

Def Item 3 REFERENCE NO - 16/501266/FULL		
APPLICATION PROPOSAL Erection on land to the north of 99 High Street of 124 No. dwellings in total including two storey 2, 3, and 4 bedroom dwellings and 1 and 2 bedroom apartments (2 no. 3 storey blocks) with a new access road from the High Street, pedestrian and cycle link to Church Lane, formal and informal areas of open space and landscaping, car parking and amenity space.		
ADDRESS 99 High Street And Land To The North Of High Street Newington Kent ME9 7JJ		
RECOMMENDATION GRANT subject to a section 106 agreement requiring contributions as set out in paragraph 9.52 and 9.53 of the original report.		
SUMMARY OF REASONS FOR RECOMMENDATION/REASONS FOR REFUSAL The proposed development would provide housing on a site that is allocated for this purpose within the emerging Local Plan. The sustainability of the application site has been assessed and it is considered to be acceptable on a strategic and a local level. The economic, social and environmental considerations of the proposed development have been assessed and I have concluded that there would be some harm to human health as a result of an increase in air pollution as a consequence of this development, but that this would be confined to the area of the Rainham AQMA. Mitigation measures will reduce this harm to some degree. I conclude that the need for housing would outweigh any harm arising from air pollution. Subject to the imposition of the conditions listed at the end of the report and the signing of a Section 106 agreement, planning permission should be granted.		
REASON FOR REFERRAL TO COMMITTEE Parish Council objection		
WARD Hartlip, Newington And Upchurch	PARISH/TOWN COUNCIL Newington	APPLICANT Persimmon Homes South East Ltd AGENT
DECISION DUE DATE 07/06/16	PUBLICITY EXPIRY DATE 24/03/17	OFFICER SITE VISIT DATE 10/11/2016
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites): There is no relevant planning history for this site other than the submission of a request for an Environmental Impact Assessment (EIA) in July 2015. This was determined on 6 th October 2015 concluding that an EIA was not required.		

MAIN REPORT

1.0 INTRODUCTION

- 1.01 Members will recall that this application was reported to the Planning Committee on 22 June 2017. Members voted to defer the application in line with the Officer’s recommendation. This was following the receipt of a report commissioned for CPRE by Professor Peckham in respect of air quality. A copy of this report had been circulated to Members of the Planning Committee prior to the meeting but officers had been excluded from this circulation. Officer’s advised that it would be unwise for Members to make a decision that evening without the advice of Planning Officers and the Head of Environmental Services which would specifically respond to that report.
- 1.02 The purpose of this report is to set out Officer’s response to the report by Professor Peckham.
- 1.03 Members should refer to the appended reports (Appendices B & D) which comprise of the original committee report and the report following deferral with associated tabled papers and minutes of the Planning Committee meeting. The tabled item that was presented to Members at the 22nd June Planning Committee is also appended to this

report. The minutes of the 22nd June Planning Committee will be available to Members separately.

- 1.04 Members should refer to the original report which sets out a description of the site, the proposal, planning constraints, planning policy, a summary of local representations and consultee responses, background papers and appraisal of the application.

2.0 UPDATE

- 2.01 As well as the tabled paper (Appendix C), Officers gave a verbal update at the meeting which drew Member's attention to an additional objection from Newington Parish Council in response to the previous committee report. In summary they reiterate many of their previous concerns and still consider that the development would be unacceptable on a number of grounds and should be refused. They also draw member's attention to the objection from Gordon Henderson MP in which he considers that it is not sustainable to allow further development along the A2 until the road infrastructure has been improved, as well as air quality.

3.0 DISCUSSION

- 3.01 I have attached as Appendix A a memorandum from the Environmental Protection Team Leader which specifically responds to the report submitted to Members by Professor Peckham as referred to above. In summary, he is still of the view that the development would be acceptable and raises no concerns in respect of air quality.

4.0 CONCLUSION

- 4.01 This proposal would be in accordance with the soon to be adopted Local Plan (26th July 2017) in that it is an allocated housing site.
- 4.02 Paragraph 7 of the NPPF identifies three strands to sustainable development - economic (supporting the economy and growth), social (providing strong, healthy, accessible communities), and environmental (contributing to protecting our natural, built and historic environment). In terms of whether the proposals constitute sustainable development, I find that the proposals perform strongly in terms of the social and economic strands. The development would provide much needed housing, including 40% (49 units) as affordable housing. This site is of great importance in helping to meet the growing demand for housing in the Borough. It is acknowledged that the village does not have a doctor's surgery but in terms of other infrastructure, the village is well served. Importantly, the site is within walking distance of the village shops, primary school and train station.
- 4.03 In terms of the environmental impact of the proposal, I do not consider that there would be significant harm to the landscape here and that mitigation in the form of soft landscaping as well as the design of the layout and the houses will ensure that landscape harm is limited further. I have discussed the impact of the development on highway safety and amenity and consider that there would be some harm. However, mitigation measures are proposed that would limit this harm to an acceptable degree in my view. In addition, there would be limited harm to biodiversity but I have set out mitigation measures such as ecological enhancements within the site and a contribution towards the SAMM Strategy. I consider that there would be no harm to the setting of the Conservation Area or to Hollybank, a Grade II listed building (which is discussed at paragraphs 9.29-9.33 of the original report), concluding that the setting of both of these designated heritage assets would be preserved. The loss of best and most versatile agricultural land is accepted in this

case owing to the site's allocation in the emerging Local Plan for housing. The potential for brickearth at the site has been examined and as well as being uneconomical to extract, the site is a draft housing allocation in the emerging local plan. As such, mineral extraction does not need to take place prior to its development.

- 4.04 In terms of air quality, I have found that the effect on human health would be significant but that this would be confined to the Rainham AQMA and I find that mitigation measures proposed will go some way towards lessening this effect. The applicant has considered a raft of air quality mitigation measures (considered in detail at para. 9.43 of the original report – Appendix D) for this development, discounting those that would be impractical or of very little benefit but including those that would cumulatively make some difference in resident's choice of transport and would limit the scheme's contribution to air pollution. It is hoped that the mitigation measures combined will persuade residents to use sustainable forms of transport on a regular basis. However, it is fair to say that there are uncertainties as to the extent that the mitigation would reduce the significance of the impact and as such for purposes of the planning balance, I have therefore assumed the harm to be significant and that this should be weighed against the other elements of harm and overall benefits. This Council's Environmental Services Manager and the Medway Council's Environmental Health Officer do not object to the scheme on air quality, or any other grounds, and I give this significant weight in my consideration of air quality concerns. In terms of the overall planning balance, I consider that the need for housing in the Borough to be significant. This development would provide housing on an allocated site, contributing significantly to the 5 year housing land supply and this should carry significant weight in terms of social and economic benefits. Whilst the harm to air quality is potentially significant within the Rainham AQMA, in the absence of other significant harm, I do not consider that the harm to air quality is sufficient to significantly and demonstrably outweigh the overall benefits of the proposals.
- 4.05 I therefore consider that the development would be acceptable and, as such, that planning permission should be granted subject to the following conditions and a Section 106 agreement.

5.0 RECOMMENDATION – GRANT Subject to the following conditions with delegation to add, amend or exclude conditions if necessary and a section 106 agreement requiring contributions as set out in paragraph 9.52 and 9.53 of the appended report:

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. The development hereby approved shall be carried out in accordance the following approved drawings: 2588-18A; 2588-51B; 2588-52B; 2588-53B; 2588-19F; 2588-20I; 2588-21H; 2588-22G; 2588-23C; 2588-25D; 2588-26E; 2588-27E; 2588-28D; 2588-29D; 2588-30E; 2588-31F; 2588-32E; 2588-33E; 2588-34G; 2588-35G; 2588-36E; 2588-37D; 2588-40E; 2588-41F; 2588-42E; 2588-43H; 2588-44D; 2588-45G; 2588-46F; 2588-47F; 2588-48F; 2588-49F; 2588-50F; PERSE19783-09B; PERSE19783-10B; 2588-38E; 1391-001; 2588-55C & 5784/101B.

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

3. Notwithstanding the provisions of Class A, Part 2, Schedule 2 to the Town and Country Planning (General Permitted Development) 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 without the consent in writing of the Local Planning Authority.

Reason: In the interests of residential amenity.

4. Details in the form of a levels strategy overlaying the proposed layout with the Topographical survey shall be submitted to and approved in writing by the Local Planning Authority before work commences and the development shall be completed strictly in accordance with the approved levels.

Reason: In order to secure a satisfactory form of development having regard to the sloping nature of the site.

5. The amenity areas adjacent to the flats as shown on the approved plans shall be retained for use by the residents of all the flats throughout the duration of the development.

Reason: In the interests of residential amenity.

6. The areas shown on the approved drawings 2588-20 I and PERSE1978309 B as 'Green' and 'Suitable Alternative Natural Green Space' shall be reserved for the general amenity of the area and shall be provided in accordance with a schedule to be submitted to the Local Planning Authority to be agreed in writing prior to first occupation. Play space shown on drawing no. 2588-20 I as 'LEAP' shall be surfaced and equipped with play equipment, in accordance with a schedule agreed by the Local Planning Authority before the first occupation; no permanent development whether permitted by the Town and Country Planning (General Permitted Development) Order 1995 or not shall be carried out in the areas so shown without the prior written approval of the Local Planning Authority.

Reason: To ensure that these areas are made available in the interests of the residential amenities of the area.

7. Adequate underground ducts shall be installed before any of the buildings hereby permitted are occupied to enable telephone services, broadband and electrical services to be connected to any premises within the application site without resource to the erection of distribution poles and overhead lines, and notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) Order 2015 no distribution pole or overhead line shall be erected other than with the express consent of the Local Planning Authority.

Reason: In the interests of residential amenity.

8. No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of
 - (A) archaeological field evaluation works in accordance with a specification and written timetable which has been submitted to and approved by the Local Planning Authority; and
 - (B) following on from the evaluation, any safeguarding measures to ensure preservation in situ of important archaeological remains and/or further archaeological investigation and recording in accordance with a specification and

timetable which has been submitted to and approved by the Local Planning Authority

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

9. No development approved by this permission shall be commenced prior to a contaminated land assessment (and associated remediation strategy if relevant), being submitted to and approved in writing by the Local Planning Authority, comprising:
 - a) A desk study and conceptual model, based on the historical uses of the site and proposed end-uses, and professional opinion as to whether further investigative works are required. A site investigation strategy, based on the results of the desk study, shall be approved by the Local Planning Authority prior to any intrusive investigations commencing on site.
 - b) An investigation, including relevant soil, soil gas, surface and groundwater sampling, carried out by a suitably qualified and accredited consultant/contractor in accordance with a Quality Assured sampling and analysis methodology.
 - c) A site investigation report detailing all investigative works and sampling on site, together with the results of analyses, risk assessment to any receptors and a proposed remediation strategy which shall be of such a nature as to render harmless the identified contamination given the proposed end-use of the site and surrounding environment, including any controlled waters.

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

10. Before any part or agreed phase of the development is occupied, all remediation works identified in the contaminated land assessment and approved by the Local Planning Authority shall be carried out in full (or in phases as agreed in writing by the Local Planning Authority) on site under a quality assured scheme to demonstrate compliance with the proposed methodology and best practice guidance. If, during the works, contamination is encountered which has not previously been identified, then the additional contamination shall be fully assessed and an appropriate remediation scheme agreed with the Local Planning Authority.

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

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

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

12. Prior to the commencement of the development, a Code of Construction Practice shall be submitted to and approval in writing by the Local Planning Authority. The construction of the development shall then be carried out in accordance with the approved Code of Construction Practice and BS5228 Noise Vibration and Control on

Construction and Open Sites and the Control of dust from construction sites (BRE DTi Feb 2003) unless previously agreed in writing by the Local Planning Authority.

The code shall include:

- An indicative programme for carrying out the works
- Measures to minimise the production of dust on the site(s)
- Measures to minimise the noise (including vibration) generated by the construction process to include the careful selection of plant and machinery and use of noise mitigation barrier(s)
- Maximum noise levels expected 1 metre from the affected façade of any residential unit adjacent to the site(s)
- Design and provision of site hoardings
- Management of traffic visiting the site(s) including temporary parking or holding areas
- Provision of off road parking for all site operatives
- Measures to prevent the transfer of mud and extraneous material onto the public highway
- Measures to manage the production of waste and to maximise the re-use of materials
- Measures to minimise the potential for pollution of groundwater and surface water
- The location and design of site office(s) and storage compounds
- The location of temporary vehicle access points to the site(s) during the construction works
- The arrangements for public consultation and liaison during the construction works
- Details of any mitigation measures necessary to mitigate the impact of construction on biodiversity and wildlife
- The mitigation measures set out in table 17 of the submitted Air Quality Assessment (March 2017).

Reason: In the interests of residential amenity, biodiversity and the control of air pollution.

13. Prior to the commencement of development hereby approved, full details of the method foul waters, including a drainage strategy and implementation timetable shall be submitted to and approved by the Local Planning Authority. The approved details shall be implemented before the first use of the development hereby permitted.

Reason: In order to prevent pollution of water supplies.

14. The area shown on the submitted plan as car parking (including the car barns) and turning space shall be kept available for such use at all times and no permanent development, whether permitted by the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking or re-enacting that Order) or not, shall be carried out on the land so shown or in such a position as to preclude vehicular access thereto; such land and access thereto shall be provided, surfaced and drained prior to the occupation of the dwelling(s) hereby permitted.

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

15. No dwelling/building shall be occupied or the approved use commenced until space has been laid out within the site in accordance with details to be submitted to and approved in writing by the Local Planning Authority for cycles to be parked securely stored (providing for 1 cycle per dwelling).

Reason: To ensure the provision and retention of adequate off-street parking facilities for cycles in the interests of sustainable development and promoting cycle visits.

16. The car barns/car ports as shown on the approved plans shall not be enclosed by the use of doors, walls, fences or any other means of enclosure to any open elevation, unless otherwise required by Part B (fire safety) of the Building Regulations (2010 as amended).

Reason: To ensure that the car barns/ carports are retained for parking in the interests of highway safety and amenity.

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

Reason: To ensure that the roads are constructed and laid-out in a satisfactory manner.

18. Before the first occupation of a dwelling / premises the following works between that dwelling / premises and the adopted highway shall be completed as follows:
 (A) Footways and/or footpaths shall be completed, with the exception of the wearing course;
 (B) Carriageways completed, with the exception of the wearing course, including the provision of a turning facility beyond the dwelling together with related:
 (1) highway drainage, including off-site works,
 (2) junction visibility splays,
 (3) street lighting, street nameplates and highway structures if any.

Reasons: In the interests of highway safety.

19. No dwelling hereby approved shall be occupied until the junction indicated on drawing 5784/101B, and the footway/emergency access shown on drawing 5288-23C have been provided in accordance with a design and specification to be approved in writing with the Local Planning Authority and to be fully implemented to the satisfaction of the Local Planning Authority.

Reason: To ensure that a satisfactory means of access is provided for the site.

20. No vehicular access shall be brought into use until pedestrian visibility splays 2 m x 2 m with no obstruction over 0.6 m above the access level have been provided on each side of the access, and these shall be subsequently maintained.

Reasons: In the interests of highway safety.

21. Prior to the commencement of development hereby approved, full details of both hard and soft landscape works shall be submitted to and approved in writing by the Local Planning Authority. These details shall include existing trees, shrubs and other features, planting schedules of plants, noting species (which should be native species where possible and of a type that will enhance or encourage local biodiversity and

wildlife), plant sizes and numbers where appropriate, means of enclosure, hard surfacing materials, and an implementation programme.

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

22. 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.

23. 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.

24. Prior to the commencement of development (above ground floor slab level) hereby approved, details in the form of samples of external finishing materials to be used in the construction of the development hereby approved shall be submitted to and approved in writing by the Local Planning Authority and shall be implemented in accordance with the approved details.

Reason: In the interest of visual amenity.

25. Prior to the commencement of development hereby approved, details shall be submitted to the Local Planning Authority and approved in writing, which set out what measures have been taken to ensure that the development incorporates sustainable construction techniques such as water conservation and recycling, renewable energy production including the inclusion of solar thermal or solar photo voltaic installations, and energy efficiency. Upon approval, the details shall be incorporated into the development as approved.

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

26. No floodlighting, security lighting or other external lighting shall be installed or operated at the site, other than in accordance with details that have first been submitted to and agreed in writing by the Local Planning Authority. These details shall include:

- A statement of why lighting is required, including to the pedestrian/cycle link, the proposed frequency of the use and the hours of illumination.
- A site plan showing the area to be lit relative to the surrounding area, indicating parking or access arrangements where appropriate, and highlighting any significant existing or proposed landscape or boundary features.
- Details of the number, location and height of the lighting columns or other fixtures.
- The type, number, mounting height and alignment of the luminaries.
- The beam angles and upwards waste light ratio for each light.
- An isolux diagram showing the predicted illuminance levels at critical locations on the boundary of the site and where the site abuts residential properties.
- Confirmation that there would be no lighting to the SANG.

- Identification of those areas/features on site that are particularly sensitive for bats and that are likely to cause disturbance in or around their breeding sites and resting places or along important routes to access key areas of their territory.
- Demonstration as to how and where external lighting will be installed so that it can be clearly demonstrated that area to be lit will not disturb or prevent bats using their territory.

Reason: In the interests of visual amenity/landscape character and the residential amenities of occupiers of nearby dwellings and the interests of ecology.

27. All work to the site boundaries (where vegetation exists) must be carried out outside of the breeding bird season (March to August inclusive) unless otherwise agreed in writing by the Local Planning Authority that an ecologist examines the site prior to works commencing and if any nesting birds are recorded, all works must cease until all young have fledged.

Reason: In the interests of the protection of breeding birds.

28. Prior to the commencement of development hereby approved, a detailed SANGs management plan must be submitted to the Local Planning Authority for approval in writing. The approved management plan must be implemented and carried out as specified.

Reason: In the interests of ecology and biodiversity.

29. Notwithstanding the provisions of Classes A, B and C of Part 13 of the Town and Country Planning (General Permitted Development) Order 2015, prior to the commencement of development of the foul pumping station, details of its siting, design, scale and means of enclosure, shall be submitted to the Local Planning Authority for approval in writing and the approved details shall be implemented.

Reason: In the interests of visual amenities.

30. In this condition “retained tree” means an existing tree, which is to be retained in accordance with the approved plans and particulars. Paragraphs i) and ii) below shall have effect until the expiration of 5 years from the date of completion of the development for its permitted use.
- i) No retained tree shall be deliberately damaged, cut down, uprooted or destroyed, nor shall any retained tree be pruned other than in accordance with the Arboricultural Impact Report (PJC ref: 3781/15-02) dated 15th January 2016, without the written approval of the Local Planning Authority. Any pruning approved shall be carried out in accordance with British Standard 3998:2010 Tree Work – Recommendations or any revisions thereof.
 - ii) If any retained tree dies, or is removed, uprooted or destroyed, another tree shall be planted at the same place and that tree shall be of such size and species and shall be planted at such time as may be specified in writing by the Local Planning Authority.
 - iii) The installation of tree protection barriers, the methods of working shall be undertaken in accordance with the Arboricultural Method Statement Report (PJC 3781/15-03 Rev 2) dated 15th January 2016.

Reason: To protect and enhance the appearance and character of the site and locality.

31. No development shall commence until the developer has (at his own expense):
- i) Instructed an Arboricultural consultant, approved in writing by the LPA, to liaise with the developer and/or his architect or engineer to approve relevant details of construction methods, oversee the works and report to the Council throughout the period of the works in so far as the works may affect retained trees (as set out in the approved plans) and;
 - ii) Submitted to an obtained the written approval of the LPA for an auditable system of Arboricultural site monitoring, including a schedule of specific site events requiring Arboricultural input or supervision where construction and development activity is to take place within or adjacent to any root protection area of any tree identified for retention.

Reason: To protect and enhance the appearance and character of the site and locality.

32. The noise mitigation methods as set out on pages 17, 18 and 19 of the submitted Noise Assessment: February 2016 (1391\MD\08-2015\370) and appendices D, E, F, G, H, and I, including the provision of mechanical ventilation, details of which shall have first been approved in writing by the Local Planning Authority, shall be implemented in respect of the 'worst-case' properties outlined in red on drawing 1391-001.

Reason: In the interests of the residential amenities of future residents of the development.

33. Prior to the occupation of the dwellings outlined in red on drawing no.1391-001, a verification report shall be submitted to and approved by the LPA to demonstrate that the recommendations contained in the MRL Acoustic Report submitted with the application have been incorporated, and therefore internal noise levels within the residential units and the external noise levels in the back gardens and other relevant amenity areas will confirm to the standard identified by BS 8233 2014, Sound Insulation and Noise Reduction for Buildings - Code of Practice.

Reason: In the interests of the residential amenities of future residents of the development.

34. Prior to the commencement of development hereby approved, a report demonstrating how the proposal will incorporate measures to encourage and promote biodiversity and wildlife shall be submitted to and approved in writing. Development shall be carried out in accordance with those approved details and shall thereafter be retained.

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

35. If the development hereby approved has not commenced by February 2018 and, prior to any works to trees being carried out, an updated Preliminary Tree Roost Assessment shall be undertaken, the results of which must be submitted to the Local Planning Authority with any suggested mitigation measures approved in writing.

Reasons: In the interests of protecting bats that may be roosting within the trees at the site.

36. Prior to any tree works commencing to tree 20 (as per the Preliminary Tree Roost Assessment; Feb 2017), a dawn re-entry bat survey shall be carried out on that tree

which shall include appropriate methodology required for the removal of any branches on this tree. The survey and methodology report shall be submitted to the Local Planning Authority for approval in writing prior to any works being carried out on tree 20. The approved methodology shall be implemented.

Reasons: In the interests of protecting bats that may be roosting within the trees at the site.

37. Development shall not begin until a detailed sustainable surface water drainage scheme for the site has been submitted to (and approved in writing by) the Local Planning Authority. The detailed drainage scheme shall be based on Flood Risk Assessment prepared by Herrington Consulting Ltd (March 2017) and shall demonstrate that the surface water generated by this development (for all rainfall durations and intensities up to and including the climate change adjusted critical 100 year storm) can be accommodated and disposed of without increase to flood risk on or off-site.

Reason: To ensure that the principles of sustainable drainage are incorporated into this proposal and to ensure ongoing efficacy of the drainage provisions.

38. No building hereby permitted shall be occupied until details of the implementation, maintenance and management of the sustainable drainage scheme have been submitted to and approved in writing by the local planning authority. The scheme shall be implemented and thereafter managed and maintained in accordance with the approved details. Those details shall include:
- (a) a timetable for its implementation, and
 - (b) a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the sustainable drainage system throughout its lifetime.

Reason: To ensure that the principles of sustainable drainage are incorporated into this proposal and to ensure ongoing efficacy of the drainage provisions.

39. Where infiltration is to be used to manage the surface water from the development hereby permitted, it will only be allowed within those parts of the site where it has been demonstrated to the Local Planning Authority's satisfaction that there is no resultant unacceptable risk to controlled waters and/or ground stability. The development shall only then be carried out in accordance with the approved details.

Reason: To protect vulnerable groundwater resources and ensure compliance with the National Planning Policy Framework.

Informative:

1. The applicant is advised to consider and act upon the contents of Network Rail's email in response to the consultation on this application dated 22nd March 2016.
2. The applicant is advised to consider the contents of the letter from Kent Public Right of Way Officer dated 24th March 2016, the contents of Southern Gas Networks' email dated 29th March 2016 and the contents of the letter from Southern Water dated 23rd March 2016.

3. It is the responsibility of the applicant to ensure , before the development hereby approved is commenced, that all necessary highway approvals and consents where required are obtained and that the limits of highway boundary are clearly established in order to avoid any enforcement action being taken by the Highway Authority. Across the county there are pieces of land next to private homes and gardens that do not look like roads or pavements but are actually part of the road. This is called 'highway land'. Some of this land is owned by The Kent County Council (KCC) whilst some are owned by third party owners. Irrespective of the ownership, this land may have 'highway rights' over the topsoil. Information about how to clarify the highway boundary can be found at <http://www.kent.gov.uk/roads-and-travel/what-we-look-after/highway-land>. The applicant must also ensure that the details shown on the approved plans agree in every aspect with those approved under such legislation and common law. It is therefore important for the applicant to contact KCC Highways and Transportation to progress this aspect of the works prior to commencement on site.

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 in the processing of their application and 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 members of the planning committee considered that the proposal

- 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 A

**MIDKENT ENVIRONMENTAL HEALTH SHARED SERVICE
MEMORANDUM**

From: Steve Wilcock Environmental Protection	To: Emma Eisinger Planning Department
Date: 30 th June 2017	Our Ref: 17/503204/GENPLA
<p>Planning Details and Application Ref: Application No: 16/501266/FULL Location: 99 High Street And Land To The North Of High Street Newington Kent ME9 7JJ Proposal: Erection on land to the north of 99 High Street of 124 No. dwellings in total including two storey 2, 3, and 4 bedroom dwellings and 1 and 2 bedroom apartments (2 no. 3 storey blocks) with a new access road from the High Street, pedestrian and cycle link to Church Lane, formal and informal areas of open space and landscaping, car parking and amenity space. Comments by: 17 March 2017</p>	

MAIN POINTS CONSIDERED:

Air Quality

COMMENTS:

I have been recently made aware of a submission concerning this proposal and specifically concerning air quality issues from Professor Stephen Peckham from the University of Kent.

I agree with some of what he is saying, however he does make some inaccurate statements which have had an effect on his comments. I disagree with his views about the severity of NO₂ levels in the Newington AQMA. There are some exceedances of the annual mean limit value at some locations in the High Street canyon, but in my opinion that is due to localised factors which my comments below explain.

He states in paragraph 4 of his statement that the Newington High Street AQMA 'does not comply with current national NO₂ limits'; this is not correct. There has not been an exceedance of NO₂ from continuous data measurement since the AQMA was established in 2009. He also states in paragraph 9 that 'in the South East, both Eastbourne and Southend-on-Sea had PM levels above that recommended by WHO and this would also be true for this stretch of the A2 in Newington'. There is no data on which

to make this statement, as we do not measure particulates at this location – any other opinions here are pure speculation. There are only a handful of AQMAs in the country that exceed the government guidelines for particulate PM_{10s}; I am not aware of any in Kent.

I do not disagree with his opinions concerning PM_{2.5s} and their potential for health concern, however there is very little monitoring data to quantify these fears.

He bases much of what he is saying on NO₂ diffusion tube data, which is inherently inaccurate, by as much as 40%. That said, these measurements were used to provide the evidence of potential exceedances for the setting up of our AQMAs. Also, NO₂ diffusion tube readings alone are used by many Local Authorities in the UK to report their data and to establish and maintain AQMAs; we have now done so at our latest AQMA at Teynham, though this was a decision largely taken for economic and resource reasons. The opinions of my colleague at Medway Council that Professor Peckham refers to in his submission are also based purely on diffusion tube data, which is present in the nearby Rainham AQMA.

Where there are both measurement methods in operation, there is no doubt that the continuous data is more accurate and should be used to report exceedances if they occur. I appreciate that our station is some distance from this site, but it is impossible to cover the whole of an AQMA with one station.

As I have said previously for this proposal, the reason for much of the exceedance shown by some of the tube results in the Newington AQMA is due to local circumstances – e.g. the siting of a tube close to a position where traffic flow is more irregular e.g. at traffic lights where stopping and acceleration occurs, there are also topographic considerations allied to a street canyon.

It is a well recognised fact that NO₂ levels drop away significantly even a short distance from a recognised 'hot spot' and the site chosen for this development is, in my opinion, sufficiently far away from the effect of the street canyon for this to be true here as well; the buildings within the street canyon will also filter the highest levels.

I would respond to some of his other comments as follows:

He states in paragraph 5 that 'the council has a legal obligation to meet EU directives on air pollution'. This again is not true in the strictest sense; our legal duty is to monitor our district for air pollutants and, if excessive levels are found, to declare an AQMA and to prepare a subsequent Air Quality Action Plan –this we have done for all our 6 AQMAs. It is the UK as a whole who has a duty to meet EU directives, concerning not only air

quality, but many other issues. It is a well known fact that the UK has failed to meet its target for NO₂ and DEFRA is currently devising a plan to tackle this problem.

He states in paragraph 12 that there is no mention of the other Sittingbourne AQMAs. It is impossible to predict what effect this development would have on the other 5 AQMAs in the borough, hence why they were not mentioned, nor was it in the brief of the consultants who produced the assessments. There are too many uncertainties concerning traffic flow predictions to be clear about cumulative impacts on the other AQMAs. There are also other much closer developments that are of far more significance on them than this one.

In paragraph 17 he states that there is no clear mitigation plan. A significant mitigation plan has been prepared by the consultants and previously agreed by all parties as being the most realistic solution. There will be more vehicle movements and therefore pollution than previously, but in our professional opinions, not enough to increase levels greater than the annual mean limit value of 40 ug/m³ on this site.

I therefore remain confident that this site is suitable for the development of residential accommodation, with the proviso that the previous comments I have made were based on the final air quality assessment from Lustre Consulting containing the mitigation measures and associated damage cost calculations they described.

In that report they clearly demonstrated that they had followed the latest planning and air quality guidance to categorise the site as having a negligible impact on the existing air pollution in the AQMA.

Recommendation

I continue to have no objection to this proposal on air quality grounds, providing the measures described in the final air quality assessment provided by Lustre Consulting are carried out exactly as described and that the mitigation measures are carried out and verified.

Please do not hesitate to contact me for further advice or information in relation to this matter.

Steve Wilcock
Environmental Protection Team Leader
Mid Kent Environmental Health

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PLANNING COMMITTEE – 22 JUNE 2017

DEFERRED ITEM

Report of the Head of Planning

DEFERRED ITEMS

Reports shown in previous Minutes as being deferred from that Meeting

Def Item 1 REFERENCE NO - 16/501266/FULL		
APPLICATION PROPOSAL Erection on land to the north of 99 High Street of 124 No. dwellings in total including two storey 2, 3, and 4 bedroom dwellings and 1 and 2 bedroom apartments (2 no. 3 storey blocks) with a new access road from the High Street, pedestrian and cycle link to Church Lane, formal and informal areas of open space and landscaping, car parking and amenity space.		
ADDRESS 99 High Street And Land To The North Of High Street Newington Kent ME9 7JJ		
RECOMMENDATION GRANT subject to a section 106 agreement requiring contributions as set out in paragraph 9.52 and 9.53 of the appended report.		
SUMMARY OF REASONS FOR RECOMMENDATION The proposed development would provide housing on a site that is allocated for this purpose within the emerging Local Plan. The sustainability of the application site has been assessed and it is considered to be acceptable on a strategic and a local level. The economic, social and environmental considerations of the proposed development have been assessed and I have concluded that there would be some harm to human health as a result of an increase in air pollution as a consequence of this development, but that this would be confined to the area of the Rainham AQMA. Mitigation measures will reduce this harm to some degree. I conclude that the need for housing would outweigh any harm arising from air pollution. Subject to the imposition of the conditions listed at the end of the report and the signing of a Section 106 agreement, planning permission should be granted.		
REASON FOR REFERRAL TO COMMITTEE Parish Council objection		
WARD Hartlip, Newington And Upchurch	PARISH/TOWN COUNCIL Newington	APPLICANT Persimmon Homes South East Ltd AGENT
DECISION DUE DATE 07/06/16	PUBLICITY EXPIRY DATE 11/10/16	OFFICER SITE VISIT DATE 10/11/16
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites): There is no relevant planning history for this site other than the submission of a request for an Environmental Impact Assessment (EIA) in July 2015. This was determined on 6 th October 2015 concluding that an EIA was not required.		

MAIN REPORT

1.0 INTRODUCTION

1.01 Members will recall this this application was reported to the Planning Committee on 30th March 2017. After some discussion in which Members raised a number of concerns about the proposal, the motion to approve the development was lost. The Head of Planning Services used his call in powers at this point on the grounds that the Planning Committee was minded to make a decision that would be contrary to officer recommendation and contrary to planning policy and/or guidance. Determination of the application was deferred to come back to the planning committee at a later date.

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- 1.02 At the 30th March Planning Committee, Members raised the following concerns:
- Narrow pavement close to the new access is dangerous to pedestrians and the A2 is already grid-locked;
 - Ellens Place application refused – access wasn't accepted, why is the 99 High St access ok?;
 - Premature to determine application;
 - Effectiveness of air quality mitigation measures unproven;
 - Environmental Health Officer didn't object to Pond Farm but it was dismissed at appeal on air quality grounds;
 - Newington Working Mens club, when developed would increase the 'canyon' effect along the High Street;
 - Questions about water supply following Southern Water's comments;
 - Allocation under Policy AX6 of Bearing Fruits 2031 is for 115 houses, the proposal exceeds this;
 - St Mary's View appeal dismissed on landscape impact, this development would have a harmful impact on the landscape;
 - Need to consider impact on the Conservation Area.
- 1.03 This report will address these concerns and will consider the consequences of refusing this application.
- 1.04 Members should refer to Appendix 1 of this report which provides the original committee report and sets out a description of the site, the proposal, planning constraints, planning policy, a summary of local representations and consultee responses, background papers and appraisal of the application. A copy of the minutes of this meeting are also appended as part of appendix 1.
- 1.05 At the 30th March committee meeting, there were two tabled papers which are provided at appendix 2.
- 1.06 Members were also verbally updated at the meeting in respect of the receipt of a further comments from CPRE where they compare this application to the Pond Farm proposals which were dismissed on appeal and draw our attention to concerns about the lack of "clear evidence to demonstrate their likely effectiveness" in respect of air quality mitigation measures. They also consider that the development is likely to extend the time taken to meet air quality objectives in the AQMA.
- 1.07 It was also reported that we had received an objection from the Member of Parliament for Gillingham and Rainham who considered that the development would pose a significant threat to the air quality of the Rainham AQMA as well as the health of people living and working in that area. He was also disappointed that the recommendation is for the approval of the development, despite the significant effect on human health.
- 2.0 UPDATE**
- 2.01 Since the application was reported to the 30th March Planning Committee, we have received an additional letter of representation from a local resident who raised concerns about the inability of HGVs to turn left out of the site in rush hour.
- 2.02 We have also received a response from KCC SUDs who raise no objection to the proposal and recommend conditions to require a detailed surface water drainage

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scheme to be submitted as well as a management and maintenance programme. I have included this condition in an update list of conditions set out below. This updated list incorporates small changes to the wording of the conditions to ensure that they are enforceable and the deletion of condition 34 which was not required as a consequence of receiving amended plans.

- 2.03 Members may be aware of the publication of a Government consultation entitled: 'Tackling Nitrogen Dioxide in our Towns and Cities'. Responses to the consultation are due to be submitted by 15th June 2017. The consultation responses will then inform the Government's revised air quality strategy for the UK, Scotland and Wales. This Council is currently preparing a consultation response to the document. It is anticipated that a briefing note on this consultation will be provided by the Head of Environmental Services at the meeting.

3.0 DISCUSSION

- 3.01 I will address each of the Members' concerns listed above in this section and will then go on to consider the implications of refusing this application.

- 3.02 Narrow pavement close to the new access dangerous to pedestrians and the A2 of already grid-locked;

- 3.03 The submitted Transport Assessment predicts that the proposed development would add only 8% to the number of vehicles on the local roads. Local junctions are considered to have adequate capacity and the design of the new ghost junction is considered to be adequate. Kent Highways and Transportation raise no concerns in this respect.

- 3.04 In respect of the narrow pavement the applicant states:

"The Transport Assessment submitted with the application (along with its various updates/addenda) has been accepted by Kent County Council as Highway Authority. The footway is 1.5m which is marginally narrower than the usual standard of 1.8m, however the footway width has been agreed by the Highway Authority as part of the wider highway improvement works."

- 3.05 I therefore conclude that there are no highways matters that cause harm to highway safety or amenity and that there are no grounds for refusal in this respect.

- 3.06 Ellens Place refused – access wasn't accepted, why is the 99 High St access ok?

- 3.07 The applicant points out that the planning appeal APP/V2255/W/16/3162806 was upheld and the decision letter dated 31 March 2017 did not touch on the matter of highway access. Kent Highways and Transportation's response to the original planning application raised no objection to the development of Ellens Place on highway grounds and confirmed that they were satisfied with the design of the proposed access road. I do not therefore consider that the Ellen's Place development has any bearing on the conclusions about the safety of the access to this application site.

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3.08 Premature

3.09 At the time of writing this report, the Local Plan Inspector's report has not been published. However, it is expected to be available at the meeting. Members will be updated further once the report has been received. I would however, reiterate that National Planning Practice Guidance clarifies that refusal on the grounds of prematurity would only be justified if the development would undermine the plan-making process. In this case, this draft allocation site has been chosen having followed the approach to the settlement hierarchy set out in the emerging Local Plan, which the examination inspector is likely to endorse (to be confirmed at the meeting). Therefore I consider that granting planning permission at this stage would not prejudice the plan-making process.

3.10 Effectiveness of air quality mitigation measures unproven

3.11 The applicant responds as follows:

"The reports submitted by Lustre on behalf of Persimmon Homes have confirmed that the applicant is committed to providing a comprehensive range of mitigation measures in line with local plan guidance. The mitigation measures highlighted in the report are based on DEFRA damage cost calculations, which follows the national approach to managing and mitigating air quality impacts. Proving the effectiveness of these measures is considered erroneous to the determination of the application as we are dealing with behavioural changes and assumptions about future emissions rates.

The Environmental Health Officer at Swale Council has considered the Air Quality reports prepared for the Persimmon application and acknowledges the mitigation measures, including the contributions towards monitoring that have been offered, and considers that they are practical and reasonable for the size of development. He accepts that the effectiveness of these measures is unknown but it must be acknowledged that the Councils own technical guidance actually promotes the measures being offered."

3.12 I would highlight the fact that the applicant is offering mitigation that is promoted by this Council in its Document entitled 'Air Quality Planning Technical Guidance'. This guidance is consistent with the Kent and Medway Air Quality Planning Guidance. So although the mitigation measures may be unproven as to their effectiveness, it would be unreasonable in my view to consider that they would not have any positive effect in limiting air quality impacts from the development.

3.13 EHO didn't object to Pond Farm but it was dismissed at appeal on air quality grounds

3.14 I draw Members' attention to the notes comparing the current proposal with the Pond Farm proposals that were tabled at the 30th March committee. I repeat these here for ease of reference:

3.15 Additional notes on the difference between Pond Farm and this scheme –

1. For both Pond Farm schemes, impacts on 3 receptors (with development assuming that there is no improvement in air quality) would be "substantial adverse". The highest impact for no. 99 High St would be "moderate adverse".

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2. Modelling for Pond Farm was considered to be too optimistic about the improvements in technology for vehicle emissions. 99 High St does not assume any improvements in this respect and so the results really are worst-case.
3. For Pond Farm, exceedances of the national target of 40µg/m³ were likely in Newington as well as Rainham. 99 High Street would only add to an existing exceedance in Rainham by less than 1%. Even for the smaller Pond Farm scheme, the predicted change as a result of the development was between 2-5% for 6 receptor sites.
4. The damage cost calculations (contributions) for Pond Farm were based on what was considered to be the over-optimistic assumptions about future emissions. The Inspector concludes that the mitigation measures would not therefore go far enough. The damage cost calculations for 99 High Street are not based on an improvement in future emissions and are instead based on the worse-case scenario. They are therefore highly likely to reflect the true damage cost of the scheme. In addition, the developer is willing to commit to mitigation measures for which the cost would exceed the damage cost calculation by approximately £30k.
5. 99 High St is clearly more sustainable than Pond Farm being within such close walking distance from local amenities, the primary school, train station and bus stops;
6. The TA confirms that 40% of traffic would turn right out of the site i.e. through the center of Newington and on to Rainham) with the majority (60%) turning left towards Sittingbourne and avoiding the AQMA in Rainham and the majority of the AQMA in Newington.

3.16 It is my strong view that the above differences between the two schemes/sites can clearly be used to justify why the current application could be approved, despite the dismissal of the Pond Farm applications at appeal. In addition, Members should be clear that the Pond Farm proposals were dismissed on the grounds of landscape harm as well as the concerns about air quality. Both concerns together amounted to harm that outweighed the benefits in that case. The conclusion to dismiss was reached after consideration was given to all aspects of the scheme that were weighed up in the planning balance. No two schemes are the same and each application must be considered on its own merits. Even if Members consider that the current application would have the same level of harm on air quality as the Pond Farm schemes, they must also consider the benefits of this particular scheme and the lack of identified harm in all other respects.

3.17 The fact that this site will effectively be an allocated site that falls in line with this Council's adopted settlement strategy must be given significant weight. Pond Farm was not, and has never been, an allocated site. Members must be clear that if they are to consider a refusal of this development on the grounds of the air quality impact, the reason for refusal must conclude that the air quality harm is so great that mitigation measures would be ineffective and that this harm outweighs the benefits of the proposal. Members will no doubt be aware of the need to ensure that this Council can demonstrate a five year housing land supply. This site will contribute towards fulfilling this demand and I place significant weight on this as a benefit of the development. Without development such as this coming forward in line with the adopted settlement strategy of Swale Borough Council, the danger is that unplanned and less favourable development in unsustainable locations will be approved or allowed at appeal.

Members should note that the decision on the High Court Challenge to this appeal decision by the developer, Gladmans on air quality grounds is still awaited.

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- 3.18 Newington Working Mens club, when developed would increase the 'canyon' effect along the High St
- 3.19 Members may recall that there was a resolution to approve a development at this site under 16/506166 for ten dwellings. Persimmon's air quality consultant, Lustre, has commented that it is unlikely that future development of the Working Mens Club will increase the canyon effect unless there is a significant increase in the footprint, size and scale of any new development replacing the existing premises. The creation of any "canyon" effect should be more of a concern to the design and layout of any redevelopment of the Working Men's Club and will have no significant impact on the Persimmon development.
- 3.20 Questions about water supply following Southern Water's comments
- 3.21 The applicant states: *"The water company is under a duty to provide drinking water to serve the future development and any off-site improvements are usually secured by the developer paying a financial contribution to reinforce and upgrade the water supply network. We do not believe this is a material consideration for the planning committee to consider in determining the planning application."*
- 3.22 Allocation is for 115 houses, the proposed exceeds this
- 3.23 Policy AX 6 of the Swale Local Plan allocates the land for a minimum of 115 dwellings, landscape and open space. The proposed 124 dwellings would represent a development density of 32.6 dwellings per hectare (as only 3.8 hectares are to be developed for housing and use class D1 building , the rest of the site (3.26 hectares) for informal open space) .
- 3.24 The applicant states: *"The increase in dwelling numbers provides a scheme which is compliant with local plan policies and development management constraints. The proposed development will deliver a wide choice of high quality new homes including 40% affordable housing. The increase in the proportion of affordable housing since the application was first submitted has resulted in a need to provide more small-sized dwellings including those now provided in apartments."*
- 3.25 St Mary's View appeal dismissed on landscape impact, this development would have a harmful impact on the landscape
- 3.26 The applicant provides the following response on this issue:
- 3.27 The application submitted by Persimmon Homes has been informed by a detailed Landscape and Visual Appraisal undertaken by a fully qualified Landscape Architect (Paul Whatley), who is a Chartered Member of the Landscape Institute. The methodology used for the Appraisal was based on the document 'Guidelines for Landscape and Visual Impact Assessment', published by The Landscape Institute and Institute of Environmental Management and Assessment, Third Edition, 2013. This approach establishes baseline landscape and visual character for a defined study area within which the site is located. The methodology then assesses anticipated impacts of the development proposal upon baseline landscape and visual character, principally by setting the magnitude of the proposal against the sensitivity of the landscape or visual receptor.
- 3.28 The visual assessment concludes that *"although the development would result in a change to the character and appearance of the site and would cause a reduction in the amount of agricultural land and a corresponding increase in the settlement area*

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to the north-east of the village, the general relationship between the existing settlement of Newington and the surrounding rural landscape would not be fundamentally altered."

- 3.29 A landscape comparison has been undertaken to compare the appeal site at St Marys View with the proposed Persimmon development. The conclusions are:

a. Vegetation and Agricultural Uses

The planning application dismissed at appeal at St Mary's View relates to an entirely different site possessing very different landscape characteristics. For example the land at St Marys View is heavily vegetated and the Inspector noted that the site has not been subject to agricultural intensification, and the remnants of the orchard are still apparent. By comparison the Persimmon site is an open, arable field which has been subject to agricultural intensification for many years.

b. Visual Impact

In terms of views and visual impact, the Inspector noted that the principal visual impacts would be upon residents of St Mary's View and the dwellings to the west, and that 'the removal of the vegetation and introduction of the proposed dwellings would change the character and setting of this part of Newington.' The dwellings in St Mary's View are very close to the appeal site and some face directly onto it. By contrast the properties closest to the Persimmon site possess long back gardens and dwellings located within the proposed new development would be some considerable distance away from existing houses with a correspondingly reduced visual impact.

c. Site Containment

The Inspector also noted that the site at St Mary's View possessed an arbitrary site boundary, unrelated to the features on the ground or the topography of the site. He stressed that the proposed landscape buffer would serve to emphasise the awkward relationship between the appeal site and the surrounding countryside. The Inspector believed that the loss of vegetation would be considerable and the proposal would significantly harm the rural character and setting of Newington. In his opinion this harm would not be mitigated by the landscape proposals. By contrast the Persimmon site is very well contained on all sides by existing natural and man-made boundaries. The railway line forms the northern boundary and existing residential development contains the site to the south and west. In allocating the Persimmon land for development the Swale Local Plan confirms that "*the eastern part of the site is visually contained within the landscape by rising land up to an existing eastern hedgerow boundary*". The local plan comments that the most visually exposed land shall be excluded from built development.

- 3.30 Quite clearly the two sites are very different in landscape terms. The site at Site Mary's View has an awkward relationship with the surrounding countryside and that the loss of vegetation would significantly harm the rural character and setting of Newington. The application submitted by Persimmon relates to land which is well contained on all sides and which has been in full agricultural use for many years.

- 3.31 I do not therefore consider that the landscape impact of the current application is directly comparable to the harm identified at St Mary's View. I continue to conclude that the impact on the landscape would be acceptable with any harm on a local level being mitigated against by the robust landscaping scheme proposed.

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3.32 Impact on the Conservation Area

- 3.33 The impact on the Conservation Area has been thoroughly assessed and I reiterate the conclusion set out in the original report:

In respect of the Newington Church Conservation Area which is to the north of the site on the other side of the railway line, the Heritage Statement notes:

"This wider setting has not been identified as making a major contribution to the setting of the assets as pertains to their significance and impacts are therefore likely to be negligible."

- 3.34 I therefore consider that the development would preserve the setting of the adjacent Conservation Area.

3.35 Implications of refusing this application

- 3.36 The application site will effectively be an allocated housing site by the time of the committee meeting. Although the Local Plan is not yet officially adopted (due to be reported to Full Council on 26th July 2017), the Inspector's report will have been received and made public and is binding on the Council. If the Local Plan is found to be Sound, the application site will be judged to have been fully compliant with the Council's overall vision, aims and objectives for the future of Swale Borough and in line with the Council's settlement strategy. If Members are to refuse this application, they would have to be absolutely clear that the harm is significant, that this harm cannot be reduced to a satisfactory level by way of mitigation and that the harm is not outweighed by the benefits of the proposal. I set out above the dangers of refusing schemes that are compliant with our settlement strategy - that unplanned and less favourable development in unsustainable locations will be approved or allowed at appeal. This could undermine the whole approach of the freshly adopted Local Plan and is not a position that I anticipate Members would like to be in.

- 3.37 Members should be clear that without adequate justification for refusing this development, an appeal, most likely a Public Inquiry, would in be bound to follow. Members would be expected to be in a position to present the necessary evidence to support their refusal. The separate report at Part 6 of the agenda, which deals with the possible costs implications of a decision to refuse this application, should be noted.

4.0 CONCLUSION

- 4.01 This proposal would be in accordance with the soon to be adopted Local Plan in that it is an allocated housing site.
- 4.02 Paragraph 7 of the NPPF identifies three strands to sustainable development - economic (supporting the economy and growth), social (providing strong, healthy, accessible communities), and environmental (contributing to protecting our natural, built and historic environment). In terms of whether the proposals constitute sustainable development, I find that the proposals perform strongly in terms of the social and economic strands. The development would provide much needed housing, including 40% (49 units) as affordable housing. This site is of great importance in helping to meet the growing demand for housing in the Borough. It is acknowledged that the village does not have a doctor's surgery but in terms of other

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infrastructure, the village is well served. Importantly, the site is within walking distance of the village shops, primary school and train station.

- 4.03 In terms of the environmental impact of the proposal, I do not consider that there would be significant harm to the landscape here and that mitigation in the form of soft landscaping as well as the design of the layout and the houses will ensure that landscape harm is limited further. I have discussed the impact of the development on highway safety and amenity and consider that there would be some harm. However, mitigation measures are proposed that would limit this harm to an acceptable degree in my view. In addition, there would be limited harm to ecology and biodiversity but I have set out mitigation measures such as ecological enhancements within the site and a contribution towards the SAMM Strategy. I consider that there would be no harm to the setting of the Conservation Area or to Hollybank, a Grade II listed building (which is discussed at paragraphs 9.29-9.33 of the original report), concluding that the setting of both of these designated heritage assets would be preserved. The loss of best and most versatile agricultural land is accepted in this case owing to the sites' allocation in the emerging Local Plan for housing. The potential for brickearth at the site has been examined and as well as being uneconomical to extract, the site is a draft housing allocation in the emerging local plan. As such, mineral extraction does not need to take place prior to its development.
- 4.04 In terms of air quality, I have found that the effect on human health would be significant but that this would be confined to the Rainham AQMA and I find that mitigation measures proposed will go some way towards lessening this effect. The applicant has considered a raft of air quality mitigation measures for this development, discounting those that would be impractical or of very little benefit but including those that would cumulatively make some difference in resident's choice of transport and would limit the scheme's contribution to air pollution. It is hoped that the mitigation measures combined will persuade residents to use sustainable forms of transport on a regular basis. However, it is fair to say that there are uncertainties as to the extent that the mitigation would reduce the significance of the impact and as such for purposes of the planning balance, I have therefore assumed the harm to be significant and that this should be weighed against the other elements of harm and overall benefits. This Council's Environmental Services Manger and the Medway Council's Environmental Health Officer do not object to the scheme on air quality, or any other grounds, and I give this significant weight in my consideration of air quality concerns. In terms of the overall planning balance, I consider that the need for housing in the Borough to be significant. This development would provide housing on an allocated site, contributing significantly to the 5 year housing land supply and this should carry significant weight in terms of social and economic benefits. Whilst the harm to air quality is potentially significant within the Rainham AQMA, in the absence of other significant harm, I do not consider that the harm to air quality is sufficient to significantly and demonstrably outweigh the overall benefits of the proposals.
- 4.05 I therefore consider that the development would be acceptable and, as such, that planning permission should be granted subject to the following conditions and a Section 106 agreement.
- 5.0 **RECOMMENDATION – GRANT** Subject to the following conditions with delegation to add, amend or exclude conditions if necessary and a section 106 agreement requiring contributions as set out in paragraph 9.52 and 9.53 of the appended report:

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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. The development hereby approved shall be carried out in accordance the following approved drawings: 2588-18A; 2588-51B; 2588-52B; 2588-53B; 2588-19F; 2588-20I; 2588-21H; 2588-22G; 2588-23C; 2588-25D; 2588-26E; 2588-27E; 2588-28D; 2588-29D; 2588-30E; 2588-31F; 2588-32E; 2588-33E; 2588-34G; 2588-35G; 2588-36E; 2588-37D; 2588-40E; 2588-41F; 2588-42E; 2588-43H; 2588-44D; 2588-45G; 2588-46F; 2588-47F; 2588-48F; 2588-49F; 2588-50F; PERSE19783-09B; PERSE19783-10B; 2588-38E; 1391-001; 2588-55C & 5784/101B.

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

3. Notwithstanding the provisions of Class A, Part 2, Schedule 2 to the Town and Country Planning (General Permitted Development) 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 without the consent in writing of the Local Planning Authority.

Reason: In the interests of residential amenity.

4. Details in the form of a levels strategy overlaying the proposed layout with the Topographical survey shall be submitted to and approved in writing by the Local Planning Authority before work commences and the development shall be completed strictly in accordance with the approved levels.

Reason: In order to secure a satisfactory form of development having regard to the sloping nature of the site.

5. The amenity areas adjacent to the flats as shown on the approved plans shall be retained for use by the residents of all the flats throughout the duration of the development.

Reason: In the interests of residential amenity.

6. The areas shown on the approved drawings 2588-20 I and PERSE1978309 B as 'Green' and 'Suitable Alternative Natural Green Space' shall be reserved for the general amenity of the area and shall be provided in accordance with a schedule to be submitted to the Local Planning Authority to be agreed in writing prior to first occupation. Play space shown on drawing no. 2588-20 I as 'LEAP' shall be surfaced and equipped with play equipment, in accordance with a schedule agreed by the Local Planning Authority before the first occupation; no permanent development whether permitted by the Town and Country Planning (General Permitted Development) Order 1995 or not shall be carried out in the areas so shown without the prior written approval of the Local Planning Authority.

Reason: To ensure that these areas are made available in the interests of the residential amenities of the area.

7. Adequate underground ducts shall be installed before any of the buildings hereby permitted are occupied to enable telephone services, broadband and electrical services to be connected to any premises within the application site without resource

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to the erection of distribution poles and overhead lines, and notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) Order 1995 no distribution pole or overhead line shall be erected other than with the express consent of the Local Planning Authority.

Reason: In the interests of residential amenity.

8. No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of
 - (A) archaeological field evaluation works in accordance with a specification and written timetable which has been submitted to and approved by the Local Planning Authority; and
 - (B) following on from the evaluation, any safeguarding measures to ensure preservation in situ of important archaeological remains and/or further archaeological investigation and recording in accordance with a specification and timetable which has been submitted to and approved by the Local Planning Authority

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

9. No development approved by this permission shall be commenced prior to a contaminated land assessment (and associated remediation strategy if relevant), being submitted to and approved in writing by the Local Planning Authority, comprising:
 - a) A desk study and conceptual model, based on the historical uses of the site and proposed end-uses, and professional opinion as to whether further investigative works are required. A site investigation strategy, based on the results of the desk study, shall be approved by the Local Planning Authority prior to any intrusive investigations commencing on site.
 - b) An investigation, including relevant soil, soil gas, surface and groundwater sampling, carried out by a suitably qualified and accredited consultant/contractor in accordance with a Quality Assured sampling and analysis methodology.
 - c) A site investigation report detailing all investigative works and sampling on site, together with the results of analyses, risk assessment to any receptors and a proposed remediation strategy which shall be of such a nature as to render harmless the identified contamination given the proposed end-use of the site and surrounding environment, including any controlled waters.

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

10. Before any part or agreed phase of the development is occupied, all remediation works identified in the contaminated land assessment and approved by the Local Planning Authority shall be carried out in full (or in phases as agreed in writing by the Local Planning Authority) on site under a quality assured scheme to demonstrate compliance with the proposed methodology and best practice guidance. If, during the works, contamination is encountered which has not previously been identified, then the additional contamination shall be fully assessed and an appropriate remediation scheme agreed with the Local Planning Authority.

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

11. Upon completion of the works identified in the contaminated land assessment, and before any part or agreed phase of the development is occupied, a closure report

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shall be submitted which shall include details remediation works undertaken, with quality assurance certificates to show that the works have been carried out in accordance with the approved methodology. Details of any post-remediation sampling and analysis to show the site has reached the required clean-up criteria shall be included in the closure report together with the necessary documentation detailing what waste materials have been removed from the site

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

12. Prior to the commencement of the development, a Code of Construction Practice shall be submitted to and approval in writing by the Local Planning Authority. The construction of the development shall then be carried out in accordance with the approved Code of Construction Practice and BS5228 Noise Vibration and Control on Construction and Open Sites and the Control of dust from construction sites (BRE DTi Feb 2003) unless previously agreed in writing by the Local Planning Authority.

The code shall include:

- An indicative programme for carrying out the works
- Measures to minimise the production of dust on the site(s)
- Measures to minimise the noise (including vibration) generated by the construction process to include the careful selection of plant and machinery and use of noise mitigation barrier(s)
- Maximum noise levels expected 1 metre from the affected façade of any residential unit adjacent to the site(s)
- Design and provision of site hoardings
- Management of traffic visiting the site(s) including temporary parking or holding areas
- Provision of off road parking for all site operatives
- Measures to prevent the transfer of mud and extraneous material onto the public highway
- Measures to manage the production of waste and to maximise the re-use of materials
- Measures to minimise the potential for pollution of groundwater and surface water
- The location and design of site office(s) and storage compounds
- The location of temporary vehicle access points to the site(s) during the construction works
- The arrangements for public consultation and liaison during the construction works
- Details of any mitigation measures necessary to mitigate the impact of construction on biodiversity and wildlife
- The mitigation measures set out in table 17 of the submitted Air Quality Assessment (March 2017).

Reason: In the interests of residential amenity, biodiversity and the control of air pollution.

13. Prior to the commencement of development hereby approved, full details of the method foul waters, including a drainage strategy and implementation timetable shall be submitted to and approved by the Local Planning Authority. The approved details shall be implemented before the first use of the development hereby permitted.

Reason: In order to prevent pollution of water supplies.

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

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

15. No dwelling/building shall be occupied or the approved use commenced until space has been laid out within the site in accordance with details to be submitted to and approved in writing by the Local Planning Authority for cycles to be parked securely stored (providing for 1 cycle per dwelling).

Reason: To ensure the provision and retention of adequate off-street parking facilities for cycles in the interests of sustainable development and promoting cycle visits.

16. The car barns/car ports as shown on the approved plans shall not be enclosed by the use of doors, walls, fences or any other means of enclosure to any open elevation, unless otherwise required by Part B (fire safety) of the Building Regulations (2010 as amended).

Reason: To ensure that the car barns/ carports are retained for parking in the interests of highway safety and amenity.

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

Reason: To ensure that the roads are constructed and laid-out in a satisfactory manner.

18. Before the first occupation of a dwelling / premises the following works between that dwelling / premises and the adopted highway shall be completed as follows:
 (A) Footways and/or footpaths shall be completed, with the exception of the wearing course;
 (B) Carriageways completed, with the exception of the wearing course, including the provision of a turning facility beyond the dwelling together with related:
 (1) highway drainage, including off-site works,
 (2) junction visibility splays,
 (3) street lighting, street nameplates and highway structures if any.

Reasons: In the interests of highway safety.

19. No dwelling hereby approved shall be occupied until the junction indicated on drawing 5784/101B, and the footway/emergency access shown on drawing 5288-23C have been provided in accordance with a design and specification to be

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approved in writing with the Local Planning Authority and to be fully implemented to the satisfaction of the Local Planning Authority.

Reason: To ensure that a satisfactory means of access is provided for the site.

- 20. No vehicular access shall be brought into use until pedestrian visibility splays 2 m x 2 m with no obstruction over 0.6 m above the access level have been provided on each side of the access, and these shall be subsequently maintained.

Reasons: In the interests of highway safety.

- 21. Prior to the commencement of development hereby approved, full details of both hard and soft landscape works shall be submitted to and approved in writing by the Local Planning Authority. These details shall include existing trees, shrubs and other features, planting schedules of plants, noting species (which should be native species where possible and of a type that will enhance or encourage local biodiversity and wildlife), plant sizes and numbers where appropriate, means of enclosure, hard surfacing materials, and an implementation programme.

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

- 22. 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.

- 23. 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.

- 24. Prior to the commencement of development (above ground floor slab level) hereby approved, details in the form of samples of external finishing materials to be used in the construction of the development hereby approved shall be submitted to and approved in writing by the Local Planning Authority and shall be implemented in accordance with the approved details.

Reason: In the interest of visual amenity.

- 25. Prior to the commencement of development hereby approved, details shall be submitted to the Local Planning Authority and approved in writing, which set out what measures have been taken to ensure that the development incorporates sustainable construction techniques such as water conservation and recycling, renewable energy production including the inclusion of solar thermal or solar photo voltaic installations, and energy efficiency. Upon approval, the details shall be incorporated into the development as approved.

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

- 26. No floodlighting, security lighting or other external lighting shall be installed or operated at the site, other than in accordance with details that have first been

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submitted to and agreed in writing by the Local Planning Authority. These details shall include:

- A statement of why lighting is required, including to the pedestrian/cycle link, the proposed frequency of the use and the hours of illumination.
 - A site plan showing the area to be lit relative to the surrounding area, indicating parking or access arrangements where appropriate, and highlighting any significant existing or proposed landscape or boundary features.
 - Details of the number, location and height of the lighting columns or other fixtures.
 - The type, number, mounting height and alignment of the luminaries.
 - The beam angles and upwards waste light ratio for each light.
 - An isolux diagram showing the predicted illuminance levels at critical locations on the boundary of the site and where the site abuts residential properties.
 - Confirmation that there would be no lighting to the SANG.
 - Identification of those areas/features on site that are particularly sensitive for bats and that are likely to cause disturbance in or around their breeding sites and resting places or along important routes to access key areas of their territory.
- Demonstration as to how and where external lighting will be installed so that it can be clearly demonstrated that area to be lit will not disturb or prevent bats using their territory.

Reason: In the interests of visual amenity/landscape character and the residential amenities of occupiers of nearby dwellings and the interests of ecology.

27. All work to the site boundaries (where vegetation exists) must be carried out outside of the breeding bird season (March to August inclusive) unless otherwise agreed in writing by the Local Planning Authority that an ecologist examines the site prior to works commencing and if any nesting birds are recorded, all works must cease until all young have fledged.

Reason: In the interests of the protection of breeding birds.

28. Prior to the commencement of development hereby approved, a detailed SANGs management plan must be submitted to the Local Planning Authority for approval in writing. The approved management plan must be implemented and carried out as specified.

Reason: In the interests of ecology and biodiversity.

29. Notwithstanding the provisions of Classes A, B and C of Part 13 of the Town and Country Planning (General Permitted Development) Order 2015, prior to the commencement of development of the foul pumping station, details of its siting, design, scale and means of enclosure, shall be submitted to the Local Planning Authority for approval in writing and the approved details shall be implemented.

Reason: In the interests of visual amenities.

30. In this condition "retained tree" means an existing tree, which is to be retained in accordance with the approved plans and particulars. Paragraphs i) and ii) below shall have effect until the expiration of 5 years from the date of completion of the development for its permitted use.
- i) No retained tree shall be deliberately damaged, cut down, uprooted or destroyed, nor shall any retained tree be pruned other than in accordance with

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the Arboricultural Impact Report (PJC ref: 3781/15-02) dated 15th January 2016, without the written approval of the Local Planning Authority. Any pruning approved shall be carried out in accordance with British Standard 3998:2010 Tree Work – Recommendations or any revisions thereof.

- ii) If any retained tree dies, or is removed, uprooted or destroyed, another tree shall be planted at the same place and that tree shall be of such size and species and shall be planted at such time as may be specified in writing by the Local Planning Authority.
- iii) The installation of tree protection barriers, the methods of working shall be undertaken in accordance with the Arboricultural Method Statement Report (PJC 3781/15-03 Rev 2) dated 15th January 2016.

Reason: To protect and enhance the appearance and character of the site and locality.

- 31. No development shall commence until the developer has (at his own expense):
 - i) Instructed an Arboricultural consultant, approved in writing by the LPA, to liaise with the developer and/or his architect or engineer to approve relevant details of construction methods, oversee the works and report to the Council throughout the period of the works in so far as the works may affect retained trees (as set out in the approved plans) and;
 - ii) Submitted to an obtained the written approval of the LPA for an auditable system of Arboricultural site monitoring, including a schedule of specific site events requiring Arboricultural input or supervision where construction and development activity is to take place within or adjacent to any root protection area of any tree identified for retention.

Reason: To protect and enhance the appearance and character of the site and locality.

- 32. The noise mitigation methods as set out on pages 17, 18 and 19 of the submitted Noise Assessment: February 2016 (1391\MD\08-2015\370) and appendices D, E, F, G, H, and I, including the provision of mechanical ventilation, details of which shall have first been approved in writing by the Local Planning Authority, shall be implemented in respect of the 'worst-case' properties outlined in red on drawing 1391-001.

Reason: In the interests of the residential amenities of future residents of the development.

- 33. Prior to the occupation of the dwellings outlined in red on drawing no.1391-001, a verification report shall be submitted to and approved by the LPA to demonstrate that the recommendations contained in the MRL Acoustic Report submitted with the application have been incorporated, and therefore internal noise levels within the residential units and the external noise levels in the back gardens and other relevant amenity areas will confirm top the standard identified by BS 8233 2014, Sound Insulation and Noise Reduction for Buildings - Code of Practice.

Reason: In the interests of the residential amenities of future residents of the development.

- 34. Prior to the commencement of development hereby approved, a report demonstrating how the proposal will incorporate measures to encourage and promote biodiversity and wildlife shall be submitted to and approved in writing.

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Development shall be carried out in accordance with those approved details and shall thereafter be retained.

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

35. If the development hereby approved has not commenced by February 2018 and, prior to any works to trees being carried out, an updated Preliminary Tree Roost Assessment shall be undertaken, the results of which must be submitted to the Local Planning Authority with any suggested mitigation measures approved in writing.

Reasons: In the interests of protecting bats that may be roosting within the trees at the site.

36. Prior to any tree works commencing to tree 20 (as per the Preliminary Tree Roost Assessment; Feb 2017), a dawn re-entry bat survey shall be carried out on that tree which shall include appropriate methodology required for the removal of any branches on this tree. The survey and methodology report shall be submitted to the Local Planning Authority for approval in writing prior to any works being carried out on tree 20. The approved methodology shall be implemented.

Reasons: In the interests of protecting bats that may be roosting within the trees at the site.

37. Development shall not begin until a detailed sustainable surface water drainage scheme for the site has been submitted to (and approved in writing by) the Local Planning Authority. The detailed drainage scheme shall be based on Flood Risk Assessment prepared by Herrington Consulting Ltd (March 2017) and shall demonstrate that the surface water generated by this development (for all rainfall durations and intensities up to and including the climate change adjusted critical 100 year storm) can be accommodated and disposed of without increase to flood risk on or off-site.

Reason: To ensure that the principles of sustainable drainage are incorporated into this proposal and to ensure ongoing efficacy of the drainage provisions.

38. No building hereby permitted shall be occupied until details of the implementation, maintenance and management of the sustainable drainage scheme have been submitted to and approved in writing by the local planning authority. The scheme shall be implemented and thereafter managed and maintained in accordance with the approved details. Those details shall include:

- (a) a timetable for its implementation, and
- (b) a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the sustainable drainage system throughout its lifetime.

Reason: To ensure that the principles of sustainable drainage are incorporated into this proposal and to ensure ongoing efficacy of the drainage provisions.

39. Where infiltration is to be used to manage the surface water from the development hereby permitted, it will only be allowed within those parts of the site where it has been demonstrated to the Local Planning Authority's satisfaction that there is no resultant unacceptable risk to controlled waters and/or ground stability. The development shall only then be carried out in accordance with the approved details.

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Reason: To protect vulnerable groundwater resources and ensure compliance with the National Planning Policy Framework.

Informative:

1. The applicant is advised to consider and act upon the contents of Network Rail's email in response to the consultation on this application dated 22nd March 2016.
2. The applicant is advised to consider the contents of the letter from Kent Public Right of Way Officer dated 24th March 2016, the contents of Southern Gas Networks' email dated 29th March 2016 and the contents of the letter from Southern Water dated 23rd March 2016.
3. It is the responsibility of the applicant to ensure , before the development hereby approved is commenced, that all necessary highway approvals and consents where required are obtained and that the limits of highway boundary are clearly established in order to avoid any enforcement action being taken by the Highway Authority. Across the county there are pieces of land next to private homes and gardens that do not look like roads or pavements but are actually part of the road. This is called 'highway land'. Some of this land is owned by The Kent County Council (KCC) whilst some are owned by third party owners. Irrespective of the ownership, this land may have 'highway rights' over the topsoil. Information about how to clarify the highway boundary can be found at <http://www.kent.gov.uk/roads-and-travel/what-we-look-after/highway-land> The applicant must also ensure that the details shown on the approved plans agree in every aspect with those approved under such legislation and common law. It is therefore important for the applicant to contact KCC Highways and Transportation to progress this aspect of the works prior to commencement on site.

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 in the processing of their application and 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 applicant was asked to consider the submission of amended plans to address Officer's concerns. These plans were forthcoming and the scheme was considered to be acceptable.

Case Officer: Emma Eisinger

- 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 C**Tabled Paper – deferred item 1****99 High St and Land North of High Street Newington 16/501266/FULL**

Members are asked to refer to paragraph 2.03 of the committee report which refers to the Government consultation paper - **DEFRA Improving Air Quality in the UK: Tackling Nitrogen Dioxide in our Towns and Cities**.

This consultation document sets out a diverse range of policy options to reduce NO₂ concentrations. These options can be divided into three broad groups:

1. Clean Air Zones (CAZ) define an area where targeted action is taken to improve air quality as well as being prioritised and coordinated in a way that delivers improved health benefits and supports economic growth. They fall into two categories, non-charging and charging. In non-charging CAZs, a range of local actions on any source of air pollution could be instigated, such as car sharing, cycling schemes, or park and ride schemes;
2. National action undertaken to aid the transition to effective CAZs include a range of targeted measures to clean up dirty vehicles and;
3. Supplementary national options such as lowering speed limits.

From the options considered, establishing Clean Air Zones is the most effective way to bring the UK into compliance with NO₂ concentration levels in the shortest possible time.

The Head of Environmental Services has provided Officers with this Council's consultation responses that were submitted to the Government.

A summary of SBCs consultation response is as follows:

- In respect of the option of CAZs, we have responded with the view that there is too little evidence so far about the effectiveness of existing CAZs and how well they are being policed.
- The diesel scrappage scheme was considered to be too limited and reducing speeds on motorways was only considered to be beneficial near the motorway.
- We considered that CAZs should include all towns and cities that have AQ exceedances and declared AQMAs.
- Measures to address air quality by reducing dependence on the car are encouraged.
- Better education of the impact that driving older polluting vehicles has on air quality and human health is essential.
- We considered that the Government should invest more in research and development of clean, renewable energy, public transport investment and incentives.
- We highlighted the need to ensure that air quality is given sufficient weight in the planning process and this will be better supported by a stronger focus on air quality within the NPPF.
- Financial assistance towards road signage which supports AQMAs is recommended.

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2.2 REFERENCE NO - 16/501266/FULL		
APPLICATION PROPOSAL Erection on land to the north of 99 High Street of 124 No. dwellings in total including two storey 2, 3, and 4 bedroom dwellings and 1 and 2 bedroom apartments (2 no. 3 storey blocks) with a new access road from the High Street, pedestrian and cycle link to Church Lane, formal and informal areas of open space and landscaping, car parking and amenity space.		
ADDRESS 99 High Street And Land To The North Of High Street Newington Kent ME9 7JJ		
RECOMMENDATION GRANT subject to the receipt of revised drainage details and further comments from KCC Sustainable Drainage and any additional conditions suggested by them, any further comments from Newington Parish Council and CPRE (closing date 17 th March 2017), further comments from Kent Highways and Transportation in response to the amended plans and further comments from Medway Council in response to the revised Air Quality Assessment, a section 106 agreement requiring contributions as set out in paragraph 9.53 and 9.54 below.		
SUMMARY OF REASONS FOR RECOMMENDATION The proposed development would provide housing on a site that is allocated for this purpose within the emerging Local Plan. An assessment of the need for housing in the Borough highlights a requirement for housing sites that are located outside of the built-up area boundary as set out in the adopted Local Plan. The sustainability of the application site has been assessed and it is considered to be acceptable on a strategic and a local level. The economic, social and environmental considerations of the proposed development have been assessed and I have concluded that there would be some harm to human health as a result of an increase in air pollution as a consequence of this development, but that this would be confined to the area of the Rainham AQMA. Mitigation measures will reduce this harm to some degree. I conclude that the need for housing would outweigh any harm arising from air pollution. Subject to the imposition of the conditions listed at the end of the report and the signing of a Section 106 agreement, planning permission should be granted.		
REASON FOR REFERRAL TO COMMITTEE Parish Council objection		
WARD Hartlip, Newington And Upchurch	PARISH/TOWN Newington	COUNCIL
		APPLICANT Persimmon Homes South East Ltd AGENT
DECISION DUE DATE 07/06/16	PUBLICITY EXPIRY DATE 11/10/16	OFFICER SITE VISIT DATE 10/11/16
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites): There is no relevant planning history for this site other than the submission of a request for an Environmental Impact Assessment (EIA) in July 2015. This was determined on 6 th October 2015 concluding that an EIA was not required.		

MAIN REPORT

1.0 DESCRIPTION OF SITE

- 1.01 The application site immediately lies to the northeast of the settlement of Newington, a village of some 1058 houses approximately 2 miles to the west of Sittingbourne. Newington has a railway station, primary school, village hall, post office, shops, restaurant, and public house. The village is well served by bus routes.

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- 1.02 The application site is a total of 7.2ha (17.9 acres) in area and is made up of mostly agricultural land. It includes an access track from the High Street (A2) that is situated between no. 99 and 105. No. 99 High Street is included within the application site and will be retained with some of its grounds used to widen the access into the site. The northern boundary of the site follows the railway line that passes through Newington Railway Station. The eastern boundary of the site seems to follow a hedge dividing this field from the next. The southern and western boundaries of the site meet the rear gardens and other unspecified land to the rear of residential properties within the village of Newington.
- 1.03 A large proportion of the application site is broadly flat and Members will note the submitted topographical survey. The submitted Design and Access Statement describes the site topography as:
- "...the site falls in a north-easterly direction from the south-western corner, rising again in the north-eastern corner towards the railway embankments and the eastern boundary of the site.*
- The railway embankment forms a notable change in levels along the northern boundary of the site and is approximately 5m higher than the application site at its north-eastern corner, rising eastwards to approximately 10-15m higher than the site levels.*
- The southern boundary contains localised changes of level of approximately 1 – 1.5m above the existing agricultural field and adjoining rear gardens fronting High Street."*
- 1.04 A submerged drain runs north-south across the site and is located approximately 60m to the east of the vehicular access from High Street.
- 1.05 A public right of way ZR59 crosses the eastern part of the land on a north-south axis. This links to a pedestrian crossing point over the railway line. There is also an access from the application site that leads from the western boundary to Church Lane. This is currently used for agricultural access to the application site and part of it is used for access to parking for nos. 40, 42 and 44 Church Lane.
- 1.06 Newington High Street Conservation area lies immediately to the west of the application site at the western boundary. There are a number of listed buildings fronting onto High Street and Church Lane. The closest of these to the application site is The Holly Bank, a grade II listed early 18th Century dwelling which is located 75m to the west of the site. A grade II listed milestone marker lies 58 metres to the west of the proposed access onto High Street.
- 1.07 Newington Village Hall lies adjacent to the western boundary of the site. This has a small public car park that is free to use. There is also a scout hall and hand car wash to the southwest of the site.
- 1.08 The site lies close to the Newington Village Air Quality Management Area (AQMA) and the access to the site would be within the AQMA, 150m from its eastern extent. The site also lies within the Strategic Gap between Sittingbourne the Medway towns and as identified by the adopted Local Plan.

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APPENDIX 1**2.0 PROPOSAL**

- 2.01 This is a full planning application for 124 dwellings comprising 114 houses and 10 flats (in two separate blocks). The scheme was originally submitted as part detailed and part outline with the details of a D1 (non-residential institution) building to be considered at a later date. The application has been amended by removing this D1 building from the proposal in order to enhance the 'green' spaces within the site and because the end user of the building was uncertain. The amended scheme also sees the inclusion of the two blocks of flats, mainly as a response to the requirement for 40% affordable housing provision on the site, and a slight rearrangement of the layout to address urban design concerns. The resulting layout increases the number of dwellings by 11 (or 9.7%).
- 2.02 Vehicular access into the site would be taken from High Street (A2) directly adjacent to 99 High Street and no. 105 High Street. The proposal would see changes to the A2 at the point of access involving the creation of a ghost island to allow traffic to turn right into the site and the consequent narrowing of the pavements. The original application would have included the demolition of no. 99 High Street and replacement with a new dwelling, but after careful consideration of the costs and necessity of this part of the proposal, the applicant is now seeking to retain no. 99. The access into the site does though need to be wider than it is now and so some of the curtilage land to the eastern side of no. 99 will be used for the access. Pedestrian access to the site would also be provided via public footpath ZR59 and also the track leading to the site from Church Lane. Currently this track serves to provide an access for agricultural vehicles to the fields within this application site and the first part of it is used to gain vehicular access to three properties fronting Church Lane (nos. 40, 42 and 44). This track would provide pedestrian and cycle access to the site and can also be used as an emergency access to the site.
- 2.03 The site layout proposes for the eastern third (3.26ha/9.4 acres) of the site to be provided as formal and informal green space with a children's play area close to the houses and rough grassland, orchard, a pond, and woodland buffer along the northern and eastern boundaries. The open spaces and amenity areas within the site would be open for public use and managed by a management company. It would not be transferred to the Council. The submerged drain would be opened up to form an open water ditch acting to manage surface water in a sustainable way as well as providing a landscape feature. This ditch would be crossed by four pedestrian paths which would link the built area of the site to the open space at the eastern end. A foul pumping station is proposed to be located within the north-eastern corner of the built-up area of the development. Details of this are to be submitted as required by condition. A small electricity substation is also shown to be provided close to the main access into the site and against the rear boundary of 103 High Street.
- 2.04 The layout of the housing development provides a central 'green corridor' running from the eastern open space to a smaller 'green' at the western end of the site. The green corridor has a pedestrian path running along it as well as a row of trees (to be of an appropriate height and species worthy of such an important element of the layout). Another small 'green' would be located halfway along the 'green corridor'. A thick landscape buffer would also be provided along the northern boundary adjacent to the railway line. The main access road through the site would run from High Street and then east-west through the site. Secondary roads and shared surface roads would lead off of this principle road with different surface materials used to differentiate between them. Most properties would have carports and at least one off-

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road parking space (2 spaces for each 2 and 3 bed dwelling and 3 spaces for each 4 bed dwelling). The flats and some of the houses would have spaces located in parking courts.

- 2.05 The apartment blocks would be 3 storeys high and would be located in two separate central locations within the site. All of the houses would be two storeys or 2.5 storeys high and would have 2, 3 and 4 bedrooms. The architecture would be traditional in respect of their gable and hipped pitched roofs and use of brick and tiles. They would have a rural character with some properties featuring weatherboarding, small dormer windows and chimneys.
- 2.06 The proposal would provide 40% of the units as affordable (49) and these would be spread about the site in four separate clusters of no more than 20 units. The flat blocks are included within the affordable housing provision.

3.0 SUMMARY INFORMATION

	Proposed
Site Area (ha)	7.2ha
Approximate Ridge Height (m)	Max 10.8m
Approximate Eaves Height (m)	Max 8
No. of Storeys	Max 3 min 2
Parking Spaces	24 visitor spaces & 228 on-plot/allocated spaces
No. of Residential Units	124
No. of Affordable Units	49 (40%)
Density of built-up area	31.4 d/ha

4.0 PLANNING CONSTRAINTS

Potential Archaeological Importance

Conservation Area Newington High Street (to west of the site)

Strategic Gap

AQMA

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), 30, 32, 36 (sustainable transport), 42 (supporting high quality communications infrastructure), 47 (delivering a wide choice of high quality homes), 49, 50, 55, 56, 58 (good design), 69, 70, 73 (healthy communities); 103 (flood risk), 109 (air quality), 110, 112 (agricultural land), 118, 119 (biodiversity), 120, 121 (air quality/contaminated land), 122, 124 (air quality), 128, 131 (heritage assets), 159 (housing), 162 (infrastructure), 186 (decision taking), 187, 196 (determining applications); 197, 204 (planning obligations) & 216 (weight to emerging policies).

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- 5.02 National Planning Policy Guidance (NPPG): Air Quality; Conserving and Enhancing the historic Environment; Design; Natural environment; Housing and Economic Development needs assessment; Planning Obligations; Use of planning conditions; transport assessments and statements in decision taking; Water supply, waste water and water quality land affected by contamination; Flood Risk and coastal change; Open Space, sports and recreational facilities, public rights of way and local green space.

Development Plan:

- 5.03 The Swale Borough Local Plan 2008 saved policies SP1 (sustainable development), SP2 (environment), SP4 (housing), SP5 (rural communities), SP6 (transport and utilities), TG1 (Thames Gateway Planning Area) SH1 (settlement hierarchy), E1 (general development criteria), E6 (countryside); E7 (separation of settlements); E9 (protecting the quality and character of the Borough's Landscape); E10 (trees and hedges); E11 (biodiversity and geological interests), E12 (designated biodiversity and geological conservation sites), E15 (Developing affecting a Conservation Area); E19 (achieving high quality design and distinctiveness); H2 (new housing), H3 (affordable housing), H5 (housing allocations), RC3 (meeting rural housing needs); C2 (housing development and the provision of community services and facilities); T1 (safe access), T3 (vehicle parking for new development); 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), ST5 (Sittingbourne area 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 (conserving and enhancing the natural environment - providing green infrastructure), CP8 (conserving and enhancing the historic environment), AX6 (land north of High Street Newington), DM6 (managing transport demand and impact), DM7 (vehicle parking), DM8 (affordable housing), DM14 (general development criteria), DM17 (open space, sports and recreation provision), DM19 (sustainable design and construction), DM21 (water, flooding and drainage), DM24 (conserving and enhancing valued landscapes), DM28 (biodiversity and geological conservation), DM29 (woodland trees and hedges), DM23 (listed buildings), DM31 (agricultural land), DM32 (development involving listed buildings), DM33 (development affecting a conservation area), DM34 (Archaeological sites) & IMP1 (implementation and delivery plan).
- 5.05 Kent Minerals and Waste Local Plan 2013 – 2030 – Policy DM7 states that planning permission will only be granted for non-mineral development that is incompatible with minerals safeguarding where it is demonstrated, among other things, that it constitutes development on a site allocated in the adopted development plan.

Supplementary Planning Documents

- 5.06 Developer Contributions (2009)
- 5.07 Swale Landscape Character and Biodiversity Appraisal SPD (2011). The application site is identified as lying within the Iwade Arable Farmlands character area – gentling undulating rural landscapes in poor condition with a moderate sensitivity to change. The guidelines recommend that this landscape should be restored.

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Other

5.08 Land-use Planning & Development Control: Planning for Air Quality. Guidance from Environmental Protection UK and the Institute of Air Quality Management for the consideration of air quality within the land-use planning and development control process (January 2017).

5.09 Swale Borough Council Air Quality Planning Technical Guidance (December 2016).

6.0 LOCAL REPRESENTATIONS

6.01 We have received 55 representations from local residents. A summary of their comments, which I have categorised for ease of reading, is as follows:

Highways

- Increased traffic through Newington which cannot cope with an increased volume;
- The access is at a narrow point in the A2 where lorries often cause congestion. The new access arrangements would narrow the road and pavements even more and cause a bottle-neck;
- Likely to be queues of traffic leaving the new housing estate onto the A2;
- Children will be unlikely to walk to school from the new housing estate, causing congestion along Church Lane and outside the school. More children would live within the housing development than the Transport Assessment suggests. The TA hasn't addressed the nursery that is based at the school, to which 100% of parents drive;
- The access to the site is in a part of the highway which is dangerous and there have been serious accidents there in the past. Crossing the road at this point would be dangerous as there would be three lanes. Traffic lights are needed at this new access due to the volume of traffic;
- The right of way to no. 103 High Street has been ignored on the plans;
- The realignment of the A2 to accommodate the "ghost lane" will require sacrificing the width of the adjoining pavement. This is a major concern for pedestrian safety next to a busy main road with a high number of HGVs;
- The emergency access onto Church Lane is questionable as this road is already congested;
- The footpath link onto Church Lane is dangerous as it leads straight onto a busy road. It would also become an attraction for anti-social behaviour;
- Commuters park in local roads making them more congested;
- Church Lane is often congested at the railway bridge;
- The development would contribute to junction improvements at M2 Stockbury;
- There should be a road underneath the railway to provide access to the school, church and the north side of the village;
- Headlights from cars leaving the new development will shine into the windows of the house opposite and these residents are concerned about how they might turn right into their drive. They are also concerned about an increase in noise and pollution as a consequence of cars waiting to turn from the A2 into the site;
- Calls for a by-pass of Newington village;
- The conclusions of the Transport Assessment are questioned;
- Have KCC already agreed to the road layout as the signs at the site suggest;

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- Emergency vehicles often use the A2 through Newington and any further congestion associated with the development would block their route;
- The erection of bollards at the entrance to the pedestrian and cycle route from the development onto Church Lane will not be possible as there are rights of access for adjacent properties (40, 42 and 44 Church Lane) to access rear parking spaces. If collapsible bollards are provided as shown on the amended plans, how will this be maintained?;
- Two parking spaces per property is not enough;
- Disruption during construction of the access will be significant for pedestrians and motorists.

Environment

- Pollution increased in an area already designated as an AQMA, as a consequence of increased congestion;
- Loss of best and most versatile agricultural land;
- Loss of land for wildlife;
- The development will cause light and noise pollution. The site is within a natural "amphitheatre" and so noise travels well;
- The density and proportion of open spaces is unacceptable in this landscape;
- The design and materials of the construction is unimaginative and typical of the developers pseudo village style, especially for the tightly-packed affordable housing;
- Impact on listed buildings and the Conservation Area;
- Extra housing will increase localised flooding;
- There are no plans for a doctors surgery at the site;
- The site will be subject to surface water flooding from Boyces Hill;
- The development would damage the character of Hollybank, a grade II listed building.

Village infrastructure

- There would be a significant increase in the population of the village of Newington (approx. 15%). This would change the character and fabric of the village. There are also other planning applications for residential development within the village with not sufficient infrastructure to cope;
- Query about the affordable housing proposed and whether it will actually be available to local people;
- Lack of infrastructure in terms of doctors and the local hospital cannot cope;
- Lack of school places;
- Lack of local employment. It makes more sense to build houses in towns, close to places of employment;
- There are very few trains stopping at Newington and no fast trains to London. Residents will have to drive to Rainham.

Residential amenities

- Building works will cause disturbance to local residents;
- Privacy and outlook from the properties along the A2 and Church Lane would be compromised;
- The residents of 103 High Street (adjacent to the proposed access) object on the grounds that there would be noise and disturbance due to vehicles using the new access;
- The development would affect light entering into no. 87 High St;

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- Overlooking from 2 storey units, especially where dormers are proposed.

Other

- Newington is becoming a town;
- It is better to development on brownfield sites, of which there are plenty in Swale;
- The development does not benefit the existing local residents, only the developers and land owner;
- There is no provision for soft landscaping to alleviate the intrusive impact of the proposed development;
- The site is likely to be extended to the east towards Keycol Hill in the future;
- The development is not part of the adopted Local Plan housing allocations;
- This would be a good place to provide housing. It would be sustainable development;
- If the village is to expand, it is better to do this to the north of the A2 than to the south;
- The majority of houses close to the site are bungalows and chalet bungalows. The proposed development would consist of 2 and 3 storey buildings;
- Greenbelt land should be protected (Members should note that this land is not within the Greenbelt);
- The demand for housing in London is being met by Kent.

- 6.02 In response to the amended plans, 21 representations have been received. Many of the comments reiterate the comments summarised above. Additionally, they comment: that there would be even more of an impact with the increase in number from 113 to 124; that the layout looks like a rabbit warren; no. 105 High St would be overlooked as it backs on to the development; the development would provide 3 storey flats and would be high density and would set a precedent, contrary to the emerging draft allocation policy and out of character with the village; detrimental impact on no. 105 High St as a result of noise and; fumes and disturbance from the use of the access into the site. They also express concern about the length of time allowed for the re-consultation.
- 6.03 Cllr J Wright – Ward Members for Hartlip, Upchurch and Newington objects to the application on the grounds that the land is not allocated within the Local Plan or the emerging Local Plan (This is not the case. The site is within the emerging Local Plan). He considers that there are better and more sustainable sites available. He has safety and congestion concerns about the proposed access to the site and extra traffic will increase pollution in his view. Additional pollution would impede the brickearth extraction at Paradise Farm as the cumulative impact would exceed permitted pollution levels. Why is section 106 money going out of the village when there is a need within the village? Issues about the safety of Church Lane have been ignored. Visitor parking does not seem to take account of commuter parking or visitors to the proposed parkland. The cumulative impact of this development with other approved developments does not seem to have been properly considered by Highways England.
- 6.04 Gordon Henderson MP for Sittingbourne and Sheppey strongly supports the residents of Newington and others in opposing the application because the site is not included within the Swale Borough Local Plan 2008 nor the emerging Local Plan (Members should note that this site is included as a housing allocation in the emerging Local Plan).

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6.05 CPRE object to the application on the following grounds:

- Whilst the Government's policy to significantly boost the supply of housing is a material consideration, the duty to consider this application against the adopted Local Plan still applies, even if the NPPF judges the policies out of date;
- It is clear that the proposal is not in accordance with the development plan;
- The proposal would also seem to conflict with the settlement strategy within the emerging Local Plan which describes Newington as having poor pedestrian connections between north and south of the village, restricted internal road network, poor air quality and surrounding high quality agricultural land as well as valued landscapes and heritage;
- There are grounds for refusing the application on prematurity as the development would undermine the emerging Local Plan which should identify sites and allow time for proper scrutiny and proper consultation. Also, the application needs to be considered in the context of the cumulative effect of other planning applications in Swale. The Council should strongly resist speculative development such as this in order to ensure sustainable patterns of development;
- Detrimental impact on the landscape and the character of the village setting;
- Should the application be approved, habitat enhancements should be incorporated into the development as well as: ensuring that the open space to the east is included within the management; wildlife corridors should be enhanced; the landscaping masterplan should include the pond that the SUDs report recommends and uncertainties about the drainage should be resolved;
- Loss of best and most versatile agricultural land;
- The Heritage Assessment needs to be improved to assess the detailed proposals. The proposal would go against the historic pattern of development in Newington Conservation Area. The application fails to provide sufficient evidence to demonstrate that there would be no harm to the setting of listed buildings close to the site;
- Detrimental impact on the AQMA. The mitigation measures are wholly inadequate. The cumulative impact on the traffic from this proposal with other development should be considered. The development will be car dependent;
- The submitted HRA fails to take account of the cumulative effects of the development on the North Downs Woodlands which already exceeds maximum critical levels of nitrogen pollutants;
- The proposal would fail to constitute sustainable development.

6.06 Swale Footpaths Group comment that public footpath ZR59 would not be affected by the proposal but as always, the upkeep of any new footpaths, cycleways etc. needs to be established.

7.0 CONSULTATIONS

7.01 Newington Parish Council object to the application on the following grounds:

- Loss of high quality agricultural land. Poorer quality agricultural land should be used instead;
- The land forms a natural boarder to the village and the proposal would result in 'urban sprawl'. Reference is made to an appeal decision which considers this issue;

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- The land was not included in the site allocations for housing in the emerging Local Plan (Members should note that these comments post-date the modified emerging Local Plan in which this site is included);
- The site is adjacent to High Street and Church Lane Conservation Areas;
- this is not sustainable development with poor public transport and a lack of amenities such as a dentist and doctors;
- the development would increase the risk of flooding within the site and/or the properties on the north of the High Street;
- the A2 is a busy road used by HGVs, buses and school traffic. The new access arrangements with 3 lanes would be dangerous to pedestrians and motorists. Narrowing the pavement here to 1.5m will be dangerous for pedestrians, particularly those who use mobility scooters and those who have buggies. Two buggies could not safely pass one another and HGV wing-mirrors would overhang the pavement;
- an increase in population would result in more pressure on the local hospital which is already in special measures;
- the development would result in an increase in air pollution. An increase in traffic would lead an increase in noxious fumes;
- the footpath link to Church Lane would become a focal point for anti-social behaviour;
- commenting on amended plans, they acknowledge that the applicant has sought to address the concerns of local residents, they consider that the overall concept is 'fundamentally flawed';
- there would be added congestion to the roads at peak times and the £94,000 offered for improvements to the Key Street roundabout will do nothing to alleviate the problem here and further onwards to Sittingbourne and the Stockbury roundabout. Traffic from this site will add to other developments planned with access to the A2 and;
- concerns about education contributions going towards a school outside of the village.

In response to the amended plans, Newington Parish Council make the following additional comments:

- The planned expansion of Newington is flawed on a strategic level as local services cannot sustain further development and the split between development in the Thames Gateway and Faversham is out-of-date. Additional villages should become Rural Local Service Centres instead of compounding problems in its towns and villages;
- The allocation of development here does not comply with policy ST3 which directs development to previously development land. The development would harm that settlement pattern and the character of the countryside.
- The proposed site is designated as best and most versatile agricultural land and development would be contrary to paragraph 112 of the NPPF and the council's own policies of protecting this land;
- The proposal would be likely to have at least a moderately adverse impact on air quality in Newington and Rainham AQMAs and therefore a significant effect on human health. There is no evidence to demonstrate the effectiveness of mitigation measures proposed. They note the recent EC decision to issue a final warning to the UK over failure to reduce NO2 levels with the threat of referral to the European Court of Justice;

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- Newington is a village and the residents wish it to remain one. The already approved and planned development in the village would increase the population considerably. Newington Primary School is already close to capacity and cannot expand due to traffic expansion;
- Public transport to and from Newington is limited – one slow train per hour to London or Dover, a poor bus service and no buses at all on Sundays;
- There is no doctors or dentist in Newington;
- The proposed flats do not have a lift and are unsuitable for the elderly, disabled and families with young children;
- The access onto the A2 would be too narrow and dangerous and pavements would also be too narrow;
- Congestion on the A2 and junctions to the A249 would be made worse;
- Nearby residents have suffered frequent rainwater and foul sewage flooding due to the incline of Boyces Hill and the sewage infrastructure;
- The Ellens Place application, opposite the application site, was refused planning permission and they believe that the same reasons apply for the application site.

7.02 UK Power Networks have no objection to the proposal.

7.03 Kent Police note that the applicant has considered crime prevention that that the developer has met with them to discuss the proposal. Secure by Design principles should be included in the development and a condition is recommended to secure this.

7.04 Natural England have no objection to the proposal. They note that the site is in close proximity to the Swale SPA and Ramsar site. This is also designated as a SSSI. A Habitats Regulations Assessment should be undertaken by SBC Planning. However, based on the information provided, Natural England consider that the proposals are unlikely to have a significant effect on these sites and can therefore be screened out from any requirement for further assessment. This is providing the development makes the necessary contribution towards the Thames, Medway and Swale Estuaries SAMM Strategy to provide appropriate mitigation towards recreational disturbance of birds within the SPA. Natural England also advise that the SSSI does not represent a constraint in determining this application and refers to their standing advice on protected species. They also recommend biodiversity enhancements. Commenting on the amended plans they consider that the development is unlikely to have significantly different impacts on the natural environment than the original proposal.

7.05 Network Rail comment on the application noting that the developer must ensure that their proposal, both during construction and after completion of works, does not encroach on their land, affect safety, operation or integrity of the railway line and its infrastructure, undermine its support zone or affect it in any other way. Future maintenance must be conducted solely on the applicant's land. All buildings should be at least 2m from Network Rail's boundary. No surface water or effluent should discharge from the site into Network rail's property. Foul drainage must be provided separate from Network Rail's existing drainage. Soakaways must not be constructed near/within 10-20metres of their boundary. During construction, no plant should be capable of falling within 3 metres of their boundary. Any scaffolding within 10metres of their land should not over-sail the railway and protective netting should be installed. Details of any piling will need to be agreed with them. The developer must

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provide a suitable trespass proof fence along the development side of the existing boundary fence to a minimum height of 1.8m. Its future maintenance should be secured by the developer. Any lighting for the proposed development should not interfere with the sighting of the signalling apparatus and/or train driver's vision. Their approval of the detailed lighting scheme is required. They asked to be involved in the approval of landscaping scheme where landscaping is proposed close to the track. The applicant is advised to contact the Asset Protection Manager.

- 7.06 The KCC Public Rights of Way Officer notes that public right of way ZR59 would be directly affected by the proposed development. They have no objection to the proposed development but have requirements for future maintenance if the proposal is approved. The proposed pond should be located so that it does not obstruct the public footpath or create potential drainage issues. Any vegetation close to the public right of way should be cut on a regular basis.
- 7.07 Southern Gas Network note that a low/medium/intermediate pressure gas main lies close to the site. There would be no mechanical excavations taking place above or within 0.5m of the gas main, or above or within 3m of an intermediate pressure system.
- 7.08 Southern Water note that they cannot accommodate the needs of the development without the provision of additional local infrastructure to reduce the risk of flooding and to supply water to the site. An appropriate condition is recommended. There are no public water sewers in the area to serve the development and there must be an alternative means of surface water disposal. The proposal refers to the use of SUDs. The developer should ensure that there are provisions for the maintenance of this system. The adequacy of the soakaway and drainage via the watercourse should be assessed.
- 7.09 KCC Sustainable Drainage note that the drainage strategy for the site in general is acceptable. They note that infiltration is likely to be suitable and should avoid exacerbating downstream flooding but require further detail on this. Soakaways should discharge into Chalk. Commenting on the revised layout and updated Flood Risk Assessment, they object to the scheme noting that there would be a significant increase in the use of permeable pavement and geocellular soakaways/attenuation storage shared across back gardens. The placement of drainage within the private properties could be a problem for future maintenance. The use of roofwater soakaways in central and western parts of the site is encouraged to tackle this problem. The greater depth of superficial deposit in the eastern side of the site may require the use of offsite discharge. The statutory undertaker will also be likely to object to adoptable pipework being sited under permeable paving. This may impact on the layout. Commenting on a written response from the applicant they strongly recommend that attenuation and discharge features are located within open spaces and common areas. This simplifies access and any future repair or maintenance requirement. The present layout does not lend itself to achieving this with a gravity discharge. They do however note that it may be possible to promote the use of individual property roof water soakaways to help solve this problem in the areas of the site where infiltration is more viable. Some areas will still need to consider the issues above. Further comments are anticipated upon receipt of the amended drainage details to address their previous comments.

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- 7.10 The Lower Medway Internal Drainage Board state that provided that surface water runoff is restricted to that of the Greenfield site with on-site storage to accommodate the 1 in 100 year rainfall event, ideally by the use of open SUDs, the Boards interests would not be affected. Details of surface water drainage should be required by condition. They suggest that open SUDs are better than the closed systems proposed.
- 7.11 Kent Highways and Transportation comment that the Transport Assessment has been prepared in consultation with them and Highways England and that the methodology used is appropriate. The figure generated for the predicted vehicle trip rates are considered to be accurate and would equate to less than 2% of the total number of vehicles passing through the village at the AM peak, well within the limits set out in the NPPF. Along with other local developments, this proposal should contribute towards an improvement scheme to increase capacity and manage traffic more efficiently through the Key Street roundabout. Highways England has calculated a contribution of £94,864 (now amended to £102,487) for this development. The proposed "ghost island" with a right turn filter lane would be appropriate for the new access and the resulting narrowing of the footway to 1.5m would be acceptable. The narrower lane widths would actually be wider than some of the many other right turn lanes along the A2 between Rainham and Sittingbourne and this is a 30mph stretch of the road. Infrequent use of this right filter lane by HGVs is considered to be acceptable. The design of this junction has been the subject of a Stage 1 Road Safety Audit which did not identify the narrow lanes as being an issue. In response to the latest set of amended plans, they comment that the new parking arrangement would meet the quantum suggested in current standards but would be lower than had previously been proposed. However, they note that the internal roads would not be adopted by them and so any parking issues would not be their responsibility. However, they do offer advice on how the parking arrangement could be improved. This includes increasing the number of visitor spaces where tandem spaces are relied upon and along two particular lengths of road, changing the footway along the main access to the opposite side of the road. They note the update Transport Assessment and consider that the findings are accepted and that there would be no material impact on the highway network. They have no objections subject to condition to ensure that the access and changes to the junction are provided prior to occupation, that adequate provision is made for contractor parking during construction, management of surface water so as to prevent spillage onto the highway, to prevent mud on the highway during construction, the provision and retention of parking space, completion of footways and carriageways prior to occupation, provision of cycle spaces and pedestrian visibility splays. Further comments on the revised parking layout with increased visitor spaces are awaited and will be reported at the meeting.
- 7.12 KCC Archaeology comment that the site has potential for prehistoric and Roman remains with high potential for Roman remains close to the public footpath that crossed the site to the east. There may also be a cemetery here and if so, this should be preserved and referenced in the landscape masterplan. There should be a programme of archaeological evaluation and appropriate mitigation which would involve preservation in situ or archaeological excavation. A suitable condition is recommended.
- 7.13 The NHS (Strategic Estates) confirm that there is no intention to develop a GP facility in this area as they would normally seeks to put funding into existing infrastructure

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rather than build new facilities unless the size of the development is such that a new facility is warranted. The Meads Practice operates out of a purpose built facility which is now operating at capacity and does have the potential to develop facilities to register additional patients. As the proposed development has details of the number of dwellings/bedrooms, they are able to calculate an exact figure for a contribution towards the expansion of The Meads Practice. This totals £124,200.

- 7.14 KCC Planning (Minerals and Waste) refer to the submitted LEAP Environmental Report and note that there is little or no definable brickearth present on the site. The report concludes that any brickearth present is unlikely to be of any economic value. They note that Wienerberger Ltd should have ideally been consulted in coming to this conclusion but KCC believe that the application for development on this site satisfies exemption 1 of Policy DM7 in the Kent Minerals and Waste Local Plan 2013-2030 in that 'the mineral is not of economic value or does not exist.'

- 7.15 The Environmental Services Manager comments on air quality, land contamination and noise. The findings of the noise report are accepted. Conditions to address the presence of contaminated land on the site and remediation thereof are suggested. A condition is also recommended to require the submission of a Construction Code of Conduct. With regards to air quality, he accepts the damage cost calculation of £151,133 as an improvement on the previous figure offered. In his latest comments he states:

"When comparing this figure against predicted NO₂ concentrations in 2021, both with- and without the development, the impact is considered negligible in Newington for all 12 receptors, with none of these points experiencing more than a 1.0% change, and none higher than 92% of the AQ objective. In Rainham it is predicted to be between slight and moderate, depending on the location in question. Here the figures were up to 148% of the AQ objective value.

Because of this prediction, in Newington this impact is not considered significant referring to the guidance in section 7.6 of the EPUK Planning Guidance 2017.

This is a change from previous assessments, where a slight to moderate impact was predicted for Newington. The data has been rigorously discussed, checked and modelled again and the most recent 2015 data now used. The impact on Rainham has also been applied and shown to be more significant than in Newington.

Despite the lower significance of the latest assessment, the applicant is keen to retain the level of mitigation described previously, as they consider that it will not only assist the Newington, but also the Rainham AQMA.

To accompany the lower significance of the development in Newington, the damage costs have been correspondingly reduced from that previously offered. The figure now stands at £132K. Some of this figure will be put aside for further air quality monitoring-related activities with discussions to follow.

I have considered this application very carefully over a period of time and have seen an improvement in the clarity and quality of the data presented in each succeeding version of their air quality assessments.

I am now satisfied that the applicant has done everything reasonably possible to demonstrate that the impact on local air quality is negligible in Newington, despite the

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presence of a nearby AQMA. In addition, the suggested mitigation measures are being retained and can only assist the situation further.

The latest data appears to show a greater impact on the Rainham AQMA than Newington. I therefore do not object to this proposal."

- 7.16 The Environment Agency have no comment on the application as it is not in a flood zone or near a river or source protection zone.
- 7.17 The Greenspaces Manager notes that the amenity space is a little limited in terms of usability for ball games, however, the natural greenspace is significant. There is a lack of play facilities provided and he seeks some formal, perhaps natural play elements within the natural greenspace (the amended plans provide this). In addition, a contribution of £511 per dwelling is sought towards Newington Recreation Ground. Clarification on the transfer of open space to the Council is required and a contribution towards maintenance of this land if necessary (the open space is to be transferred to a management company).
- 7.18 Highways England comment that the proposals have the potential to impact on the safe and efficient operation of the Strategic Road Network (SRN) in this case the A249. The development would generate 56 trips in the AM peak and 56 trips in the PM peak at the A2/A249 Key Street junction. The conclusions of the submitted Transport Assessment that there would be no impact is not accepted and they consider that the junction would operate over capacity in the peak hours by 2021. As a result the Key Street junction will be adversely affected and mitigation will be necessary. On the basis that this development contributes to improvements to this junction, Highways England have no objection. This approach is in line with other developments that would have an impact on the Key Street junction. In response to the amended plans and updated Transport Assessment they are satisfied that the amended proposals will not materially change the scale of impact compared to the amended proposal. Their previous comments still apply therefore with an increase in the amount requested for junction improvements to £102,487.
- 7.19 KCC Ecology comment on the application and advise that there is sufficient ecological information to determine the application. They note that because the majority of the site boundaries would be retained, there would be no loss of foraging/commuting habitat for bats. However, the lighting within the scheme should be designed to minimise the impact on bats/site boundaries. The Suitable Alternative Natural Greenspace (SANG) will increase the foraging habitat for bats if managed properly. There is evidence of foraging badger within the site and there needs to be measures in place to ensure that this can continue. Access between the grassland/scrub buffer and scrub area within the SANG for badgers will need to be provided and the proposed dog-proof fence amended accordingly. Any works to the site boundaries should be carried out outside of the bird-breeding season or that an ecologist is appointed to examine the site and that work ceases if birds are found. If managed correctly, the SANG will create habitat which will benefit biodiversity. However, the submitted management plan is not sufficiently detailed. A condition is recommended to ensure that a detailed SANG management plan is submitted. The submitted Habitats Regulation Assessment is noted and its conclusions that the development will avoid a likely significant impact are accepted providing that the SANG is provided and contribution is made towards the Strategic Access Management and Monitoring plan (SAMM). In response to the amended layout, they note that there is potential for bats to roost in trees 18 and 20 and that there is a need

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for climbing surveys to assess their suitability for roosts. Following the submission of the climbing surveys, KCC Ecology are happy for the removal of overhanging branches to tree 18 with the need for additional information. However, for tree 20 there is potential for bat roosts in the overhanging branches. As such, they recommend a condition to require a further assessment prior to the tree works being carried out and suggest a suitably worded condition.

- 7.20 KCC Economic Development (Education contributions) seek contributions towards primary and secondary schools (both new schools at Quinton Road), community learning, youth services, libraries and social care. They also ask for superfast fibre optic broadband to be provided for all properties within the site.
- 7.21 The Strategic Housing and Health Manager seeks 40% affordable housing with a 70:30 split of social rented : shared ownership and accept that this equates to 49 affordable dwellings. The distribution of affordable housing across the site is accepted. A proportionate mix should be provided across each phase of development if it is to be phased. They seek a small number of wheelchair adaptable homes, the number of which would be agreed with the preferred Registered Provider.
- 7.22 Medway Council object to the proposal on the grounds that the Air Quality Assessment does not consider the impact of the development on the Rainham Air Quality Management Area. They also consider that the development might lead to extra pressure on schools within their administration and that contributions towards education should be made to them. Medway Council have been consulted on the amended Air Quality Assessment and I will update Members at the meeting.

8.0 BACKGROUND PAPERS AND PLANS

Agricultural Land Classification and Soil Resources; Air Quality Assessment; Arboricultural Impact Assessment; Arboricultural Method Statement; Ecological Assessment; Energy & Sustainability Statement; Flood Risk Assessment; Habitats Regulations Assessment; Heritage Statement; Historic Environmental Assessment; Landscape and Visual Appraisal; Noise Assessment; Planning Statement; Statement of Community Involvement; Transport Assessment; Travel Plan Framework; Desk Study Investigation Report (contaminated land); Design and Access Statement; topographical survey plans; proposed site layout; landscaping masterplan; strategy plans; elevations; Development and Air Quality Update.

9.0 APPRAISAL**Principle of Development**Planning Policy and the Housing Land supply position

- 9.01 For the purposes of the development plan, the site is located outside of the built confines of Newington and falls to be considered as within the countryside and a Strategic Gap. Policy E6 of the adopted local plan seeks to protect the quality, character and amenity of the countryside. Policy E7 of the adopted local plan seeks to prevent development that would result in the merging of settlements or the piecemeal erosion of land or its rural open and undeveloped character or prejudice the Council's strategy for the redevelopment of urban sites. Policy SP4 seeks to provide sufficient land for housing need, policy SP5 seeks to protect the quality and

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character of the wider countryside and policies TG1, SH1 and H5 of the adopted local plan seek to concentrate this in the Thames Gateway Planning 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. The application site being outside of the built-up area boundary would be contrary to the above policies, with the exception of policy SP4, and not in accordance with the development plan.

- 9.02 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 or, specific policies within the Framework indicate development should be restricted.
- 9.03 Paragraph 47 of the NPPF seeks to significantly boost housing supply, and requires Local Planning Authorities 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 clarifies that policies for the supply of housing should be considered out of date if the LPA cannot demonstrate a 5 year supply.
- 9.04 Based on current Objectively Assessed Needs (OAN) for housing within the Borough, we require 776 dwellings per annum. The council cannot currently demonstrate a 5 year housing supply on this basis as the supply figure currently sits at 3.8 years' worth. Given that the Council cannot demonstrate an existing 5 year housing supply, and policies for housing delivery pre-date the OAN, they must be considered as out of date. For clarity, these out-of-date policies are: SP5, TG1, SH1, E6, E7 and H2, although it should be noted that they should not be given no weight at all.
- 9.05 The emerging local plan is has now completed its examination in public (closed 9th February), and following the Inspector's interim findings, the Council has sought to significantly boost its housing allocations to meet objectively assessed housing needs as modifications to the emerging Local Plan. One of the additional sites identified to meet this housing need is the application site and is a draft allocation under Policy AX6. This policy states that planning permission will be granted for a *minimum* of 115 dwellings along with a large area of green space in the eastern third and green corridors through the site. The decision to allocate this site within the emerging local plan followed a number of steps. Firstly, the site was assessed in the 2014-15 Strategic Housing Land Availability (SHLAA) in the context of a lower housing target. At that time, whilst landscape and traffic issues were considered capable of being addressed, the presence of the AQMA and the distance to a GP surgery meant that the site was not considered suitable. Following the Inspector's interim findings and the increase in the overall housing target, the SHLAA was subject to a 2016 addendum which required the site (and others) to be re-assessed. This was published in June 2016 and re-considered the two main constraints of the AQMA and

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access to medical facilities. In respect of the access to medical facilities, the SHLAA concluded that a 'flexible' interpretation could be used here because existing residents of Newington already need to travel to access medical facilities. With regards to the AQMA, the site's location on the eastern side of the village meant that the majority of traffic from the site intending to access the strategic road network would not pass through the village, therefore avoiding travelling through the majority of the AQMA. It should be noted that this assumption is supported by the Transport Assessment submitted in support of this application. The critical need for housing sites was therefore considered to outweigh the impact of the two identified constraints and the site was identified as potentially being acceptable for allocation. The 2016 SHLAA concluded:

"...this is an excellent opportunity for high quality housing in a semi-rural location which is likely to prove popular with developers and purchasers."

- 9.06 The site was secondly assessed under the Sustainability Appraisal of the Swale Borough Local Plan June 2016. This assessment concluded much the same as the 2016 SHLAA with regards to the impact on the AQMA but noted that there is potential for 'in combination effects'. It also highlighted the proximity of the site to the Conservation Area and the need to address the impact on this heritage asset. However, it was also noted that the site has a good relationship with the village centre and train station (via the footpath link to Church Lane). The site was also ranked well, at 21 out of 115 within the ranked assessment of non-allocated options to inform modifications to the Swale Borough Local Plan June 2016 (AECOM). Thirdly, the report to the LDF Panel on 19th May 2016 compared this site to other sites to the west of the village and noted that it was better in terms of landscape, heritage and air quality impacts.
- 9.07 Consultation on the modifications to the emerging local plan, including policy AX6 which allocates the application site for housing, took place over the summer of 2016. A further examination of the emerging Local Plan took place in February this year with the Council seeking to demonstrate that it can meet its full identified housing needs and a 5 year supply. A number of policies within the emerging plan seek to deliver housing development in order to meet the OAN for housing in the Borough. These policies are ST1 (sustainable development including delivery of homes to meet OAN), ST2 (delivery targets), ST3 (Swale settlement strategy), ST4 (site allocations to meet OAN), and ST5 (Sittingbourne area strategy) to provide housing at sites within the urban and village confines, or as urban extensions to settlements where indicated by proposed allocations.
- 9.08 Against the emerging Local Plan, the Council's published statement of housing land supply for 2015/16 shows the Council to have a five year supply of 5.4 years. However, at this time the Plan has not yet been found to be sound. I can therefore only attach limited weight to this changed position, other than to note the important point that the achievement of this land supply has been assisted by the allocation of the application site and that without it, this supply would be inevitably reduced.
- 9.09 Paragraph 216 of the NPPF sets out that decision makers may give weight to emerging plans, depending on the stage of preparation of the plan (the more advanced, the greater the weight), the extent to which there are unresolved objections, and the degree of consistency of relevant policies to policies in the NPPF. In this case, the emerging plan policy AX 6 received a relatively large number of

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objections from local residents, the Parish Council and CPRE. Although these representations remain outstanding, I am of the opinion that the soundness of the evidence base supporting the Local Plan means that material weight should be given to the emerging plan and in terms of the Council's support for the sites that it has allocated to meet the overall OAN and demonstration of a five year housing supply.

- 9.10 Given the fact that the application site is included as a draft allocation within the emerging local plan, I do not consider that it would be premature to approve development on this draft allocation site prior to the adoption of the emerging Local Plan, particularly given the overall need for housing and the Council's 5 year supply position. Planning Practice Guidance clarifies that refusal on the grounds of prematurity would only be justified if the development would undermine the plan-making process. In this case, this draft allocation site has been chosen having followed the approach to the settlement hierarchy set out in the emerging Local Plan, which the examination inspector has endorsed. Therefore I consider that granting planning permission at this stage would not prejudice the plan-making process.

Local infrastructure

- 9.11 The site is within walking distance of a number of amenities within Newington, including a primary school, post office, convenience store, train station and community hall. The proposal includes a pedestrian/cycle link between the site and Church Lane which would provide direct access to the centre of the village which would cut-down walking times to the primary school and train station. Even without this link to Church Lane, the walking distance if using the main access onto the A2, would still only be approximately 1km. I acknowledge that the local primary school as oversubscribed. Unfortunately, this situation is not uncommon within Kent. KCC have asked for contributions towards a new primary school at the allocation known at North-west Sittingbourne (Quinton Road) to cater for an increase in population as a result of new housing developments and so it considered that, at a strategic level, the numbers of primary places available to residents of this part of the borough would be sufficient. I understand that, currently, some of the children who are allocated places at Newington Primary School live outside of the village. If this development is approved, it is likely that children who live in the village will be given preference, including those living on this new estate, with children living outside the village being given places elsewhere when applying for a primary school place.
- 9.12 The lack of a doctors' surgery within the village is disappointing but is not fundamental to the acceptance of this development in my view. The NHS have confirmed that they do not consider the provision of a new surgery within the application site to be necessary and there are doctors surgeries in Rainham and on The Meads, both a 5-10 minute drive from the application site.

Loss of agricultural land

- 9.13 The application is accompanied by an Agricultural Land Classification Report which confirms that 76% of the site is Grade 2 and 24% is grade 3A and so falls within the 'best and most versatile' category. Policy DM 31 of the emerging local plan states that 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. An overriding need in this case is considered to be the housing needs of this Borough. Policy DM 31 states that development on best and most versatile agricultural land wil

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I not be permitted unless the site is allocated by the local plan. In this case, the site is included as a draft allocation in the emerging local plan. Paragraph 112 of the NPPF states that where significant development of agricultural land is demonstrated to be necessary, local planning authorities should seek to use areas of poorer quality land in preference to that of higher quality. The applicant argues that the majority of agricultural land around Newington is best and most versatile and therefore to accommodate the development needs of the Borough, it is inevitable that development will have to take place on said land in the absence of poorer quality land. In this case however, I consider that the overriding argument in respect of the loss of best and most versatile agricultural land is that the need for housing outweighs the need for agricultural land and the fact that this site is included as a draft allocation is of significance.

Visual/landscape Impact

- 9.14 The application is accompanied by a Landscape and Visual Impact Assessment (LVIA). This assesses the landscape impact from different scales – national (North Kent Plain), Kent (Fruit Belt) and local (Iwade Arable Farmlands). This notes that the southern boundary of the Area of High Landscape Value is located approximately 310m to the north of the application site and is separated from the site by the railway line and an expanse of vegetation. The LVIA considers that the site does not contain any particularly unique landscape characteristics which cannot be found elsewhere within the study area or wider landscape and the character of the site is influenced heavily by the adjoining developed land a Newington to the south and west. It is largely protected in views by the railway line and its embankments to the north and by Keycol Hill to the east. Glimpsed views of the site would be mainly from motorists, cyclists and pedestrians travelling along the A2 and High Oak Hill and users of the public rights of way – ZR59 (which passes through the site), ZR58 (to the east of the site) and ZR38 (to the west of the site Mill Hill) as well as passengers of the trains travelling along the railway track and properties backing onto the site. Overall, the LVIA concludes that the site would have a small and contained visual envelope and that as a result it would affect only a limited number of individuals on a local scale. I agree with these findings.

- 9.15 The report concludes that:

“Although the development would result in a change to the character and appearance of the site and would cause a reduction in the amount of agricultural land and a corresponding increase in the settlement area to the north-east of the village, the general relationship between the existing settlement of Newington and the surrounding rural landscape would not be fundamentally altered.”

- 9.16 The north, south and west boundaries of the site enclose the site with residential properties and the railway line which is on a raised embankment. The site also sits lower than the land to the east meaning that the built-up element of this development would sit in a pocket of land that would be protected from view from a significant number of viewpoints. It would be seen within the context and against the backdrop of Newington village. The submitted report concludes that adverse impacts would be minor and on a local scale which could be mitigated through a landscape buffer to the eastern boundary.

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- 9.17 There is no doubt that the loss of open countryside would lead to some harm to the landscape on a local level. However, the inclusion of a robust landscaping scheme through the site and around the edges of the built up part of it would go some way towards softening its impact. Also, a significant part of this scheme is the inclusion of the open space to the eastern third of the site. This open space would cater for both recreational use and ecological enhancements. The public right of way that cuts through this open space would also be incorporated into it and there would be a circular walk around the space which is intended to cater for dog walkers.
- 9.18 The layout of the development has also sought to introduce tree-lined 'green corridors' as encouraged by the draft policy allocation AX6. There are pedestrian links running through the development between the open space to the east and the 'green' to the west. The scheme as amended has a rural feel with roads that are less dominant than the original plans had shown. The architecture of the dwellings offers a good mix of housing types and forms, all of which are of a vernacular that reflects a more traditional rural village character. Finishing material such as weather-boarding and, tile hanging and slate roof. I consider that this design, layout and architecture is appropriate for this area and that it responds well to emerging policy AX6. Amended plans have been submitted to address some concerns in respect of design i.e. introducing windows in some flank elevations, adding interest in terms of the pallet of materials to some of the terraces and, introducing trees/hedges to some of the parking areas. I consider that the proposed scheme would be of a good design overall.

Residential Amenity

- 9.19 The proposed development would undoubtedly increase noise, activity and levels of light within the site when compared to its current use as an agricultural field. However, this would be entirely associated with residential use and informal recreational use of the open space which is not considered to be a 'bad-neighbour' in planning terms. In terms of the proximity of the proposed houses to existing residential properties fronting High Street and Church Lane, I consider that there would be a sufficient distance allowed to avoid any harmful overlooking, overshadowing or an overbearing effect. I have given careful consideration to the impact in terms of noise and disturbance caused to the residents of nos. 99 and 103 High Street as a consequence of vehicles using the new access into the site. There will no doubt be an increase in noise experienced by these properties. However, I do not consider that this would be significant in comparison to the road noise already experienced from the High Street. The new access would be adjacent to the flank elevation of no. 99. There is one high level ground floor flank window and a non-habitable first floor window within the flank elevation of this property. It is likely that cars would be travelling at a slow speed at this point thereby reducing noise impact. The submitted noise survey predicts that for the rear garden of no. 103 High Street, the road traffic noise levels from the A2 would increase by 4 db. However, it notes that the worse-case scenario would not see noise levels exceed 55 db, which is considered to be acceptable (according to British Standard 8233:2014). The plans show that there would be a landscaped buffer provided between the new access and no. 103 High Street and I consider that this would limit any noise impact further.
- 9.20 Concern has been raised in respect of car headlights shining into properties facing the new access. Such an impact, if it were to occur, would not be a constant source of irritation to the extent that it would become a nuisance in my view, noting that such circumstances are unavoidable in housing layout designs.

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- 9.21 A noise survey has been submitted with this application to consider the impact of noise from the railway line to the proposed dwellings as well as noise from the A2. It states that levels of railway noise at the development are expected to be lower than shown on the noise contours set out in the report and that in practice, railway noise levels are expected to be satisfactory. Properties close to the railway have been mostly positioned to face towards it so that the dwellings themselves can act as a noise buffer for the rear gardens. No vibration was perceived at the railway noise monitoring position. Noise levels from the A2 are also predicated to be acceptable in most cases. The Environmental Services Manager accepts the findings of the report, which recommends specifications for glazing, trickle vents, mechanical ventilation and wall construction to ensure that noise levels within the dwellings most affected by the noise are acceptable. I have recommended a suitably worded planning condition which refers to mitigation measures required and a plan identifying the properties that are most likely to be affected by noise from the railway and the A2.
- 9.22 The development is laid out in such a way that there is no significant overlooking between the new properties and any overshadowing or overbearing effect would be limited. The rear gardens of house and the communal amenity space for the flats would all be of an appropriate size and depth, giving future residents a good quality living environment in my view.

Highways

- 9.23 The submitted Transport Assessment (TA) considers the impact of the proposed development on relevant junctions and highlights the need to pay a contribution towards improvements to the Key Street/A249 junction. This has been accepted by Highways England with a requested contribution of £102,487 (see paragraph 7.18). The updated TA states that the proposed use of the site would only lead to a small increase in trips on the local highway network. Local junctions in the area were considered to have adequate capacity to accommodate the additional traffic from the development. This has been accepted by Kent Highways and Transportation. The proposed access to the site has been designed in conjunction with Kent Highways and Transportation and provides a right turn lane in the form of a ghost island on the A2/High Street at the point where the access to the site is proposed.
- 9.24 A number of local residents have serious concerns about the design of this junction in respect of increasing congestion and also the consequent narrowing of the footpath to 1.5m wide. The concern here is mainly in respect of the safety of pedestrians using this footpath being knocked/clipped by wing-mirrors to HGVs. Kent Highways and Transportation continue to accept the findings of the Road Safety Audit submitted with the application which finds the proposed new junction to be safe. Kent Highways and Transportation are confident that the new junction will not cause an increase in congestion along the A2.
- 9.25 In respect of congestion associated with increased vehicles using local roads, the findings of the updated TA are that there would be no material increase in traffic on the A2 through the village and no increase on Church Lane. The TA assumes that almost 60% of the traffic from the site would turn left towards the strategic highway network and Sittingbourne and 40% of traffic from the site would turn right towards the Medway towns and through Newington village. This assumption is based on the 2011 census data for journeys to work. Kent Highways and Transportation accept these assumptions. Kent Highways and Transportation have highlighted the fact that

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the scheme makes use of tandem parking and recommends that additional visitor spaces are provided within the site. They also ask for other minor changes to the parking and road layout. The applicant has submitted amended plans to address some of these concerns and it is anticipated that further comment from Kent Highways and Transportation will be available at the meeting.

- 9.26 The use of the existing farm access from the western boundary of the site to Church Lane as a pedestrian/cycle access has been criticised by local residents as interfering with rights of access to 40, 42 and 44 Church Lane and also potentially attracting anti-social behaviour. However I see this pedestrian/cycle link as an important way of integrating the development into the existing village. I note that Kent Police have not raised any concerns in respect of this pedestrian/cycle link and consider that with adequate lighting (details of which I have requested in the lighting condition below), instances of anti-social behaviour would be limited. With regards to vehicular access being retained for 40, 42 and 44 Church Lane, the applicant has altered the position of the bollards so that this access is still allowed whilst preventing vehicular access to the majority of the pedestrian link.
- 9.27 I understand the concerns of local residents in respect of the pedestrian/cycle link coming out onto a busy road with a narrow footpath at this point. However, I have observed that cars tend to park along the opposite side of Church Lane and there is also a chicane at this point in the road. This will slow vehicles down as they approach these obstacles. I consider that the pedestrian/cycle link will be an attractive and safe route for the residents of the proposed development.
- 9.28 I am informed that no. 103 High Street has a right of way over the current farm access into the site from the A2. The concern is that the proposed plans do not allow for this right of access to continue. I have not been given evidence of this right of access but note that the plans do not extinguish the opportunity for the right of access to be maintained. This could very easily be addressed directly between the developer and the resident should they wish to pursue it.

Heritage

- 9.29 A Heritage Statement has been submitted with the application and this identifies key heritage assets, including Newington High Street Conservation Area which immediately abuts the western boundary of the site and a small number of listed buildings close by.
- 9.30 Paragraph 132 of the NPPF states that *"When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting."* The setting of a listed building and/or conservation must either be conserved or enhanced.
- 9.31 In terms of the impact on the listed buildings, the majority face onto the High Street and have no notable relationship with the application site. Hollybank, a grade II listed building faces onto Church Lane and it the closest listed building to the application site. It does have some connection with the application site in that its garden backs onto the western boundary. In respect of Newington High Street Conservation Area and Hollybank, the submitted Heritage Statement notes that:

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"The part of the conservation area lying along Church Lane, including the gardens of Holly Bank (31) are the most likely to be effected given their proximity to the proposed development. The key components of the historic setting of the Church Lane have been summarised as follows:

- *Focussed on the road / inward looking;*
- *Residential;*
- *Attractive groups of traditional buildings.*

Whilst the proposed development may, depending on size and massing, impact on the views of some properties in Church Lane and the Conservation Area this visual amenity has not been identified as contributing to the significance of the designated assets. The key components of the historic setting outlined above are not anticipated to be impacted by the development particularly given its inward looking focus and enclosed character. The proposed development area is similarly enclosed and thus is unlikely to provide competition with or distraction from the Conservation Area. Accordingly the likely impact of the proposed development of the setting (as it pertains to significance) is considered negligible."

- 9.32 In respect of the Newington Church Conservation Area which is to the north of the site on the other side of the railway line, the Heritage Statement notes:

"This wider setting has not been identified as making a major contribution to the setting of the assets as pertains to their significance and impacts are therefore likely to be negligible."

- 9.33 I therefore consider that the setting of the designated heritage assets as identified would be preserved.

- 9.34 I have recommended a suitably worded condition to address the comments of the archaeological officer in respect of potential archaeological find at the site.

Air Quality

- 9.35 The applicant has submitted an Air Quality Assessment (recently revised) and a 'Development and Air Quality Update' to accompany this application. Members will have noted that an Air Quality Management Area (AQMA) has been declared along Newington High Street, the eastern end of which extends 150m past the proposed access to the site. As such, vehicles travelling to and from the application site will travel through the AQMA. The submitted assessment considered the potential impacts on local traffic emissions once the development has been completed (2021) and concludes that the impact of any change in the predicted particle concentrations (PM₁₀) at existing receptors is negligible and that subject to appropriate mitigation measures, the impact on air quality during construction is negligible. I have recommended that the mitigation measures during construction are set out within the submitted Air Quality Assessment are implemented through the Construction Code of Conduct (condition 12).

- 9.36 Paragraph 109 of the NPPF states: *The planning system should contribute to and enhance the natural and local environment by...preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of soil, air, water or noise pollution or land instability.*

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- 9.37 Paragraph 124 of the NPPF states: *"Planning policies should sustain compliance with and contribute towards EU limit values or national objectives for pollutants, taking into account the presence of Air Quality Management Areas and the cumulative impacts on air quality from individual sites in local areas. Planning decisions should ensure that any new development in Air Quality Management Areas is consistent with the local air quality action plan."*
- 9.38 For NO₂ concentrations, the submitted Air Quality Assessment sets out the impact of the development on receptors located along the A2 within the Newington and Rainham AQMAs. The impact on receptors is considered to be negligible for the Newington AQMA and slight, moderate or negligible, depending on the location of the receptor, within the Rainham AQMA. The assessment identifies that in no cases would the government objective of 40µg/m³ be exceeded within the Newington AQMA but that within the Rainham AQMA the objective would be exceeded in 6 out of the 8 receptor locations. In this case, the baseline NO₂ concentrations already exceed the objective - 40µg/m³. However, the development is predicted to add less than 1% to the NO₂ concentrations here. The data shows that for the Newington AQMA, there would not be a significant effect on human health as a consequence of increases in air pollution from this development. However, owing to the fact that the NO₂ concentrations in the Rainham AQMA are already exceeding the 40µg/m³ objective, it is concluded that any increase, no matter how small, would, as a consequence of development, lead to a significant effect on human health. The assessment recommends that mitigation measures should be considered.
- 9.39 Members will note the recent appeal decisions for two proposed residential developments at Pond Farm (APP/V2255/W/15/3067553 & APP/V2255/W/16/3148140 which were reported to the previous planning committee). This was for two schemes, one for 140 houses, plus 60 extra care units, and one for 330 houses with 60 extra care units). The Inspector considered the impact of the development on air quality, specifically the AQMA, among other issues. The appeal was dismissed on the grounds of detriment to the landscape and also significant adverse effect on human health in terms of air quality in respect of NO₂ levels. In the final planning balance, the Inspector considered that the combination of the landscape and air quality harm would outweigh the need for housing. As such, given the conclusions of the Inspector and the submitted air quality assessment for this application, very careful consideration must be given to this matter.
- 9.40 For the Pond Farm appeals, the Inspector found the predicted fall in general levels of NO₂ as set out in the submitted air quality assessment was over optimistic and that therefore, NO₂ levels at receptor sites would be likely to be worse than predicted. As a consequence, the Inspector found that "moderate adverse" and "substantial adverse" impacts were likely. The Inspector also found that the proposed mitigation measures were unsupported by evidence to demonstrate their likely effectiveness. In addition, the Inspector found that the contributions that were put forward to fund measures to mitigate the adverse impacts of the development *"may well not reflect the true impacts of the development."*
- 9.41 Members should be advised that the applicant for the Pond Farm appeal has submitted an application for a judicial review on the grounds that the Inspector erred in law in their assessment of the air quality impact.

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- 9.42 The applicant has taken the opportunity to review the submitted air quality assessment in the light of the Pond Farm decisions, new monitoring data from 2015 and has reassessed the damage cost calculations in order to reflect the latest version of the DEFRA Emission Factor Toolkit. This update in the calculation increases the five year damage cost to £132,951 from the original £5,716. The air quality consultants also highlight the differences between the Pond Farm development and the current application in respect of: the lesser number of properties proposed under the current application with a lesser number of traffic movements; the inherent sustainability of this site being so close to the centre of Newington, train station and bus stops and; the fact that the air quality assessment for the current application does not make assumptions about a reduction in background concentrations of NO² levels, as the Pond Farm assessment did.
- 9.43 The applicant has also taken the opportunity to submit a document entitled 'Development and Air Quality Update'. This is a helpful document that sets out how the application has changed since its first submission and how it has responded to changes in air quality considerations and the Pond Farm appeal decision. It also demonstrates very well how sustainable the site is in respect of being within a short walking distance of a number of the amenities within Newington, including the primary school (10 minutes), train station (4.5 minutes) and bus stops (5-7 minutes). Importantly, the document sets out a number of mitigation measures that are to be included within the development which are costed based on the 'damage cost' referred to above with additional mitigation measures proposed since the original submission. These mitigation measures include:
- Electric car charging points at every property, plus 10 free-standing dual EV car charging points for some of the visitors spaces;
 - Travel Plan & Welcome Pack to encourage a 'modal shift' to sustainable means of transport such as public transport, cycling and walking. Also to include details of grants for purchasing electric vehicles and details of car sharing schemes;
 - Low NOx or zero emission boilers fitted to all properties and use of green infrastructure – trees and soft landscaping within the development;
 - Cycle sheds for each property and cycle voucher for each new resident;
 - Potential for funding of an improved cycle shelter at Newington Railway Station (£5,000);
 - Financial incentive for eco driver training for each household (£50 each);
 - Financial contribution towards air quality monitoring (£15,000);
 - Independent Validation Report prepared detailing how the mitigation measures have been implemented and submitted to SBC.
- 9.44 As part of the process of deciding how best to utilise the 'damage cost' (£132,951), the applicant also considered other mitigation measures such as an additional bus stop, repairs and improvements to existing bus stops, private car club scheme. These were discounted for a number of reasons and I am content that the mitigation measures put before us will be the most effective in seeking to reduce the air quality impact of the development. The mitigation measures put forward are in line with the Swale Borough Council Air Quality Planning Technical Guidance (December 2016).
- 9.45 Members will have noted that Medway Council have objected to the scheme on the grounds that the submitted Air Quality Assessment does not consider the impact of the development on the Rainham AQMA. The recently revised Air Quality

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Assessment does now consider the Rainham AQMA and Medway Council have been re-consulted. Their comments will be reported at the meeting. I am seeking further clarification from the applicant about how the damage cost calculation will be directed to the Rainham AQMA and will update Members at the meeting.

- 9.46 Despite what the applicant's air quality assessment concludes, which is that the development would have a significant adverse impact on air quality within the Rainham AQMA, it is a matter for the Environmental Services Manager to consider and to ultimately advise Officer's and Members on the significance of the effect on human health. Guidance from Environmental Protection UK and the Institute of Air Quality Management for the consideration of air quality within the land-use planning and development control process (January 2017) notes that a significant impact on air quality does not necessary equate to a significant effect on human health. This depends on factors such as the number of people that might be affected and whether the development lies within an AQMA. It is important to note that the Environmental Services Manager does not object to the scheme on air quality grounds and has taken his time to fully consider the issues in light of changing air quality guidance and the recent Pond Farm appeal decision. He does conclude that the air quality effect would be significant for the Rainham AQMA but notes that national air quality NO₂ objective levels have not been exceeded within the Newington AQMA and even with the development in place, are not predicted to rise above this national limit. He also notes that the mitigation measures put forward would go some way towards reducing the harm within the Rainham AQMA.

- 9.47 Ultimately, a weighing-up exercise must be conducted, of the potential harm in terms of air quality impact on human health against the benefits of the scheme in terms of the significant need for houses in the Borough. This is made clear in the Land-use Planning & Development Control: Planning for Air Quality. Guidance from Environmental Protection UK and the Institute of Air Quality Management for the consideration of air quality within the land-use planning and development control process (January 2017). This states:

"A significant air quality effect is not, of itself, a reason for refusal of a planning application; that decision will be the outcome of a careful consideration of a number of factors by a planning committee (or a planning inspector/Secretary of State), air quality being just one of the factors."

(para. 7.3)

- 9.48 As such, although I still consider the effect on human health to be significant within the Rainham AQMA as a consequence of the increases in NO₂ levels, I consider that a direct comparison with the Pond Farm scheme is unwise given the differences as set out above. I acknowledge the mitigation measures, including the contributions towards monitoring, that have been offered and consider that they are practical and reasonable for this size of development. The effectiveness of these measures is unknown but it must be acknowledged that our own technical guidance referred to above promotes these measures.

Ecology and biodiversity

- 9.49 A Phase 1 Habitat Survey has been undertaken on the site to provide an inventory of basic habitat types at the site and comments on the need for further survey work. This recommended that a series of bat emergence surveys are carried out. No bats

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were detected during these surveys and so buildings on site can be demolished. The report concludes that the majority of the site consists of an agricultural crop of little ecological value and that the development is unlikely to have an adverse effect on the conservation status of habitats or species. The boundary hedgerows are of value to bats and should be retained and enhanced and the report suggests a number of mitigation measures to ensure no significant impact upon protected species. I have recommended conditions to ensure that there are enhancements to biodiversity at the site and a condition to protect bats that may be affected by proposed works to one of the trees with the site, as requested by KCC Ecology. I have also required the submission of a detailed management plan for the open space to the east. An amended Landscape Masterplan has been submitted and this includes amendments to the open space referred to as a Suitable Alternative Natural Green space (SANG) to better respond to policy AX6 and also the comments of KCC Ecology.

- 9.50 An arboricultural survey was undertaken at the site and notes that a total of 24 trees, 5 tree groups and 1 hedgerow would be lost as a consequence of the development. However, 29 trees, 14 tree groups and 7 hedgerows would be retained with replacement planting proposed to more than compensate for the losses.
- 9.51 Natural England do not object to the application noting that there would be no significant impact on the SPA subject to contribution towards the Thames, Medway and Swale Estuaries Strategic Management and Monitoring (SAMM) Strategy. 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) require the Council to make an appropriate assessment of the implications for the site. An Appropriate assessment is appended.

Section 106 agreement

- 9.52 The applicant has been asked to consider the following planning obligations/developer contributions in line with the various requests from consultees.
- Community learning: £7432.89
 - Youth services: £4622.34
 - Social care: £7789.59
 - Libraries: £27,921
 - Primary education: £456,000
 - Secondary education: £580,422.40
 - SAMM: £223.58/dwelling
 - Strategic highways improvements to the Key Street roundabout: £102,487 to be secured via a Section 278 agreement;
 - Air quality mitigation (off-setting impacts, continual annual monitoring costs): £15,000
 - Affordable housing at 40% (mix of 70% social rented to 30% shared ownership);
 - 1 wheelchair adaptable home.
 - Off-site (Newington Recreation Ground) sports provision £511/dwelling
 - Off-site (The Meads Practice) health centre contribution: £124,200
 - Bins - £92/dwelling and £471 per six flats (rounded up to the nearest 6);
 - Monitoring and administration fee.

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- 9.53 In addition to the above, the mitigation measures set out in table 8 of the submitted 'Development and Air Quality Update' and as detailed at paragraph 9.44 above would be included as an obligation as well as the requirement to set up a management company for the open space. The applicant has accepted the above contributions and obligations.
- 9.54 KCC have responded to the comments of Medway Council in respect of asking for education contributions for the Medway Authority area. They note:
- "It is quite clear that KCC is the Local Education Authority responsibility for the provision of school places in the county and in Swale District. KCC's request letter details the required mitigation. Medway Council is responsible for the provision of pupils places within its jurisdiction and due to development within its boundaries. KCC is not beholden to nor prepared to share or proportion any developer contributions secured from the developer and will resist any appeal from the neighbouring authority to do so.*
- KCC upholds its statutory duty to provide education for pupils in Kent. Government legislation, however, does not prevent families living outside the county from applying for school places within Kent."*
- 9.55 As such, I do not intend to require additional funds for education in Medway or that the education contributions are split between authorities in this instance.
- 9.56 The above contributions and obligations are all considered to meet the tests set out in the Community Infrastructure Levy regulations (CIL). Delegation is sought for Officers to agree to the final wording of the planning obligations within the Section 106 agreement in conjunction with the Head of Legal Services.

Other Matters

- 9.57 The development would adopt sustainable design and construction methods and techniques as well as following the principles of secure by design. The applicant also notes that current Building Regulations in respect of maximum carbon emissions and maximum space heating will be followed and that it is likely that Building Regulations standards will tighten even further in this regard before construction starts. Nonetheless, I have recommended a condition (no. 25) to require details of how the development will incorporate sustainable design and construction methods.
- 9.58 KCC Planning (Minerals and Waste) refer to the submitted LEAP Environmental Report and note that there is little or no definable brickearth present on the site. The report concludes that any brickearth present is unlikely to be of any economic value. They note that Winerberger Ltd should have ideally been consulted in coming to this conclusion but KCC believe that the application for development on this site satisfies exemption 1 of Policy DM7 in the Kent Minerals and Waste Local Plan 2013-2030 in that 'the mineral is not of economic value or does not exist.' In addition, policy DM7 states that planning permission will only be granted for non-mineral development that is incompatible with minerals safeguarding where it is demonstrated, among other things, that it constitutes development on a site allocated in the adopted development plan. I acknowledge that this site is not technically an allocated development site but it is a draft allocation in the emerging Local Plan and this should be given material weight.

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- 9.59 The site is at low risk of flooding, being within flood zone 1. There is a small risk from surface water flooding but the development has been designed so that no houses would be located within the area at risk. The surface water drainage within the site will be designed to accommodate the 1:100 year return period storm even plus 30% for climate change. Storm water will drain to the existing culvert that runs through the site. A Sustainable Urban Drainage scheme is being considered and an updated flood risk assessment has been submitted. KCC Sustainable Drainage team have commented on the amended scheme and have concerns about the inclusion of drainage features, control devices and pipework within the curtilage of properties. They also highlight potential problems with the adoption of sewage pipework beneath permeable paving and that this may have implications for the layout of the scheme. I have asked the applicant to consider these comments and I anticipate that these issues will be able to be adequately addressed. I will update Members at the meeting. Southern Water have asked for further details on surface and foul water drainage and I have recommended a suitably wording condition to address this.
- 9.60 A Phase 1 Desk Study and Phase 2 site investigation report has been submitted with the application to assess the potential for contaminants at the site. This concludes that the main risk of contamination is from herbicides and pesticides associated with the current land use. Further sampling and testing is recommended. The Environmental Services Manager is satisfied that the reports submitted are sound and I have recommended a suitably worded condition to address the need for further work and remediation as necessary.
- 9.61 The development would be located close to a railway line and Network Rail have set out a number of stipulations in respect of development during and after construction. The application's attention has been drawn to these requirements and I note that the plans provide a buffer of 5 m for drainage with dwellings set away from the railway embankment by 7-20 m.

10.0 CONCLUSION

- 10.01 This proposal would be contrary to the adopted Local Plan in respect of the provision of residential development outside of the built-up area boundary. However, the development would be in accordance with the emerging Local Plan in that the site is a draft housing allocation and this must be given material weight.
- 10.02 Paragraph 7 of the NPPF identifies three strands to sustainable development - economic (supporting the economy and growth), social (providing strong, healthy, accessible communities), and environmental (contributing to protecting our natural, built and historic environment). In terms of whether the proposals constitute sustainable development, I find that the proposals perform strongly in terms of the social and economic strands. The development would provide much needed housing, including 40% (49 units) as affordable housing. This Borough does not currently have a 5 year supply of housing as required by National Planning Policy. This site is of great importance in helping to meet the growing demand for housing in the Borough. The provision of 49 unit of affordable accommodation will make a significant contribution to the housing needs of Newington and a contribution to the needs of the borough as a whole. It is acknowledged that the village does not have a doctor's surgery but in terms of other infrastructure, the village is well served. Importantly, the site is within walking distance of the village shops, primary school and train station.

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- 10.03 In respect of the environmental strand of sustainable development however, whilst most environmental impacts can be mitigated to acceptable levels, there are uncertainties concerning residual air quality impacts within the Rainham AQMA which means that the proposal cannot be regarded as sustainable against the environmental strand.
- 10.04 Paragraph 14 of the NPPF sets out that, for the purposes of decision taking, 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 or, specific policies within the Framework indicate development should be restricted. I have already identified the key issues above and have considered the impacts against each of the three strands of sustainable development – social, economic and environmental and have concluded that the development would be sustainable in terms of the first two strands, but that there are uncertainties in respect of the third.
- 10.05 In terms of the paragraph 14 tests, firstly, I do not consider that there are any specific policies within the NPPF that would restrict the proposed development. It is therefore necessary to consider whether there are any adverse impact that would significantly and demonstrably outweigh the benefits.
- 10.06 In terms of the environmental impact of the proposal, I do not consider that there would be significant harm to the landscape here and that mitigation in the form of soft landscaping as well as the design of the layout and the houses will ensure that landscape harm is limited further. I have discussed the impact of the development on highway safety and amenity and consider that there would be some harm. However, mitigation measures are proposed that would limit this harm to an acceptable degree in my view. In addition, there would be limited harm to ecology and biodiversity but I have set out mitigation measures such as ecological enhancements within the site and a contribution towards the SAMM Strategy. I consider that there would be no harm to the setting of the Conservation Area or to Hollybank, a Grade II listed building, concluding that the setting of both of these designated heritage assets would be preserved. The loss of best and most versatile agricultural land is accepted in this case owing to the sites' allocation in the emerging Local Plan for housing. The potential for brickearth at the site has been examined and as well as being uneconomical to extract, the site is a draft housing allocation in the emerging local plan. As such, mineral extraction does not need to take place prior to its development.
- 10.07 In terms of air quality, I have found that the effect on human health would be significant but that this would be confined to the Rainham AQMA and I find that mitigation measures proposed will go some way towards lessening this effect. The applicant has considered a raft of air quality mitigation measures for this development, discounting those that would be impractical or of very little benefit but including those that would cumulatively make some difference in resident's choice of transport and would limit the scheme's contribution to air pollution. It is hoped that the mitigation measures combined will persuade residents to use sustainable forms of transport on a regular basis. However, it is fair to say that there are uncertainties as to the extent that the mitigation would reduce the significance of the impact and as such for purposes of the planning balance, I have therefore assumed the harm to be significant and that this should be weighed against the other elements of harm and overall benefits. This Council's Environmental Health Manger does not object to the

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scheme on air quality, or any other grounds, and I give this significant weight in my consideration of air quality concerns. In terms of the overall planning balance, I consider that the need for housing in the Borough to be significant. This development would provide housing on a draft allocated site, contributing significantly to the 5 year housing land supply and this should carry significant weight in terms of social and economic benefits. Whilst the harm to air quality is potentially significant within the Rainham AQMA, in the absence of other significant harm, I do not consider that the significant harm to air quality is sufficient to significantly and demonstrably outweigh the overall benefits of the proposals.

10.08 I therefore consider that the development would be acceptable and, as such, that planning permission should be granted subject to the following conditions (with any minor amendments required) and a Section 106 agreement listed in paragraph 9.53 and 9.54 above.

11.0 **RECOMMENDATION – GRANT** Subject to the following conditions and subject to the receipt of revised drainage details and further comments from KCC Sustainable Drainage and any additional conditions suggested by them, any further comments from Newington Parish Council and CPRE (closing date 17th March 2017), further comments from Kent Highways and Transportation in response to the amended plans and further comments from Medway Council in response to the revised Air Quality Assessment and, a section 106 agreement requiring contributions as set out in paragraph 9.53 and 9.54 below:

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. The development hereby approved shall be carried out in accordance the following approved drawings: *to be added once all amended plans received.*

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

3. Notwithstanding the provisions of Class A, Part 2, Schedule 2 to the Town and Country Planning (General Permitted Development) 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 without the consent in writing of the Local Planning Authority.

Reason: In the interests of residential amenity.

4. Details in the form of a levels strategy overlaying the proposed layout with the Topographical survey shall be submitted to and approved in writing by the Local Planning Authority before work commences and the development shall be completed strictly in accordance with the approved levels.

Reason: In order to secure a satisfactory form of development having regard to the sloping nature of the site.

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5. The amenity areas adjacent to the flats as shown on the approved plans shall be retained for use by the residents of all the flats throughout the duration of the development.

Reason: In the interests of residential amenity.

6. The areas shown on the approved drawings 2588-20 I and PERSE1978309 B as 'Green' and 'Suitable Alternative Natural Green Space' shall be reserved for the general amenity of the area and shall be provided in accordance with a schedule to be submitted to the Local Planning Authority to be agreed in writing prior to first occupation. Play space shown on drawing no. 2588-20 I as 'LEAP' shall be surfaced and equipped with play equipment, in accordance with a schedule agreed by the Local Planning Authority before the first occupation; no permanent development whether permitted by the Town and Country Planning (General Permitted Development) Order 1995 or not shall be carried out in the areas so shown without the prior written approval of the Local Planning Authority.

Reason: To ensure that these areas are made available in the interests of the residential amenities of the area.

7. Adequate underground ducts shall be installed before any of the buildings hereby permitted are occupied to enable telephone services, broadband and electrical services to be connected to any premises within the application site without resource to the erection of distribution poles and overhead lines, and notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) Order 1995 no distribution pole or overhead line shall be erected other than with the express consent of the Local Planning Authority.

Reason: In the interests of residential amenity.

8. No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of
 - (C) archaeological field evaluation works in accordance with a specification and written timetable which has been submitted to and approved by the Local Planning Authority; and
 - (D) following on from the evaluation, any safeguarding measures to ensure preservation in situ of important archaeological remains and/or further archaeological investigation and recording in accordance with a specification and timetable which has been submitted to and approved by the Local Planning Authority

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

9. No development approved by this permission shall be commenced prior to a contaminated land assessment (and associated remediation strategy if relevant), being submitted to and approved in writing by the Local Planning Authority, comprising:

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- d) A desk study and conceptual model, based on the historical uses of the site and proposed end-uses, and professional opinion as to whether further investigative works are required. A site investigation strategy, based on the results of the desk study, shall be approved by the Local Planning Authority prior to any intrusive investigations commencing on site.
- e) An investigation, including relevant soil, soil gas, surface and groundwater sampling, carried out by a suitably qualified and accredited consultant/contractor in accordance with a Quality Assured sampling and analysis methodology.
- f) A site investigation report detailing all investigative works and sampling on site, together with the results of analyses, risk assessment to any receptors and a proposed remediation strategy which shall be of such a nature as to render harmless the identified contamination given the proposed end-use of the site and surrounding environment, including any controlled waters.

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

- 10. Before any part or agreed phase of the development is occupied, all remediation works identified in the contaminated land assessment and approved by the Local Planning Authority shall be carried out in full (or in phases as agreed in writing by the Local Planning Authority) on site under a quality assured scheme to demonstrate compliance with the proposed methodology and best practice guidance. If, during the works, contamination is encountered which has not previously been identified, then the additional contamination shall be fully assessed and an appropriate remediation scheme agreed with the Local Planning Authority.

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

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

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

- 12. Prior to the commencement of the development, a Code of Construction Practice shall be submitted to and approval in writing by the Local Planning Authority. The construction of the development shall then be carried out in accordance with the approved Code of Construction Practice and BS5228 Noise Vibration and Control on Construction and Open Sites and the Control of dust from construction sites (BRE DTi Feb 2003) unless previously agreed in writing by the Local Planning Authority. The code shall include:
 - An indicative programme for carrying out the works
 - Measures to minimise the production of dust on the site(s)
 - Measures to minimise the noise (including vibration) generated by the construction process to include the careful selection of plant and machinery and use of noise mitigation barrier(s)
 - Maximum noise levels expected 1 metre from the affected façade of any residential unit adjacent to the site(s)

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- Design and provision of site hoardings
- Management of traffic visiting the site(s) including temporary parking or holding areas
- Provision of off road parking for all site operatives
- Measures to prevent the transfer of mud and extraneous material onto the public highway
- Measures to manage the production of waste and to maximise the re-use of materials
- Measures to minimise the potential for pollution of groundwater and surface water
- The location and design of site office(s) and storage compounds
- The location of temporary vehicle access points to the site(s) during the construction works
- The arrangements for public consultation and liaison during the construction works
- Details of any mitigation measures necessary to mitigate the impact of construction on biodiversity and wildlife
- The mitigation measures set out in table 17 of the submitted Air Quality Assessment (March 2017).

Reason: In the interests of residential amenity, biodiversity and the control of air pollution.

13. Prior to the commencement of development hereby approved, full details of the method of disposal of foul and surface waters, including a drainage strategy and implementation timetable shall be submitted to and approved by the Local Planning Authority. The approved details shall be implemented before the first use of the development hereby permitted.

Reason: In order to prevent pollution of water supplies and localised flooding and in the interests of highway safety and convenience.

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

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

15. No dwelling/building shall be occupied or the approved use commenced until space has been laid out within the site in accordance with details to be submitted to and approved in writing by the Local Planning Authority for cycles to be parked securely stored (providing for 1 cycle per dwelling).

Reason: To ensure the provision and retention of adequate off-street parking facilities for cycles in the interests of sustainable development and promoting cycle visits.

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16. The car barns/car ports as shown on the approved plans shall not be enclosed by the use of doors, walls, fences or any other means of enclosure to any open elevation, unless otherwise required by Part B (fire safety) of the Building Regulations (2010 as amended).

Reason: To ensure that the car barns/ carports are retained for parking in the interests of highway safety and amenity.

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

Reason: To ensure that the roads are constructed and laid-out in a satisfactory manner.

18. Before the first occupation of a dwelling / premises the following works between that dwelling / premises and the adopted highway shall be completed as follows:
 (B) Footways and/or footpaths shall be completed, with the exception of the wearing course;
 (B) Carriageways completed, with the exception of the wearing course, including the provision of a turning facility beyond the dwelling together with related:
 (1) highway drainage, including off-site works,
 (2) junction visibility splays,
 (3) street lighting, street nameplates and highway structures if any.

Reasons: In the interests of highway safety.

19. No dwelling hereby approved shall be occupied until the junction indicated on drawing 5784/101B, and the footway/emergency access shown on drawing 5288-23C have been provided in accordance with a design and specification to be approved in writing with the Local Planning Authority and to be fully implemented to the satisfaction of the Local Planning Authority.

Reason: To ensure that a satisfactory means of access is provided for the site.

20. No vehicular access shall be brought into use until pedestrian visibility splays 2 m x 2 m with no obstruction over 0.6 m above the access level have been provided on each side of the access, and these shall be subsequently maintained.

Reasons: In the interests of highway safety.

21. Prior to the commencement of development hereby approved, full details of both hard and soft landscape works shall be submitted to and approved in writing by the Local Planning Authority. These details shall include existing trees, shrubs and other features, planting schedules of plants, noting species (which should be native species where possible and of a type that will enhance or encourage local biodiversity and wildlife), plant sizes and numbers where appropriate, means of enclosure, hard surfacing materials, and an implementation programme.

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

22. 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.

23. 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.

24. Prior to the commencement of development (above ground floor slab level) hereby approved, details in the form of samples of external finishing materials to be used in the construction of the development hereby approved shall be submitted to and approved in writing by the Local Planning Authority and shall be implemented in accordance with the approved details.

Reason: In the interest of visual amenity.

25. Prior to the commencement of development hereby approved, details shall be submitted to the Local Planning Authority and approved in writing, which set out what measures have been taken to ensure that the development incorporates sustainable construction techniques such as water conservation and recycling, renewable energy production including the inclusion of solar thermal or solar photo voltaic installations, and energy efficiency. Upon approval, the details shall be incorporated into the development as approved.

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

26. No floodlighting, security lighting or other external lighting shall be installed or operated at the site, other than in accordance with details that have first been submitted to and agreed in writing by the Local Planning Authority. These details shall include:

- A statement of why lighting is required, including to the pedestrian/cycle link, the proposed frequency of the use and the hours of illumination.
- A site plan showing the area to be lit relative to the surrounding area, indicating parking or access arrangements where appropriate, and highlighting any significant existing or proposed landscape or boundary features.
- Details of the number, location and height of the lighting columns or other fixtures.
- The type, number, mounting height and alignment of the luminaries.
- The beam angles and upwards waste light ratio for each light.

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- An isolux diagram showing the predicted illuminance levels at critical locations on the boundary of the site and where the site abuts residential properties.
- Confirmation that there would be no lighting to the SANG.
- Identification of those areas/features on site that are particularly sensitive for bats and that are likely to cause disturbance in or around their breeding sites and resting places or along important routes to access key areas of their territory.
- Demonstration as to how and where external lighting will be installed so that it can be clearly demonstrated that area to be lit will not disturb or prevent bats using their territory.

Reason: In the interests of visual amenity/landscape character and the residential amenities of occupiers of nearby dwellings and the interests of ecology.

27. All work to the site boundaries (where vegetation exists) must be carried out outside of the breeding bird season (March to August inclusive) unless otherwise agreed in writing by the Local Planning Authority that an ecologist examines the site prior to works commencing and if any nesting birds are recorded, all works must cease until all young have fledged.

Reason: In the interests of the protection of breeding birds.

28. Prior to the commencement of development hereby approved, a detailed SANGs management plan must be submitted to the Local Planning Authority for approval in writing. The approved management plan must be implemented and carried out as specified.

Reason: In the interests of ecology and biodiversity.

29. Notwithstanding the provisions of Classes A, B and C of Part 13 of the Town and Country Planning (General Permitted Development) Order 2015, prior to the commencement of development of the foul pumping station, details of its siting, design, scale and means of enclosure, shall be submitted to the Local Planning Authority for approval in writing and the approved details shall be implemented.

Reason: In the interests of visual amenities.

30. In this condition "retained tree" means an existing tree, which is to be retained in accordance with the approved plans and particulars. Paragraphs i) and ii) below shall have effect until the expiration of 5 years from the date of completion of the development for its permitted use.
- iv) No retained tree shall be deliberately damaged, cut down, uprooted or destroyed, nor shall any retained tree be pruned other than in accordance with the Arboricultural Impact Report (PJC ref: 3781/15-02) dated 15th January 2016, without the written approval of the Local Planning Authority. Any pruning approved shall be carried out in accordance with British Standard 3998:2010 Tree Work – Recommendations or any revisions thereof.
 - v) If any retained tree dies, or is removed, uprooted or destroyed, another tree shall be planted at the same place and that tree shall be of such size and species and shall be planted at such time as may be specified in writing by the Local Planning Authority.

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- vi) The installation of tree protection barriers, the methods of working shall be undertaken in accordance with the Arboricultural Method Statement Report (PJC 3781/15-03 Rev 2) dated 15th January 2016.

Reason: To protect and enhance the appearance and character of the site and locality.

- 31. No development shall commence until the developer has (at his own expense):
 - iii) Instructed an Arboricultural consultant, approved in writing by the LPA, to liaise with the developer and/or his architect or engineer to approve relevant details of construction methods, oversee the works and report to the Council throughout the period of the works in so far as the works may affect retained trees (as set out in the approved plans) and;
 - iv) Submitted to an obtained the written approval of the LPA for an auditable system of Arboricultural site monitoring, including a schedule of specific site events requiring Arboricultural input or supervision where construction and development activity is to take place within or adjacent to any root protection area of any tree identified for retention.

Reason: To protect and enhance the appearance and character of the site and locality.

- 32. The noise mitigation methods as set out on pages 17, 18 and 19 of the submitted Noise Assessment: February 2016 (1391\MD\08-2015\370) and appendices D, E, F, G, H, and I, including the provision of mechanical ventilation, details of which shall have first been approved in writing by the Local Planning Authority, shall be implemented in respect of the 'worst-case' properties outlined in red on drawing 1391-001.

Reason: In the interests of the residential amenities of future residents of the development.

- 33. Prior to the occupation of the dwellings outlined in red on drawing no.1391-001, a verification report shall be submitted to and approved by the LPA to demonstrate that the recommendations contained in the MRL Acoustic Report submitted with the application have been incorporated, and therefore internal noise levels within the residential units and the external noise levels in the back gardens and other relevant amenity areas will confirm top the standard identified by BS 8233 2014, Sound Insulation and Noise Reduction for Buildings - Code of Practice.

Reason: In the interests of the residential amenities of future residents of the development.

- 34. Notwithstanding the plans submitted, the Suitable Alternative Natural Green Space shall make provision to enable badgers to access the grassland and scrub area by reducing the fenced area to create a vegetated buffer between the northern and southern boundaries and the dog proof fence. Details of how this will be achieved shall be submitted to the Local Planning Authority prior to the first occupation for approval in writing.

Reason: In the interests of preserving and enhancing the habitat for badgers within the site.

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35. Prior to the commencement of development hereby approved, a report demonstrating how the proposal will incorporate measures to encourage and promote biodiversity and wildlife shall be submitted to and approved in writing. Development shall be carried out in accordance with those approved details and shall thereafter be retained.

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

36. If the development hereby approved has not commenced by February 2018 and, prior to any works to trees being carried out, an updated Preliminary Tree Roost Assessment shall be undertaken, the results of which must be submitted to the Local Planning Authority with any suggested mitigation measures approved in writing.

Reasons: In the interests of protecting bats that may be roosting within the trees at the site.

37. Prior to any tree works commencing to tree 20 (as per the Preliminary Tree Roost Assessment; Feb 2017), a dawn re-entry bat survey shall be carried out on that tree which shall include appropriate methodology required for the removal of any branches on this tree. The survey and methodology report shall be submitted to the Local Planning Authority for approval in writing prior to any works being carried out on tree 20.

Reasons: In the interests of protecting bats that may be roosting within the trees at the site.

Informative:

1. The applicant is advised to consider and act upon the contents of Network Rail's email in response to the consultation on this application dated 22nd March 2016.
2. The applicant is advised to consider the contents of the letter from Kent Public Right of Way Officer dated 24th March 2016, the contents of Southern Gas Networks' email dated 29th March 2016 and the contents of the letter from Southern Water dated 23rd March 2016.
3. It is the responsibility of the applicant to ensure , before the development hereby approved is commenced, that all necessary highway approvals and consents where required are obtained and that the limits of highway boundary are clearly established in order to avoid any enforcement action being taken by the Highway Authority. Across the county there are pieces of land next to private homes and gardens that do not look like roads or pavements but are actually part of the road. This is called 'highway land'. Some of this land is owned by The Kent County Council (KCC) whilst some are owned by third party owners. Irrespective of the ownership, this land may have 'highway rights' over the topsoil. Information about how to clarify the highway boundary can be found at <http://www.kent.gov.uk/roads-and-travel/what-we-look-after/highway-land> The applicant must also ensure that the details shown on the approved plans agree in every aspect with those approved under such legislation and common law. It is therefore important for the applicant to contact KCC Highways and Transportation to progress this aspect of the works prior to commencement on site.

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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 in the processing of their application and 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 applicant was asked to consider the submission of amended plans to address Officer's concerns. These plans were forthcoming and the scheme was considered to be acceptable.

Case Officer: Emma Eisinger

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.

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APPENDIX 1**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.

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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 assessment dated January 2017 and the submitted report entitled 'Information for Habitats Regulations Assessment' January 2017 contains information to assist this 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 25th July 2016 has also been considered; in particular that they have raised no objections subject to contributions towards strategic mitigation.

The Assessment of Land at 99 High Street and land to north of High Street, Newington

The application site is located 2.5km to the south Medway Estuary and Marshes Special Protection Area (SPA) and 5km to the southwest of The Swale 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 SPA and these would be built into the development in respect of the provision of public open space which would have a circular route around it.

This assessment has taken into account the availability of other public footpaths close to the site and to a 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.

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Conclusions

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

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APPENDIX 1Minutes of 30th March 2017 Planning Committee**2.2 REFERENCE NO - 16/501266/FULL****APPLICATION PROPOSAL**

Erection on land to the north of 99 High Street of 124 No. dwellings in total including two storey 2, 3, and 4 bedroom dwellings and 1 and 2 bedroom apartments (2 no. 3 storey blocks) with a new access road from the High Street, pedestrian and cycle link to Church Lane, formal and informal areas of open space and landscaping, car parking and amenity space.

ADDRESS 99 High Street And Land To The North Of High Street Newington Kent ME9 7JJ

WARD Hartlip, Newington And Upchurch

PARISH/TOWN COUNCIL Newington

APPLICANT Persimmon Homes South East Ltd

There were tabled papers for this item. One outlined information of the High Court's decision to allow the appellant for the Pond Farm appeals to proceed with a Judicial Review, and the other contained additional comments from Newington Parish Council. These papers had previously been emailed to Members.

The Senior Planner reported that further comments from the Campaign for Rural England (CPRE) had been received. They had compared the application with the Pond Farm proposals which had been dismissed on appeal. CPRE had drawn attention to the lack of clear evidence of the effectiveness of air quality mitigation measures. CPRE also considered the development was likely to extend the time taken to meet air quality objectives in the Air Quality Management Area (AQMA).

The Senior Planner also reported that the MP for Gillingham and Rainham had objected to the application and considered the development would pose a significant threat to the air quality of the Rainham AQMA, as well as the health of people living and working in the area. The MP was also disappointed that the recommendation was for approval, despite the significant effect on human health.

Parish Councillor Richard Palmer, representing Newington Parish Council, spoke against the application.

Mr Richard Knox-Johnson, an objector, spoke against the application.

Mr Mick Drury, the Agent, spoke in support of the application.

The Senior Lawyer provided a legal update to Members. He outlined that the Pond Farm appeal was to be judicially reviewed as to whether the Planning Inspector had been correct and acted fairly in his decision in respect of air quality. There was a Watching Brief in respect of the Council's position on these matters.

The Senior Lawyer explained that the evidence in support of the application was not the same as that for Pond Farm. Mitigation measures had been improved. Air quality remained an important consideration, but there was no technical evidence from the CPRE to support their concerns on air quality. If the decision on the Pond Farm judicial review favours the appellant, there would be little weight to the original appeal decision. However, the Senior Lawyer advised that officers and Members needed to assume that the decision letter concerning Pond Farm was correct.

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Members needed to consider that if they refused the application on the grounds of air quality, they must have technical evidence to support this.

The Environmental Protection Team Leader provided information on the air quality measures that were in place in Newington. He advised that there was one continuous measure, plus nine diffusion tubes. He explained that the continuous monitoring station had never exceeded Government guidelines, but some of the nine tubes had. Of the readings that were gathered monthly, three exceeded the Government guideline. The Environmental Protection Team Leader further advised that the tubes were inherently inaccurate, and not real-time results as the continuous monitoring station was. This meant that the continuous data could be interrogated, but not the tube data. He considered the applicant had looked at the air quality issues and the Team Leader did not consider air quality to be a reason to refuse the application. Modelling had proved that the impact on Newington was negligible, and slight to moderate in the Rainham/Medway AQMA.

Ward Members raised points which included: support the concerns of local residents; if the AQMA and highway concerns were not answered, the application should be refused; the report had said that there was some harm to health on the High Street in Newington; and the air quality in Newington would get worse if the development went ahead.

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

Members considered the application and raised the following points: the A2 was already grid-locked; concerned about the supply of water to the development; this application was premature given the current status of the emerging Local Plan; AQMA issues had not been addressed; ghost right-hand lane would not improve the traffic flow; appeal decision stated that landscapes needed to be protected; this went against SBC's policies; every development harmed air quality; happy with the advice from the Legal and Environmental Protection officers; needed to consider the style (layout and architectural treatment) of the development as it was close to a conservation area; air quality technical information was needed so that a decision could be made; and welcomed the 40% affordable housing that was proposed.

The Environmental Protection Team Leader further advised that the Government maximum guideline for nitrogen oxide was 40micrograms/cubic metre, and a rolling mean figure was used. Further information could be found at www.kentair.org.uk.

Newington AQMA had never exceeded the maximum figure.

The Senior Planner advised that Southern Water were providing a foul water pumping station on site to address the additional housing.

The KCC Highways and Transportation Officer reported that the road into the proposed development was appropriately wide enough and the ghost lane would assist the flow of traffic, and although the footpath does narrow, this was only for a short distance.

In accordance with Council Procedure Rule 19(5) a recorded vote was taken on the motion and voting was as follows:

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For: Councillors James Hunt, Mike Henderson, Bryan Mulhern, Prescott and Ghlin Whelan. Total equals five.

Against: Councillors Mike Baldock, Cameron Beart, George Bobbin, Andy Booth, Richard Darby, James Hall, Ken Ingleton, Samuel Koffie-Williams and Peter Marchington. Total equals 9.

Abstain: Councillors Roger Clark, Mike Dendor and Nigel Kay. Total equals three.

At this point the Head of Planning Services used his delegated powers to 'call-in' the application.

Resolved: That as the Planning Committee was minded to make a decision that would be contrary to officer recommendation and contrary to planning policy and/or guidance, determination of the application be

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Tabled item 1

Item 2.2 land north of High Street, Newington 16/501266/FULL Update

For Members information, Officers have been informed of the High Court's decision to allow the appellant for the Pond Farm appeals to proceed with the Judicial Review. The challenge is on the grounds of the Inspector's consideration of air quality.

Air Quality

Comments from Medway Council's Environmental Protection Officer have been received in respect of the revised air quality assessment which includes an assessment of the impacts on the Rainham AQMA. They suggest that Swale's Environmental Health Officers look again at the methodology used to calculate the concentrations of air pollution in Newington. In response, the Environmental Health Manager at Swale states: *"The modelling is the best scientific attempt at making sense of the complex dispersal of pollutants and how they will be present. The most important thing is that the modelling has followed the current DEFRA guidance, which is the case."*

The Medway Environmental Protection Officer notes that the revised Air Quality Assessment over predicts the nitrogen oxide concentrations in the Rainham AQMA and is very conservative in its methodology which leads him to conclude that the impacts presented would be the worse case scenario. He goes on to state that: *"even modest improvements to vehicle emissions will outweigh the moderate predicted nitrogen dioxide increases in the Rainham AQMA in the opening year of the development"*. They withdraw their objection to the scheme subject to two matters being addressed. These are:

1. A revised damage cost assessment which monetises the impacts of both nitrogen oxides (NO_x) and particulate pollution (PM10). This will likely result in a higher figure than currently submitted (£132,951) – *Members should note that a revised AQA assessment has been submitted following this request and the revised damage cost calculation has now increased to £143,347. Medway have commented on the revised figure and accept it;*
2. A condition requiring an air quality mitigation statement which details how the damage cost will be spent. This should demonstrate that all of the damage cost contribution will be utilised and that it should be spent on mitigation measures over and above the standard measures set out within the Kent & Medway Air Quality Planning Guidance. – *Members should note that I have recommended that the mitigation measures are to be included as an obligation within the section 106 agreement. This would be more appropriate than applying a condition in my view. The distribution of the damage cost calculation figure (£143,347) is set out in table 9 of the submitted 'Development and Air Quality Update.'*

Table 9 – Schedule of Mitigation Measure Costs

Type of Mitigation	Unit Price	Cost to provide
Cycle Sheds including bases to every house (111 plots).	£475	£52,725
Cycle Vouchers to be provided to each (first) new resident. One voucher per household.	£150 per household	£18,450

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Electric charging points for potentially all new dwellings inc. 111 houses, 12 for flats (provided as 3 dual EV points for each block) and 10 dual EV points on visitor bays. Total EV points = 143	£300	£42,900
Travel Plan including welcome packs and ongoing monitoring for 3 years after final occupation (equivalent to circa 5 years) + promotion of car sharing and electric cars.	£30,000	£30,000
Eco Driver Training – Contribution towards each household who completes a certified eco-driver training course. To be paid upon receipt of completion. Details of which will be included within the Welcome Packs.	£50	£6,150
Low emission boilers of less than 40 NOx.	Provided as standard	Nil
Cycle Shelter for Newington Railway station.	£5000	£5000
Air Quality Mitigation Validation Report.	£3,750	£3,750
Directional signage within development highlighting the facilities available (including walking or cycling distances and/or times).	£750	£750
Financial contribution towards LPA's continual annual monitoring costs.	Single one-off payment	£15,000
Total		£174,725

Members will note that the total cost of mitigation (£174,725) significantly exceeds the damage cost calculation (£143,347) and the developer is committed to all of the mitigation measures set out above.

The Environmental Health Manager at Swale has confirmed that the £15,000 one-off payment as referred to above can be used to supplement the existing monitoring in Newington AQMA, specifically the particulate pollutants (PM₁₀).

The table below is extracted from the applicant's most up-to-date Air Quality Assessment and should be read as part of the wider evidence on air quality. This shows the levels of Nitrogen dioxide (NO₂) at certain locations (receptors) within the Newington and Rainham AQMAs. Members will note that the 2nd column gives the predicted NO₂ levels *without* development in 2021. The 3rd column gives the predicted NO₂ levels *with* development in

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2021 and the 6th column gives the predicted change in %. These figures determine the impact on air quality. Members will note that for Newington, the National objective level of 40µg/m² (referring to the Air Quality Strategy 2007) is not exceeded (1st & 2nd columns) either with or without the development in place. For Rainham however, the objective level is predicted to be exceeded for 6 out of the 8 receptors even without the development in place and so even though the % change would be less than 1%, the impact must be considered as moderate.

Table 15 – Comparison of Predicted Annual Mean NO₂ Concentrations (µg/m³), 2021

Receptor	Future Baseline (2021)	Future Baseline + Development (2021)	% of AQ Objective	Change (2021)	% Change	Impact Descriptor
Newington						
N1	28.7	28.9	72.3%	0.2	0.7%	Negligible
N2	36.2	36.5	91.3%	0.3	0.8%	
N3	29.6	29.8	74.5%	0.2	0.7%	
N4	35.2	35.4	88.5%	0.2	0.6%	
N5	34.6	34.9	87.3%	0.3	0.9%	
N6	28.6	28.8	72.0%	0.2	0.7%	
N7	35.5	35.8	89.5%	0.3	0.8%	
N8	29.5	29.7	74.3%	0.2	0.7%	Negligible
N9	29.0	29.2	73.0%	0.2	0.7%	
N10	29.5	29.7	74.3%	0.2	0.7%	
N11	28.1	28.3	70.8%	0.2	0.7%	
N12	28.6	28.8	72.0%	0.2	0.7%	
Rainham						
R1	44.6	45.0	112.5%	0.4	0.9%	Moderate
R2	44.1	44.4	111.0%	0.3	0.7%	Moderate
R3	28.3	28.5	71.3%	0.2	0.7%	Negligible
R4	42.8	43.2	108.0%	0.4	0.9%	Moderate
R5	58.9	59.4	148.5%	0.5	0.8%	Moderate
R6	42.8	43.2	108.0%	0.4	0.9%	Moderate
R7	51.7	52.1	130.3%	0.4	0.8%	Moderate
R8	39.1	39.4	98.5%	0.3	0.8%	Slight
Objective	40.0					

Additional notes on the difference between Pond Farm and this scheme –

7. *For both Pond Farm schemes, impacts on 3 receptors (with development assuming that there is no improvement in air quality) would be “substantial adverse”. The highest impact for no. 99 High St would be “moderate adverse”.*

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8. *Modelling for pond farm was considered to be too optimistic about the improvements in technology for vehicle emissions. 99 High St does not assume any improvements in this respect and so the results really are worst-case.*
9. *For Pond Farm, exceedances of the national target of 40µg/m³ were likely in Newington as well as Rainham. 99 High Street would only add to an existing exceedance in Rainham by less than 1%. Even for the smaller Pond Farm scheme, the predicted change as a result of the development was between 2-5% for 6 receptor sites.*
10. *The damage cost calculations (contributions) for Pond Farm were based on what was considered to be the over-optimistic assumptions about future emissions. The Inspector concludes that the mitigation measures would not therefore go far enough. The damage cost calculations for 99 High Street are not based on an improvement in future emissions and are instead based on the worse-case scenario. They are therefore highly likely to reflect the true damage cost of the scheme. In addition, the developer is willing to commit to mitigation measures for which the cost would exceed the damage cost calculation by approximately £30k.*
11. *99 High St is clearly more sustainable than Pond Farm being within such close walking distance from local amenities, the primary school, train station and bus stops;*
12. *The TA confirms that 40% of traffic would turn right out of the site i.e. through the center of Newington and on to Rainham) with the majority (60%) turning left towards Sittingbourne and avoiding the AQMA in Rainham and the majority of the AQMA in Newington.*

Other matters

A revised Flood Risk Assessment and drainage strategy has been submitted by the applicant to address the comments of the KCC SUDS team. Their further comments are awaited.

Kent Highways and Transportation have commented on the amended plans. They note the increase in visitor parking spaces across the site and advise that this will help to address their concerns in respect of tandem parking. Although they do note that there may still be some instances of on-street parking within the site. They are satisfied with the revised depth of the crossovers to the main road and the additional footway to serve plots 19 and 65.

A further comment of objection has been received from a resident backing onto the western boundary of the application site. They are concerned about the three storey properties proposed to be sited along the western boundary in terms of intrusion and overlooking. *The distance between the closest proposed dwelling (which is 2.5 storeys in height) from the properties to the west is over 80m and the landscaping plan shows that there would be extensive boundary vegetation planted and reinforced along the western boundary.*

I ask that condition 34 is deleted as it is no longer necessary further to the receipt of amended plans reducing the fencing to allow badgers to access the grassland and scrub area.

Condition 37 should be amended to include a requirement that the approved methodology for the removal of any branches to tree 20 must be implemented.

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The recommendation is for approval subject to:

The conditions set out within the report but with delegation to add, amend or exclude conditions if reasonably necessary, further comments from KCC Sustainable Drainage and any additional conditions suggested by them and a section 106 agreement requiring contributions and obligations as set out in paragraphs 9.52 and 9.53 of the report with delegation to amend the section 106 as required by the Head of Legal Services.

Tabled item 2

Planning Application: 16/501266/FULL 99 High Street And Land To The North Of High Street Newington

Proposal: Erection on land to the north of 99 High Street of 124 No. dwellings in total including two storey 2, 3, and 4 bedroom dwellings and 1 and 2 bedroom apartments (2 no. 3 storey blocks) with a new access road from the High Street, pedestrian and cycle link to Church Lane, formal and informal areas of open space and landscaping, car parking and amenity space.

Additional Comments from Newington Parish Council. 27 March 2017

We have received the revised air quality assessment dated 16 March 2017.

- i. Newington Parish Council note that the comments from the Environmental Protection Officer at Medway Council show reservations of both general and technical nature; Parish Councillors feel unqualified to comment on the latter, but do understand the general concerns and the comment *'would advise that a Swale air quality officer looks at this again, as the model is significantly under predicting concentrations of NO2 at a number of sites, by as much as 40%. On average the model is under predicting NO2 in the Swale study area by 12.6%'*
- ii. The recent Pond Farm public planning inquiry resulted in the refusal of the two Gladman proposals one two grounds – harm to landscape character and the effect on air quality; both apply to the Persimmon Application. Whilst being marginally smaller than the lesser Gladman proposal (124 dwellings, rather than 140), current applications on and immediately behind the high street, which we understand to have officer support, match this 140 figure. There is no evidence that traffic from the proposed Persimmon site would turn left, eastwards, to avoid Newington High Street and we believe the effect on air quality would be the same as for the refused Gladman application.
- iii. We urge members of the Planning Committee to read the relevant section of the Planning Inspectorate decision on the Pond Farm (Gladman) appeal and the recent punitive decision by the Secretary of State in response to Gladman's submission to appeal the Inspector's decision.
- iv. Published Consumer Association report (22 March 2017) shows that many vehicle manufacturers have manipulated data and that diesel, especially, vehicles are heavier polluters than thought.
- v. We are not persuaded that travel packs, bicycle vouchers and cycle sheds would reduce motor traffic significantly. We are unaware of any evidence to contradict our view that such proposals are laudable and aspirational.

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- vi. We are not persuaded that Electric charging points will have the response suggested. Evidence shows that electric vehicles are useful, but expensive, second cars and there is still a reticence for people to purchase them. Further evidence shows that residents of affordable housing tend to drive older (and therefore more polluting) cars. Further evidence shows that many of these, and other residents, have a firm's vehicle (often a diesel van) over which they have no choice in the specification.
- vii. The proposed mitigation payments offer no help to the children and elderly residents of Newington who walk through the high street each day and who are the most likely to suffer severe health problems due to the poor air quality in the Village
- viii. All comments and objections made in earlier responses still stand.

PLEASE FORWARD THIS RESPONSE TO ALL MEMBERS OF THE SWALE BOROUGH COUNCIL PLANNING COMMITTEE