.16 Dunkirk Parish Council objects to the application on the following grounds:
- Dunkirk is the largest parish in Swale and is noted for being open with low density housing, all of which is surrounded by open countryside;
 - The development cannot be described as an 'infill'. The scale of the proposal would 'dwarf' the existing community;
 - The design of the development is better suited to an urban area/brownfield site. It is 'alien' to the character of the village;

- The site is outside of the built-up area boundary and is therefore unacceptable in principle. The applicant fails to meet key policies within the adopted and emerging local plan;
- The site was submitted to Boughton and Dunkirk Neighbourhood Plan and the recommendation will be not to allocate in order to preserve views of the woods. The housing needs of the village can be accommodated on other identified sites and the village does not need the type of housing proposed;
- Boughton and Dunkirk are specifically excluded from housing allocations as part of the Local Development Framework;
- It is in an unsustainable location outside acceptable walking distance of local services. Boughton Medical Centre has recently shut. The closest doctors surgeries are now either in Blean or Faversham;
- The appeal decisions provided by the applicant are not comparable to this site and the emerging local plan can now be given sufficient weight to enable a robust defence at appeal;
- Any economic gains would be small and do not equate to sustainable development as all three aspects of sustainable development – social, economic and environmental, need to be satisfied;
- Detrimental impact on the designated site at Blean Woods and the scheduled monument;
- Air, noise and light pollution will be increased by the development;
- The use of deep piling methods of construction will potentially damage the environment;
- The closest school and pre-schools are in Boughton. The footpath from the site to Boughton is in a poor state of repair and it unlit;
- The predicted traffic levels from the site seem to be unduly low. There is often congestion through Boughton and this development will exacerbate the situation;
- Boughton primary school is oversubscribed and residents will have to travel outside of the area for their children to attend school, most likely Faversham, exacerbating the congestion through Boughton;
- Demand for the small business unit is questioned;
- The development will have a harmful effect on wildlife and protected species. The landscaping and pond will not adequately compensate for this impact;
- The development will increase recreational use of Blean Woods to its detriment;
- The development will have a 'substantial' negative impact on the SSSI, Nature Reserve, Area of High Landscape Value and Special Area of Conservation;
- The development will result in overshadowing/loss of outlook to the detriment of residential amenity for the properties along Courtenay Road;
- The local community do not support the application, despite the conclusions set out in the Statement of Community Involvement;
- The development would 'blight the countryside';
- The Swale Rural Sustainability Study (December 2011) identifies Dunkirk as having no capacity for residential development due to extremely limited facilities and services and the linear form of settlement and surrounding countryside would be adversely affected;
- The indicative plans do not seem to provide enough parking spaces for residents;
- The details of water, gas and electricity supply should be finalised at this stage of the development process;
- The attenuation pond would not be sufficient to protect the adjacent ancient woodland;
- The proposal to provide powered ventilation to the properties to address noise issues is difficult to understand;
- Questions the safety of the visibility splays;

- This is not sustainable development.

They also note that there are inaccuracies in the application documents.

- 7.17 Boughton under Blean Parish Council objects to the proposal. They fully support the objections made by Dunkirk Parish Council and highlight the concern regarding an increase in traffic through their village. They also express concern about the oversubscription of the primary school at Boughton and note that there would be more congestion caused by parents needing to travel to schools further away. They are concerned about the supply of utilities to the area and note that there is already disruption on a frequent basis. They acknowledge that there may be a requirement for some housing in the area but consider the proposal to be of a scale that would be unacceptable development in the Countryside.

8.0 BACKGROUND PAPERS AND PLANS

- 8.01 The applicant has submitted the following documents to support their application:

Design and Access Statement; Transport Statement; Report on Landscape and Visual Matters; Phase One Environmental Desktop Study; Flood Risk Assessment; Ecological Statement; Preliminary Services Appraisal; Noise Impact Assessment; Economic Benefits Statement; Archaeological Desk-based Assessment and a Statement of Community Involvement.

- 8.02 The applicant has submitted a new site location plan very slightly realigning the narrow point at the northeast corner of the site. This is to better accommodate the drainage from the SUDs pond. The adjacent landowner has been consulted.

9.0 APPRAISAL

Principle of Development

Planning Policy and the Housing Land supply position

- 9.01 For the purposes of the development plan, the site is located outside of the built confines of Dunkirk and falls to be considered as within the countryside. Policy E6 of the adopted local plan seeks to protect the quality, character and amenity of the countryside. Policy SP4 seeks to provide sufficient land for housing need, and policies SH1 and H5 of the adopted local plan seek to concentrate this in the Thames Gateway Planning Area, with limited development to meet local needs in the Faversham and rest of Swale area. Policy H2 of the adopted plan states that permission for new residential development will be granted for sites that are allocated or within defined built-up areas. Outside of these, new residential development will only be granted for certain limited exceptions.
- 9.02 The application site being outside of the built-up area boundary would be contrary to the above policies and not in accordance with the development plan.
- 9.03 The NPPF was published in 2012 and is a material consideration in the determination of planning applications. It sets out a presumption in favour of sustainable development. Paragraph 7 identifies three strands to sustainable development, an economic role (supporting the economy and growth), a social role (providing strong, healthy, accessible communities), and an environmental role (contributing to protecting our natural, built and historic environment). Paragraph 14 sets out that, for the purposes of decision taking, this means where the development plan is absent,

silent or relevant policies are out of date, permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits.

- 9.04 Paragraph 47 of the NPPF seeks to significantly boost housing supply, and requires LPA's to meet full objectively assessed needs for housing in their area, and to identify and update a supply of deliverable sites to provide a five year housing supply. Paragraph 49 of the NPPF sets out that policies for the supply of housing should be considered out of date if the LPA cannot demonstrate a 5 year supply.
- 9.05 Based on current Objectively Assessed Needs (OAN) for housing within the Borough, the Council cannot currently demonstrate a 5 year housing supply. Given that the Council cannot demonstrate an existing 5 year housing supply, and the above policies for housing delivery pre-date the OAN, they must be considered as out of date.
- 9.06 The emerging local plan has been through an Examination in Public, and following the Inspector's findings, the Council has sought to significantly boost its housing allocations to meet objectively assessed housing needs. A further examination will take place early next year with the Council seeking to demonstrate that it can meet its full identified housing needs and a 5 year supply. A number of policies within the emerging plan seek to deliver housing development in order to meet the OAN for housing in the Borough. These policies are ST1 (sustainable development including delivery of homes to meet OAN), ST2 (delivery targets), ST3 (Swale settlement strategy), ST4 (site allocations to meet OAN), and ST7 (Faversham area strategy to provide housing at allocations or other appropriate locations where the role and character of Faversham and rural communities can be maintained / enhanced).
- 9.07 The background evidence base on housing allocations has been endorsed by the Local Plan Inspector in her Interim findings as a sound basis for the council to deliver additional sites to meet OAN. On this basis, there is a high likelihood that the additional site options that will form the basis for discussion when the Examination in Public is re-opened, will be acceptable to the Inspector given the soundness of this evidence base.
- 9.08 It is the Council's intention to publish its five-year supply of deliverable sites prior to the Local Plan Examination's resumption and this should be available at the end of November 2016. The Council will show, at that point, a five-year supply which will be subject to Examination by the Local Plan Inspector in January 2017. Whilst a five-year supply cannot be currently demonstrated, it is the progress towards and prospects of achieving that supply within a reasonable timeframe that is an important consideration and one which has been upheld on Appeal. (Norton Ash decision).
- 9.09 Paragraph 216 of the NPPF sets out that decision makers may give weight to emerging plans, depending on the stage of preparation of the plan (the more advanced, the greater the weight), the extent to which there are unresolved objections, and the degree of consistency of relevant policies to policies in the NPPF. Given the endorsements made by the Local Plan Inspector and despite outstanding objections to the new allocations proposed in the plan, I am of the opinion that the soundness of the evidence base means that material weight can be given to the emerging plan and demonstration of a five year housing supply, to be published in the near future.
- 9.10 When considering the NPPF test as to whether this application constitutes sustainable development and whether any harm arising from the proposal would significantly

outweigh the benefits, the position of the emerging plan as set out above, should be taken into account.

Is the proposal sustainable development?

- 9.11 Within the Emerging Local Plan, Dunkirk is a fifth-tier settlement and is therefore ranked at the bottom in terms of where this Council wishes to direct new homes and jobs. As such when tackling the housing need in the Borough on a strategic level, this Council has identified sites that would be far more sustainable i.e. those adjacent to the towns of Sittingbourne and Faversham and other much larger settlements. We are able to demonstrate through the housing allocations identified in the emerging local plan that there are many more sites within the borough that can meet the housing need in a sustainable way. The application site is therefore not necessary to meet the housing needs of this borough. Developing the application site for housing would be at odds with the strategic and sustainable approach to delivering housing that this Council has shown it can achieve through the emerging local plan (to be given significant weight). I therefore consider that the development would be unsustainable in this respect.
- 9.12 On a local level, it is my view that this development would not constitute sustainable development. Economically, the proposal would offer some benefit in terms of a small amount of job creation and a boost to the local economy by introducing additional residents to the area who will hopefully support local businesses. However, I am not convinced that this economic benefit would be so great as to outweigh the harm that I identify below in terms of harm to the environment. The applicant also highlights benefits to the economy in respect of the New Homes Bonus, job creation during construction, and council tax. However, it is arguable that these particular benefits to the economy could equally be matched by other more strategically sustainable sites.
- 9.13 The applicant has submitted a letter from an independent estate agent commenting on the viability of the commercial units and this sets out a good case. In addition, the applicant provides a Heads of Terms for the purchaser of the business unit and a letter of intent from the potential retailer. Mixed-use development such as this is inherently more sustainable than just purely residential because of a reduced need to travel by car. However, in this case, the benefits of one small shop and one business unit on site would have only a limited impact on reducing car usage and does not therefore outweigh the harm identified below. There are already a number of commercial units close to the application site. I question the need for one more business unit which would be likely to demand a higher rent than the established units. I also attach less weight to the economic benefits of the development given our strong position on the 5 year supply of housing as set out above.
- 9.14 In terms of the social aspect of sustainable development, the potential provision of much needed housing is of course a positive impact as well as the fact that 40% of these houses would be 'affordable'. However, as discussed above, the emerging local plan demonstrates that the housing needs of this borough can be met in locations that are far more sustainable than the application site. Dunkirk and Boughton under Blean Parish Councils are currently in the early stages of producing a Neighbourhood Plan within which the housings need of the villages have been identified. Despite being in its early stages, the Parish Councils have identified other sites within their parishes for housing and have ruled out the application site. The implication being that even at a local level, better, more sustainable, sites for housing can be identified. Members should though only attach very limited weight to this owing to the very early stages of the Neighbourhood Plan process.

- 9.15 The application site would be located in the settlement that has very limited amenities and use of the car is highly probable in order to access necessary services and facilities such as a doctor's surgery, primary and secondary schools. I acknowledge that there is a fairly frequent bus service to Canterbury and Faversham with a bus stop very close to the site. However, whilst it might make the site slightly more sustainable from a transport point of view, it does not mean that the application site is sustainably located.
- 9.16 In terms of the environmental aspect of sustainable development, I note the intention of the applicant to build houses to the equivalent of code level 4 of the Code for Sustainable Homes and the commercial units to BREEAM 'Good'. However, the proposal would cause significant and demonstrable harm to the environment for the reasons set out below. I therefore consider that the proposal does not constitute sustainable development.

Rural character and appearance/impact on Special Landscape Area

- 9.17 Policy E9 of the adopted Local Plan identifies the site as a Special Landscape Area. The applicant attempts to argue that this policy is 'out-of-date' as it relates to the supply of housing/precludes development. This argument is not accepted as the policy does not relate to the supply of housing but instead seeks to protect the special quality, character and amenity value of the particular landscape. Policy E9 can therefore be given significant weight. Within North Kent Marshes Special Landscape Areas (SLAs), the priority is the long-term protection and enhancement of the quality of the landscape of these county assets, whilst having regard to the economic and social wellbeing of their communities. Policy E9 goes on to state:

"Within the countryside and rural settlements, the Borough Council will expect development proposals to:

- *be informed by and sympathetic to local landscape character and quality;*
- *consider the guidelines contained in the Council's Landscape Character Assessment and Guidelines Supplementary Planning Document, so as to contribute to the restoration, creation, reinforcement and conservation, as appropriate, of the landscape likely to be affected;*
- *safeguard or enhance landscape elements that contribute to the distinctiveness of the locality or the Borough;*
- *remove features which detract from the character of the landscape; and*
- *minimise the adverse impacts of development upon landscape character."*

- 9.18 Policy DM24 of the Emerging LP identifies the site as an Areas of High Landscape Value (Kent and Swale Level). These areas are designated as being of significance to Kent or Swale respectively, where planning permission will be granted subject to the: conservation and enhancement of the landscape being demonstrated; avoidance, minimisation and mitigation of adverse landscape impacts as appropriate and, when significant adverse impacts remain, that the social and or economic benefits of the proposal significantly and demonstrably outweigh harm to the Kent or Swale level landscape value of the designation concerned.
- 9.19 This particular landscape is identified within the Swale Landscape Character and Biodiversity appraisal (2011) (SPD) as falling within the "Woodland Landscape Types" category and the Blean Wood West character area. The landscape is described as follows:

“Deciduous woodlands are dominant on the higher ground and these include many areas of managed hornbeam and chestnut coppice....The domed high ground is dominated by ancient woodland...

This remains one of the most extensive semi-natural woodlands in the south east of England contained many varied habitats of national and international importance reflected in their designations. However, significant areas have been cleared to make way for horse related activities, grazing livestock and dairy farming....

This is an area largely enclosed by topography and woodland but views are present from the higher domed open grazing land...

The A2 divides the area north-south and immediately north of this major trunk road lays the main settlement of Dunkirk. This is a linear village located on the high grounds east of Boughton under Blean. Many of the residential dwellings of Dunkirk are of mixed vernacular character. Otherwise the area possesses a sense of remoteness, accessible only by quiet lanes. Settlement is limited to isolated farms and cottages, many dating back from 1800s are, built in brick and of a vernacular style.

At Dunkirk there are a number of structures that were part of a chain of radar stations that played an important roll in the Battle of Britain. These are Scheduled Ancient Monuments.”

9.20 The SPD concludes that the Western Blean woodland character should be “conserved and reinforced”. Importantly, it recommends conserving the woodland fringe which provides the unique interface between open and wooded area and conserve the largely undeveloped and heavily wooded character of the landscape which forms part of the wider Blean Woods complex.

9.21 The submitted Landscape Assessment notes that there are limited views of the site from middle to longer distances. It suggests that although the development would lead to the loss of open space, this would be counterbalanced by a range of positive effects associated with the proposal including improvements to biodiversity and habitats on the site and managed planting. The applicant has also commissioned a landscape-led design to demonstrate that the housing would sit well within the landscape. The Landscape Assessment concludes that:

“It is considered that the above changes to the site will result in a ‘medium’ adverse magnitude of change...to the landscape patterns within the site and immediate area. As a consequence of the Site’s very limited visibility and contribution to the surrounding area, it is considered that the proposed development is likely to have minimal landscape and visual effects on the locality (and wider surrounding area) as the Site is not prominent and its contribution to the wider rural landscape is limited.”

9.22 Despite the conclusions of the Landscape Assessment, the proposed development would be visible from Canterbury Road, Courtenay Road and from Blean Woods. There is no doubt, in my view, that the presence of buildings on this site will have a significant impact on the character of the landscape. The proposal would represent a substantial extension of the existing village envelope representing an incursion into open countryside. It would interrupt views towards Blean Woods from Courtenay Road in a way that would be significantly harmful to the character and visual amenities of the area. The scale of the development and the likely layout of houses would be at odds with the existing linear pattern of well-spaced houses within Dunkirk village. The application site creates a buffer that is open and rural in character between the

houses along Courtenay Road and Blean Woods. This relationship is important as Blean Woods adds significantly to the special character of the landscape. There would be some view of the application site from Blean Woods. The proposed development would lead to a deterioration of the special setting of Blean Woods and the isolated/remote nature of Dunkirk village in my view.

- 9.23 The proposal would introduce landscape screening to the adjacent industrial use which would be of benefit to the visual amenities of the area and the character of the landscape to a certain extent. I also acknowledge that the development would provide soft landscaping to limit its visual presence in the long-term. However, I do not consider that this soft landscape would go far enough to reduce the harm that I have identified to the Special Landscape Area. In addition, I note that the Greenspaces Manager is critical of the submitted indicative landscaping plan and as such, very limited weight should be given to it as it would be likely to be subject to significant change.

Ecology/biodiversity

- 9.24 Natural England are satisfied that the development would have no adverse effect on The Swale Special Protection Area, Blean Complex Special Area of Conservation and SSSIs having regard to the following measures that the scheme would incorporate:

- tree protection fencing;
- secure boundary along woodland edge to deter access;
- additional native planting (incorporating thorny species) along woodland edge forming a buffer to the woodland and;
- contribution towards the Thames, Medway and Swale Estuaries Strategic Management and Monitoring (SAMM) Strategy.

- 9.25 I note that the RSPB have raised an objection and are concerned about increased recreational use of the woods as a consequence of this proposal. I also note the comments from the Parish Council in respect of deep piling. However, I am mindful of comments from Natural England who accept the mitigation measures proposed by the applicant. The applicant notes that there would also be a 20m wide buffer between the woods and the housing as a way of minimising disturbance during construction as well as once the houses are built. However, the RSPB consider that there would be harm to the woods on a local level and suggest that the applicant could contribute to appropriate mitigation which would involve works to the trackways through the woods (as detailed in their comments above). I am awaiting a response to this suggestion from the applicant and will update Members at the meeting.

- 9.26 With regards to the potential impact on wildlife within the site, the applicant has submitted an Ecology Appraisal which details surveys that have taken place on the site and identifies measures to minimise the impact on protected species and wildlife in general. This includes the translocation of reptiles from the site to a suitable open space which is likely to be within the western part of the site. KCC Ecology accept the mitigation measures proposed but have asked for additional information in respect of a map showing the location of the reptile receptor site detailing reptile fencing and reptile enhancements features. The applicant is providing this and I will update Members at the meeting. However, I do not anticipate any matters that could not be adequately addressed through appropriate conditions.

- 9.27 Article 4(4) of the Birds Directive (2009/147/EC) requires *Member States to take appropriate steps to avoid pollution or deterioration of habitats or any disturbances*

affecting the birds, in so far as these would be significant having regard to the objectives of this Article. An Appropriate assessment is appended.

Residential Amenity

- 9.28 The proposal is in outline form only and so the impact on existing local residents in terms of overlooking and overshadowing cannot be considered at this stage. In terms of noise from the residential use of the site, I do not consider that there would be any harmful increase in this respect.
- 9.29 It is anticipated that noise from the proposed commercial units could be adequately controlled with the use of appropriate conditions and through their design to ensure that there would be no undue impact on future residents of the development and/or the residential properties directly adjacent to the eastern boundary of the site.
- 9.30 The proposed dwellings would experience some noise impact from the road and a 'significant adverse' impact from the industrial units. However, the applicant has proposed mitigation in the form of double glazing to all living, dining and bedroom windows within dwellings throughout the development, with upgraded double glazing (no trickle vents) to habitable rooms that face the industrial park. Only specially designed trickle vents should be allowed to living and bedroom windows within the south, east and west facing elevations and located within 100m of Canterbury Road. In addition, 2m high acoustic fencing to properties adjacent to the industrial park. Since opening windows would reduce insulation of the buildings, mechanical ventilation is proposed to all rooms with windows facing the industrial units. The Environmental Services Manager has reviewed the submitted noise assessment and is satisfied that these mitigation measures will ensure there is no material harm to future residents of the development.

Highways

- 9.31 I am awaiting comments from KCC Highways and Transportation on the additional highways information submitted by the applicant and will update Members at the meeting. It is anticipated that these comments will consider the safety and amenity of the new access onto Canterbury Road. A section 278 agreement will be required to make changes/improvements to the highways network close to the proposed access to the site.
- 9.32 Whilst it is acknowledged that this development would increase the number of vehicles using local roads, it is not considered that this would cause material harm to highway safety or amenity. I acknowledge that there is often congestion through Boughton under Blean but there is no evidence to suggest that this development would add significantly or demonstrably to this congestion. The submitted Transport Statement concludes that the local road network has sufficient capacity to accommodate the proposed development.
- 9.33 I have considered the proposal against adopted Local Plan policy RC7 – Rural Lanes but do not consider that this proposal would have a detrimental effect on the character of this part of Canterbury Road by way of significant traffic levels or the appearance of the new access/highway improvements.
- 9.34 Members will be aware that as this application is in outline form only, details of parking arrangements and road layouts within the site will be considered under a separate reserved matters application.

Developer contributions

9.35 The applicant has agreed to meet the various requests for developer contributions/obligations within a Section 106 agreement. These are as follows:

- primary and secondary education contributions at a total of £593,545;
- libraries at a total of £3697.22;
- 1 wheelchair adaptable home is provided on site;
- 40% affordable housing with a 70:30 split of affordable rented and shared ownership respectively;
- £223.58 per house contribution towards the Thames, Medway and Swale Estuaries Strategic Management and Monitoring (SAMM) Strategy;
- commuted sum for the maintenance of the open space (exact figure to be confirmed by Greenspaces Manager);
- Section 278 agreement for improvements to junction of Canterbury Road with London Road and provision of ghost island for right hand turn off Canterbury Road;
- Local labour agreement.

9.36 The agreement by the applicant to enter into a section 106 agreement covering the above requirements should be honoured if the application is determined at appeal.

Other Matters

9.37 With respect of the loss of agricultural land, I have considered paragraph 112 of the NPPF and policy DM31 of the emerging Local Plan which states:

“Development on agricultural land will only be permitted when there is an overriding need that cannot be met on land within the built-up area boundaries. Development on best and most versatile agricultural land (specifically Grades 1, 2 and 3a) will not be permitted unless:

- *The site is allocated for development by the Local Plan; or*
- *There is no alternative site on land of a lower grade than 3a or that use of land of a lower grade would significantly and demonstrably work against the achievement of sustainable development; and*
- *The development will not result in the remainder of the agricultural holding becoming not viable or lead to likely accumulated and significant losses of high quality agricultural land.”*

9.38 The application site is shown on the Provisional Agricultural Land Classification (ALC) map as Grade 4 - which is poor quality agricultural land. The applicant has submitted evidence of soil analysis at the application site and this indicated that the land falls within Grade 3b and is not therefore classified as ‘best and most versatile’ for the purposes of applying policy DM31 and paragraph 112 of the NPPF. I also acknowledge that this site is relatively small and cut-off from other agricultural land. This would limit its potential contribution to the agricultural economy further. I therefore consider that the loss of agricultural land should not prevent its redevelopment in this case.

9.39 Archaeological desk-based study confirms (see paragraph 7.04 above) that the application site has moderate potential for archaeological finds. KCC confirm that they have no objections to this development subject to a condition to secure a programme of geophysical survey and trial trenching as an initial step to inform the extent of further investigation. In terms of the impact of this proposal on the setting

of the Scheduled Monument Dunkirk Chain Radar Station, no historic link has been identified between the two sites. The separation of the application site and Scheduled Monument by way of distance and the line of houses along Courtenay Road also reduces the impact on the setting of this designated heritage asset in my view. On this matter, I conclude that there would be no harm to the setting of the Scheduled Monument.

- 9.40 In respect of the pressure that this development would have on local schools, I note that KCC have asked for a contribution towards a new primary school and an extension to the secondary school within Faversham. This is a strategic issue that KCC and Swale Borough Council are tackling at a borough and county level. It is not therefore a matter upon which this application should fail.
- 9.41 I am content that foul and surface water drainage can be designed to meet the requirements of the relevant consultees. I note that a pumping station is proposed, the details of which would require further approval under the reserved matters application. Surface water is to be managed so that run-off from the site is minimised. This is via the attenuation pond and an existing drainage ditch. I therefore consider that there would be no harm to the adjacent woods or an increase in the likelihood of flooding by way of increased surface water run-off.
- 9.42 Despite the concerns of local residents in respect of water supply issues, Southern Water have not identified this as a potential problem. Similarly, with respect of gas and electricity supply, the various providers have not objected. I therefore consider that connection and supply of utilities to this site would be adequate.
- 9.43 The submitted phase 1 contaminated land report concludes that there is moderate potential for contamination at the site. The Head of Environmental Services accepts the findings of this report and recommends an appropriate condition to remediate contamination that may be found at the site.
- 9.44 I acknowledge the concerns of local residents and the Parish Council in terms of ground stability and note the subsidence issue locally in the past. However, there is no evidence to suggest that development of this site would worsen existing ground conditions in the area.

10.0 CONCLUSION

- 10.01 This outline application seeks permission for housing and commercial development on land outside of the built-up area boundary of Dunkirk. Policies within the adopted Local Plan that relate to the supply of housing are considered to be out of date for the purposes of paragraph 14 of the NPPF. As such, there is the presumption in favour of sustainable development unless harm is identified that would significantly and demonstrably outweigh the benefits. The weight attached to the benefits of the proposal will be affected by the progress of the emerging local plan towards demonstrating a five year housing land supply. It is my strong view that this Council can now attach significant weight to the policies within the emerging local plan that relate to housing land supply due to its advanced stages in the examination process.
- 10.02 The benefits of the proposal can be identified as economic and social as discussed above. However, it is argued that these benefits can be given less weight given the status of the emerging local plan. In addition, the harm to the environment as set out above, specifically the character and amenity of the landscape, significantly and demonstrably outweighs the benefits. It is my view that this development does not constitute sustainable development and should therefore be refused.

11.0 RECOMMENDATION – REFUSE subject to any further consultation responses and the views of KCC Highways and Transportation ,for the following reason:

1. The proposed development would be located outside of the defined urban boundaries of Dunkirk (as established by Local Plan Policy SH1 and Emerging Local Plan Policy ST3 which place emphasis on the use of previously developed land within the defined built up areas and on sites allocated by the Local Plan) and is not proposed as an allocated housing site within the emerging local plan. The proposed development would detract from the intrinsic value, tranquillity and beauty of the countryside and the quality and character of the landscape which is designated as being within a Special Landscape Area. Given the advanced status of the emerging plan, the allocation of further sites to meet objectively assessed housing needs for the Borough, and the progress made by the Council in achieving a 5 year housing land supply as part of the local plan process, the development of this site is unnecessary and the harm it would cause, as identified above, would significantly and demonstrably outweigh the benefits of the development and would fail to result in a sustainable form of development. This would be contrary to policies SP1, SH1, E6 and E9 of the Swale Borough Local Plan Adopted 2008; policies ST1, ST3, ST7 and DM24 of the emerging Swale Borough Local Plan “Bearing Fruits 2031” (Proposed Main Modifications June 2016), and the National Planning Policy Framework.

APPENDIX: HABITATS REGULATIONS ASSESSMENT

Context

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

For proposals likely to have a significant effect on a European site, the Conservation of Habitats and Species Regulations (2010) requires the Council to make an appropriate assessment of the implications for the site. Para. 119 of the NPPF states that *“The presumption in favour of sustainable development ... does not apply where development requiring appropriate assessment under the Birds or Habitats Directives is being considered, planned or determined.”*

Given the scales of housing development proposed around the North Kent SPAs, the North Kent Environmental Planning Group (NKEPG) commissioned a number of reports to assess the current and future levels of recreational activity on the North Kent Marshes SPAs and Ramsar sites. NKEPG comprises Canterbury, Dartford, Gravesham, Medway and Swale local authorities, together with Natural England and other stakeholders. The following evidence has been compiled:

- Bird Disturbance Study, North Kent 2010/11 (Footprint Ecology).
- What do we know about the birds and habitats of the North Kent Marshes? (Natural England Commissioned Report 2011).
- North Kent Visitor Survey Results (Footprint Ecology 2011).
- Estuary Users Survey (Medway Swale Estuary Partnerships, 2011).
- North Kent Comparative Recreation Study (Footprint Ecology 2012).
- Recent Wetland Bird Surveys results produced by the British Trust for Ornithology.
- Thames, Medway and Swale Estuaries – Strategic Access Management and Monitoring Strategy (Footprint Ecology 2014).

In July 2012, an overarching report summarised the evidence to enable the findings to be used in the assessment of development. The report concluded (in summary):

- There have been marked declines in the numbers of birds using the three SPAs.
- Disturbance is a potential cause of the declines. The bird disturbance study provided evidence that the busiest locations support particularly low numbers of birds.
- Within the Medway, the areas that have seen the most marked declines are the area north of Gillingham, including the area around Riverside Country Park. This is one of the busiest areas in terms of recreational pressure.
- Access levels are linked to local housing, with much of the access involving frequent use by local residents.
- Bird disturbance study - dog walking accounted for 55% of all major flight observations, with a further 15% attributed to walkers without dogs along the shore.
- All activities (i.e. the volume of people) are potentially likely to contribute to additional pressure on the SPA sites. Dog walking, and in particular dog walking with dogs off leads, is currently the main cause of disturbance.
- Development within 6km of the SPAs is particularly likely to lead to increase in recreational use.

Natural England's advice to the affected local authorities is that it is likely that a significant effect will occur on the SPAs/Ramsar sites from recreational pressure arising from new housing proposals in the North Kent coastal area.

The agreed response between Natural England and the local authorities is to put in place strategic mitigation to avoid this effect – a ‘strategic solution.’ This provides strategic mitigation for the effects of recreational disturbance arising from development pressure on international sites and will normally enable residential development to proceed on basis of mitigation provided avoiding a likely significant effect.

This strategic approach is set out in the Thames, Medway and Swale Estuaries – Strategic Access Management and Monitoring Strategy (Footprint Ecology 2014). It will normally require the creation of on-site mitigation, such as the creation of open space suitable for dog walking and, secondly, via payment of a dwelling tariff for off-site impacts. The money collected from the tariff would be used by the North Kent Councils and its partners for mitigation projects such as wardening, education, diversionary projects and habitat creation. The policy context for such actions is provided by policies CP7 and DM28 of the Emerging Local Plan.

Associated information

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

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

The Assessment of Land north Canterbury Road, Dunkirk

The application site is located 1.8km to the southwest of Blean Complex Special Area of Conservation (SAC) and 4km to the south of The Swale Special Protection Area (SPA). Therefore, there is a medium possibility that future residents of the site will access footpaths and land within these European designated areas.

Measures are to be taken to reduce the impact on the SAC and SPA and these would be built into the development. Natural England agree with the conclusions set out in the submitted Ecological Assessment, that the development is unlikely to have a significant effect on the internationally designated site either alone or in combination.

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

Conclusions

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

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:

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

In this instance, the development gave rise to fundamental concerns, which could not be overcome.

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