

2.10 REFERENCE NO - 15/508514/FULL			
APPLICATION PROPOSAL			
Demolition of existing building and erection of 6 No. 4-bed detached houses and 2 No. 3-bed semi-detached houses with garaging, access and landscaping			
ADDRESS Coleshall Farm, Sheppey Way, Iwade, Kent, ME9 8QY.			
RECOMMENDATION Grant subject to conditions and the views of Council's Environmental Health Manager and Southern Water			
SUMMARY OF REASONS FOR RECOMMENDATION			
Application will provide 8 dwellings within a sustainable location immediately adjacent to the built up area boundary and a new housing estate, and within walking distance of the amenities within Iwade village centre. It would not give rise to any serious amenity concerns.			
REASON FOR REFERRAL TO COMMITTEE			
Parish Council objection.			
WARD Bobbing, Iwade & Lower Halstow	PARISH/TOWN Iwade	COUNCIL	APPLICANT Mr Tom Ledger AGENT DHA Planning
DECISION DUE DATE 17/12/15	PUBLICITY EXPIRY DATE 17/12/15		
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):			
App No	Proposal	Decision	Date
SW/08/1127	Development of housing, employment up to 3000sqm, public open space and pavilion (up to 110sqm), with access from School Lane and Sheppey Way, including roads, cycle paths, footpaths, stream crossings, landscaping and ancillary works.	Outline permission granted.	06.06.11
This application granted outline permission for development of the wider Coleshall Farm site, including the parcel of land subject to the current application. The decision notice is appended to this report.			
SW/11/1537	Approval of all reserved matters, pursuant to outline permission SW/08/1127, for erection of 187 dwellings on part of the site.	Approved.	08.03.12
Reserved matters approved for development of the first phase, at the School Lane end of the site. Members will note that construction has been underway for some months and progressing southeastwards from School Lane – a number of units are now completed and occupied.			
^ SW/12/1392	Erection of a 60-bed care home with associated access, parking and landscaping.	Approved.	05.02.13
Grant of outline permission for the erection of a two-storey care home on land adjoining the southwestern boundary of the current application site.			
14/504557/REM	Reserved Matters permission including details of access, appearance, landscaping, layout and scale for the erection of 43 dwellings pursuant to outline application SW/08/1127	Approved.	16.03.15

Reserved matters approval for the erection of 43 dwellings on land immediately to the north of the current application site.			
15/505910/REM	Approval of Reserved Matters including details of access, appearance, landscaping, layout and scale for the erection of 86 dwellings pursuant to outline application SW/08/1127	Approved.	05.11.15
Reserved matters approval for the erection of 86 dwellings on land to the north of the spine road.			

MAIN REPORT

1.0 DESCRIPTION OF SITE

- 1.01 The application site sits immediately to the south of the Coleshall Farm allocated housing site in Iwade, between the farmhouse and the new housing development currently under construction. It is roughly square, generally flat, extends to approximately 0.35ha, and contains a number of surplus agricultural buildings of a standard modern design and some mature trees. The land is currently accessed via the unmade farm track off Sheppey Way. It lies outside but immediately adjacent to the built up area boundary, and is surrounded to the north, north west, east and south east by the existing Coleshall Farm development.
- 1.02 Members may find it helpful to consider the history of the wider area. The land immediately to the north, north-west and south-east is part of an allocation in the Swale Borough Local Plan 2008, and a development brief for the allocation was agreed pursuant to policy AAP9. In June 2010 outline planning permission for the provision of housing, employment and public open space, with vehicle access from Sheppey Way and School Lane, on land to the southwest of Iwade village was granted under reference SW/08/1127. All matters of detail, except access, were reserved.
- 1.03 Members resolved to approve that application and the accompanying Section 106 agreement in January 2011, and the final phases (approved last year under applications 15/505910/REM) are currently under construction to the north.
- 1.04 The current application site does not lie within the housing allocation site, but is surrounded by it on 3 sides.

2.0 PROPOSAL

- 2.01 The application seeks planning permission for demolition of the existing farm buildings and erection of 6 four-bed detached houses and 2 three-bed semi-detached houses with associated garages, access, and landscaping. The dwellings will be laid out in a rough L-shape following the line of the road, with a pair of semis (plots 7 and 8) set behind at the back corner of the site.
- 2.02 The houses are all of a modern design similar to those that have been approved (or are currently under construction) on adjacent parcels. They are to be marketed as “executive homes” and the drawings therefore show a high standard of finish, featuring render, tile hanging, weatherboard, and exposed quoins in various combinations across the properties. The dwellings will have a maximum height of approximately 9m and a minimum height of roughly 7m.
- 2.03 The submitted Planning statement explains that the development comprises:

- Plots 1, 2, 4, and 5: four-bed detached houses;
- Plots 3 and 6: four-bed detached houses with rooms in the roof; and
- Plots 7 and 8: three-bed semi-detached houses.

2.04 Each unit includes a generous garden, two parking spaces, and a single garage (except plots 3 and 6 which will have double garages). The submitted planning statement comments:

“The proposal includes private amenity space to the rear of each unit with sufficient space for new native species landscaping. The land immediately to the north west adjacent to the Iwade stream will be undeveloped to provide a green backdrop and separation from the umping station and housing to the north west. The existing trees/hedgerow on the south west boundary will be retained and reinforced with new native species tree planting to screen the development from the neighbouring property and any views toward Coleshall Farmhouse.”

2.05 It continues to note that access to the development will be provided from the spine road and estate roads which are being constructed as part of the adjacent Iwade expansion development. An existing public right of way through the site (ref. ZR92) will be diverted for a short section along the new estate road.

3.0 PLANNING CONSTRAINTS

3.01 The site lies within an Area of Potential Archaeological Importance, and Environment Agency Flood Zone 3.

4.0 POLICY AND OTHER CONSIDERATIONS

The National Planning Policy Framework (NPPF)

4.01 The NPPF was adopted on 27th March 2012 and is a material consideration in determining planning applications. It offers general advice in respect to proposed development, rather than the more detailed and often site-specific guidance of the Local Plan (discussed below).

4.02 Local Plan policies must be assessed against the advice of the NPPF, and those with a “limited degree” of conflict can be considered to comply and thus remain a material consideration in the determination of planning applications.

4.03 Paragraph 46 of the NPPF requires Local Planning Authorities (LPA) to have an up-to-date five year housing supply, i.e. sufficient housing to cover demand for the next five years.

4.04 Swale did not have a five-year supply at the time of the initial emerging Local Plan review, which put us in a difficult position in terms of being able to resist inappropriate development for several months. The Council has since worked towards meeting the supply target and is fast-approaching a stage where it can demonstrate compliance with the NPPF, but a very recent appeal decision at Church Farm, Bobbing (ref. 15/505488) has set out that SBC can not demonstrate a five-year supply until the current figures have been formally adopted by the Local Plan Inspector at inquiry (set for January 2017). It therefore currently remains the position that policy H2 is non-NPPF compliant, and sites within the countryside need to be assessed on their individual suitability rather than on principle.

National Planning Practice Guidance (NPPG)

- 4.05 National Planning Practice Guidance (NPPG) also provides general guidance in relation to development. It encourages the provision of housing within sustainable areas, subject to consideration of issues such as local and residential amenity, highways, contamination, noise, and ecology, amongst others.

Swale Borough Local Plan 2008

- 4.06 Policies SP1 (sustainable development), SP4 (Housing), E1 (general development criteria), E6 (countryside), E9 (Landscape), E14 (listed buildings), E19 (design), H2 (new housing), H5 (housing allocations), H8 (Thistle Hill), T1 (safe access to new development), T3 (vehicle parking), T4 (cyclists and pedestrians) and U4 (placing services underground) of the Swale Borough Local Plan 2008 are all relevant in the consideration of the application.

- 4.07 Policy AAP9 relates to the adjacent Coleshall Farm development site. It states:

“An Area Action Plan is designated at Iwade, as shown on the Proposals Map. Within this area, planning policies and proposals will aim to provide the existing and new communities the services and mix of uses that ensures that the village functions as a more sustainable settlement. In addition to the development, and provision of new and improved community facilities comprising the first phase of development as outlined in the currently approved Development Brief, planning permission will be granted for development comprising:

1. *housing, for approximately 400 additional dwellings on sites in the south-western and eastern parts of the village respectively;*
2. *expansion of the recreation ground in School Lane; and*
3. *the provision of some 3,000 square metres of employment floorspace.*

Planning permission will not be granted for the additional 400 dwellings proposed until:

- a. *a revised Development Brief has been approved by the Borough Council.*
- b. *It is demonstrated to the Council’s satisfaction that flooding problems arising from the Iwade Stream can be resolved as part of the additional development.*
- c. *The construction of the Ridham and Kemsley employment area has commenced; and*
- d. *An assessment of the likely significant effects of development upon nearby European Sites for nature conservation and other important areas of biodiversity has been undertaken and its recommendations implemented.”*

5.0 LOCAL REPRESENTATIONS

- 5.01 Two letters of support from neighbouring residents commenting that removal of the disused farm buildings will improve the appearance of the area, and noting that the site abuts the adjacent residential development on 3 sides.
- 5.02 The Swale Footpaths group notes the footpath running through the site and question whether a diversion or extinguishment will be sought.
- 5.03 No other representations received.

6.0 CONSULTATIONS

- 6.01 Iwade Parish Council objects, commenting:

“1. The proposed development will damage the natural environment due to the possible loss of trees on the site and the Parish Council request that the Tree Officer, Paul Hegley, is consulted.

2. Councillors request that as generally garages are not used for cars anymore these be replaced with car ports to ensure that vehicles are sited off the road, thus avoiding many parking problems.

- 6.02 Natural England has no comments, noting that contributions towards the SSSI mitigation are only required on developments of 10 or more units.
- 6.03 The Environment Agency has no objection.
- 6.04 The KCC Ecologist initially objected to the scheme but, further to receipt of additional information, is now satisfied that the development will not give rise to serious harm, subject to the conditions below.
- 6.05 The KCC Public Rights of Way officer notes the footpath across the site, and advises that a formal application to divert or close the footpath must be submitted and determined before development commences [NB: the applicant has submitted an application to divert the footpath along the estate road for a short section to KCC].
- 6.06 Kent Highways & Transportation initially objected on the grounds that tandem parking is not acceptable and overall provision was insufficient. Further to an amended layout showing individually-accessible parking spaces they now have no objection, subject to conditions as set out below.
- 6.07 The County Archaeologist notes that the site is within an archaeologically sensitive area with potential for prehistoric, Bronze Age, Roman, and medieval remains. He raises no objections, however, subject to the condition below.
- 6.08 The views of the Council's Environmental Health Manager and Southern Water are still awaited and Members will be updated on this at the meeting.

7.0 BACKGROUND PAPERS AND PLANS

- 7.01 The previous applications for development of the surrounding land, as noted above, are relevant, and Members may care to note that this application arises from pre-application discussions with officers.

8.0 APPRAISAL

Principle of Development

- 8.01 The site lies within the countryside, where established rural restraint policies seek to prevent new residential development unless it's for the purposes of meeting an identified affordable housing need, or providing agricultural worker's accommodation. This application proposes neither. However, as at 4.04 above, the Council has an identified housing supply shortfall, policy H2 is considered out of date, and we therefore need to consider sites that may have been unacceptable in principle.
- 8.03 Firstly the Council has an identified housing need (776 dwellings per annum set by Local Plan Inspector) that needs to be met and the scheme would provide 8 units towards that need, which is a modest but not inconsiderable amount.
- 8.04 Secondly the site is well located, being directly adjacent to the built up area boundary, close to the village centre (with its associated facilities), and surrounded on 3 sides by the existing Coleshall Farm housing development. The site is thus highly sustainable, and a small extension to the adjacent housing development would largely go unnoticed in terms of impact upon the countryside (discussed further below).
- 8.05 Taking this into account I consider that development here is acceptable in principle in light of the Council's identified housing supply requirement, the thrust of adopted local and national policy to provide new housing within sustainable locations, and the specific location of this site in relation to neighbouring developments.

Visual Impact

- 8.06 The application site currently comprises a number of disused agricultural buildings and associated areas of hard standing. The removal of these elements is a positive gain in my opinion.
- 8.07 The proposed houses and garages are of a good standard of design in my opinion, and would sit comfortably within the context of the area, i.e. immediately abutting a modern housing estate, and close to the existing farm dwellings (Chestnut House and Coleshall Farmhouse).
- 8.08 Due to the site's relationship with the surrounding development, and the way in which it is largely enclosed by the Iwade expansion on the NW, N, E, and SE sides I do not consider the development of this site would cause serious harm to the character, appearance, or amenity value of the wider countryside. Due to this relationship with the existing development this site is somewhat unique in its circumstances and I do not consider that development here would give rise to any precedent for the Council to permit further development on the countryside.
- 8.09 I note the Parish Council's comments regarding possible loss of trees on site, and have some sympathy with their concerns, as there is a mature hedgerow along the site boundary with Chestnut House and a windbreak row of poplars along the north western boundary of the site, which are mature and well established.
- 8.10 However, having discussed this objection with the agent for the scheme he has confirmed that only two trees within the centre of the site will be lost:

"I have reviewed the drawings and it appears to me that apart from some bushes and scrub only two trees are proposed to be removed. These are

located immediately adjacent to the north east and north west elevation of the existing building. The existing trees on the south west boundary are to be retained and reinforced with new native tree planting. We are also proposing significant new tree planting thorough out the entire site including new tree planting adjacent to the estate road and beyond the proposed residential curtilages”.

- 8.11 I do not consider that the loss of these two trees would be a serious drawback to this development, and note that the site has been laid out in such a way as to provide space for a substantial landscaping scheme (which the applicant recognises should be of native planting, as at 2.04 and the agent’s response, above). The conditions below will secure such planting and officers can negotiate with the developer to secure semi mature trees for key areas, such as along the spine road.
- 8.12 Therefore, although the two trees will be lost, in real terms I consider that this development would actually represent a positive gain for tree planting and biodiversity, and therefore do not have a significant concern in this respect.

Residential Amenity

- 8.13 The site is well positioned in relation to existing (or under construction) dwellings and the proposed houses are laid out in a sensible and spacious manner. The front windows of plots 7 and 8 are a minimum of 24m from the rear of Chestnut House, and any flank windows on plot 6 would only overlook the front garden of Chestnut House. I therefore do not consider that there would be any serious amenity concerns, or issues of overlooking or loss of privacy, arising from this development.
- 8.14 The proposed dwellings themselves are well-proportioned and each will have a generous garden. Future occupants would therefore benefit from a high standard of amenity themselves.

Highways

- 8.15 The development will provide two independently-accessible parking spaces – in addition to a garage space – per dwelling (plot 4 has space for 3 vehicles). This is in accordance with current adopted parking guidance and would not give rise to highway safety or amenity concerns, in my opinion. Space is also available within the development for visitor parking. I would also reiterate that, as above, Kent Highways & Transportation do not object now that an amended layout has been received.

Heritage

- 8.16 Coleshall Farmhouse, to the south west of the application site, is Grade II listed. It sits approximately 60m from the closest part of the application site boundary, however, and beyond Chestnut House. Because of this relationship, and in combination with the quantum of surrounding development at Coleshall Farm, I do not consider that the proposed dwellings would harm the special architectural or historic interest of the listed building, or impact significantly upon its setting.

Ecology

- 8.17 The submitted ecological assessment identified that grass snakes, slow worms and common lizards were present on the site, and that the development would result in the loss of suitable reptile habitat. The application details that reptiles would be removed from the site and placed on woodland/scrub to the NW/W of the site, and that an area of brambles to the N would be enhanced.
- 8.18 The KCC Ecologist, further to receipt of additional information to show how these areas would be managed to ensure suitable receptor site habitat, is now satisfied that there would be no significant adverse impacts upon ecology. They have recommended the conditions below to secure the agreed improvements and timescales.
- 8.19 The development may have impacts upon the SSSI but these are unlikely to be significant and, further to Natural England's comments, I have screened the development out of the need for contributions towards the SAMMS in accordance with the Council's agreed strategy (HRA appended below).

9.0 CONCLUSION

- 9.01 The application seeks to provide 8 dwellings within a sustainable location, and filling in a small corner left over following the Coleshall Farm Iwade expansion development. The development would not give rise to any serious amenity concerns, and whilst the Parish Council has objected to the loss of trees a suitable landscaping scheme within the site would help to mitigate against this.
- 9.02 Taking the above into account I recommend that planning permission should be granted.

10.0 RECOMMENDATION – GRANT Subject to the views of the Council's Environmental Health Manager and Southern Water and the following conditions:

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

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

- (2) No development shall take place until details have been submitted to, and approved in writing by the Local Planning Authority, which set out what measures will be taken to ensure that the development incorporates sustainable construction techniques such as rainwater harvesting, water conservation, energy efficiency and, where appropriate, the use of local building materials; and provisions for the production of renewable energy such as wind power, or solar thermal or solar photo voltaic installations. Upon approval, the details shall be incorporated into the development as approved.

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

- (3) No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written specification and timetable which has been submitted to and approved by the Local Planning Authority.

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

- (4) No development shall take place until all reptiles within the site have been translocated in accordance with the ecology migration plan shown on drawing 2115/16/B/1 and the details provided within the submitted Reptile Presence or Absence Survey.

Reason: To minimise harm to protected species.

- (5) No development shall take place until details have been provided of when the meadows within the identified receptor site will be cut. It is advised that each of the meadow areas are divided in two 2/3 sections and cut on rotation each year to create areas of tussocky grassland.

Reason: To ensure suitable receptor habitat and to minimise harm to protected species.

- (6) No development shall take place until details of the external finishing materials to be used on the development hereby permitted have been submitted to and approved in writing by the Local Planning Authority and shall thereafter be implemented in accordance with the approved details.

Reason: In the interest of visual amenity.

- (7) No development shall take place until details of parking for site personnel / operatives / visitors have been submitted to and approved in writing by the Local Planning Authority and thereafter shall 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.

- (8) 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, and shall make provision for the planting of medium or heavy standard, native species, trees along the spine road frontage.

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.

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

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

- (10) Upon completion of the approved landscaping scheme, any trees or shrubs that are removed, dying, being severely damaged or becoming seriously diseased within five

years of planting shall be replaced with trees or shrubs of such size and species as may be agreed in writing with the Local Planning Authority, and within whatever planting season is agreed.

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

- (11) As an initial operation on site, adequate precautions shall be taken during the progress of the works to guard against the deposit of mud and similar substances on the public highway in accordance with proposals to be submitted to, and agreed in writing by the Local Planning Authority.

Reasons: In the interests of amenity and road safety.

- (12) During construction provision shall be made on the site to accommodate operatives' and construction vehicles loading, off-loading or turning on the site.

Reasons: To ensure that vehicles can be parked or manoeuvred off the highway in the interests of highway safety.

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

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

Reason: In the interests of residential amenity.

- (14) No impact pile driving in connection with the construction of the development shall take place on the site on any Saturday, Sunday or Bank Holiday, nor any other day except between the following times:

Monday to Friday 0900-1700hours unless in association with an emergency or with the written approval of the Local Planning Authority.

Reason: In the interests of residential amenity.

- (15) 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 installation.

Reasons: In the interests of highway safety and convenience.

- (16) The garages and vehicle parking and turning spaces shown on drawing DHA/10013/01 Rev. D shall be provided, surfaced and drained before dwellings hereby permitted are first occupied, and shall thereafter be retained for the use of the occupiers of, and visitors to, the premises, and no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order), shall be carried out on that area of land so shown or in such a position as to preclude vehicular access to this reserved parking space.

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

- (17) Notwithstanding the provisions of Class A, Part 2, Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) no gates, fences, walls or other means of enclosure shall be erected or provided in advance of any wall or any dwelling fronting on a highway.

Reason: In the interests of visual amenity.

- (18) Any other conditions requested by the SBC Environmental Health Manager or Southern Water.

The Council's approach to this application:

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

Offering pre-application advice.

Where possible, suggesting solutions to secure a successful outcome.

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

In this instance the application was acceptable as submitted and no further assistance was required.

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

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

Habitat Regulations Assessment.

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

The application site is located approximately 1.1km to the southwest of The Medway Estuary and Marshes Special Protection Area (SPA) which is a European designated sites afforded protection under the Conservation of Habitats and Species Regulations 2010 as amended (the Habitat Regulations).

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

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

In considering the European site interest, Natural England advises the Council that it should have regard to any potential impacts that the proposal may have. Regulations 61 and 62 of the Habitat Regulations require a Habitat Regulations Assessment. For similar proposals NE also advise that the proposal is not necessary for the management of the European sites and that subject to a financial contribution to strategic mitigation and site remediation satisfactory

to the EA, the proposal is unlikely to have significant effects on these sites and can therefore be screened out from any requirement for further assessment.

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

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

- Due to the scale of development there is no scope to provide on site mitigation such as an on site dog walking area or signage to prevent the primary causes of bird disturbance which are recreational disturbance including walking, dog walking (particularly off the lead), and predation of birds by cats. However, mitigation in the form of public open space is available within the local area, as part of an adjoining, associated development.
- Based on the correspondence with Natural England, I conclude that off site mitigation is required. However, the Council has taken the stance that financial contributions will not be sought on developments of this scale because of the practicalities of securing payment. In particular, the legal agreement would cost substantially more to prepare than the contribution itself. This is an illogical approach to adopt; would overburden small scale developers; and would be a poor use of Council resources. This would normally mean that the development should not be allowed to proceed. **However, the North Kent Councils have yet to put in place the full measures necessary to achieve mitigation across the area and there are questions relating to the cumulated impacts on schemes of 10 or less that will need to be addressed in on-going discussions with NE.** Developer contributions towards strategic mitigation of impacts on the features of interest of the SPA – I understand there are informal thresholds being set by other North Kent Councils of 10 dwellings or more above which developer contributions would be sought. Swale Council is of the opinion that Natural England's suggested approach of seeking developer contributions on single dwellings upwards will not be taken forward and that a threshold of 10 or more will be adopted in due course. In the interim, I need to consider the best way forward that complies with legislation, the views of Natural England, and what is acceptable to officers as a common route forward. Swale Council intends to adopt a formal policy of seeking developer contributions for larger schemes in the fullness of time and that the tariff amount will take account of and compensate for the cumulative impacts of the smaller residential schemes such as this application, on the features of interest of the SPA in order to secure the long term strategic mitigation required. **Swale Council is of the opinion that when the tariff is formulated it will encapsulate the time period when this application was determined in order that the individual and cumulative impacts of this scheme will be mitigated for.**

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

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

Habitat Regulations Assessment

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

The application site is located approximately 1.1km to the southwest of The Medway Estuary and Marshes Special Protection Area (SPA) which is a European designated sites afforded protection under the Conservation of Habitats and Species Regulations 2010 as amended (the Habitat Regulations).

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

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

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

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

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

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

Natural England, and what is acceptable to officers as a common route forward. Swale Council intends to adopt a formal policy of seeking developer contributions for larger schemes in the fullness of time and that the tariff amount will take account of and compensate for the cumulative impacts of the smaller residential schemes such as this application, on the features of interest of the SPA in order to secure the long term strategic mitigation required. Swale Council is of the opinion that when the tariff is formulated it will encapsulate the time period when this application was determined in order that the individual and cumulative impacts of this scheme will be mitigated for.

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

For these reasons, I conclude that the proposal can be screened out of the need to progress to an Appropriate Assessment.