

3.3 REFERENCE NO - 17/500313/OUT		
APPLICATION PROPOSAL		
Outline application for mixed use development comprising up to 49 residential dwellings with associated commercial (B1) and retail (A1) units, hard and soft landscaping, and associated infrastructure (Access being Sought) (Resubmission).		
ADDRESS Land North Of Canterbury Road Dunkirk Kent ME13 9LH		
RECOMMENDATION Refusal subject to the views of the Council’s Landscape Consultant		
SUMMARY OF REASONS FOR RECOMMENDATION/REASONS 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 soon to be adopted Local Plan. The social and economic benefits of the proposal have little weight within this policy context and moreover, there would be significant and demonstrable harm to the character and amenity value of the countryside and harm to the landscape which is designated as an Area of High Landscape Value within the soon to be adopted Local Plan. This harm would outweigh the benefits of the proposal and as such, the proposal would not constitute sustainable development.		
REASON FOR REFERRAL TO COMMITTEE		
Request made by Cllrs Bowles 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 25/04/17	PUBLICITY EXPIRY DATE 24/02/17	OFFICER SITE VISIT DATE 01.02.2017
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):		
<p>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 16/501118/OUT – Outline application with access being sought for mixed-use development comprising up to 77 residential dwellings with associated commercial (B1) and retail (A1) units, hard and soft landscaping, and associated infrastructure. Planning permission was refused on 16th November 2016 on the following grounds:</p> <ol style="list-style-type: none"> <i>The proposed development would be located outside of the defined urban boundaries of Dunkirk (as established by Local Plan Policy SH1 and Emerging Local Plan Policy ST3 which place emphasis on the use of previously developed land within the defined built up areas and on sites allocated by the Local Plan) and is not proposed as an allocated housing site within the emerging local plan. The proposed development would detract from the intrinsic value, tranquillity and beauty of the countryside and the quality and character of the landscape which is designated as being within a Special Landscape Area. Given the advanced status of the emerging plan, the allocation of further sites to meet objectively assessed housing needs for the Borough, and the progress made by the Council in achieving a 5 year housing land supply as part of the local plan process, the development of this site is unnecessary and the harm it would cause, as identified above, would significantly and demonstrably outweigh the benefits of the development and would fail to result in a sustainable form of development. This would be contrary to</i> 		

policies SP1, SH1, E6 and E9 of the Swale Borough Local Plan Adopted 2008; policies ST1, ST3, ST7 and DM24 of the emerging Swale Borough Local Plan “Bearing Fruits 2031” (Proposed Main Modifications June 2016), and the National Planning Policy Framework.

The applicant has lodged an appeal against this refusal. The Public Inquiry is due to commence on 26th September 2017.

MAIN REPORT

1.0 DESCRIPTION OF SITE

- 1.01 The site lies on the edge of Dunkirk village within the eastern part of the Borough. Dunkirk village is small with approximately 110 houses set out in a linear pattern which follows Canterbury Road and Courtenay Road and is rural in character. It comprises of mainly detached and semi-detached houses and bungalows, a former school building (now closed), a farm shop, public house, a caravan park, two plant nurseries and, village hall. There are also some commercial/industrial buildings/land to the east of the site. Dunkirk village lies to the west (approx. 1km) of Boughton under Blean. This neighbouring village is identified as a Local Service Centre within the adopted Local Plan (Rural Local Service Centre in the Emerging Local Plan) and is a larger settlement than Dunkirk with amenities such as a convenience shop, post office, comparison retail units, restaurants, public house, medical centre (although it is reported that this closed on 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 (known as Rough Common) for recreational access to the woods is some 2.5 miles to the east. The eastern boundary of the application site lies approximately 50m from the edge of the ancient woods at its closest. The north of the site is bounded by horse paddocks. Residential properties lie immediately to the east of the site fronting Canterbury Road. A car/motorhome sales garage, Dunkirk Industrial Park and Agrii – suppliers of agricultural equipment and services also lie to the east of the site with access from Canterbury Road. Larger parcels of agricultural land lie to the south on the other side of Canterbury Road and the Boughton Bypass.
- 1.03 The application site is identified as a Special Landscape Area under the adopted Local Plan and an Area of High Landscape Value (Kent level) under the Emerging Local Plan. Blean Woods is identified as an Area of High Landscape Value (Swale level) under the Emerging Local Plan and as a Special Landscape Area under the adopted Local Plan. Canterbury Road is identified as a Rural Lane under the adopted Local Plan.

- 1.04 The application site area totals 3.16ha (or 7.8 acres). It has an irregular shape which can be described as a smaller rectangle fronting Canterbury Road and a larger rectangle forming the rear section of the site. There is a narrow strip of land extending eastwards from the eastern boundary of the site towards Blean Woods Natural Reserve (necessary for drainage from a proposed attenuation pond). The front part of the application site is currently used informally (and without consent) for the parking of HGVs. There are some piles of waste material scattered around and a small patch of fruit growing adjacent to a 19m x 6m greenhouse. The remaining land (the larger of the two rectangles) within the application site is overgrown, rough grassland with some evidence of cauliflower growing. Some hedgerows exist along the southern and eastern boundaries.
- 1.05 The land is largely flat with a gentle slope down from west to east so that there is a difference of 3.5m (in height above Ordnance Datum, AOD level) between the western and eastern boundaries. A water main easement runs along the western boundary of the site.
- 1.06 The site is 2.5 miles to the south of The Swale Special Protection Area (SPA) Ramsar site and SSSI.

2.0 PROPOSAL

- 2.01 The application seeks outline planning permission for the residential development of the site for up to 49 dwellings with some business use (B1 Use Class) measuring 648sqm and retail (village shop) requiring 167sqm. The only detailed matter to be considered at this stage is the access to the site. This access is shown to be taken from Canterbury Road. This application follows on from a previous outline application (16/505118/OUT) for up to 77 dwellings at the same site, covering a slightly larger area. Members will note above that this application is now the subject of an appeal due to be considered at a four day Public Inquiry commencing 26th September 2017. The obvious difference between the refused scheme and the current application is the reduction in the number of dwellings now proposed (77 reduced to 49) as well as a reduction in the site area by 0.14ha with the northern boundary moved inwards by approximately 9m. Additionally, the floor area of the proposed B1 units has increased by a total of 370m². The applicant has also shown indicatively that the area of open space/landscaping along the northern boundary would be increased by approximately 45-50m in width with an area of open space across the site totalling approximately 1.51 ha. The applicant seeks to address the Council's previous reason for refusal by introducing these changes.
- 2.02 The indicative plans show that the retail use would be located towards the front of the site, within the southeast corner. The two B1 units are shown to be provided adjacent to the eastern boundary of the site, close to the proposed pumping station. Parking would be provided close to the B1 and retail units and the applicant suggests that there would be a total of 37 full-time jobs created at the site.
- 2.03 The remainder of the site would be for the housing with a mixture of terraced, semi-detached and detached dwellings. Each house is shown to be provided with off-street parking and medium to large sized gardens. The application form suggests a total of 128 car parking spaces would be provided, though layout including car parking is a reserved matter. The houses and commercial buildings are shown to be of a traditional design. An attenuation pond would be provided within the northeast corner of the site and a pumping station would be located on the eastern boundary. The access would continue into a main service road (looks to be to adoptable

standard) but would then narrow and splinter off into smaller streets serving the residential properties.

- 2.04 Soft landscaping is shown to be provided in the form of trees and shrubs placed at strategic points within the site and along the boundaries. Landscape ‘buffer zones’ are shown to be provided adjacent to the western and northern boundaries. The applicant has submitted a detailed landscaping strategy for these areas but Members should bear in mind that landscaping is still to be considered as a reserved matter. A small play area is shown to be provided to the north of the houses. An 8m wide water mains easement is incorporated into the indicative landscaping scheme along the western boundary. This area would also be used as the reptile receptor site for reptiles found elsewhere within the site.
- 2.05 The applicant has offered to provide 30% of the dwellings as affordable housing, equating to 15 affordable dwellings based on a total of 49.

3.0 SUMMARY INFORMATION

	Proposed
Site Area (ha)	3.16ha
Approximate Ridge Height (m)	min 8m/max 11m
Resi storeys	Max 2
Parking Spaces	Not set
No. of Residential Units	49 (not set)
No. of Affordable Units	30%
Density	28 dph (not set)

4.0 PLANNING CONSTRAINTS

- 4.01 Potential Archaeological Importance
- 4.02 Dunkirk Airfield
- 4.03 Adjacent Site Of Special Scientific Interest Church Woods, Blean
- 4.04 Special Landscape Area under the adopted Local Plan and an Area of High Landscape Value (Kent level) under the Emerging Local Plan.

5.0 POLICY AND OTHER CONSIDERATIONS

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

supply, waste water and water quality land affected by contamination; light pollution; natural environment; neighbourhood planning; rural housing.

Development Plan:

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

Supplementary Planning Documents

Swale Landscape Character and Biodiversity appraisal (2011)

Developer Contributions (2009)

6.0 LOCAL REPRESENTATIONS

- 6.01 Thirty-three letters of representation from local residents have been received. Twelve of these representations are in support of the development with the remaining twenty-one objecting.
- Increased traffic would cause safety concerns at the access point, pollution, noise and congestion through Dunkirk and Boughton village, particularly at school run time;
 - Traffic impact on Brenley Corner;
 - Insufficient parking proposed within the site;
 - The primary school in Boughton is at capacity already;
 - Secondary schools are also at capacity;
 - Disruption to protected wildlife;
 - Desire to keep village small;
 - Proposed houses are not in keeping with the single storey dwellings currently in the village;

- Loss of privacy to rear gardens;
- The underlying soil is clay and the development would add to the instability of the ground causing possible subsidence and sinkholes.
- Potential increased risk of flooding and drainage to Bossenden Woods would be harmful;
- Negative impact on nearby Blean Woods and the wildlife, including from domestic cats;
- Commercial building would increase traffic;
- The land has always been used for agriculture and shouldn't change. It is not scrubland;
- Negative impact on water supply, electricity and foul waste system;
- There is no need for a village shop, there is already one in Dunkirk and the one in Boughton is sufficient. A new village shop could put the others out of business;
- The Neighbourhood Plan proposes suitable sites for housing in Dunkirk/Boughton and this site is not included.
- Concerns from Dunkirk Industrial Estate about surface water drainage from the site onto his land. Has the sewer and pump system that runs under their site been considered?
- Noise and light pollution;
- The affordable housing is unlikely to go to local people;
- The development is well-designed that will enhance this part of the borough and bring jobs for local people and new facilities;
- Previous scheme 16/505118/OUT was refused as a matter of principle. Sure it doesn't matter whether there are 5 houses or 60 if it would be unacceptable in principle.
- Disturbance to the horse on firework night.
- Detrimental to Special Landscape Area.

6.02 The Faversham Society object to the development and comment that the site is in a Special Landscape Area and Area of High Landscape Value and has not been identified for development within the Boughton and Dunkirk Neighbourhood Plan; Dunkirk is not a sustainable location; the site is not allocated within the emerging Local Plan and the scheme does not offer the required amount of affordable housing.

7.0 CONSULTATIONS

7.01 Kent Police invites the applicant to consult them if the application proceeds. They note the intention to deliver the equivalent of Code 4 of the Code for Sustainable Homes and BREEAM good on the commercial space. They also draw the applicant's attention to document "Q" building regulations for doors and windows specifications. They recommend Secure by Design and recommend a condition to ensure that the development incorporates measures to minimise the risk of crime.

7.02 The Head of Housing comments that the scheme would require 40% affordable homes across the site which would equate to 20 dwellings. Policy DM8 requires a 90:10 tenure split in favour of affordable rented and the overall mix of property types/sizes should be proportionate to the open market homes and evenly distributed across the site. they seek 'a small number' of adaptable homes.

7.03 KCC Public Rights of Way Officer has no comments on the proposal.

7.04 The Environment Agency have no comment on the proposal.

- 7.05 Southern Gas Networks note that there is a low/medium pressure gas main near the application site. They state that there should be no mechanical excavations taking place above or within 0.5m of the low/medium pressure main or within 3m of an intermediate pressure system.
- 7.06 KCC Ecology note that the current scheme increases the landscaping to the north and that this is an improvement in terms of the potential to protect biodiversity. They would welcome an increase in the areas designated as reptile receptor sites to provide additional habitats to allow the population to expand. Mitigation measures have been provided to ensure that there will be no significant impact upon the designated sites. Natural England Standing Advice on ancient woodland suggests that developments establish a 15 metre buffer zone between new proposals and any ancient woodland. As a result of reviewing the submitted site plan, it appears that there is a 20 metre buffer zone between the housing/gardens and the ancient woodlands and is therefore adequate. In addition, open space is proposed along the border as well as additional native planting to form a thick buffer to protect the woodland. They advise that these measures should ensure that there is not a significant increase in recreational pressure on the ancient woodland. Any direct lighting on the SSSI/ancient woodland should be taken into consideration. They suggest a condition to address lighting within the site. With regards to protected species, they are satisfied that no further surveys are required and they recommend conditions to secure ecological mitigation and enhancement. Lastly they suggest an informative to address the potential for invasive species on the site.
- 7.07 The Forestry Commission refer to their joint Standing Advice with Natural England regarding ancient woodland and veteran trees. This Standing Advice considers the impact of development on ancient woodland and veteran trees in respect of hydrology, change of landscape context, changes to light pollution and increased predation from cats.
- 7.08 The KCC Archaeological officer notes that the site is 100m to the east of the Scheduled Monument Dunkirk Chain Radar Station but finds no historic evidence to link the application site to it. There is moderate potential for archaeology (Roman and Neolithic) on this site and he therefore recommends a condition to secure a programme of geophysical survey and trial trenching as an initial step to inform the extent of further investigation.
- 7.09 The KCC Flood Risk Project Officer acknowledges the submitted Flood Risk Assessment/Drainage Strategy and notes how it aims to dispose of surface water in a manner that seeks to mimic the runoff from the existing site whilst providing improvements to any existing local flood risk problems. Confirmation of the exact location of attenuation features, calculations of runoff and a maintenance strategy are expected at the reserved matters stage. Conditions are recommended that require the submission of a detailed sustainable surface water drainage scheme and no infiltration of surface water drainage into the ground without the consent of the Local Planning Authority.
- 7.10 Southern Water state that the exact position of foul 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 Local Planning Authority is informed of the diversion/protection of the main. They conclude that they cannot accommodate the needs of this application without providing additional local infrastructure. The proposed development would increase flows into the wastewater sewerage system and as a result increase flooding in and around the area. There are no public water sewers in the area and alternative

means of draining water from the development are required. A drainage strategy should therefore be approved by the Local Planning Authority. They recommend a suitably worded condition. Any use of SUDs will need to be maintained in perpetuity and managed properly.

- 7.11 Natural England (NE) has no objection to the application. They note that the site is in close proximity to European designated sites - Blean Complex Special Area of Conservation (SAC) and The Swale Special Protection Area (SPA) and Ramsar site. These sites are also identified as SSSIs at a national level. The LPA should produce a Habitats Regulations Assessment (HRA) for the proposal. NE has assumed that the LPA will adopt the applicant's findings in their ecological assessment as its HRA. The ecological assessment concludes, subject to mitigation measures (including a fence around the site, that the proposal is unlikely to have a significant effect on the internationally designated sites, either alone or in combination. On the basis of the information provided, NE concurs with this view and request a contribution towards the Thames, Medway and Swale Estuaries Strategic Management and Monitoring (SAMM) Strategy and should take measures to ensure that the dwellings covered by this planning application are not occupied until this strategic mitigation is in place. NE is satisfied that the proposed development being carried out in strict accordance with the details of the application, will not damage or destroy the interest features for which the site is notified. The SSSI does not therefore represent a constraint in determining the application. They suggest referring to their standing advice on protected species and encourage biodiversity enhancements.
- 7.12 KCC Development Contributions team request primary and secondary education contributions at a total of £437,129.98. They also request contributions towards libraries at a total of £2352.78 and that 1 wheelchair adaptable home is provided on site. They also request that the development incorporates superfast fibre optic broadband.
- 7.13 The Lower Medway Internal Drainage Board note that the site is not within 20m of a watercourse but proposes to include surface water discharge, at a restricted rate, to an ordinary watercourse which flows to Swalecliffe Brook. It is essential that downstream flood risk is not increased as a result of the development. They support the comments of KCC SUDs.
- 7.14 The Environmental Services Manager has no objection subject to conditions to remediate contamination if found at the site. They note that levels of air pollution from the A2 will have dropped significantly at the application site due to the distance between them.
- 7.15 The NHS have requested a contribution of £38,160 for improvements to Newton Place Surgery and Faversham Medical Practice.
- 7.16 The RSPB note that they raised an object to the earlier application 16/505118/OUT on the grounds of increased recreational pressure on protected sites – Blean Woods without effective mitigation measures proposed. They welcome the reduction in the number of dwellings now proposed but still require appropriate mitigation measures to be put in place. The applicant has suggested a mitigation package, with funding to be provided by them and secured via a section 106 legal agreement. Bossenden Woods is directly adjacent to the application site and is managed by the RSPB as a non intervention, low disturbance area. The RSPB consider that its value as a quiet and undisturbed area of woodland would be compromised by the inevitable increased disturbance from people accessing the wood from the new development. In order to prevent this, they would have to close the current permissive path into Bossenden

Wood and instead direct visitors to the main visitor entrance at Rough Common car park. This would need some infrastructure improvements to ensure it can handle additional visitors. The mitigation measures include:

1. A new chestnut fence along the boundary of Bossenden Woods on the Canterbury Road to curtail direct access to this part of the site;
2. Upgrading of the Rough Common car park entrance;
3. New signage, leaflets and information board panels and;
4. Delivery of a project to encourage responsible access.

The RSPB clarify that if the above mitigation measures cannot be secured via a Section 106 agreement or by other means, they would continue to object.

7.17 Kent Highways and Transportation note that the scheme has no material changes to the access onto Canterbury Road when compared to the previous scheme. They raise no objection to this access which has been through a Stage 1 Road Safety Audit. The submitted TA is considered to be sound in its methodology. They recommend conditions to ensure that precautions are taken against mud on the road during construction, there is adequate parking for construction vehicles on site, that residents parking is retained on site, that cycle parking is provided, that the access onto Canterbury Road is provided and completed prior to the occupation of the buildings and that the roads and footways are designed to an acceptable standard.

7.18 Dunkirk Parish Council object to the proposal on the following grounds:

- The site was submitted to Boughton and Dunkirk Neighbourhood Plan but was not considered to be sustainable, out of keeping with the village of Dunkirk and would conflict with the protection of views.
- It is in an unsustainable location outside acceptable walking distance of local services, including medical centres. The closest doctors surgeries are now either in Blean or Faversham;
- The closest school and pre-schools are in Boughton which is over 2km away. The footpath from the site to Boughton is in a poor state of repair and it unlit;
- The predicted traffic levels from the site seem to be unduly low. The proposal would result in harm to highway safety and convenience;
- Boughton primary school is oversubscribed and there is no capacity for additional children; and residents will have to travel outside of the area for their children to attend school, most likely Faversham, exacerbating the congestion through Boughton;
- Nearby Secondary Schools will need to expend significantly to cope with increased numbers and the local bus service is often under strain with the numbers of school children;
- The development will increase recreational use of Blean Woods to its detriment and no amount of mitigation will reduce this;
- The development will have a 'substantial' negative impact on the SSSI, Nature Reserve, Area of High Landscape Value and Special Area of Conservation;
- The development will result in the loss of outlook to the detriment of residential amenity for the properties along Courtenay Road;
- The development is 'badly designed', visually intrusive and out of keeping with the majority of bungalows close by.
- The Swale Rural Sustainability Study (December 2011) identifies Dunkirk as having no capacity for residential development due to extremely limited facilities and services and the linear form of settlement and surrounding countryside would be adversely affected;

- The site was ranked 96th out of 116 in the ‘Ranked Assessment of Reasonable Non-allocated Site Options to inform Modifications to the Swale Borough Local Plan June 016.
- The indicative plans do not seem to provide enough parking spaces for residents;
- Negative impact on air quality;
- Questions the safety of the visibility splays;
- This is not sustainable development;
- The application should be refused as per the previous scheme. The new scheme is not that different and it is noted that the % of affordable homes has reduced – there should be 40%;
- The development is similar to appeals in Bobbing and Newington that was dismissed on the grounds of harm to the character and appearance of the area/landscape harm;
- The capacity of drainage, electrical and water systems is not sufficient to cope with the additional dwellings.

7.19 The Greenspaces Manager notes:

“...the majority of my concerns have been dealt with. More usable open space, play area sufficiently spaced from dwellings and properties facing out onto boundary open space in key areas.

Future maintenance of the open space should include the space being offered for transfer to the Council with a 10 year commuted sum first, but with a back-up of management company should we not wish to take on the open space.”

He asked for a total of £94,459.67 for the commuted sum.

8.0 BACKGROUND PAPERS AND PLANS

9.0 APPRAISAL

Principle of Development

9.01 Planning Policy and the Housing Land supply position

9.02 This Council is on the cusp of adopting its new Local Plan – Bearing Fruits 2031. Members will be considering this application on 22nd June 2017 when we would have received the Inspector’s report on the emerging Local Plan. It is assumed that the Plan will have been found sound and that the Inspector’s findings will be binding on the Council. Formal adoption is anticipated to be agreed by Members of the Full Council on 26th July 2017. I therefore write this report on the assumption that the emerging Local Plan is given significant weight with limited weight given to the 2008 Local Plan. Technically, however, the current adopted Local Plan will remain in place until the new plan is adopted on 26th July 2017.

9.03 For the purposes of the development plan, the site is located outside of the built confines of Dunkirk and falls to be considered as within the countryside. Policy E6 of the adopted local plan seeks to protect the quality, character and amenity of the countryside. Policy SP4 seeks to provide sufficient land for housing need, and policies SH1 and H5 of the adopted local plan seek to concentrate this in the Thames Gateway Planning Area, with limited development to meet local needs in the Faversham and rest of Swale area. Policy H2 of the adopted plan states that permission for new residential development will be granted for sites that are allocated

- or within defined built-up areas. Outside of these, new residential development will only be granted for certain limited exceptions.
- 9.04 The application site being outside of the built-up area boundary would be contrary to the above policies and not in accordance with the development plan.
- 9.05 The NPPF was published in 2012 and is a material consideration in the determination of planning applications. It sets out a presumption in favour of sustainable development. Paragraph 7 identifies three strands to sustainable development, an economic role (supporting the economy and growth), a social role (providing strong, healthy, accessible communities), and an environmental role (contributing to protecting our natural, built and historic environment). Paragraph 14 sets out that, for the purposes of decision taking, this means where the development plan is absent, silent or relevant policies are out of date, permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits.
- 9.06 Paragraph 47 of the NPPF seeks to significantly boost housing supply, and requires LPA's to meet full objectively assessed needs for housing in their area, and to identify and update a supply of deliverable sites to provide a five year housing supply. Paragraph 49 of the NPPF sets out that policies for the supply of housing should be considered out of date if the LPA cannot demonstrate a 5 year supply.
- 9.07 Based on current Objectively Assessed Needs (OAN) for housing within the Borough, the Council cannot currently demonstrate a 5 year housing supply. Given that the Council cannot demonstrate an existing 5 year housing supply, and the above policies for housing delivery pre-date the OAN, they must be considered as out of date.
- 9.08 The emerging local plan has been through an Examination in Public, and following the Inspector's findings, the Council has sought to significantly boost its housing allocations to meet objectively assessed housing needs with a further examination of the main modifications concluding in February this year. A number of policies within the emerging plan seek to deliver housing development in order to meet the OAN for housing in the Borough. These policies are ST1 (sustainable development including delivery of homes to meet OAN), ST2 (delivery targets), ST3 (Swale settlement strategy), ST4 (site allocations to meet OAN), and ST7 (Faversham area strategy to provide housing at allocations or other appropriate locations where the role and character of Faversham and rural communities can be maintained / enhanced).
- 9.09 The background evidence base on housing allocations has been endorsed by the Local Plan Inspector in her Interim findings as a sound basis for the council to deliver additional sites to meet OAN. On this basis, there is a high likelihood that the additional site options will be acceptable to the Inspector given the soundness of this evidence base.
- 9.10 The Council has shown in the last examination of the emerging Local Plan that it can demonstrate a five-year supply. Whilst at the time of writing, and until the Inspector's report has been received, a five-year supply cannot be demonstrated, it is the progress towards and prospects of achieving that supply within a reasonable timeframe that is an important consideration and one which has been upheld on Appeal.
- 9.11 Paragraph 216 of the NPPF sets out that decision makers may give weight to emerging plans, depending on the stage of preparation of the plan (the more advanced, the greater the weight), the extent to which there are unresolved

objections, and the degree of consistency of relevant policies to policies in the NPPF. Given the endorsements made by the Local Plan Inspector and the very advanced stages towards adoption, I am of the opinion that significant weight can be given to the emerging plan and demonstration of a five year housing supply. The applicant in their Planning Statement seeks to question the housing land supply figures put forward by this Council for support the emerging Local Plan. They assert that the Council needs to provide more housing per year than has been put forward and they also question the deliverability of the housing development within the timescale predicted. However, we are now in a very strong position in terms of the imminent adoption of our new Local Plan - Bearing Fruits 2031 in which the Inspector is expected to have accepted our housing land supply figures for the next five years.

- 9.12 When considering the NPPF test as to whether this application constitutes sustainable development and whether any harm arising from the proposal would significantly outweigh the benefits, the position of the emerging plan as set out above, should be taken into account.

Is the proposal sustainable development?

- 9.13 Within the Emerging Local Plan, Dunkirk is a fifth-tier settlement and is therefore ranked at the bottom in terms of where this Council wishes to direct new homes and jobs. As such when tackling the housing need in the Borough on a strategic level, this Council has identified sites that would be far more sustainable i.e. those adjacent to the towns of Sittingbourne and Faversham and other much larger settlements. We are able to demonstrate through the housing allocations identified in the emerging local plan that there are many more sites within the Borough that can meet the housing need in a sustainable way. The application site is therefore not necessary to meet the housing needs of this Borough. Developing the application site for housing would be at odds with the strategic and sustainable approach to delivering housing that this Council has shown it can achieve through the emerging local plan (to be given significant weight). I therefore consider that the development would be unsustainable in this respect and do not consider that the changes to the proposal represented in the current application overcome this.
- 9.14 On a local level, it is my view that this development would not constitute sustainable development. Economically, the proposal would offer some benefit in terms of a small amount of job creation and a boost to the local economy by introducing additional residents to the area who will hopefully support local businesses. However, I am not convinced that this economic benefit would be so great as to outweigh the harm that I identify below in terms of harm to the environment. The applicant also highlights benefits to the economy in respect of the New Homes Bonus, job creation during construction, and council tax. However, it is arguable that these particular benefits to the economy could equally be matched by other more strategically sustainable sites.
- 9.15 Mixed-use development such as this is inherently more sustainable than just purely residential because of a reduced need to travel by car. However, in this case, the benefits of one small shop and two business units on site would have only a limited impact on reducing car usage and does not therefore outweigh the harm identified below. I do not consider that the increase in the floorarea for the proposed B1 units (370m²) in respect of the current application would enable me to view the scheme any more favourably than the previously refused scheme. There are already a number of commercial units close to the application site. I question the need for one more business unit which would be likely to demand a higher rent than the established units. The applicant asserts that the development would create 37 full time jobs. I

consider that this is somewhat optimistic for a village shop and 2 small business units but acknowledge that there is certainly capacity for this number of employees. This has been confirmed by the Economic Development Officer. However, I attach less weight to the economic benefits of the development given our strong position on the 5 year supply of housing as set out above.

- 9.16 In terms of the social aspect of sustainable development, the potential provision of much needed housing is of course a positive impact. The applicant is offering to provide 30% affordable houses across the site. The soon to be adopted Local Plan seeks to secure 40% affordable housing in rural areas. I will address the shortfall in affordable housing in terms of the policy requirement in the section on developer contributions below. The provision of even a small amount of affordable housing on this site should be noted as a benefit of the scheme but given the shortfall proposed, I consider that Members should not give this significant weight. However, as discussed above, the emerging local plan demonstrates that the housing needs of this Borough can be met in locations that are far more sustainable than the application site. Dunkirk and Boughton under Blean Parish Councils are currently in the early stages of producing a Neighbourhood Plan within which the housings need of the villages have been identified. Despite being in its early stages, the Parish Councils have identified other sites within their parishes for housing and have ruled out the application site. The implication being that even at a local level, better, more sustainable, sites for housing can be identified. Members should though only attach very limited weight to this owing to the very early stages of the Neighbourhood Plan process.
- 9.17 The application site would be located near the settlement that has very limited amenities and use of the car is highly probable in order to access necessary services and facilities such as a doctor's surgery, primary and secondary schools. I acknowledge that there is a fairly frequent bus service to Canterbury and Faversham with a bus stop very close to the site. However, whilst it might make the site slightly more sustainable from a transport point of view, it does not mean that the application site is sustainably located.
- 9.18 In terms of the environmental aspect of sustainable development, I note the intention of the applicant to build houses to the equivalent of code level 4 of the Code for Sustainable Homes and the commercial units to BREEAM 'Good'. However, the proposal would cause significant and demonstrable harm to the environment for the reasons set out below. I therefore consider that the proposal does not constitute sustainable development.
- 9.19 The applicant argues that by approving this development, the village of Dunkirk would become more sustainable. They are of the view that Dunkirk is in danger of decline and isolation with an ageing population. The fact is that this development is at odds with this Council's preferred settlement strategy – to expand existing larger settlements first and foremost. Such an approach to development across the Borough has been widely supported by Members and local residents for its sustainability and this has ultimately resulted in the strategy that we have taken forward in Bearing Fruits 2031. The Local Plan Inspector has already endorsed this strategy and is expected to find the emerging Local Plan 'sound'. Should Members look to approve this application, they would need to be clear as to why and how this development offered such significant benefits in terms of the three strands of sustainable development (economic, environmental and social), that this would outweigh the undermining of this Council's settlement strategy as well as the harm to the landscape that I set out below. Members should be clear that the applicant is not offering anything in the way of landscaping, affordable housing, or other developer

contributions that would not otherwise be necessary to mitigate against the development or that it required under planning policy. I cannot see how an argument could be made that this development is ‘exceptional’ in any way that would allow this Council to make a decision that is contrary to the settlement strategy within the soon to be adopted Local Plan.

Rural character and appearance/impact on Special Landscape Area

9.20 Policy E9 of the adopted Local Plan identifies the site as a Special Landscape Area. Within North Kent Marshes Special Landscape Areas (SLAs), the priority is the long-term protection and enhancement of the quality of the landscape of these county assets, whilst having regard to the economic and social wellbeing of their communities. Policy DM24 of the Emerging LP identifies the site as an Areas of High Landscape Value (Kent and Swale Level). These areas are designated as being of significance to Kent or Swale respectively, where planning permission will be granted subject to the: conservation and enhancement of the landscape being demonstrated; avoidance, minimisation and mitigation of adverse landscape impacts as appropriate and, when significant adverse impacts remain, that the social and or economic benefits of the proposal significantly and demonstrably outweigh harm to the Kent or Swale level landscape value of the designation concerned.

9.21 This particular landscape is identified within the Swale Landscape Character and Biodiversity appraisal (2011) (SPD) as falling within the “Woodland Landscape Types” category and the Blean Wood West character area. The landscape is described as follows:

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

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

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

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

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

9.22 The SPD concludes that the Western Blean woodland character should be “conserved and reinforced”. Importantly, it recommends conserving the woodland fringe which provides the unique interface between open and wooded area and

conserve the largely undeveloped and heavily wooded character of the landscape which forms part of the wider Blean Woods complex.

- 9.23 The submitted Landscape Assessment asserts that the existing land use of the site and also those land uses/features surrounding the site have influenced and reduced intrinsic value, tranquillity and beauty of the countryside and quality and character of the landscape of the 'Site and Special Landscape Area' to the east of Dunkirk. The applicant has also provided a plan showing the proximity and extent of the adjacent commercial uses in order to seek to demonstrate that the development of this site for housing should also be allowed, presumably on the grounds that the adjacent commercial uses already compromised the quality of the application site. The submitted assessment asserts that the landscape condition/character of the site is 'medium to low' due to its various uses, its poor visual appearance and the state of the existing boundary hedgerows and trees as they are generally in a poorly maintained condition. The report concludes that the proposed development would have some local impacts/harm, but the effects of the development on character and visual appearance of the open countryside/Special Landscape Area will not be significant. It is fair to say that the scheme before Members is a modest improvement on the previously refused development which had much less landscaping/open space proposed within the site. However, I still have serious concerns about the landscape impact of the current proposal, set in a landscape designated as of importance at the Kent level and thus of no little value.
- 9.24 Officer's have commissioned an independent review of the potential landscape effects of this development by Huskisson Brown Associates. Their conclusions on the likely landscape and visual impact of the development will be reported at the meeting.
- 9.25 The above review will have a significant influence on my conclusions in respect of landscape and visual impact. However, I would still assert that despite the conclusions of the submitted Landscape Assessment, the proposed development would be visible from Canterbury Road, Courtenay Road and from Blean Woods. There is no doubt, in my view, that the presence of buildings on this site will have a significant impact on the character of the landscape. The proposal would represent a substantial extension of the existing village envelope representing an incursion into open countryside. It would interrupt views towards Blean Woods from Courtenay Road in a way that would be significantly harmful to the character and visual amenities of the area. The scale of the development and the likely layout of houses would be at odds with the existing linear pattern of well-spaced houses within Dunkirk village. The application site creates a buffer that is open and rural in character between the houses along Courtenay Road and Blean Woods. This relationship is important as Blean Woods adds significantly to the special character of the landscape. There would be some views of the application site from Blean Woods, although it is acknowledged that these would be reduced with the current scheme. The proposed development would lead to a detrimental erosion of the special setting of Blean Woods and the isolated/remote nature of Dunkirk village in my view.
- 9.26 The proposal would introduce landscape screening to the adjacent industrial use which would be of benefit to the visual amenities of the area and the character of the landscape to a certain extent. However, the provision of any open space and/or landscaping within the application site would be viewed as mitigation necessary to aid in the integration of the housing development within the countryside and not as planning gain. I do not consider that this soft landscape would go far enough to reduce the harm that I have identified to the Special Landscape Area.

Ecology/biodiversity

- 9.27 Natural England are satisfied that the development would have no adverse effect on The Swale Special Protection Area, Blean Complex Special Area of Conservation and SSSIs. The following measures would be incorporated into the scheme to reduce the impact on these designated sites and also the ancient woodland having regard to the relevant Standing Advice:
- tree protection fencing;
 - secure boundary along woodland edge, including drainage channel, to deter access;
 - additional native planting (incorporating thorny species) along woodland edge forming a buffer to the woodland and;
 - contribution towards the Thames, Medway and Swale Estuaries Strategic Management and Monitoring (SAMM) Strategy;
 - control of surface water run-off to greenfield rates and measures that would result in a reduction of surface waters from this site onto adjacent land.
- 9.28 Members will have noted the comments from the RSPB who do not object to the proposal subject to mitigation measures being secured for the adjacent woodland. This would include closing off the access to the Bossenden Woods part from Canterbury Road. This may be unpopular to some local residents but it would be the best way of managing the site in order to guard against a more intensive use. I have included the mitigation measures proposed in the list of Section 106 obligations below.
- 9.29 With regards to the potential impact on wildlife within the site, the applicant has submitted an Ecology Appraisal which details surveys that have taken place on the site and identifies measures to minimise the impact on protected species and wildlife in general, including ecological enhancements. This includes the translocation of reptiles from the site to a suitable open space which is likely to be within the western part of the site. KCC Ecology accept the mitigation measures proposed but ask for additional reptile receptor areas within the site if possible. There is certainly potential for additional areas of reptile receptor areas to be provided with the site. Such details could be considered at the reserved matters stage.
- 9.30 Article 4(4) of the Birds Directive (2009/147/EC) requires *Member States to take appropriate steps to avoid pollution or deterioration of habitats or any disturbances affecting the birds, in so far as these would be significant having regard to the objectives of this Article.* An Appropriate assessment is appended.

Residential Amenity

- 9.31 The proposal is in outline form only and so the impact on existing local residents in terms of overlooking and overshadowing cannot be considered at this stage. In terms of noise from the residential use of the site, I do not consider that there would be any harmful increase in this respect.
- 9.32 It is anticipated that noise from the proposed commercial units could be adequately controlled with the use of appropriate conditions and through their design to ensure that there would be no undue impact on future residents of the development and/or the residential properties directly adjacent to the eastern boundary of the site.

- 9.33 The proposed dwellings would experience some noise impact from the road and a 'significant adverse' impact from the industrial units. However, the applicant has proposed mitigation in the form of double glazing to all living, dining and bedroom windows within dwellings throughout the development, with upgraded double glazing (no trickle vents) to habitable rooms that face the industrial park. Only specially designed trickle vents should be allowed to living and bedroom windows within the south, east and west facing elevations and located within 100m of Canterbury Road. In addition, 2m high acoustic fencing to properties adjacent to the industrial park. Since opening windows would reduce insulation of the buildings, mechanical ventilation is proposed to all rooms with windows facing the industrial units. The Environmental Services Manager reviewed the submitted noise assessment on the previous application and was satisfied that these mitigation measures will ensure there is no material harm to future residents of the development. The current scheme does not change the development in respect of the noise implications and so the previous advice from the Environmental Services Manager still stands.

Highways

- 9.34 KCC Highways and Transportation have no objection to the scheme subject to various conditions as noted at paragraph 7.17 above. The access to the site from Canterbury Road is considered to be safe and they have raised no concerns about the development causing congestion on the local highway. A section 278 agreement will be required to make changes/improvements to the highways network close to the proposed access to the site.
- 9.35 Whilst it is acknowledged that this development would increase the number of vehicles using local roads, it is not considered that this would cause material harm to highway safety or amenity. I acknowledge that there is often congestion through Boughton under Blean but there is no evidence to suggest that this development would add significantly or demonstrably to this congestion. The submitted Transport Statement concludes that the local road network has sufficient capacity to accommodate the proposed development.
- 9.36 I have considered the proposal against adopted Local Plan policy RC7 – Rural Lanes but do not consider that this proposal would have a detrimental effect on the character of this part of Canterbury Road by way of significant traffic levels or the appearance of the new access/highway improvements.
- 9.37 Members will be aware that as this application is in outline form only, details of parking arrangements and road layouts within the site will be considered under a separate reserved matters application.

Developer contributions

- 9.38 The applicant has agreed to meet the various requests for developer contributions/obligations within a Section 106 agreement. These are as follows:
- primary education (improvement to a school in Faversham) £222,215.00 of £4535/dwelling;
 - primary land (new primary school in Faversham) £99,284.78 or £2026.22/dwelling;
 - secondary education (expansion of Abbey School) £115,630.20 or £2359.80/dwelling;
 - libraries at a total of £2352.78 or £48.02/dwelling;

- 1 wheelchair adaptable home is provided on site;
- £223.58 per dwelling contribution towards the Thames, Medway and Swale Estuaries Strategic Management and Monitoring (SAMM) Strategy;
- commuted sum for the maintenance of the open space of £94,459.67 or agreement to appoint a management company to manage the open space and landscaped areas within the site in perpetuity;
- Section 278 agreement for improvements to junction off Canterbury Road with London Road and provision of ghost island for right hand turn off Canterbury Road;
- RSPB mitigation measures. Developer to fund:
 - A new chestnut fence along the boundary of Bossenden Woods on the Canterbury Road to curtail direct access to this part of the site;
 - Upgrading of the Rough Common car park entrance;
 - New signage, leaflets and information board panels and;
 - Delivery of a project to encourage responsible access.
- Local labour agreement.
- Admin + monitoring fee.

Total contributions = £450,438.18 + administration and monitoring fee = £472,960.08 plus commuted sum for open space, plus RSPB mitigation measures.

- 9.39 The agreement by the applicant to enter into a section 106 agreement covering the above requirements should be honoured if the application is determined at appeal.
- 9.40 The applicant has submitted a Viability Assessment in which they seek to demonstrate that the development cannot support any more than 30% affordable housing across the site. Policy DM8 of the soon to be adopted Local Plan seeks to secure 40% affordable housing for rural areas. As such, the proposal would not be policy compliant in this respect. Officers have therefore sought the advice of an independent viability consultant and await their response. Members will be updated at the meeting. Should the independent assessment reveal that the 40% affordable housing can be achieved on this site, Officers may look to add a reason for refusal on these grounds.

Other Matters

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

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

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

- 9.42 The application site is shown on the Provisional Agricultural Land Classification (ALC) map as Grade 4 - which is poor quality agricultural land. The applicant has submitted evidence of soil analysis at the application site and this indicated that the

land falls within Grade 3b and is not therefore classified as ‘best and most versatile’ for the purposes of applying policy DM31 and paragraph 112 of the NPPF. I also acknowledge that this site is relatively small and cut-off from other agricultural land. This would limit its potential contribution to the agricultural economy further. I therefore consider that the loss of agricultural land should not prevent its redevelopment in this case.

- 9.43 Archaeological desk-based study confirms that the application site has moderate potential for archaeological finds. KCC confirm that they have no objections to this development subject to a condition to secure a programme of geophysical survey and trial trenching as an initial step to inform the extent of further investigation. In terms of the impact of this proposal on the setting of the Scheduled Monument Dunkirk Chain Radar Station, no historic link has been identified between the two sites. The separation of the application site and Scheduled Monument by way of distance and the line of houses along Courtenay Road also reduces the impact on the setting of this designated heritage asset in my view. On this matter, I conclude that there would be no harm to the setting of the Scheduled Monument.
- 9.44 In respect of the pressure that this development would have on local schools, I note that KCC have asked for a contribution towards a new primary school, improvements to an existing primary school and an extension to the secondary school within Faversham. This is a strategic issue that KCC and Swale Borough Council are tackling at a borough and county level. It is not therefore a matter upon which this application should fail.
- 9.45 I am content that foul and surface water drainage can be designed to meet the requirements of the relevant consultees. I note that a pumping station is proposed, the details of which would require further approval under the reserved matters application. Surface water is to be managed so that run-off from the site is minimised. This is via the attenuation pond and a ditch leading to the woods. I therefore consider that there would be no harm to the adjacent woods or an increase in the likelihood of flooding by way of increased surface water run-off.
- 9.46 Despite the concerns of local residents in respect of water supply issues, Southern Water have not identified this as a potential problem. Similarly, with respect of gas and electricity supply, the various providers have not objected. I therefore consider that connection and supply of utilities to this site would be adequate.
- 9.47 The submitted phase 1 contaminated land report concludes that there is moderate potential for contamination at the site. The Head of Environmental Services accepts the findings of this report and recommends an appropriate condition to remediate contamination that may be found at the site.

10.0 CONCLUSION

- 10.01 This outline application seeks permission for housing and commercial development on land outside of the built-up area boundary of Dunkirk within both the 2008 Local Plan and the soon to be adopted Local Plan – Bearing Fruits 2031. It is my strong view that this Council can now attach significant weight to the policies within the emerging local plan that relate to housing land supply due to its advanced stages in the examination process.
- 10.02 The fact is that this development is at odds with this Council’s preferred settlement strategy – to expand existing larger settlements first and foremost. Such an approach to development across the Borough has been widely supported by

Members and local residents for its sustainability and this has ultimately resulted in the strategy that we have taken forward in Bearing Fruits 2031. The Local Plan Inspector has already endorsed this strategy and is expected to find the emerging Local Plan ‘sound’. Should Members look to approve this application, they would need to be clear as to why and how this development offered such significant benefits in terms of the three strands of sustainable development (economic, environmental and social), that this would outweigh the undermining of this Council’s settlement strategy as well as the harm to the landscape that I set out above.

10.03 The benefits of the proposal can be identified as economic and social as discussed above. However, it is argued that these benefits can be given less weight given the status of the emerging local plan. In addition, the harm to the environment as set out above, specifically the character and amenity of the landscape, significantly and demonstrably outweighs the benefits. It is my view that this development does not constitute sustainable development and should therefore be refused.

11.0 RECOMMENDATION – REFUSE subject to the views of the Council’s Landscape Consultant for the following reason:

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

11.01 Members should note the depending on when the decision is issued, policies relating to the 2008 adopted Local Plan will need to be removed with only the policies within the soon to be adopted Local Plan cited.

The Council's approach to this application:

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

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

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

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

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

APPENDIX: HABITATS REGULATIONS ASSESSMENT

Context

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

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

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

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

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

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

use.

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

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

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

Associated information

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

Natural England's letter to SBC dated 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.

