

## AGENDA

### PLANNING COMMITTEE MEETING

Date: Thursday, 23 July 2015

Time: 7.00 pm

Venue: Council Chamber, Swale House, East Street, Sittingbourne, Kent, ME10 3HT

Membership:

Councillors Mike Baldock, Cameron Beart, Bobbin, Andy Booth, Roger Clark, Richard Darby, Mike Dendor, Mark Ellen, Sue Gent, James Hall, Mike Henderson, James Hunt, Lesley Ingham, Peter Marchington, Bryan Mulhern (Chairman), Prescott (Vice-Chairman) and Ben Stokes.

Quorum = 6

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|  | Pages |
|--|-------|
1. Apologies for Absence and Confirmation of Substitutes
  
  2. Minutes  

To approve the Minutes of the Meeting held on 2 July 2015 (Minute Nos. 88 - 93) as a correct record.
  
  3. Declarations of Interest  

Councillors should not act or take decisions in order to gain financial or other material benefits for themselves or their spouse, civil partner or person with whom they are living with as a spouse or civil partner. They must declare and resolve any interests and relationships.

The Chairman will ask Members if they have any interests to declare in respect of items on this agenda, under the following headings:

    - (a) Disclosable Pecuniary Interests (DPI) under the Localism Act 2011. The nature as well as the existence of any such interest must be declared. After declaring a DPI, the Member must leave the meeting and not take part in the discussion or vote. This applies even if there is provision for public speaking.
  
    - (b) Disclosable Non Pecuniary (DNPI) under the Code of Conduct adopted by the Council in May 2012. The nature as well as the existence of any such interest must be declared. After declaring a DNPI interest, the Member may stay, speak and vote on the matter.

**Advice to Members:** If any Councillor has any doubt about the existence or nature of any DPI or DNPI which he/she may have in any item on this agenda, he/she should seek advice from the Director of Corporate Services as Monitoring Officer, the Head of Legal or from other

Solicitors in Legal Services as early as possible, and in advance of the Meeting.

## **Part B reports for the Planning Committee to decide**

### 4. Planning Working Group

To approve the Minutes of the Meeting held on 14 July 2015 (Minute Nos. to follow).

15/500330/FULL – Keycol Farm, Keycol Hill, Bobbing, Kent, ME9 8NA

### 5. Report of the Head of Planning

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To consider the attached report (Parts 2, 3, 4 and 5).

The Council operates a scheme of public speaking at meetings of the Planning Committee. All applications on which the public has registered to speak will be taken first. Requests to speak at the meeting must be registered with Democratic Services ([democraticservices@swale.gov.uk](mailto:democraticservices@swale.gov.uk) or call 01795 417328) by noon on Wednesday 22 July 2015.

### 6. Exclusion of the Press and Public

To decide whether to pass the resolution set out below in respect of the following item:

That under Section 100A(4) of the Local Government Act 1972, the press and public be excluded from the meeting for the following item of business on the grounds that it involves the likely disclosure of exempt information as defined in Paragraphs 1, 2, 3, 4, 5, 6, and 7.

1. Information relating to any individual.
2. Information which is likely to reveal the identity of an individual.
3. Information relating to the financial or business affairs of any particular person (including the authority holding that information).  
See note below.
4. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and any employees of, or office holders under, the authority.
5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.
6. Information which reveals that the authority proposes
  - (a) To give under any enactment a notice under or by virtue of which requirements are imposed on a person; or
  - (b) To make an order or direction under any enactment.
7. Information relation to any action in connection with the prevention, investigation or prosecution of crime.

### 7. Report of the Head of Planning

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To consider the attached report (Part 6).

**Issued on Wednesday, 15 July 2015**

The reports included in Part I of this agenda can be made available in **alternative formats**. For further information about this service, or to arrange for special facilities to be provided at the meeting, **please contact DEMOCRATIC SERVICES on 01795 417330**. To find out more about the work of the Planning Committee, please visit [www.swale.gov.uk](http://www.swale.gov.uk)

Corporate Services Director, Swale Borough Council,  
Swale House, East Street, Sittingbourne, Kent, ME10 3HT

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## SWALE BOROUGH COUNCIL

### PLANNING SERVICES

Planning Items to be submitted to the Planning Committee

**23 JULY 2015**

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**PART 3** Applications for which refusal is recommended

**PART 4** Swale Borough Council's own development; observation on County Council's development; observations on development in other districts or by Statutory Undertakers and by Government Departments; and recommendations to the County Council on 'County Matter' applications.

**PART 5** Decisions by County Council and the Secretary of State on appeal, reported for information

**PART 6** Reports containing "Exempt Information" during the consideration of which it is anticipated that the press and public will be excluded

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ABBREVIATIONS: commonly used in this Agenda

CDA Crime and Disorder Act 1998

GPDO The Town and Country Planning (General Permitted Development) Order 1995

HRA Human Rights Act 1998

K&MSP Kent and Medway Structure Plan 2006

SBLP Swale Borough Local Plan 2008

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- Deferred Items
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### Part 2

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**PLANNING COMMITTEE – 23 JULY 2015**

**PART 2**

Report of the Head of Planning

**PART 2**

Applications for which **PERMISSION** is recommended

<b>2.1 REFERENCE NO – 15/503737/FULL</b>		
<b>APPLICATION PROPOSAL</b> Retrospective application for the insertion of replacement windows to the front elevation. as amended by revised drawing received by email 17th June 2015.		
<b>ADDRESS</b> 4 London Road Faversham Kent ME13 8RX		
<b>RECOMMENDATION:</b> GRANT, subject to revised drawing received 17 <sup>th</sup> June 2015 indicating that the proposed windows will be installed at a minimum of 100mm back from the external face in line with the historic windows position.		
<b>SUMMARY OF REASONS FOR RECOMMENDATION/REASONS FOR REFUSAL</b> The proposal meets the statutory requirement of preserving or enhancing the character of the conservation area.		
<b>REASON FOR REFERRAL TO COMMITTEE</b> Town Council objection		
<b>WARD</b> Watling	<b>PARISH/TOWN COUNCIL</b> Faversham	<b>APPLICANT</b> Mr Tomlin <b>AGENT</b> MRW Design
<b>DECISION DUE DATE</b> 27/07/15	<b>PUBLICITY EXPIRY DATE</b> 27/07/15	<b>OFFICER SITE VISIT DATE</b>

**1.0 DESCRIPTION OF SITE**

1.01 The site is a late C19th terraced property that fronts onto London Road Faversham, close to its junction with the Mall. The front elevation is therefore quite prominent and forms part of a row of properties that read as one group. All are two storeys high, built of red and yellow brick, typically Victorian, 4 London Road originally featured timber sash bay windows, although these have at some time been replaced with unsympathetic top-hung fan-light windows.

## **2.0 PROPOSAL**

- 2.01 The proposal seeks to replace the older windows on the front facing elevation of the property with UPVC sliding sash windows – two windows at ground floor and two windows at first floor level. In the meantime some top-hung UPVC windows have recently been installed here without planning permission. These are now to be removed as part of this application, although the new UPVC windows to the side of the bay windows would be retained.
- 2.02 This application is thus party retrospective - in relation only to the side bay windows. However, it is important to note that following amendments to the application, the current front facing top-hung UPVC windows do not form part of the application and that the application proposes high quality sliding sashes here, albeit in UPVC, but set back within the reveals in a traditional manner.

## **3.0 PLANNING CONSTRAINTS**

- 3.01 The site is located within the Article 4(2) part of Faversham conservation area and is therefore subject to additional restrictions.

## **4.0 POLICY AND OTHER CONSIDERATIONS**

The National Planning Policy Framework (NPPF)  
National Planning Practice Guidance (NPPG)  
Development Plan:  
Saved policies Swale Borough Local Plan 2008:

E1 (General Development Criteria)  
E15 (Conservation Areas)  
E19 (Design)

## **5.0 LOCAL REPRESENTATIONS**

- 5.01 The Faversham Society considers that the application should be refused because UPVC windows would constitute an unacceptable change in a conservation area, and the property is covered by an Article 4 Direction.
- 5.02 Two local letters of objection have been received. Their comments can be summarised as follows;
- This section of the London Road is a conservation area and the windows must conform with the others in the terrace that are still original. Several houses have gone to great expense to have new wooden box sash windows installed.
  - The new plastic windows of this property are an absolute shame and in no way can conform with conservation rules.

- Residents in the surrounding area have all worked to comply with conservation area rules. Conservation regulations must apply to all. The retrospective application must be refused.

## **6.0 CONSULTATIONS**

- 6.01 Faversham Town Council objects. They comment that the proposed change from timber to UPVC windows would have a significantly harmful effect on the character of the conservation area in this prominent location.

## **7.0 APPRAISAL**

- 7.01 In this case the key consideration is whether the proposal meets the statutory test of preserving or enhancing the character of the conservation area. I always encourage the use of timber for replacement windows in a conservation area, but in this case the applicant is very keen to use UPVC, and it is quite clear that the proposed sliding sash windows would enhance the character of the conservation area, street scene and the property itself compared to the lawful previous position with top-hung frames. They are clearly, by their traditional configuration, an improvement on the original top hung windows which, although now removed, were completely out of character with this traditional building.

- 7.02 I have had concerns over the detailed design of the installed UPVC top-hung windows and considered that amendments relating to the windows were necessary to make the proposal acceptable. The applicant was provided with the opportunity to submit amendments to the scheme, they were forthcoming and my concerns have been addressed. The application as it now stands represents a substantial improvement to the original (and current) appearance of the property.

- 7.03 I would therefore suggest that to replace the original windows (and the present poorly designed UPVC windows) with sliding sash windows, albeit in uPVC but with well designed details, will be an improvement to this property and the area in terms of design and appearance, complying with the requirements of policy E15, making the proposal acceptable.

- 7.04 I have recommended a shorter than normal implementation period in order to speed up the remedial work involved in installing the new sash windows.

## **8.0 RECOMMENDATION – GRANT Subject to the following conditions:**

### **CONDITIONS**

- (1) The development to which this permission relates must be begun no later than the expiration of one year beginning with the date on which the permission is granted.

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

- (2) The development hereby permitted shall not be carried out otherwise than in complete accordance with the approved plans and specifications.

Reasons: In the interest of preserving or enhancing the character of the conservation area

### **The Council's approach to the application**

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

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/agent was advised of minor changes required to the application and these were agreed.

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.

<b>2.2 REFERENCE NO - 15/501851/FULL</b>			
<b>APPLICATION PROPOSAL</b> Change of use from retail shop (use class A1) to micropub (use class A4)			
<b>ADDRESS</b> 37 Preston Street Faversham Kent ME13 8PE			
<b>RECOMMENDATION</b> – GRANT subject to conditions			
<b>SUMMARY OF REASONS FOR RECOMMENDATION/REASONS FOR REFUSAL</b> The proposal will bring a new destination venue to Faversham, thus boosting the Town's commercial offer, and is thus in accordance with both national and local planning policy.			
<b>REASON FOR REFERRAL TO COMMITTEE</b> Contrary to local objections, and to the Town Council's objection.			
<b>WARD</b> Abbey	<b>PARISH/TOWN COUNCIL</b> Faversham	<b>APPLICANT</b> Whitstable Brewery <b>AGENT</b> John Elvidge Planning Consultancy	
<b>DECISION DUE DATE</b> 15/05/15	<b>PUBLICITY EXPIRY DATE</b> 15/05/15	<b>OFFICER SITE VISIT DATE</b> Two separate visits	
<b>RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):</b>			
<b>App No</b>	<b>Proposal</b>	<b>Decision</b>	<b>Date</b>
14/500697	Micropub at 6A Preston Street	Approved	29/07/2014

**MAIN REPORT**

**1.0 DESCRIPTION OF SITE**

1.01 The property is situated within the town centre at Faversham, towards the southern station end of Preston Street, and is the last property within the Secondary Shopping Area. The property lies within the Faversham conservation area, is Grade II listed, and has a particularly well-preserved shop front.

1.02 The property at present has A1 Retail Use, and is used as a show room for a glass and window company.

**2.0 PROPOSAL**

2.01 The proposal is for a new micropub, which falls under Class A4 use. This proposed micropub, like others of its type, proposes the sale of locally and traditionally brewed beers and ales, along with Kentish cider, local wines and soft drinks.

2.02 The only building work envisaged is the removal of a modern, poorly finished plywood partition the wall. The removal of this partition will open up the front room of the building and will also re-expose two original finely detailed iron columns.

### **3.0 APPLICANT’S SUPPORTING INFORMATION**

3.01 The agent has submitted a number of supporting statements with the proposal. These include the following information:

- There is existing soundproofing between the ground floor unit and the flats above, consisting of a floating floor incorporating insulation for airborne noise, impact and fire resistance. This was installed in 1993, when planning permission for the conversion of the offices above the shop to three flats was granted under planning reference SW/93/0491.
- The agent notes that there are a number of other traditional retail uses in the immediate vicinity; a florist next door, hairdressers; a triple unit bicycle shop; a baker’s shop opposite, etc.
- Although no marketing has been carried out to suggest a need for a continued A1 use for the property, the agent notes that there are a number of vacant A1 retail properties further down Preston Street and within the Core Shopping Area; he argues that, as such properties are empty within the Core Shopping Area, a retail unit within a Secondary Shopping Area is likely to be less attractive to a new retail tenant.

3.02 The proposed hours of use are Monday to Sunday 12:00 to 23:00.

### **4.0 PLANNING CONSTRAINTS**

Potential Archaeological Importance

Conservation Area Faversham

Listed Buildings SBC Ref Number: 800/SW

Description: G II ABLE GLASS, 37 PRESTON STREET, FAVERSHAM, ME13

8PE

### **5.0 POLICY AND OTHER CONSIDERATIONS**

Saved policies of the adopted Swale Borough Local Plan 2008: Policies E1, B1, B2 and B3

### **6.0 LOCAL REPRESENTATIONS**

6.01 Five letters and emails of objection have been received from local residents. The comments contained therein may be summarised as follows:

- Permission for a change of use at 12 Market Street was recently refused. As this property is already occupied, to approve the proposal will make no sense

- There are eighteen other drinking establishments within Faversham – this will offer nothing new
- The floorspace is 90 square metres; other pubs have smaller bar areas, so how can this be a micropub?
- *'I get the impression that the whole venture is not properly thought out and will add nothing except an inappropriate looking building use.'*
- This is just a small pub, not a micropub; you will need strict conditions to be enforced
- Micro pubs do not have music
- *'I am against any extra noise issues in the area, if music is allowed that would generate more noise for residents, with some being directly above, at a much larger volume than I have just been refused planning on, even the raised voices produce a greater decibel level for the residents than ours did. Plus, this will go on till after 23:00 before everyone has moved on...it is a step too far.'*
- Too many pubs already – The Mechanics' Arms has closed
- Impact of opening in evenings, particularly traffic movements
- This is a listed building
- Nowhere for smokers to go except the street
- Impact on policing in the area
- Application should be rejected, as should any change of use for alcohol sales within the core area
- Loud music
- Dangerous area at rear – will encourage antisocial behaviour

6.02 Twenty letters and emails of support have been received, many from addresses outside Faversham. Their contents may be summarised as follows:

- Will add to visitor numbers in Faversham
- The Whitstable Brewery Company has the relevant experience
- Added choice for the consumer
- This will offer *'the more refined drinker'* somewhere to go
- Creating jobs in the community
- Ideal location immediate to the town centre and near to rail and bus access
- A quiet environment for friends to meet and socialise
- No music or gaming machines
- A community asset
- Reversing the trend of closures of traditional pubs
- Will benefit residents and tourists alike
- Will encourage growth in the town
- Diversity of options for the town
- Will support local businesses

6.03 An email of support has also been received from a Member of Maidstone Borough Council, in whose Ward the Whitstable Brewery has a production base. He states that *'Whilst this business application is neither in my Borough or Ward, I can commend this business and its management for being professional and for providing a very good local perspective that respects its*

*local people and values, and where they give, take and maintain a local communication and dialogue in key matters.'*

- 6.04 The Faversham Society raises concern, noting that '*Concern is raised about the increased concentration of non-retail uses in this part of Preston Street. There are very few retail outlets left at this end of the street making it less attractive to shoppers.*'
- 6.05 An email from the applicant has also been received, countering claims made both in the local press and by some objectors. The information contained therein may be summarised as follows:
- An error was made by the Faversham News, stating that music and entertainment would be provided. This is not the case, and a correction was published on 23/04/2015
  - The properties above have been soundproofed
  - Likely that the pub will close before other pubs
  - Only serving real ales, local ciders, etc.
  - The only lager we will sell will be one brewed by ourselves
  - Food offering will be consistent with other micropubs
  - It is not our policy to allow patrons to take drinks outside
  - No plans to sell spirits or alcopops
  - No fruit machines
  - Unlikely to take custom from Shepherd Neame Houses
  - Very small premises – other pubs are much larger
  - Unlikely to attract antisocial drinkers
  - Proximity to town centre and train station likely to discourage people from using cars

## **7.0 CONSULTATIONS**

- 7.01 Faversham Town Council objects to the proposal, stating that '*The application will lead to an over-concentration of non-retail uses.*'
- 7.02 Kent Highway Services note that the site is within the town centre where there are parking controls and on-street parking is available.
- 7.03 The Council's Environmental Health Manager raises no objection, subject to condition 5 noted below and a condition restricting construction hours, but as these will be limited I have not recommended that condition.
- 7.04 The Council's Tourism Officer supports the application. She says that town centres need to be looked at in different ways for different shopping habits and leisure time offering new experiences. With Faversham being a brewing town there is a natural connection in terms of product and experience.
- 7.05 Kent Police raises no objection.
- 7.06 The County Archaeological Officer raises no objection.



## 8.0 BACKGROUND PAPERS AND PLANS

8.01 Application papers and correspondence relating to planning reference 15/501851.

## 9.0 APPRAISAL

9.01 The two main issues which need to be considered in this case appear to be the loss of an A1 retail unit within the Secondary Shopping Area; and impact on local/residential amenity. For the sake of regularity, I will consider each in turn.

9.02 Firstly, in terms of the Swale Borough Local Plan 2008, Policy B3 allows for a loss of A1 use retail units if this does not lead to a significant loss of either retail frontage or a general loss of A1 use buildings. The frontage of this building is very small, and the shopfront will not be changed. As noted within the Agent's statement, there are already a number of other A1 uses in the immediate vicinity: a florist; a hairdresser, a large bicycle shop, a bakers, etc. I am therefore of the opinion that the loss of the A1 unit within the Secondary Shopping Area is not an issue for concern, and that the proposal conforms with the requirements of Policy B3, which states that '*Within the defined Secondary Shopping Areas, as shown on the Proposals Map, the Borough Council will permit non-retail uses, including residential, provided that they would not: a) lead to a significant concentration of non-retail floorspace or housing or the loss of significant retail frontage; b) result in the loss of existing residential accommodation or a use important to the community; and c) lead to a loss of residential amenity.*

9.03 I am also mindful of the fact that this property is the very last within the Secondary Shopping Area, and is therefore situated right at the edge of Faversham's shopping district. Furthermore, if this end of Preston Street sees less customer footfall due to its position, I am of the opinion that a use such as a micropub will entice shoppers to this end of Preston Street, creating more potential trade for nearby businesses.

9.04 Finally, I am further mindful of the fact that another micro pub was permitted under my delegated powers last year under planning reference 14/500697 at 6A Preston Street. Whilst I would acknowledge that this property was smaller even than no.37, and had been vacant for over two years, that property is within the Core Shopping Area, and even so was granted permission as it was felt that it would attract custom to the area.

9.05 There seems to have been some confusion regarding the nature of operations of the proposed micropub, possibly engendered by the misunderstanding appearing in the local newspaper article. The applicant has clearly stated that there will be no music, and the only food served will be commensurate with the usual offering found in micropubs; crisps, nuts, snacks, etc. Added to the fact that the traditional clientele for micropubs tend not to be binge drinkers, I am not convinced that problems arising from antisocial behaviour will occur.

9.06 However, as the details regarding the previously installed sound proofing are somewhat vague, I have thought it prudent to include Condition 2 below. Similarly, I have included conditions regarding use and opening hours as well.

## 10.0 CONCLUSION

10.01 I recommend that the application be approved, subject to strict conformity with the conditions given below.

**11.0 RECOMMENDATION – GRANT** Subject to the following conditions:

### CONDITIONS

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

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

- 2) Before any building works commence on the site, details of the sound insulation provided between the shop premises and any residential use attached to the building shall be submitted to the Local Planning Authority. If the current level of sound insulation is deemed to be insufficient, a scheme of improvement shall be submitted to the Local Planning Authority. The approved scheme shall be implemented in full prior to the opening of the premises.

Reasons: In the interests of residential amenity, and to ensure that that amenity is preserved before any development takes place.

- 3) No amplified music shall be played on the premises at any time.

Reasons: In the interests of residential amenity.

- 4) The use of the building the subject of this permission shall be used only for the purposes of a micro-pub, or any use within Class A1 (shops) and for no other purposes, including any other purposes in Classes A2 (financial and professional services); A3 (restaurants and cafes); A4 (drinking establishments); or A5 (hot food takeaways) of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended).

Reasons: To align with the approved use of the premises and in the interests of the vibrancy and vitality of the town centre.

- 5) The use of the premises hereby permitted shall be restricted to the hours of 11am to 11pm Mondays to Sundays.

Reasons: In the interests of the amenities of the area

### **Council's Approach to the application**

The Council recognises the advice in paragraphs 186 and 187 of the National Planning Policy Framework (NPPF) and seeks to work with applicants in a positive and proactive manner by offering a pre-application advice service and seeking to find solutions to any obstacles to approval of applications having due regard to the responses to consultation, where it can reasonably be expected that amendments to an application will result in an approval without resulting in a significant change to the nature of the application and the application can then be amended and determined in accordance with statutory timescales.

In this case the proposal was considered acceptable, and the application was decided by the Council's Planning Committee.

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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<b>2.3 REFERENCE NO - 15/504308/FULL</b>		
<b>APPLICATION PROPOSAL</b> Alterations to external doors and the creation of ramped access. As amended by the revised drawing and specifications received 7 <sup>th</sup> July 2015 indicating that the Aco drain shall be substituted for a Marshalls Mono Slot drain.		
<b>ADDRESS</b> St Mary Of Charity Church Church Road Faversham Kent		
<b>RECOMMENDATION:</b> GRANT, SUBJECT TO any additional comments from Historic England received (closing date 15th July 2015).		
<b>SUMMARY OF REASONS FOR RECOMMENDATION/REASONS FOR REFUSAL</b> The proposal meets the statutory requirement in preserving the special interest of the listed building and preserving or enhancing the character of the conservation area.		
<b>REASON FOR REFERRAL TO COMMITTEE</b> Town Council objection		
<b>WARD</b> Abbey	<b>PARISH/TOWN COUNCIL</b> Faversham	<b>APPLICANT</b> St Mary Of Charity Vicar And PCC <b>AGENT</b> Lee Evans Architects
<b>DECISION DUE DATE</b> 17/07/15	<b>PUBLICITY EXPIRY DATE</b> 17/07/15	

**1.0 DESCRIPTION OF SITE**

- 1.01 The site is the area outside the west end of the south aisle at the church of St Mary of Charity, Faversham which is a Grade I listed Historic parish church.
- 1.02 The parts of the building affected by the proposals are the South porch and the area immediately outside the porch. St Mary of Charity is situated in the heart of Faversham, in the conservation area, set in a large churchyard.

**2.0 PROPOSAL**

- 2.01 The existing access into the church at this point has a step which prevents easy access for the disabled This application is for planning permission to take up the existing flagstones (approximately 3 square metres) and re-lay them to form a graded approach which will remove the current step in the area outside the South porch. The proposal also includes moving the existing inner timber doors to the outer doorway, replacing existing spiked timber gates; the gates would be relocated to act as inner entrance gates.
- 2.02 .The South porch will have a gentle ramp down into the porch with an “Aco” type drainage gulley at the bottom. These works will be carried out under the direction of an Archaeologist.
- 2.03 Having moved the existing doors to the outside of the porch the ironmongery on the relocated door would remain and a pair of purpose-made cast brass cruciform round windows are proposed to be installed to give light into the church.

### **3.0 PLANNING CONSTRAINTS**

Conservation Area Faversham

Listed Buildings SBC Ref Number: 1392/SW

Description: G I ST MARY OF CHARITY CHURCH, CHURCH ROAD, FAVERSHAM

### **4.0 POLICY AND OTHER CONSIDERATIONS**

The National Planning Policy Framework (NPPF)

National Planning Practice Guidance (NPPG)

Development Plan:

Relevant Saved policies of the adopted Swale Borough Local Plan 2008 include:

E1 (General Development Criteria)

E14 (Listed Buildings)

E15 (Conservation Areas)

E19 (Design)

### **5.0 LOCAL REPRESENTATIONS**

None Received.

### **6.0 CONSULTATIONS**

6.01 Faversham Town Council raises objection, their comments are below:

- 1) The proposed circular windows in the timber doors would be harmful to the character of those doors.
- 2) Removing the gates to the inner doorway and fixing them opening would take away their meaning as entrance doors.
- 3) The proposed Aco drain would be harmful to the character of the external paving.

### **7.0 APPRAISAL**

7.01 This is a minor but significant alteration to the porch of this grade I listed church. The work is exempt from the need for listed building consent under ecclesiastical law but the new external porch doors and new ramp require planning permission.

7.02 The main considerations in this case concern the impact the alterations would have upon the special architectural interest of the listed building and the conservation area. The Council has a statutory duty to have special regard to the desirability of preserving the listed building, its setting and any features of

interest which are present. It has a similar duty with regard to the conservation area.

- 7.03 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. As heritage assets are irreplaceable, any harm or loss should require clear and convincing justification.”*
- 7.04 I initially had one very minor concern over the appearance of the Aco drain at the threshold to the new porch doors. The Aco drain is a utility item which will look a little inappropriate in such sensitive surroundings amidst high quality paving. I considered that amendments relating to the drain were necessary to make the proposal acceptable.
- 7.05 The applicant was provided with the opportunity to submit amendments to the scheme, these were forthcoming and my concerns have been addressed. Historic England have been reconsulted on the amendments and their views are awaited. I will update Members at the meeting on this issue.
- 7.06 Within the design and heritage statement clear justification for the proposed works has been outlined. The purpose of the proposal is to make the church less forbidding and “fortress like” and, in the case of the South porch, provide full access for wheelchair users.
- 7.07 The inner doors have been altered in the past, possibly from a large single door into a handed pair and the imprints of the ironmongery are visible and will remain to enable its story to be read. It is believe that when it was a single door it was placed in the outer opening and that this proposal will return it to its original position but as two doors rather than one.
- 7.08 When considering the objections from the Town Council, I believe that the amended proposal will have minimal effect on the historic fabric. The proposed circular windows in the timber doors would comprise of a mixture of traditional and contemporary design and detailing that will complement the doors which have previously been altered.
- 7.09 The relocation of the spiked gates is in my opinion a well thought out compromise as their loss would be a negative impact on the significance of the porch. It is also worth keeping in mind that the repositioning of the gates would be largely reversible and that the Aco drain that has been considered harmful to the character of the paving has now been amended to a very subtle slot drain.

## 8.0 CONCLUSION

8.01 A clear and convincing heritage and design statement has accompanied this application. The proposed alterations will use materials which are entirely in keeping with a historic ecclesiastical building, while preserving the special architectural interest of the listed building and the conservation area.

8.02 I am of the view that the changes are modest and largely non-destructive to the historic fabric but would make the church fully accessible and allow more flexible use. I am content that the justification for the changes is well made and that any small harm to the historic fabric is outweighed by the benefits of achieving disabled access to the church.

**9.0 RECOMMENDATION – GRANT** Subject to any further views of Historic England on the amended plans (closing date 15/7/15) and to the following conditions

- (1) The development to which this permission relates must be begun no later than the expiration of one year beginning with the date on which the permission is granted.

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

- (2) The development hereby permitted shall not be carried out otherwise than in complete accordance with the approved plans and specifications, including drawing 07969-WD-(20)-0-02 Revision F.

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

### The Council's approach to the application

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

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/agent was advised of minor changes required to the application and these were agreed.

**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.



<b>2.4 REFERENCE NO - 15/503484/FULL</b>			
<b>APPLICATION PROPOSAL</b> Erection of single storey side extension linking garage to main house with insertion of rooflights.			
<b>ADDRESS</b> Chapel Farm Hillside Road Stalisfield Kent ME13 0JE			
<b>RECOMMENDATION – GRANT subject to conditions</b>			
<b>REASON FOR REFERRAL TO COMMITTEE</b> Parish Council objection			
<b>WARD</b> East Downs Ward	<b>PARISH/TOWN COUNCIL</b> Stalisfield	<b>APPLICANT</b> Mr Richard Wright <b>AGENT</b> Mr Patrick Sullivan	
<b>DECISION DUE DATE</b> 03/07/15	<b>PUBLICITY EXPIRY DATE</b> 03/07/15	<b>OFFICER SITE VISIT DATE</b> 17.6.15	
<b>RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):</b>			
<b>App No</b>	<b>Proposal</b>	<b>Decision</b>	<b>Date</b>
SW/13/1553	Rear single storey glazed conservatory	Granted	28.01.14
SW/10/0908/CCA	Application for compliance with conditions 3 (materials), 4 (sustainable construction) and 5 (landscaping) of planning permission SW/10/0908	Condition discharged	28.6.11
SW/09/0316/NMA	Non-material amendment for omission of velux windows over garage and replacement with dormers, enclosed porch, window alterations and new window to first floor	Non material amendment	21.5.10
SW/10/0908	Replacement dwelling with detached garage and room above with separate block	Granted	19.8.10
SW/09/0316	Replacement dwelling with detached garage and room above with separate stable block	Granted	19.6.09

**MAIN REPORT**

**1.0 DESCRIPTION OF SITE**

- 1.01 Chapel Farm, Stalisfield is a two storey detached dwelling with adjacent double garage located in the countryside, outside the village conservation area, but within the Kent Downs AONB. It is located on a large plot, set back from the road in a very isolated location. Alongside the property is a double garage with loft room and to the rear there are a small block of stables.
- 1.02 This property is a replacement for the former chapel which had been in use as a house for many years. This has now been demolished all bar the porch which still houses the utility meters pending final works.

## **2.0 PROPOSAL**

- 2.01 This application is seeking permission for a single storey side extension linking the garage to the main house with insertion of rooflights.
- 2.02 The side extension would measure 3.5m wide x 2.5 in depth at the widest point. It would be constructed of materials to match the existing dwelling. To the front of the extension would be a glazed door and three windows overlooking the private driveway.
- 2.03 The existing space between the garage and main house is currently partly paved and sectioned off by chestnut fencing. The proposed extension would provide direct access from the utility room to the garage.

## **3.0 PLANNING CONSTRAINTS**

Area of Outstanding Natural Beauty KENT DOWNS

## **4.0 POLICY AND OTHER CONSIDERATIONS**

The National Planning Policy Framework (NPPF)  
 National Planning Practice Guidance (NPPG)  
 Development Plan: Saved policies E1 (General Development Criteria) E6 (The Countryside) E9 (Landscape) E19 (Design Criteria) E24 (Extensions & Alterations) RC4 (Extensions to, and replacement of, dwellings in the rural area) of the Swale Borough Local Plan 2008.  
 Supplementary Planning Documents: Supplementary Planning Guidance entitled “Designing an Extension – A Guide for Householders”

## **5.0 LOCAL REPRESENTATIONS**

- 5.01 None

## **6.0 CONSULTATIONS**

- 6.01 Stalisfield Parish Council objects to the application stating “The Parish Council was unanimous in its opinion that the proposed alterations would see an already large new property verge on the monumental and something out of keeping with the village vernacular.”

## **7.0 BACKGROUND PAPERS AND PLANS**

- 7.01 Application papers and drawings referring to application reference 15/503484/FULL

## **8.0 APPRAISAL**

### **Principle of Development**

- 8.01 The main considerations in the determination of this planning application are the impact of the proposed extension on the design of the existing building, and the visual appearance of the area.

## Visual Impact

- 8.02 The proposed side extension would infill a gap between the dwelling and the garage and as such its impact on the design of the building would be minimal. The external staircase leading to the first floor of the garage can be seen from the front elevation but this would be obscured by the side extension. To the rear, the side extension is designed to fit around the external staircase. In my opinion, this proposal has been well designed to reflect the character of the building.

### Residential Amenity

- 8.03 The property is quite isolated, therefore there are no overlooking or overshadowing issues. However, impact on the character of the countryside needs to be considered, including rural restraint policies which aim to limit extensions to those that are modest. In my opinion, the scale of the side extension would be minimal and as such would represent a modest increase in existing floor space.

## 9.0 CONCLUSION

- 9.01 This application for the erection of a single storey side extension linking the garage to the main house is considered acceptable and I therefore recommend that permission be granted.

## 10.0 RECOMMENDATION – GRANT Subject to the following conditions

### CONDITIONS

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

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

- (2) The materials to be used in the construction of the external surfaces of the extension hereby permitted shall match those on the existing building in terms of type, colour and texture.

Reasons: In the interests of visual amenity.

### Council's approach to the application

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

Where possible, suggesting solutions to secure a successful outcome.

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

In this instance:

The application was acceptable as submitted and no further assistance was required

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

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

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**REPORT SUMMARY**

<b>2.5 REFERENCE NO - 14/501647/OUT</b>		
<b>APPLICATION PROPOSAL</b> Demolition of existing building. Outline planning application for re-development of the site for 12 detached dwellings with appearance, landscaping and scale reserved.		
<b>ADDRESS</b> Southlands Rook Lane Bobbing Sittingbourne Kent ME9 8NL		
<b>RECOMMENDATION</b> Delegate to officers to approve the application subject to ecological, arboricultural and ground water protection matters being resolved including the comments of Natural England (deadline for comments 17/7/15), and the agreement of an appropriate legal agreement to secure developer contributions.		
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b> The lack of a 5 year housing land supply is to be afforded significant weight in my opinion. Given the lack of any significant harm arising from the proposal and its wider acceptability in terms of economic, social and environmental considerations, it is my opinion that the proposal constitutes sustainable development therefore outline planning permission should be granted.		
<b>REASON FOR REFERRAL TO COMMITTEE</b> Bobbing Parish Council objects.		
<b>WARD</b> Grove	<b>PARISH COUNCIL</b> Bobbing	<b>APPLICANT</b> Kent And Medway NHS Social Care Partnership Trust <b>AGENT</b> Mr David Stewart
<b>DECISION DUE DATE</b> 20/11/14	<b>PUBLICITY EXPIRY DATE</b> 20/11/14	<b>OFFICER SITE VISIT DATE</b> 22/10/14
<b>RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):</b>		
<b>App No</b>	<b>Proposal</b>	<b>Decision</b>
SW/99/0116	Relocation of generator, demolition of redundant buildings.	Approved.
SW/03/0227	Single storey extension.	Approved.
SW/03/0826	Non illuminated entrance sign.	Approved.
SW/03/0755	New vehicle access road and 45 vehicle parking spaces.	Approved.
SW/04/1580	Alterations to provide 24 bed unit and clinic facilities for Swale elderly people	Approved.
TP/07/0103	To remove dead wood and reduce 2 branches by 50% to secondary branching	Approved.

**MAIN REPORT**

**1.0 DESCRIPTION OF SITE**

1.01 The application site forms part of the former Keycol Hospital which has partially been redeveloped into a housing estate. The existing single storey building was built in 1990 to provide residential care for dementia sufferers who could no longer reside at home.

The residential element was closed some 8 years ago. Since then the building has been used as a day centre for dementia assessment serving Sittingbourne and the surrounding area. It provided a range of functions such as one on one and group counselling and assessment, memory clinics and similar services. It took GP referrals and also accepted self-referrals. Its closure in October 2013 resulted from a reorganisation of service provision in the Swale area with the services provided elsewhere such as the Memorial Hospital.

- 1.02 The application site is located between the Rooks View housing estate development to the south and east and Demelza House to the north. Further to the south is a Southern Water depot. Beyond this are open agricultural fields.
- 1.03 The site is relatively flat and has an existing vehicle access onto Rook Lane which in turn leads to the A2. The site has a number of large trees protected by a tree preservation order.

**2.0 PROPOSAL**

- 2.01 This is an application for outline planning permission for the demolition of the existing building and the erection of 12 detached dwellings with access and layout being determined at this stage. Appearance, landscaping and scale are reserved matters to be dealt with later.
- 2.02 The submitted layout shows the dwellings located around the periphery of the site with the exception of plot 9 which is located in the centre of the site.
- 2.03 The application forms state that foul sewage would be disposed of by mains sewer and surface water to be disposed of by sustainable drainage system. Each dwelling would have 4-5 bedrooms, with the exception of plot 1 which would be a three bedroom dwelling. The submitted layout shows a garage and two car parking spaces for each dwelling. The existing vehicle access would be resurfaced to provide a clearly defined footpath on the south western side. The new road surface will accommodate a 5m road width and a 2m footway along the south west side. This continues into the site to provide access into the centre of the site where a turning head will provide space for the turning of service and emergency vehicles. Four of the houses would be accessed off a private drive leading from the main access. Each dwelling would meet level 4 of the code for sustainable homes.

**3.0 SUMMARY INFORMATION**

	Existing	Proposed	Change (+/-)
Site Area (ha)	00.71	00.71	0
Approximate Ridge Height (m)	5	Na	na
Approximate Eaves Height (m)	2.5	Na	na
Approximate Depth (m)	55	Na	na
Approximate Width (m)	45	Na	na
No. of Storeys	1	2/3	+1
Net Floor Area	1696	1684	-12
Parking Spaces	47	26	-21
No. of Residential Units	0	12	+12
No. of Affordable Units	na	na	na

#### **4.0 PLANNING CONSTRAINTS**

- 4.01 The trees on the site are mature and are protected by Tree Preservation Order TP/00/1. They are mostly located around the periphery of the site. The site is located within the countryside and strategic gap, the site has archaeological potential, and Rook Lane is a rural lane as defined by the Proposals Map of the Swale Borough Local Plan 2008. The site is located within a ground water source protection zone. To the north of the site (but not in the immediate vicinity) are located the Swale Site of Special Scientific Interest, Special Protection Area and Ramsar sites.

#### **5.0 POLICY AND OTHER CONSIDERATIONS**

##### **The National Planning Policy Framework (NPPF) and National Planning Practice Guidance (NPPG).**

- 5.01 The NPPF relates in terms of achieving sustainable development, building a strong competitive economy, delivering a wide choice of quality homes, requiring good design, promoting healthy communities, conserving and enhancing the natural environment, and sustainable drainage systems.
- 5.02 There are three dimensions to sustainable development: economic, social and environmental. Gains in each should be sought simultaneously. There is a presumption in favour of sustainable development which is considered to be a golden thread running through plan making and decision taking. Amongst the 12 core planning principles are requirements to recognise the intrinsic character and beauty of the countryside and reuse brownfield land.
- 5.03 The NPPF attaches significant weight to economic growth to create jobs and prosperity. Regarding housing the NPPF requires a significant boost in housing supply and states Councils should “identify and update annually a supply of specific deliverable sites sufficient to provide five years worth of housing against their housing requirements with an additional buffer of 5% (moved forward from later in the plan period) to ensure choice and competition in the market for land. Where there has been a record of persistent under delivery of housing, local planning authorities should increase the buffer to 20%”. Paragraph 49 states that housing supply policies should be considered out of date if the Council cannot demonstrate a five year supply of deliverable housing sites.
- 5.04 Paragraph 55 states “To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. For example, where there are groups of smaller settlements, development in one village may support services in a village nearby. Local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances”.
- 5.05 Paragraph 56 attaches great importance to design which should contribute positively to making places better for people. Permission should be refused for development of poor design. Paragraph 70 requires planning decisions to guard against the unnecessary loss of valued community facilities and services.
- 5.06 Paragraph 109 requires the planning system to; contribute to and enhance the natural and local environment by minimising impacts on biodiversity and providing gains where possible; prevent new development from contributing to or being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil or water pollution and remediating and mitigating contaminated land where appropriate.

Paragraph 111 encourages the use of brownfield land. Paragraph 118 requires Council's to aim to conserve and enhance biodiversity and apply numerous principles including; incorporating biodiversity in developments; giving Special Protection Areas and Ramsar sites the same protection as European sites.

- 5.07 Paragraph 121 requires decisions to ensure a site is suitable for its new use taking account of pollution from previous uses and mitigation, and impacts on the natural environment arising from remediation. Adequate site investigation information should be presented. Paragraph 128 makes clear archaeology can be considered a heritage asset and should be assessed appropriately.
- 5.08 National policy linked to the NPPF entitled House of Commons: Written Statement (HCWS161) on Sustainable Drainage Systems states that to protect people and property from flood risk, sustainable drainage systems should be provided in new major development wherever it is appropriate. Similarly, Written Statement HCWS488 states "Local Planning authorities should only impose local parking standards for residential and non-residential development where there is clear and compelling justification that it is necessary to manage their local road network."

#### **The Swale Borough Local Plan 2008.**

- 5.09 Policies SP1, SP2, SP3, SP4, SP5, SP6 and SP7 are strategic level policies setting out the Council's approach to sustainable development, environment, economy, housing, rural communities, transport and utilities and community services and facilities. Development control policies E1 and E19 are general development criteria and design policies that seeks positive, well designed proposals that protect natural and building environments whilst causing no demonstrable harm to residential amenity or other sensitive uses. Policy E6 seeks to protect the quality, character and amenity value of the countryside for its own sake and proposals are only permitted if it meets one of the exceptions listed. Policy E7 seeks to restrict development on sites within strategic and local gaps to prevent settlement coalescence. It states that permission will not be granted for development that would merge settlements, erode rural open and undeveloped character, or prejudice the Council's strategy for redevelopment of urban sites.
- 5.10 E9 seeks to ensure development within the countryside is sympathetic to local landscape character in accordance with the below mentioned SPD, and minimise adverse impacts on landscape character. E10 requires proposals to retain trees as far as possible and provide new planting to maintain the character of the locality. E11 seeks to maintain and enhance the Boroughs biodiversity. E12 provides a hierarchy of protection for sites designated for their importance to biodiversity including, firstly European Sites and Ramsar Sites, and secondly Sites of Special Scientific Interest. E16 requires a proportionate assessment of archaeology on site. B1 seeks the retention of buildings in employment use unless, inter alia, they are inappropriately located for such use and having an unacceptable environmental impact; demonstrated by market testing that there is insufficient demand to justify its retention for employment use; and additionally for residential proposals it should be demonstrated that a mixed use would not be appropriate.
- 5.11 Policy H2 notes permission will be granted for residential development on allocated sites or within built up areas but that outside such areas such development will be restricted in accordance with policies E6 and RC3. Policy RC3 sets out a stringent set of criteria for acceptable rural housing schemes. RC7 protects rural lanes (Rook Lane) from development that would physically or via traffic levels, harm its character. T1 states that proposals will not be permitted that lead to the intensification of an existing



access onto a secondary route unless the access can be improved to an acceptable degree and achieve a high standard of safety through design. T3 requires appropriate vehicle parking to be provided in accordance with adopted Kent County Council standards. T4 requires cyclist and pedestrian safety to be considered along with cycle parking. C1 states that the loss of local community facilities will not be permitted where this would be detrimental to the social well being of the community, unless a suitable equivalent replacement facility is provided. Before agreeing to its loss, evidence will be required that the use is no longer needed and is neither viable nor likely to become viable.

- 5.12 Policy C2 requires developer contributions towards community services and facilities on developments of 10 or more dwellings via an appropriate legal agreement. The preamble to policy C3 sets out that for developments of between 10-19 dwellings the Council will require a financial contribution towards open space provision in the locality as such sites are usually too small to accommodate such on site.

### **Bearing Fruits 2031: The Swale Borough Local Plan Part 1**

- 5.13 The emerging Local Plan has been submitted for examination and so carries some weight. The site is not allocated for development in this emerging Plan. Policy ST1 sets out the Council's strategic approach to securing sustainable development. ST2 sets a housing target for the plan period between 2011-2031 of 10800 houses (540 per annum). ST3 provides a settlement strategy that emphasises development on brownfield land within built up areas and on sites allocated by the Local Plan. It goes on to state that within the countryside development will not normally be permitted unless supported by national policy and it protects the countryside. A series of core policies use the headings within the NPPF and explore the local implications of these topics. CP3 sets the Council's policy for delivering a wide choice of high quality homes which, inter alia, requires densities determined by context, a mix of housing types with emphasis on smaller and larger dwellings, and achieve sustainable and high quality design.
- 5.14 Policy DM6 requires proposals to utilise sustainable transport, demonstrate that intensification of use of an existing access onto a primary route can be done safely, consider cyclists and pedestrians. DM7 required vehicle parking in accordance with KCC standards. Policy DM8 requires that for developments of 10 or more dwellings within 'all other rural areas' affordable housing at 40% is achieved. The size, type and design shall be in accordance with need. DM14 provides general development criteria requiring positive well designed developments that comply with policies and cause no harm to amenity. DM19 requires all housing to achieve code level 3 of the code for sustainable homes. Policy DM21 requires sustainable drainage systems where possible incorporating appropriate discharge rates and protection of receiving watercourses. Policy DM24 requires appropriate consideration of land contamination and groundwater to prevent harm to human health and water.

- 5.15 Policy DM25 seeks to retain important local countryside gaps including between Bobbing and Sittingbourne. DM26 protects rural lanes similar to the existing local plan policy RC7. DM28 sets out that internationally designated wildlife sites such as the Ramsar and Special Protection Area to the north of the application site are afforded the highest level of protection. Policy DM29 requires the retention of trees on development sites as far as possible. DM34 requires appropriate consideration of archaeology.
- 5.16 Supplementary Planning Documents: Swale landscape character and biodiversity appraisal 2011. The guidelines are to restore and create within the Iwade Arable Farmland.

## 6.0 LOCAL REPRESENTATIONS

6.01 Eight letters of objection have been received which are summarised as follows;

- Lack of transparency because there are some matters reserved. Submitted plan may not be final plan for site.
- Two car parking spaces and a garage for each dwelling are inadequate. This will result in parking on the footpath, Rook Lane and Rooks View. These roads are narrow and Rooks View already has parking problems. Pedestrians will have to walk on the road if cars block paths.
- The sites existing access to Rook Lane and the Rook Lane/A2 junction are unsafe due to narrowness and visibility. There have been near misses in the past. More houses means more traffic. Construction traffic will be a danger at A2 junction. TRICS data is disputed and should be reviewed for accuracy. Most traffic is associated with Demelza House not Southlands. The proposal will not benefit highway safety, rural landscape, character and safety of Rook Lane. Cycle access is dangerous. Ensure road wide enough for dust carts. Parking on Rook Lane may affect emergency vehicle access to Demelza House.
- Rook Lane has no footpath to the A2 meaning it is dangerous especially at night.
- No lighting at bus stops. Lighting and a pedestrian crossing to bus stops should be provided.
- The development should have its own play area to stop children from the development using that in Rooks View.
- Plot 9 should be removed to allow double drives and more parking.
- There will be overlooking into existing properties.
- I don't want the site to be sold on with permission and then further revised applications submitted.
- Noise and disturbance, density, overlooking, loss of light are problems.
- The new internal road will be adopted.
- I would like more detail on the sustainable drainage system.
- There is no evidence that the development would not affect flora and fauna.
- A contaminated land assessment should be carried out before the application is considered.
- There are important on site trees that must be considered.
- The submission does not show a permitted scheme for 5 dwellings (SW/12/1596 for the construction of 5 x 4 bedroom detached dwellings and associated vehicle parking plus realignment of Rook Lane including new access to mast and new section of roadway to waterworks) near the Mast Telecommunications Depot which should be taken into account.
- A2/Rook Lane junction improvements should be carried out before further development is considered on Rook Lane.

- Not sustainable development because the existing building would be better used as a special needs school of which there is a shortage in the area.
- Existing site use should be retained or at least an NHS function.
- Extra pressure on school places.
- Planning statement is contradictory.
- Proposal taller than existing which means more overlooking and overshadowing.
- Building works would be noisy at weekends in a rural/residential area.

6.02 Bobbing Parish Council objects on the following summarised grounds;

- Under provision of vehicle parking resulting in on street parking and in neighbouring roads. Rook Lane is too narrow to accommodate parking. On street parking forces pedestrians onto the road. There is a danger to cyclists due to poor visibility and lack of cycle lanes. There is no footpath or lighting along Rook Lane resulting in danger for pedestrians. This needs to be addressed before development is considered. Road access on Rook Lane and the A2 is poor because the road is narrow with poor junction visibility. There have been several accidents and near misses. Traffic queues on the A2 causing noise and pollution for residents. Traffic for Demelza House has increased and the 5 house project on the Southern Water site will increase traffic. Policies T1 and SP6 apply to the A2 junction. S106 money from Rooks View development was never spent on junction improvements.
- The application is contradictory regarding the adoption of the road.
- Surface water drainage- the balance pond for Rooks View would not cope with further development.
- There is a risk of contaminated land due to previous use for medical facility that should be investigated thoroughly before development I considered.
- Application forms wrong in relation to trees as there are large trees on site.
- Lack of transparency due to reserved matters. Intentions should be made clear.

6.03 Fynvola, a charity that specialises in dealing with adults with a learning disability requiring specialised nursing care to the end of life, has written in to express an interest in the site. Its use of the site would fall within the existing use class without building work and traffic equal to the current use. It would provide 16 bedrooms and two respite places, and employ 45 people. Fynvola has made an offer for the building without planning permission being granted. Its offers and negotiations with the vendor are stalled pending the outcome of this application.

## 7.0 CONSULTATIONS

- 7.01 The Head of Service Delivery notes the content of the contaminated land assessment and the requirement for ground investigations. Conditions are recommended regarding contaminated land, pile driving, hours of construction and dust suppression.
- 7.02 The Council's Climate Change Officer is happy to see that level 4 of the code for sustainable homes is proposed and requires further details in due course.
- 7.03 The Council's Tree Consultant raises no objection whilst noting that the dwellings are mostly located outside the root protection areas of trees. The loss of the Robinia tree 14U is acceptable because it has a number of structural defects that will lessen its safe useful life expectancy. Conditions regarding a tree protection plan and method statement, and landscaping details are recommended.
- 7.04 The Council's Green Spaces Manager requests developer contributions of £862 per dwelling totalling £10, 344 towards off site play areas.

- 7.05 Kent Highway Services raises no objection subject to conditions recommended below. Traffic calming features, street lighting, off site highway works, pedestrian safety, and the layout and amount of vehicle parking spaces are appropriate.
- 7.06 Kent County Council requires developer contributions totalling of £57, 225.31 consisting of;
- £28, 331.52 for primary education (towards the Phase 1 of the Regis Manor Primary School expansion)
  - £28, 317.60 for secondary education (towards Phase 2 of the Sittingbourne Community Academy expansion)
  - £576.19 for libraries (supplied to mobile library service covering Bobbing and the Sittingbourne library).
  - A further Swale wheelie bin charge of £75.22 per dwelling totalling £902.64 applies, plus the standard 5% Council monitoring charge.
- 7.07 Kent County Council Ecology has reviewed the ecological information submitted with the application and is generally satisfied with the conclusion that the site is largely unsuitable for protected/notable species. Prior to determination of the application confirmation is required regarding the suitability of trees 14U and 17B to be used by roosting bats and if they are being removed, whether there is a requirement for an emergence survey to be carried out. Lighting must be designed incorporate the recommendations within the submitted report. Breeding bird advice is provided and ecological enhancements are required.
- 7.08 Kent County Council Archaeology considers there to be archaeological potential on the site and recommends a condition requiring a programme of archaeological works.
- 7.09 The Environment Agency objects to the application as the information submitted does not demonstrate that the risk of pollution to controlled waters is acceptable as the site lies in Source Protection Zone 1 (SPZ1), a highly sensitive location for groundwater quality. I have asked the agent to submit information to address the objection of the Environment Agency and seek delegation to resolve this issue.
- 7.10 Southern Water requires a formal application for a connection to the public foul sewer to be made by the applicant or developer and requests an informative in this regard. It notes there are no public surface water sewers to serve the development therefore an alternative is required which should not be to the public foul sewer. There is a private water supply pipe within the access of the site.
- 7.11 The Highways Agency, which has subsequently been replaced by Highways England, raises no objection.

## **8.0 BACKGROUND PAPERS AND PLANS**

- 8.01 The following information has been submitted in support of the application;
- Planning, design and access statement.
  - A phase 1 contamination report.
  - Ecology phase 1 habitat survey.
  - Draft unilateral undertaking for developer contributions and title deed.
  - Tree survey.

## 9.0 APPRAISAL

9.01 The objections of local residents and the Parish Council are noted. The applicant is legally entitled to submit an outline planning application and subsequently submit further application(s) for approval of reserved matters if they or another party wishes. Vehicle parking, highway safety including pedestrian safety and junction visibility are all considered acceptable by Kent Highway Services as discussed below. There is no requirement for an on site play area but the proposal will secure contributions towards off site play areas in the locality. Appearance and scale are reserved matters therefore it is not possible to fully consider overlooking at this stage because the position of windows is not yet being determined but the layout enables me to consider that the orientation and gaps between properties would not result in harmful overlooking, loss of light, or an overbearing impact. Noise and disturbance during construction will be controlled to reasonable levels by the conditions recommended below. The density is not at odds with the character of the area in my view. Drainage, some elements of ecology and land contamination can be dealt with by condition. The use of the site as a school does not fall to be considered as part of this application. Contribution towards local schools would be secured by legal agreement to mitigate the impact of the development on school capacity.

### Principle of Development

9.02 The Kent County Council Housing Information Audit produced for Swale for 2013/14 shows that the Council currently has a 3.17 year housing land supply. This is important because it demonstrates a significant shortfall in the required 5 year supply. Where a five-year shortfall exists, specific guidance in the NPPF becomes a relevant material consideration. The NPPF states, at paragraph 47, that the local planning authority should use their evidence base to ensure that the local plan meets the full, objectively assessed need for market and affordable housing. Furthermore they should identify specific deliverable sites sufficient to provide five years of housing land with an additional buffer of 5%. If planning authorities cannot identify a 5 year land supply all relevant local planning policies relating to the supply of housing should be considered to be not up-to-date.

9.03 The Council would ordinarily consider residential development within the countryside and strategic gap to be unacceptable. However, the following material considerations indicate otherwise. The proposal would entail the redevelopment of brownfield land which is encouraged in both local and national policy. Furthermore, the Council cannot demonstrate a 5 year housing land supply therefore paragraph 49 of the NPPF applies which states “Housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.” The Council’s policies relating to housing supply are therefore out of date and the application must be considered in the context of the presumption in favour of sustainable development which is considered below.

9.04 The site is relatively removed from services, facilities and amenities with the nearest shops being the Co-Op’s at Bobbing Services and Newington which are approximately 1 mile from the site. The nearest schools are Bobbing Primary School in Bobbing and Westlands Secondary School within Sittingbourne, as are the nearest doctors and dentists. There is a bus stop on the A2 close to the junction with Rook Lane providing relatively close public transport links.

- 9.05 I do not consider the site to be truly isolated as set out in the NPPF as it is on the outskirts of Sittingbourne and its associated services. The physical site context is that it is bounded on two sides by a housing estate and on a third by Demelza House. Only the north west boundary of the site faces open countryside and this is well screened from the countryside beyond by the retention of the trees protected by the tree preservation order. The proposal is well contained by its surroundings resulting in no significant harm to the character and appearance of the countryside or harm to visual amenity. In my opinion, substantial weight should be given to the lack of a 5 year supply in considering whether the proposal constitutes sustainable development. I believe the policy context weighs in favour of accepting the principle of development.
- 9.06 The principle of development in my opinion is acceptable for these reasons .

### **Loss of the Southlands Centre**

- 9.07 The loss of existing rural facilities is generally resisted in both local and national policy as noted above. However, in this case the services previously provided at Southlands, namely dementia assessment, one to one and group counselling and assessment, and memory clinics and similar services have been relocated elsewhere within Swale as a result of its closure to locations such as Sittingbourne Memorial Hospital which means there would be no harm to the community in terms of service loss. It could also be argued that the services have been located to more accessible sites which benefits patients. It is clear that Southlands formerly served the whole district and was not restricted to the immediate locality. It is noteworthy that the agent has stated the sale of Southlands will facilitate the development and improvement of mental health services in the area.
- 9.08 The application includes some marketing information;

*“There is a formal protocol for the marketing of public authority land when it is declared surplus to requirements. It must first be registered on the government's surplus asset register (e-PIMS). This register is accessible to all and is the primary source of information for both the public and private sector on the sale of any public land or building asset. It is also the responsibility of the owner to circulate details to other public agencies and I can confirm that the organisations listed below have been consulted to see if there is demand from other public sector bodies.*

*The site has remained on the e-PIMS website since the date on which notification has been given. To date no interest from any of the bodies has been received. It should also be recognised that the private sector has direct access to the surplus land register and the placing of Southlands on this register has not elicited a response from this sector either. I should confirm that the site has been on the register since 9 July 2013. Thus the site has been marketed in the primary locations for more than a year.*

*What has occurred earlier this year is a request from a group called Aspire to place the site on the community asset register. They had not previously expressed a wish to purchase the property to the Health Authority and it is believed that they wanted to attempt to thwart the Trust's attempts to establish an alternative use for the site. The group wish to establish a Free School at the site. The Trust had the opportunity to object the listing of the property but felt it could not do so as it fully subscribes and supports the government's policy on the disposal of surplus public land. From its point of view it has no preferred purchaser for the site; the Trust is willing to sell the site to Aspire provided that it can meet the market value of the site. The fact that the building is now a community asset places restrictions on the sale of the land. The Trust must issue notice of the sale to the relevant authority and allow a period of 6 months for the*

*interested party to confirm that it will purchase the property. In this instance the Trust is in negotiations with Aspire to establish whether there is a reasonable prospect of the group buying the land. At the present time they have no funding for the setting up of the Free School and have bid to the Department for Education for grant aid. However the Trust fully intends to meet the disposal of community asset procedures. If at the end of 6 months the interested party cannot purchase the building the Trust is at liberty to sell to any other interested body it chooses and for the use which is extant or has planning permission.”*

- 9.09 It appears that since this fruitless marketing exercise was carried out, Fynvola has expressed an interest in purchasing the site. The content of the letter from Fynvola is noted. However, in the circumstances and having had regard to the particular merits of this proposal, to refuse permission based on a single expression of interest/offer for the site would not in my opinion be a sustainable position to defend at appeal. I consider substantial weight should be given to the lack of identifiable social harm arising from the proposal in considering whether the proposal constitutes sustainable development. For these reasons I consider the loss of the existing use to be acceptable.

### **Residential Amenity**

- 9.10 Access and layout are being dealt with under this outline application. The layout has been amended in order to achieve an acceptable relationship between the proposed dwellings and the surrounding housing estate. The layout of plot 1 and the indication on the proposed site layout that this dwelling will be one and a half storeys will make the impact on the residential amenities of the occupiers of 34 Rooks View acceptable. I recommend condition 4 below to require that when the reserved matters application is received the final design will not result in harmful overlooking of this neighbour.
- 9.11 The layout of plot 5 in relation to 24 Rooks View is similarly acceptable in my opinion because there would be an 11m gap between the two dwellings and number 24 would side on to the rear of plot 5. The side elevation of plot 6 would be 16m from the rear of 23 Rooks View. The layout of the remaining dwellings shown on the submitted plan would not give rise to any identifiable harm to residential amenity and is acceptable in my opinion. The conditions recommended below will secure appropriate dust suppression, hours of construction and hours of pile driving to protect residential amenity.

### **Highway safety and convenience**

- 9.12 The provision of two independently accessible car parking spaces per dwelling satisfies the current Kent Highway Services Parking Standards set out in Interim Guidance Note 3. Garages no longer count towards parking provision but their provision as part of the proposal will be of benefit as additional parking spaces if used in this way. The internal road layout and alterations to Rook Lane to improve highway safety, including road narrowing, reversing traffic priority, new lighting columns and relocation of existing lighting columns out of visibility splays on the A2 are all considered acceptable by Kent Highway Services. The impact of the proposal on highway safety and convenience would be acceptable.

### Landscaping

- 9.13 Whilst landscaping is a reserved matter, the layout of the proposal would result in the ability to retain the trees protected by the tree preservation order. The protection of the existing trees during construction would be secured by condition below. I am awaiting clarification regarding whether tree U14 marked on the tree survey is to be removed or not and seek delegation to resolve this matter.

### Other Matters

- 9.14 Developer contributions are sought for the following;
- KCC £28, 331.52 for primary education (towards the Phase 1 of the Regis Manor Primary School expansion)
  - KCC £28, 317.60 for secondary education (towards Phase 2 of the Sittingbourne Community Academy expansion)
  - KCC £576.19 for libraries (supplied to mobile library service covering Bobbing and the Sittingbourne library).
  - SBC wheelie bin charge of £75.22 per dwelling totalling £902.64 applies
  - SBC Green Spaces Manager requests developer contributions of £862 per dwelling totalling £10, 344 towards off site play areas.
  - SBC 5% monitoring charge £3423.59
  - Total £71, 895.54
  - There may be a further requirement for contributions towards mitigation of the impacts on the special protection area to the north.
- 9.15 Draft heads of terms for a legal agreement have been submitted and the agent has confirmed the applicants willingness to enter into a legal agreement to secure the required developer contributions.
- 9.16 The Environment Agency objects to the proposal because it has not demonstrated that ground water would be protected. I am awaiting this information from the agent and seek delegation to resolve this issue prior to issuing planning permission.
- 9.17 The implications of potential land contamination on human health are considered acceptable subject to standard contaminated land conditions recommended below.
- 9.18 It is considered that the submitted ecological appraisal is acceptable and that the site is largely unsuitable for protected species. The standing advice of Natural England has been considered in reaching this conclusion. Prior to determination further information is required regarding the potential for two existing trees to be used by roosting bats and if they are to be removed whether there is a requirement for emergence surveys to be carried out. I am awaiting this information from the agent and seek delegation to resolve this issue prior to issuing planning permission. Appropriate lighting, breeding bird requirements and enhancements are secured by conditions recommended below. I am also seeking delegation to deal with any requirement for a habitat regulations assessment and subsequent contributions required as a result of the comments of Natural England when they are received.
- 9.19 In accordance with the Council's Adopted Local Plan 2008, there is no requirement for affordable housing, given that the number of dwellings proposed falls below the threshold specified in Policy H3..



- 9.20 In my opinion, it is not preferable to encourage another employment generating use at the site because of the relatively poor quality of the junction from the site access road on to Rook Lane which Kent Highway Services has confirmed is not of adoptable standard, and the junction of Rook Lane on to the A2 which is considered suitable for the purposes of the level of residential traffic the proposal would generate but may not be appropriate for commercial traffic. Furthermore, the position of the site between a housing estate and hospice is not ideally suited to commercial uses and its optimal use is in my view as housing land.
- 9.21 Archaeological potential is dealt with by the condition given the potential highlighted by Kent County Council Archaeology.
- 9.22 Foul and SUDS compliant surface water drainage can be dealt with by condition to prevent flooding.
- 9.23 The proposal would not harm the character of the rural lane in my opinion either through its design or impact of traffic levels .

## 10.0 CONCLUSION

- 10.01 The lack of a 5 year housing land supply should be afforded significant weight in my opinion. Given the lack of any significant harm arising from the proposal and its wider acceptability in terms of economic, social and environmental considerations, I am of the opinion that the proposal constitutes sustainable development therefore outline planning permission should be granted subject to conditions.

## 11.0 RECOMMENDATION – GRANT Subject to the following conditions:

CONDITIONS to include

- 1) Details relating to the appearance, landscaping and scale of the proposed development, shall be submitted to and approved by the Local Planning Authority before any development is commenced.

Reason: In pursuance of Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

- 2) Application for approval of reserved matters referred to in Condition (1) above must be made not later than the expiration of three years beginning with the date of the grant of outline planning permission.

Reason: In pursuance of Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

- 3) The development to which this permission relates must be begun not later than the expiration of two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.

Reason: In pursuance of Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

- 4) The details submitted pursuant to condition 1 of this permission shall show plot 1, as indicated on drawing number 08042-(SK) 003 Rev C, as a one and a half storey dwelling with no rear facing habitable room openings at first floor level.

Reason: To prevent harmful overlooking of 34 Rooks View.

- 5) The development shall proceed in accordance with the recommendations set out in sections 4.5 and 4.6 of the LaDellWood Ecology Phase 1 Habitat Survey dated January 2015.

Reason: to protected and enhance ecology on the site.

- 6) Prior to the commencement of development hereby permitted, details of a scheme of ecological enhancements, which shall include bat and bird boxes to be incorporated into the new buildings to increase roosting and nesting opportunities and a lighting scheme that adheres to the guidance set out in the submitted LaDellWood Ecology Phase 1 Habitat Survey dated January 2015, shall be submitted to and approved in writing by the Local Planning Authority. The approved measures shall be incorporated into the development prior to the first occupation of the dwellings.

Reason: To secure ecological enhancements on the site and to ensure that such matters are dealt with before development commences.

- 7) Prior to the commencement of development a contaminated land assessment (and associated remediation strategy if relevant), shall be 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 and to ensure that such matters are dealt with before development commences.

- 8) 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 contaminated land is adequately dealt with.

- 9) 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 of the proposed remediation works 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 contaminated land is adequately dealt with.

- 10) If during the development, contamination not previously identified is found to be present at the site, then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted and obtained written approval from the Local Planning Authority, details of how this unsuspected contamination shall be dealt with.

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

- 11) No impact pile driving in connection with the construction of the development shall take place on the site on any Saturday, Sunday or Bank Holiday, nor on any other day except between the following times :-  
Monday to Friday 0900 - 1700 hours unless in association with an emergency or with the prior written approval of the Local Planning Authority.

Reason: In the interests of residential amenity.

- 12) No demolition or construction work in connection with the development shall take place on any Sunday or Bank Holiday, nor on any other day except between the following times :-  
Monday to Friday 0730 - 1800 hours, Saturdays 0830 - 1300 hours unless in association with an emergency or with the prior written approval of the Local Planning Authority.

Reason: In the interests of residential amenity.

- 13) Prior to the commencement of development a programme for the suppression of dust during the demolition of existing buildings and construction of the development has been submitted to and approved in writing by the Local Planning Authority. The measures approved shall be employed throughout the period of demolition and construction unless any variation has been approved by the Local Planning Authority.

Reason: In the interests of residential amenity and to ensure that such matters are dealt with before development commences.

- 14) Prior to the commencement of development details of the method of disposal of foul and surface water shall be submitted to and approved in writing by the Local Planning Authority. The surface water drainage details shall be designed in accordance with the principles of sustainable drainage systems. The development shall proceed in accordance with the approved details.

Reason: to prevent surface water flooding and ensure foul water is dealt with appropriately and to ensure that such matters are dealt with before development commences.

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

Reason: To ensure that features of archaeological interest are properly examined and recorded and to ensure that such matters are dealt with before development commences.

- 16) No development shall take place until a tree protection plan and arboricultural method statement in accordance with the recommendations of BS 5837:2012 have been submitted to and approved in writing by the Local Planning Authority. The method statement shall detail implementation of any aspect of the development that has the potential to result in the loss of or damage to trees, including their roots, and shall take account of site access, demolition and construction activities, foundations, service runs and level changes. It shall also detail any tree works necessary to implement the approved scheme.

Reason: To safeguard existing trees to be retained and to ensure a satisfactory setting and external appearance to the development and to ensure that such matters are dealt with before development commences.

- 17) The dwellings hereby approved shall achieve at least a Level 4 rating under The Code for Sustainable Homes or equivalent, and no development shall take place until details have been submitted to, and approved in writing by the Local Planning Authority, which set out what measures will be taken to ensure that the development incorporates sustainable construction techniques such as rainwater harvesting, water conservation, energy efficiency and, where appropriate, the use of local building materials; and provisions for the production of renewable energy such as wind power, or solar thermal or solar photo voltaic installations. Upon approval, the details shall be incorporated into the development as approved.

Reason: In the interest of promoting energy efficiency and sustainable development and to ensure that such matters are dealt with before development commences.

- 18) No work shall commence on the development site until the off-site highway works indicated on drawing 08042-(SK)004 Revision A have been carried out in accordance with a design and specification to be approved in writing with the Local Planning Authority and to be fully implemented.

Reason: In the interests of amenity and road safety.

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

Reason: In the interests of amenity and road safety and to ensure that such matters are dealt with before development commences.

- 20) Prior to the works commencing on site details of parking for site personnel / operatives / visitors shall be submitted to and approved by the Local Planning Authority and thereafter shall be provided and retained throughout the construction of the development. The approved parking shall be provided prior to the commencement of the development.

Reason: To ensure provision of adequate off-street parking for vehicles in the interests of highway safety and to protect the amenities of local residents and to ensure that such matters are dealt with before development commences.

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

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

- 22) The area shown on the submitted layout as vehicle parking and turning space shall be provided, surfaced and drained to the satisfaction of the Local Planning Authority before the use is commenced or the premises occupied, and shall be retained for the use of the occupiers of, and visitors to, the premises, and no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order), shall be carried out on that area of land so shown or in such a position as to preclude vehicular access to this reserved parking space.

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

- 23) No dwelling shall be occupied until space has been laid out within the site in accordance with the details shown on the application plans for cycles to be securely sheltered and stored.

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.

- 24) The proposed estate roads, footways, footpaths, verges, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, vehicle overhang margins, embankments, visibility splays, accesses, carriageway gradients, drive gradients, car parking and street furniture 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. For this purpose, plans and sections, indicating as appropriate, the design, layout, levels, gradients, materials and method of construction shall be submitted to the Local Planning Authority.

Reason: To ensure that the roads are laid out and constructed in a satisfactory manner and to ensure that such matters are dealt with before their construction commences.

- 25) Pedestrian visibility splays 2 m x 2 m with no obstruction over 0.6 m above the access footway level shall be provided at each access prior to the commencement of any other development in this application and shall be subsequently maintained.

Reason: In the interests of highway safety.

- 26) 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.

Reason: In the interests of highway safety.

- 27) The landscaping details submitted pursuant to condition 1 shall include full details of both hard and soft landscape works including existing trees, shrubs and other features, planting schedules of plants, noting species (which shall be native species and of a type that will encourage wildlife and biodiversity), plant sizes and numbers where appropriate, means of enclosure, hard surfacing materials, and an implementation programme. 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. Upon completion of the approved landscaping scheme, any trees or shrubs that are removed, dying, being severely damaged or becoming seriously diseased within five years of planting shall be replaced with trees or shrubs of such size and species as may be agreed in writing with the Local Planning Authority, and within whatever planting season is agreed.

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

- 28) The development shall proceed in accordance with the following approved plan number: 08042-(SK) 003 Revision C.

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

## INFORMATIVES

1. Southern Water wishes to make the applicant aware that a formal application for connection to the public sewerage system is required in order to service this development. To initiate a sewer capacity check to identify the appropriate connection point for the development, please contact Southern Water, Sparrowgrove House, Sparrowgrove, Otterbourne, Hampshire, SO21 2SW (tel: 0330 303 0119) or [www.southernwater.co.uk](http://www.southernwater.co.uk). Due to changes in legislation it is possible that a sewer now deemed to be public could be crossing the site. Therefore should any sewer be found during construction an investigation of it will be required to ascertain its condition, number of properties served and potential means of access before any further works commence on site. Contact Southern Water to discuss this matter.
2. Kent Highway Services wishes to make the applicant aware that 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. 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.

The Council's approach to this application:

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

Offering pre-application advice.

Where possible, suggesting solutions to secure a successful outcome.

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

In this instance:

The applicant/agent was advised of minor changes required to the application and these were agreed.

The application was considered by the Planning Committee where the applicant/agent had the opportunity to speak to the Committee and promote the application.

Case Officer: Martin Evans

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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<b>2.6 REFERENCE NO - 14/503384/FULL</b>			
<b>APPLICATION PROPOSAL</b> Permission is sought for change of use of land to residential caravan site, for one Gypsy Traveller family.			
<b>ADDRESS</b> Windmill Farm Yaugher Lane Hartlip Kent ME9 7XE			
<b>RECOMMENDATION</b> – Grant Temporary Planning Permission			
<b>SUMMARY OF REASONS FOR RECOMMENDATION/REASONS FOR REFUSAL</b> The site is not in any specially designated area, but it is in a relatively isolated location. However, the Council is currently unable to demonstrate a five year supply of available sites.			
<b>REASON FOR REFERRAL TO COMMITTEE</b> Parish Council objection			
<b>WARD</b> Newington & Upchurch	Hartlip,	<b>PARISH/TOWN COUNCIL</b> Hartlip	<b>APPLICANT</b> Mr Mark Curtis <b>AGENT</b> Mr Joseph Jones
<b>DECISION DUE DATE</b> 14/10/14	<b>PUBLICITY EXPIRY DATE</b> 14/10/14	<b>OFFICER SITE VISIT DATE</b>	
<b>RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):</b>			
<b>App No</b>	<b>Proposal</b>	<b>Decision</b>	<b>Date</b>
SW/13/0277	(Relates to land to northwest of the current application site the subject of this report) Change of use for the siting of two mobile homes; the erection of two utility blocks; and associated brick wall, fencing, parking and landscaping for use by a gypsy family.	Temporary 3 year permission granted – expires July 2016	July 2013

**MAIN REPORT**

**1.0 DESCRIPTION OF SITE**

- 1.1 The site is located in a remote rural area outside of any defined built up area boundary, outside of any village and a significant distance from services. The site is approximately 2.2km from the A2 and even further to any village with services.
- 1.2 The site abuts open countryside to the north and east, whilst to the west it abuts the boundary of a temporary gypsy site (ref SW/13/0277) and an access track to the south with a pair of cottages just beyond. The site is covered in hard standing (type one with small stones on top) and according to the applicant’s agent this was carried out in excess of 4 years ago. There is also a concrete base for a static caravan and connections to drainage built in. A 1.8m high close boarded fence encloses the site to the northeast and southwest boundaries.

1.3 The site has an existing entrance from Yaugher Lane. The M2 lies to the south of the site, beyond Windmill Farm and Oak Barn Cottages, and to the south of the motorway is the Queendown Warren SSSI and the AONB. The site would appear to be just about large enough to accommodate a static caravan, tourer and parking space at 286 sq.m in area.

## 2.0 PROPOSAL

2.1 This application seeks planning permission for the change of use of the site to a residential caravan site for one gypsy/ traveller family. The accommodation would comprise of one static caravan , one touring caravan and a parking space would be provided for one vehicle with associated hardstanding and septic tank.

2.2 The application is accompanied by a design and access statement and information in support of the application.

2.3 The statement explains that the application is made by the applicant for himself and his family. It goes on to explain that the applicant is a member of the gypsy and traveller community and has gypsy status and that the family are a well known Romani gypsy/ traveller family.

2.4 The statement continues to comment that it is important that they have a stable place to live, particularly in respect of access to healthcare.

2.5 The statement also goes into detail as to why they consider the site to be sustainable and states;

- There is a house nearby which is residential
- The site has a mains water supply
- A septic tank (or similar) would be installed in line with British standards
- Surface water would be disposed of via natural percolation
- The site is close to Hartlip
- The site has good and safe access to primary and other main roads and to the principle and major urban areas in this part of the County
- There is reasonable screening around the site which will improve as the trees and bushes become more established, however, the applicant is happy to do further planting as required
- The site is affordable (all costs at the expense of the site residents) and would have no financial impact on the local authority or the Council's tax payers, while at the same time it would reduce the need for sites which the LA should provide for the gypsy traveller community
- The NPPF makes it clear that there is a presumption in favour of sustainable development and in our opinion that adds weight to this application.

2.6 The statement also comments that visual impact would be minimal.

### 3.0 PLANNING CONSTRAINTS

3.1 The site is not in an area covered by any planning constraints.

### 4.0 POLICY AND OTHER CONSIDERATIONS

4.1 The National Planning Policy Framework (NPPF) and Planning Policy Traveller Sites (PPTS) and the Development Plan (saved policies of the Swale Borough Local Plan 2008):

4.2 The national policy position comprises of the National Planning Policy Framework (NPPF) and Planning Policy Traveller Sites (PPTS). Both documents were released in 2012. Together they provide national guidance for Local Planning Authorities on plan making and in determining planning applications. A presumption in favour of sustainable development runs throughout both documents and this presumption is an important part of both the plan-making process and in determining planning applications. In addition there is a requirement in both documents that makes clear that Council's should set pitch targets which address the likely need for pitches over the plan period and maintain a rolling five year supply of sites which are in suitable locations and available immediately.

4.3 Whilst regard has been paid to all of the guidance as set out within the NPPF, the following extracts are particularly relevant to this application:

*"2.31 There are three dimensions to sustainable development: economic, social and environmental. These dimensions give rise to the need for the planning system to perform a number of roles:*

- **an economic role** – contributing to building a strong, responsive and competitive economy, by ensuring that sufficient land of the right type is available in the right places and at the right time to support growth and innovation; and by identifying and coordinating development requirements, including the provision of infrastructure;
- **a social role** – supporting strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations; and by creating a high quality built environment, with accessible local services that reflect the community's needs and support its health, social and cultural well-being; and
- **an environmental role** – contributing to protecting and enhancing our natural, built and historic environment; and, as part of this, helping to improve biodiversity, use natural resources prudently, minimise waste and pollution, and mitigate and adapt to climate change including moving to a low carbon economy. (Para 7 NPPF)"

4.4 Whilst regard has been paid to all of the guidance as set out within the PPTS, the following extracts are particularly relevant to this application:

*“The Government’s overarching aim is to ensure fair and equal treatment for travellers, in a way that facilitates the traditional and nomadic way of life of travellers while respecting the interests of the settled community (para 3 PPTS).*

*To help achieve this, Government’s aims in respect of traveller sites are:*

- that local planning authorities should make their own assessment of need for the purposes of planning to ensure that local planning authorities, working collaboratively, develop fair and effective strategies to meet need through the identification of land for sites to encourage local planning authorities to plan for sites over a reasonable timescale that plan-making and decision-taking should protect Green Belt from inappropriate development to promote more private traveller site provision while recognising that there will always be those travellers who cannot provide their own sites that plan-making and decision-taking should aim to reduce the number of unauthorised developments and encampments and make enforcement more effective for local planning authorities to ensure that their Local Plan includes fair, realistic and inclusive policies to increase the number of traveller sites in appropriate locations with planning permission, to address under provision and maintain an appropriate level of supply to reduce tensions between settled and traveller communities in plan-making and planning decisions to enable provision of suitable accommodation from which travellers can access education, health, welfare and employment infrastructure for local planning authorities to have due regard to the protection of local amenity and local environment (para 4 PPTS)*

*Local planning authorities should ensure that traveller sites are sustainable economically, socially and environmentally. Local planning authorities should, therefore, ensure that their policies:*

- promote peaceful and integrated co-existence between the site and the local community promote, in collaboration with commissioners of health services, access to appropriate health services ensure that children can attend school on a regular basis provide a settled base that reduces the need for long-distance travelling and possible environmental damage caused by unauthorised encampment provide for proper consideration of the effect of local environmental quality (such as noise and air quality) on the health and well-being of any travellers that may locate there or on others as a result of new development avoid placing undue pressure on local infrastructure and services do not locate sites in areas at high risk of flooding, including functional floodplains, given the particular vulnerability of caravans reflect the extent to which traditional lifestyles (whereby some travellers live and work from the same location thereby omitting many travel to work journeys) can contribute to sustainability (para 11PPTS)*

*Applications should be assessed and determined in accordance with the presumption in favour of sustainable development and the application of specific policies in the National Planning Policy Framework and this planning policy for traveller sites (para 21 PPTS)*

*Local planning authorities should consider the following issues amongst other relevant matters when considering planning applications for traveller sites:*

- *the existing level of local provision and need for sites the availability (or lack) of alternative accommodation for the applicants other personal circumstances of the applicant that the locally specific criteria used to guide the allocation of sites in plans or which form the policy where there is no identified need for pitches/plots should be used to assess applications that may come forward on unallocated sites that they should determine applications for sites from any travellers and not just those with local connections (para 22 PPTS)*

*Local planning authorities should strictly limit new traveller site development in open countryside that is away from existing settlements or outside areas allocated in the development plan. Local planning authorities should ensure that sites in rural areas respect the scale of, and do not dominate the nearest settled community, and avoid placing an undue pressure on the local infrastructure (para 23 PPTS).*

*Subject to the implementation arrangements at paragraph 28, if a local planning authority cannot demonstrate an up-to-date five-year supply of deliverable sites, this should be a significant material consideration in any subsequent planning decision when considering applications for the grant of temporary planning permission (para 25 PPTS)*

- 4.5 The Council has responded positively and quickly to the change in the national policy position in respect of Gypsy and Traveller accommodation. The LDF panel quickly supported the commissioning of a new Gypsy and Traveller Accommodation Assessment (GTAA), which was completed in June 2013 and identified a need for 82 pitches to be provided during the plan period (adjusted down from 85 pitches in reflection of those sites granted consent whilst the document was under preparation). There was a suggested phasing for the delivery of sites, a figure of 35 pitches in the first five years. This need figure was incorporated within the draft Bearing Fruits Swale Borough Local Plan: Part 1 consultation document in August 2013 with a policy introducing provision for pitches on major housing development and criteria for any potential windfall applications that might come forward.
- 4.6 Shortly after that the Council quickly begun work on Part 2 of the Swale Borough Local Plan which will deal with site allocations for Gypsy and Traveller pitch provision only.

- 4.7 Over 40 pitches have already been granted planning permission in the first two years; however almost all of these are already occupied meaning that although they come off the need figure, they are no longer available. As such, the Council are not currently able to demonstrate a five year supply of sites. The remaining need will be provided either through pitch provision on Local Plan mainstream housing allocations or specific Gypsy allocations in a separate DPD. The Local Plan is due for its Examination in September which will validate the Councils approach and effectively allocate a number of pitches per housing site.
- 4.8 Until these allocations are adopted or progressed the Council will be reliant on windfall planning permissions to meet the need.
- 4.9 Given the above, and the fact that the Council does not consider it is currently able to demonstrate a five year supply of available pitches, paragraph 25 of Planning Policy for Traveller Sites is engaged, and there are grounds for considering the grant of temporary or permanent planning permission on the basis that such a supply cannot be demonstrated.
- 4.10 Other relevant planning policies within the Swale Borough Local Plan 2008 are: E1 (general development criteria); E6 (countryside); E7 (Strategic gap); E9 (landscape); E11 (biodiversity); E19 (design); H4 (accommodation for Gypsies) and; T3 (vehicle parking standards).
- 4.11 The emerging Local Plan – Bearing Fruits 2031 is a material planning consideration. Relevant policies within this document are: DM7 (vehicle parking); DM10 (Gypsy and Travellers sites); DM14 (general development criteria); DM24 (conservation and enhancement of valued landscapes).
- 4.12 Other legislation of particular relevance to planning applications involving gypsies is as follows:

#### **Human Rights Act 1998**

##### **s6(1) – comply with the European Convention**

The key part of the Convention to consider is article 8;

*“Everyone has the right to respect for his private and family life, his home and his correspondence.”*

#### **Children’s Act 2004**

In addition to taking into account the race equality duty, Local Planning Authorities have a duty to safeguard and promote the welfare of children under section 11 of the Children’s Act 2004.

#### **Equalities Act 2010**

##### **Public sector equality duty which forms section 149 of the Equalities Act 2010**

*(1) A public authority must, in the exercise of its functions, have due regard to the need to—*

- (a) *eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;*
- (b) *advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;*
- (c) *foster good relations between persons who share a relevant protected characteristic and persons who do not share it.*

### **Housing Act 2004**

One of the key factors which Local Planning Authorities must take account of is the duty to carry out an assessment of the accommodation needs of Gypsies and Travellers residing in or resorting to their area, and then take the strategy into account when exercising their functions. This duty is covered by section 225 of the Housing Act 2004.

## **5.0 LOCAL REPRESENTATIONS**

Hartlip Parish Council raise objection and make the following points;

- Object in strongest terms
- Contrary to NPPF & SBC Local Plan and not sustainable
- E1 seeks to ensure development enhances the natural environment. This is in close proximity to Queendown Warren (an AONB)
- Contrary to E6 which seeks to protect and enhance amenity value of wider countryside and E7 as is within strategic gap and E9 which expects proposals to be sympathetic to local landscape character and safeguard landscape
- Its noted the five year pitch provision has been achieved – no need for such development
- The site is visible from conservation area and the existing site is an eyesore and can be seen from a mile away
- Mr Pickles recently announced England's most valuable countryside will be shielded from development
- Area has for hundreds of years been a favourite walking area – important it remains
- Residential development would not be allowed here

Nine letters of objection have been received from neighbouring residents. Their comments can be summarised as follows;

- SBC met 5 year supply
- There are existing sites and brown field sites in Swale should be used first/ more suitable sites
- Over 2km to doctors, bus stop, train station and shop. No facilities here/ remote location/ poor access to facilities including education
- Is a valued green field site in open countryside
- Would have detrimental visual impact/ elevated position visible from many places a mile away
- Already a neighbouring site with planning permission

- Existing caravans already dominate the view
- Urge planning officers to view from any property in South Bush lane
- This applies to joggers, walkers, cyclists etc who frequent area
- Screening not an option due to elevated position
- Understood no more caravans would be allowed at this site
- Application states little extra traffic – disagree already traffic problems
- Lighting would cause problems
- Appears to be more and more caravans in this area – want to see control
- Caravans on grade 1 land
- If was housing would feel the same
- Has gypsy status been validated?
- What are the pressing medical conditions?
- Landscaping will not prevent views
- Have all the conditions of the previous application been met?
- Area of land is large – this will continue
- Walking is not an option
- This area has 8% of the population, but nearly 40% of the traveller sites
- Applicant says nothing about children – are they to be considered?
- Schools in the area are oversubscribed
- No mains drainage or gas – need large vehicles to deliver etc
- Close to conservation area with listed buildings
- Caravan already provided on site

1 letter of support has been received which disagrees with several points made by the objectors including;

- Distance to doctors and bus stop irrelevant
- 1 or 2 extra cars would not cause extra traffic
- Can't see how lighting would affect people 1.5 miles away
- Not grade I agricultural land or green field
- Does not believe objector being truthful

## 6.0 CONSULTATIONS

6.1 Natural England raises no objection but recommend we refer to their standing advice on protected species.

6.2 Kent Highways have no objection to the proposal subject to a condition to ensure provision and retention of parking spaces.

## 7.0 APPRAISAL

### Applicants Gypsy Status

7.1 A key issue to be considered is the status of the applicant as a gypsy or traveller. The PPTS provides a definition of gypsies and travellers as:

*“Persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family’s or dependants’ educational or health needs or old age have ceased to travel temporarily or*



*permanently, but excluding members of an organised group of travelling showpeople or circus people travelling together as such.”*

- 7.2 I have no reason to dispute the applicant’s gypsy status and particularly in light of the fact the application is submitted by the Gypsy Council. Equally I have not been provided with any evidence to the contrary.

#### Principle of development

- 7.3 The site is not located in an area at risk of flooding, nor is it located in a nationally designated area relating to landscape or biodiversity although I do note the presence of the AONB and SSSI to the south of the motorway. However, due to the separation distance, intervening buildings and landscaping, I do not believe that this development would have any significant impact upon either of those designated areas.
- 7.4 As set out above government policy states that sites in the open countryside, away from settlements should be strictly controlled. In my opinion, this strand of the new policy has three purposes. Firstly, it seeks to ensure that visual harm to the countryside is minimised. I deal with the visual impact of this proposal below.
- 7.5 Secondly, I consider that it seeks to ensure that sites are not isolated from the settled community. This site is located some significant distance from the settlements of Hartlip, Newington and Upchurch. Whilst there are the two dwellings fronting Yaughner Lane in close proximity, I would find it difficult to argue that this site is not in an isolated location.
- 7.6 Thirdly, in my view, it seeks to ensure that sites are approved in sustainable locations. This site is located a walking distance along main roads of some 3.9km from the shops and services in Newington, and over 4km from Upchurch. The site is not readily accessible via public transport and the occupants will have to rely on the private car for all their journeys. In my view, the site is not in a sustainable location.
- 7.7 I have assessed the site against the criteria in the Council’s new site assessment for gypsy and traveller sites (see appendix A).
- 7.8 As above, the site is not located in a designated area nor is it in a flood zone, conservation area or near to a listed building (although I note local concern on these points, the site is sufficiently far away from either to have very limited impact). However, Members will note from the site assessment that it falls within the ‘red’ category for accessibility to services. This is largely due to the fact that it is remotely located from any shops, services or public facilities. There is a primary school in Hartlip (although I am not aware of the availability of places therein), but residents will need to travel by private car to Rainham or Newington for all other services. This is contrary to the Council’s wider aims of sustainable development and according to the site assessment, permanent planning permission should not be granted. However, as noted above (refer to para 25 of the PPTS), this is not sufficient in my opinion to justify refusal of

temporary planning permission in the absence of a 5 year supply of deliverable gypsy sites (see paras. 4.7 - 4.9 above).

### Visual Impact

- 7.9 The site is positioned on elevated ground with some views from the highway and public vantage points to the north. It is, however, situated to the front of a cluster of existing dwellings (Oak Barn Cottages) and agricultural / equestrian buildings (Windmill Farm). There is also a stable building being constructed to the side of the current application site and a dense screen of trees and vegetation between the site and the highway.
- 7.10 I therefore suggest that it would be unfair to consider the site as if it were a development in isolation. The context of the area must be taken into account and that context is of a cluster of buildings set amongst tree planting and hedging.
- 7.11 I do not consider it reasonable or necessary to require a landscaping scheme at this site for a number of reasons. Firstly, the permission recommended would be for a period of three years only and it is arguable whether a landscaping scheme would mature sufficiently in this time to offer any softening or screening benefit. Secondly, the site is very limited in size and it would be difficult in my view to provide a screen of vegetation wide enough to offer any real value. Thirdly, the site is already screened to some extent by the existing 1.8m high close boarded fence and lastly, the site is not prominent within the landscape or from the highway in my view.
- 7.12 I do not therefore consider that the proposed development would have a significant detrimental impact on the visual amenities of the area or the character and appearance of the countryside.

### Residential amenities

- 7.13 The application site lies adjacent to the residential properties known as Oak Barn Cottages, but separated by garden and the access track to Windmill Farm. This separation distance will help to minimise the potential for any overlooking, loss of privacy or noise and disturbance to either existing or proposed properties.
- 7.14 Furthermore it should be noted that the access track serves the existing dwellings, the DIY livery at Windmill Farm, the stables adjacent to the application site and the proposed mobile homes. I do not believe that the additional traffic along the access track from this scheme would give rise to any serious disturbance over and above the current levels of activity.
- 7.15 Following on from that I would reiterate that, whilst local concerns are noted, Kent Highway Services have identified no objections in respect of highway safety and amenity and I do not expect this application to present any causes for concern due to the relatively low level of vehicle movements generated by such uses.

Other issues

- 7.16 The site has already been covered in a hard surface and as such the likelihood of the land being used as habitat for protected species is minimal. I therefore do not consider that any survey work is required.
- 7.17 The applicant has not provided any specific information in respect of their health needs or those of their dependents. However, at this stage, I do not consider that this is fundamental to the consideration of the application.

Recommendation

- 7.18 Having considered the application against national and local plan policies and the Council's Corporate Policy, I am of the firm view that the use of this site on a permanent basis for Gypsies and Travellers would be unacceptable. The site is situated far from any facilities or amenities.
- 7.19 However, I believe, that this does not amount to a sufficient reason for refusal given this Council's position on the 5 year supply of deliverable gypsy sites. To refuse planning permission without due consideration given to the lack of a 5 year supply of deliverable sites would be contrary to the provisions of government planning guidance - para. 25 of the PPTS. This Council will not be in a position to demonstrate this supply imminently and so I recommend that a three year temporary permission is granted in this case.
- 7.20 I note local opposition to the application, but I consider the potential for serious harm to local residential amenity, highway safety, or the character and appearance of the countryside to be minimal.

**8.0 RECOMMENDATION – GRANT** Subject to the following conditions

1. The use hereby permitted shall cease on or before three years from the date of this permission.

Reasons: In order that the position may be reviewed at the end of the period state.

2. The development hereby approved shall be laid out in accordance with approved block plan BP-01.

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

3. The site shall not be occupied by any persons other than Gypsies and Travellers as defined in Annex 1 of Planning Policy for Traveller Sites, and if the site ceases to be occupied by such persons the use shall cease and all caravans, structures, materials and equipment brought on to the land in

connection with the use shall be removed and the land restored to its former condition.

Reasons: In the interests of preventing general residential use of this rural site.

4. No more than one static caravan and one touring caravan shall be stationed on the site at any one time.

Reasons: In recognition of the terms of the application, and because an uncontrolled use of the land would be unacceptably detrimental to the character and amenities of the area.

5. No commercial activities shall take place on the land, including the storage of materials.

Reasons: In the interests of visual amenity and the character and appearance of the area.

6. No vehicle over 3.5 tonnes shall be stationed, parked or stored on the site.

Reasons: In the interests of visual amenity and the character and appearance of the area.

7. 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.

Reasons: In the interests of preventing light pollution.

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

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

9. Prior to the commencement of development hereby approved, details of parking and turning within the site shall be submitted to the Local Planning Authority for approval in writing. These approved details shall be implemented prior to the first occupation of the site and the approved parking and turning space shall be kept available for this purpose 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 such land or in a position as to preclude vehicular access thereto.

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

The Council's approach to this application:

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

Offering pre-application advice, where possible, suggesting solutions to secure a successful outcomes and as appropriate, updating applicants/agents of any issues that may arise in the processing of their application.

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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**PLANNING COMMITTEE – 23 JULY 2015**

**PART 3**

Report of the Head of Planning

**PART 3**

Applications for which **REFUSAL** is recommended

<b>3.1 REFERENCE NO - 14/506248/OUT</b>		
<b>APPLICATION PROPOSAL</b>		
Outline (Access not reserved) - Mixed use development of up to 580 residential dwellings, circa 400sqm (Use Class A1) retail, landscape, public open space and associated works		
<b>ADDRESS</b> Land South Of Swanstree Avenue Highsted Road Sittingbourne Kent ME10 4LU		
<b>RECOMMENDATION</b> – Refuse planning permission. This application is the subject of a planning appeal against non-determination. As such this application will not be determined the Swale Borough Council, however, the decision of the committee will indicate to the Secretary of State the Council’s intended decision.		
<b>SUMMARY OF REASONS FOR RECOMMENDATION:</b>		
<p>The development does not amount to sustainable development for the following reasons;</p> <ol style="list-style-type: none"> <li>1. Likely significant adverse impact on the landscape quality and value (Special Landscape Area);</li> <li>2. The application fails to secure necessary measures to mitigate against impacts on the Swale SPA and Ramsar site;</li> <li>3. Due to the topography and sensitive nature of the landscape, the development would result in a poor design that fails to appropriately respond to/take the opportunities for improving the character and quality of the area and the way it functions as required by para 64 of the NPPF;</li> <li>4. The significant, permanent and unnecessary loss of best and most versatile agricultural land (including its economic and other benefits);</li> <li>5. Air pollution from vehicle emissions, particularly nitrogen dioxide, resulting in cumulative air pollution levels that would be inconsistent with the local air quality action plans for the Canterbury Road AQMA, St Paul’s Street AQMA and the Ospringe Street AQMA;</li> <li>6. Poor walking routes to the town centre with no footways at junctions, dangerous cycle route to the town centre and infrequent bus service;</li> <li>7. The development would result in the loss of a mineral safeguarded area without justification;</li> <li>8. The adverse environmental impacts, particularly the impact on the Special Landscape Area, outweigh any benefits; and</li> <li>9. The submitted Transport Assessment is inadequate, making unlikely assumptions on the likely trip generations of the proposed accesses to the site. As such, there are concerns that these assumptions are flawed and the assessment inaccurate. As such, the proposal would result in harm to highway safety and convenience.</li> </ol>		
<b>REASON FOR REFERRAL TO COMMITTEE</b>		
Significant application/ wider public interest		
<b>WARD</b> West Downs	<b>PARISH/TOWN COUNCIL</b> Rodmersham	<b>APPLICANT</b> Gladman Developments Ltd <b>AGENT</b>

<b>DECISION DUE DATE</b> 13/03/15	<b>PUBLICITY EXPIRY DATE</b> 13/03/15	<b>OFFICER SITE VISIT DATE</b>
<b>RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):</b> No relevant planning history		

## MAIN REPORT

### 1.0 DESCRIPTION OF SITE

- 1.1 This development is proposed on a green field, high grade agricultural site abutting, but outside of the southern edge built up area boundary of Sittingbourne. The site measures approximately 25.7ha making up four arable fields enclosed by shelterbelts and tall hedgerow field boundaries and some smaller fields currently used for intensive horticulture practices.
- 1.2 Swanstree Avenue defines the northern boundary of the site, whilst the eastern boundary would almost abut the rear gardens of housing in Blenheim Road (a public footpath runs between the two). To the south are agricultural fields and to the western boundary are further agricultural fields, Chilton Manor Farm and beyond that the Fulston Manor housing estate is separated by Highsted Road. There are no permanent buildings on the site. Two public footpaths cross the site; one runs from the A2 to the western end of Highsted Road; the other from Bell Road, Sittingbourne right through to Lynsted.
- 1.3 The landform of the northern part of the site is gently undulating, but overall it falls away very gently towards the south and east, before sloping down more steeply. The site levels are at their highest at 35m above Ordnance Datum in the south western corner, being at their lowest at just over 25m above Ordnance Datum near the front (south-east) of the site at the boundary with Swanstree Avenue. The land adjoining the south east boundary of the site elevates quite significantly above the site.
- 1.4 The site itself is located approximately 0.85km from the centre of Sittingbourne and approximately 6.8km north of the M2 motorway.
- 1.5 The site is currently relatively well screened by planting from Highsted Road, although is reasonably open from Swanstree Avenue.

### 2.0 PROPOSAL

- 2.1 This application has come forward in outline format with all matters reserved for future consideration, except for access, which is a detail to be assessed as part of this application. Therefore all other reserved matters can only be considered in terms of the principle of the development at this stage, not the detailed matters. As details of the use or uses, the amount of development and access points are all that is required to be submitted for an outline application, the layout plan should be treated as indicative and may be subject to change at reserved matters stage should Members resolve that they would have granted planning permission for this application should it not have been appealed. However officers have some concerns regarding the proposed layout of the development.
- 2.2 The application proposes up to 580 dwellings, a local convenience store, associated public access space and landscaping. Currently the illustrative plan shows an attenuation pond in the front (north-east) corner of the site close to the housing in Blenheim Road, three accesses to the site, all from Swanstree Avenue and a small



landscape buffer or 'structural planting' is proposed around the boundaries of the site. The plan shows a potential green corridor within the site, a sports area, three play areas and space for a convenience store at the front of the site. The existing public rights of way through the site would remain in situ and new public rights of way are shown on the submitted plan. Whilst the application makes reference to providing affordable housing, however, it makes it clear that this is negotiable with the Local Planning Authority and does not seek to state how many units would be provided at this stage.

- 2.3 No details of parking, detailed landscaping or specific materials have been provided at this stage.
- 2.4 The application is supported by a number of reports including a planning statement, a design and access statement, a framework travel plan, a housing impact report, a landscape and visual assessment, an air quality assessment, a statement of community involvement (SCI) an ecological appraisal, a Flood Risk Assessment (FRA) and water drainage strategy, a ground conditions desk study, a transport assessment, an arboricultural impact assessment and a noise assessment.

From these I draw the following key points:-

#### **Planning Statement:**

*'Swale Borough Council are unable to demonstrate a 5 year housing land supply. This is accepted by the authority within the 'Housing Information Audit (2014-2019)' published in October 2014. In accordance with NPPF Paragraph 49, relevant policies for the supply of housing should not be considered up-to-date if the planning authority cannot demonstrate a five-year supply of deliverable housing sites. The Council's deficit five year housing land supply is further compounded when taking into account the full objectively assessed housing needs of Swale. As a consequence, the presumption in favour of sustainable development as set out in paragraph 47 of the Framework is engaged.'*

*The accompanying reports show there are no adverse impacts associated with the proposal.*

*Conversely, the proposal provides significant material planning benefits, which weigh heavily in favour of the application proposal. These include;*

- *Delivering market housing to meet an identified need and where there has been historical substantial under-delivery*
- *Delivering affordable housing where there is an acute shortage due to historic underdelivery*
- *Delivery of open space provision and children's play area for the benefit of new residents and the existing wider community*
- *Provision of a new local convenience store to serve both new and existing residents to the south of Sittingbourne*
- *Sustainable development - the proposal site has excellent public transport links to major employment centres such as London*
- *New Homes Bonus of £4.4 million and the wider economic benefits associated with construction and job creation*
- *Ecological benefits through the protection and enhancement of existing wildlife corridors and provision of new green infrastructure within the development*

*Policy E6 & E7 are housing supply related policies. Swale Borough Council are unable to demonstrate a 5 year housing land supply, and therefore these policies must be considered out of date, as directed by NPPF paragraph 49.*

*Given the significant under-delivery of housing, and acute affordable housing need, the proposal will address the poor housing land supply position by delivering homes in a sustainable location.*

*Whilst a matter for legal submissions, it has been clearly established through recent legal judgements that the need to meet objectively assessed needs is an important material consideration for development management decisions (as well as for plan preparation). Attention is drawn to the comments of Justice Hickinbottom in the Gallagher Estates judgement (Appendix 7) which refers to the earlier Hunston judgements (Appendix 6). He states [para 88] in his judgement that:*

*“...a number of points are now, following Hunston, clear. Two relate to development control decision taking. Although the first bullet point of paragraph 47 directly concerns plan-making, it is implicit that a local planning authority must ensure that it meets the full, objectively assessed needs for market and affordable housing in the housing market, as far as consistent with the policies set out in the NPPF, even when considering development control decision. Where there is no Local Plan, then the housing requirement for a local authority for the purposes of paragraph 47 is the full, objectively assessed need.”*

*In summary, it is evident that the Council cannot identify a five year supply when assessed against the full objectively assessed need of the Borough, either with a 5% or 20% NPPF buffer. The delivery of the proposal as proposed will assist Swale in addressing the significant shortfall in housing on a sustainable site. This is a significant planning benefit that should be given substantial weight in the planning balance.*

*Whilst the site is allocated as an ‘Area of High Landscape Value’ the LVIA submitted with this application demonstrates that the landscape impact will be moderate adverse and through an effective mitigation strategy set out within the development framework, the impact upon the landscape will be minimized*

*The loss of ‘best and most versatile’ agricultural land is the only impact, which cannot be satisfactorily mitigated. The BMV land is not a policy consideration that indicates that permission should be refused, rather the preference is for avoidance if possible. In this instance avoidance is unachievable, as growth at Sittingbourne will require BMV wherever it occurs at the scale envisaged within the objectively assessed needs of the Borough.”*

### **The Design & Access Statement**

*“The proposals have been developed to ensure that a carefully considered and sensitive development approach is achieved. From the outset the proposals have sought to respond to and where possible enhance the existing features which characterise the site and its immediate setting. Of key concern was the retention of the existing vegetation structures associated with the site boundaries, the Flood Risk Zone identified by the Environment Agency on the sites eastern boundary and views from the public rights of way from the east.”*

*The proposals briefly comprise:*

- *Up to 580 new homes, including policy compliant affordable properties;*
- *Three proposed new access points off Swanstree Avenue;*
- *Provision of extensive Public Open Space, including children’s play areas and recreational sports facilities;*

- *The provision of a convenience shop on the northern boundary;*
- *Improved connectivity between the proposed open space and the wider footpath network;*
- *New landscaping to enhance the site and boundaries;*
- *Creation of a permissive footpath links to the sites wider footpath network;*
- *Increased Biodiversity through the retention and enhancement of existing vegetation structures.”*

### **Landscape and Visual Impact Assessment**

*“The visual assessment has identified the following conclusions:*

- *The application site is well visually contained by a natural visual envelope formed by prevailing topography, and the established vegetative structures along Highsted Road to the west and along the eastern boundary with bridleway ZU35;*
- *The existing urban area of Sittingbourne affords a heightened degree of visual containment to the site, restricting views from the north;*
- *The intervening topography associated with the dip slope scarp, provides visual containment from the south and south east;*
- *Offsite vegetation structures relating to the established woodlands of the old chalk quarry pits restrict wider views from the south west;*
- *This visual envelope which substantially limits the visibility of the site to views from the immediate locality, namely Swanstree Avenue and the public right of way network within the site and directly south of the site along the dip slope;*
- *When viewed from the immediate site context, the site is seen within the context of the existing urban edge, particularly within views from the existing Public Rights of Way to the south and south east;*
- *The presence of the existing urban edge is a characterising feature within longer distance views as seen from the higher ground, defining the skyline within what is a broad, expansive landscape scene;*
- *The retention and enhancement of the existing site boundary hedgerows and internal field boundaries will maintain the character of the site setting, and ensure that the degree of separation and containment currently afforded to the site is maintained and enhanced;*
- *It is important that the development seeks to retain key views over towards the prominent local natural feature of the scarp dip slope, through enhanced channelled views wherever feasible, utilising the public footpath green corridors;*
- *The provision and location of proposed public open space will assist with integrating the proposals into the fabric of the localised context, maintaining an appropriate transition between the proposals and the wider countryside setting to the south whilst creating a robust green edge to the site. New key public open spaces should also wherever feasible retain and enhance good views out of the site towards the scarp and Highsted Valley to the south west; and*
- *Overall it is considered that the development will generally have a significance of effect of **moderate** upon the visual environment and that effects will be limited to the immediate setting of the site.”*

## Ecological Appraisal

*“The study area is part of a farm complex comprising of four arable fields; a fruit orchard and a semi-improved grassland compartment. Other habitats recorded include scrub, tall rural, hedgerows, windbreaks and mature standard trees.*

*Three statutory sites of international importance lie within 10km of the study area. These are The Swale SPA & Ramsar Site, Medway Estuary & Marshes SPA and Ramsar Site, and Queendown Warren SAC.*

*There are no statutory sites of national importance within 2km of the study area. One non-statutory site of local importance, Highstead Quarries LWS is located within 1km of the study area.*

*It is considered that there will be no likely significant effect on any of the European sites from the proposals following implementation of mitigation including contributions for management of the Swale and the Medway Estuary & Marshes.*

*No habitats of high biodiversity or high ecological value are present within the study area boundary. Habitats which have some conservation value were the native hedgerows and trees groups, which will be retained where possible; where loss will occur due to access issues, new planting will be undertaken and existing hedgerow enhanced through native planting.*

*No suitable waterbodies for supporting GCN were recorded within 500m of the site boundary; these species are not a constraint to the development.*

*An active main badger sett and annex sett were recorded along the eastern site boundary, associated with hedgerow H10; with associated field signs isolated to the western and southern site boundaries.*

*Two outlier setts were also recorded less than 100m outside of the site boundary. Setts within the site are to be retained within the green infrastructure; and protected via the erection of a post and wire fence and structural planting; which will provide a buffer restricting access by the public and dogs. The framework plan will incorporate open space around the eastern and southern site boundaries providing foraging habitats and provide corridors of movement around the site.*

*There are no features within the site that provide roosting potential as buildings were absent and trees were of negligible value. Bat activity across the site was generally low with commuting and foraging behaviour recorded by common bat species, with common pipistrelle being the most abundant recorded during the survey period. The development framework retains the majority of hedgerows, with only small losses for access roads. Recommendations for enhancement include additional planting of native tree and shrub species to enhance diversity and structure. Care should be taken to avoid inappropriate lighting of all retained hedgerow corridors, whereby illumination of tree canopies will be avoided.*

*Any clearance of vegetation should take place outside of the bird breeding season (March-August inclusive) or following a check by an experienced ecologist.*

*A ‘good’ population of slow worm and common lizard were recorded on the northern, western and southern site boundaries. The framework plan retains and enhances these habitats with additional structural planting, proposed wildflower meadows and an attenuation pond creating a mosaic of habitats. A period of supervised passive*

*displacement is recommended prior to works to prevent any disturbance to the onsite reptile populations.*

*No dormice were recorded during surveys.*

*Opportunities to increase the biodiversity within the site will include:*

*Boundary hedgerows and tree lines will be retained and enhanced with native planting wherever possible;*

*Landscape planting will include native species of a local provenance where not appropriate, flowers with a nectar source should be planted;*

*A balancing pond which primarily function of water sources will be designed with some biodiversity benefits, where appropriate, this will include wildlife friendly design and native planting;*

*Bat and bird boxes to be erected on buildings and / or nearby trees;*

*Habitat piles should be created to encourage the use of the development by invertebrates and small mammals;*

*Existing linear features such as tree groups and hedgerows will be adequately buffered to avoid light spill onto canopies, this will ensure corridors of movement for wildlife, but particularly bats.”*

### **Flood Risk Assessment**

*“The assessment has found the site to be at low risk of flooding from tidal, sewer, groundwater and artificial sources. There are some areas of medium to high surface water flood risk associated with the topographical valley along the eastern border. There will be no developable area within this area, therefore the risk of surface water flooding is low.*

*There is no residual flood risk from the study area to the surrounding area, due to the restriction of flow rates post attenuation. Therefore, the development does not increase the risk of surface water flooding to other adjacent neighbourhoods. Out of chamber or gully flooding for the extreme 100 year plus climate change storm event, may potentially occur within the study area and is classed as exceedance flows. Flood water from such events will be contained within the site but away from the residential units.”*

### **Archaeological Desk Based Assessment**

*“There are no designated heritage assets on the site. However, this study concludes that there is a high potential for burial features of Roman date associated with the Roman burial ground excavated on site in 1828, along with a potential for late prehistoric/Romano British field boundaries and Medieval artefacts.*

*Post-Medieval and Modern ploughing is likely to have had a widespread negative impact on any sub-surface horizons, as will the planting and subsequent removal of orchards on site.*

*Due to the recorded presence of human remains within the site, it can be anticipated that the planning authority’s archaeological advisor will seek further archaeological work. In the first instance it is anticipated that a geophysical survey be required.”*

**Transport Assessment**

*Each of the site accessed will be in the form of priority junctions and will be constructed to adoptable standards to include 2m footways linking the site to the existing pedestrian infrastructure on Swanstree Avenue. The junctions will provide 6m carriageways, minimum visibility splays of 2.4m x 43m, and junction radii of 8m.*

*The development will provide a site layout designed in accordance with current best practice to accommodate pedestrians and cyclists. A footway will be provided on the site side of Swanstree Avenue, to link the three access junctions for pedestrians.*

*The capacity assessments show that the development traffic would only have a marginal impact on the operation of the assessed signal junctions.*

*The proposed development would not exaggerate any pre-existing highway safety issues present on the local highway network.*

*Conclusion*

*It is concluded that the development proposals are acceptable in highways and transportation terms. There are no highway or transportation related reasons upon which a refusal of the planning application for the proposals would be justified.”*

**3.0 SUMMARY INFORMATION**

	<b>Proposed</b>
Site Area (ha)	25.7ha (63.5 or acres)
Approximate Ridge Height (m)	7.5 – 8.5m (indicative)
Approximate Eaves Height (m)	Unknown
Approximate Depth (m)	Unknown
Approximate Width (m)	Unknown
No. of Storeys	2 or 2.5
Parking Spaces	Unknown
No. of Residential Units	Up to 580
No. of Affordable Units	Unknown
Density	Approximately 30 dwellings per hectare
No of bedrooms	Range of 1-5

**4.0 PLANNING CONSTRAINTS**

4.1 The site is located outside of the built up area boundary of Sittingbourne, within the countryside. The eastern boundary of the site is located within a narrow wedge of a flood risk area (Flood Zone 3). It is designated as being within the North Downs Special Landscape Area, a local landscape designation, which is known as an area of High Landscape Value within the emerging Local Plan. It is also located within a strategic gap separating Sittingbourne from Rodmersham.

- 4.2 Two public right of way footpaths run through the site – ZU30 and ZU31.
- 4.3 There are no designated heritage assets on the site, or within the vicinity of the site, however, the site is within an area of Potential Archaeological Importance.
- 4.4 The site is located within 2.4km of the Swale SPA and Ramsar site and within 7km of the Medway Estuary and Marshes SPA and Ramsar site.
- 4.5 Highsted Quarry, a local wildlife site is located approximately 40m from the site.

## **5.0 POLICY AND OTHER CONSIDERATIONS**

- 5.1 Due to the advanced status of the emerging Local Plan position (Publication Version), this must carry significant weight in the determination of this application. This section will therefore deal with this first before moving on to the national policy position.
- 5.2 The adopted 2008 Local Plan, however, remains the primary consideration for determining this application. This will be discussed in further detail later in this section.
- 5.3 The key policies from the adopted Local Plan are:
  - SP1 (Sustainable Development)
  - SP2 (Environment)
  - SP3 (Economy)
  - SP4 (Housing)
  - SP7 (Transport and Utilities)
  - SH1 (Settlement Hierarchy)
  - TG1 (Thames Gateway Area)
  - E1 (General Development Criteria)
  - E6 (Countryside)
  - E7 (Local Countryside Gap)
  - E8 (Agricultural Land)
  - E9 (Protecting the Character and Quality of the Borough's Landscape)
  - E19 (Good Quality Design)
  - H2 (Providing for New Housing)
  - T1 (Providing Safe Access to the Highway Network)
  - C2 (Housing Developments and the Provision of Community Services and Facilities)
  - C3 (Open Space within Residential Development)
- 5.4 Relevant policies of the emerging Local Plan are;
  - ST1 (Delivering Sustainable Development in Swale)
  - ST3 (Swale Settlement Strategy)
  - ST5 (Sittingbourne Area Strategy)
  - CP2 (Promoting Sustainable Transport)
  - CP4 (Requiring Good Design)
  - CP7 (Conserving & Enhancing the Natural Environment – Providing for Green Infrastructure)
  - DM6 (managing transport demand and impact)
  - DM8 (Affordable Housing)
  - DM24 (Conserving and Enhancing Valued Landscapes)
  - DM25 (The Separation of Settlements – Important Local Countryside Gaps)
  - DM28 (Biodiversity and Geological Conservation)
  - DM31 (Agricultural Land)

The relevance of individual policies (both saved Adopted Local Plan and Emerging Local Plan), in the light of para. 49 of the NPPF, are discussed under housing land supply issues.

- 5.5 Policy SP1 (Sustainable Development) of the adopted Local Plan outlines the Council's approach to sustainable development stating:  
*"In meeting the development needs of the Borough, proposals should accord with principles of sustainable development that increase local self-sufficiency, satisfy human needs, and provide a robust, adaptable and enhanced environment. Development proposals should:*
1. *Avoid detrimental impact on the long term welfare of areas of environmental importance, minimise their impact generally upon the environment, including those factors contributing to global climate change, and seek out opportunities to enhance environmental quality;*
  2. *promote the more efficient use of previously-developed land, the existing building stock, and other land within urban areas for urban and rural regeneration, including housing, mixed-uses and community needs;*
  3. *ensure that proper and timely provision is made for physical, social and community infrastructure;*
  4. *provide a range and mix of housing types, including affordable housing;*
  5. *provide for sustainable economic growth to support efficient, competitive, diverse and innovative business, commercial and industrial sectors;*
  6. *support existing and provide new or diversified local services;*
  7. *promote ways to reduce energy and water use and increase use of renewable resources, including locally sourced and sustainable building materials;*
  8. *be located so as to provide the opportunity to live, work and use local services and facilities in such a way that can reduce the need to travel, particularly by car;*
  9. *be located to promote the provision of transport choices other than the car;*
  10. *be of a high quality design that respects local distinctiveness and promotes healthy and safe environments; and*
  11. *promote human health and well-being."*
- 5.6 The site is covered by Policy E7 (adopted Local Plan) which identifies this area as an important local countryside gap between Sittingbourne and Rodmersham Green. The proposals are a significant physical erosion of the gap and although topography diminishes the actual impact in views from Rodmersham Green, the urbanised proportion of the journey by walkers would be significantly increased. These are additional matters that should feed into overall conclusions on landscape and visual impacts.
- 5.7 Para. 4.2.2 of the applicant's planning statement considers the Adopted Local Plan to be out of date. This is not accepted. Policies that comply with the NPPF must continue to carry full weight.
- 5.8 Both policies E9 of the Adopted Local Plan and DM24 of the Emerging Local Plan should be afforded significant weight and are unaffected by the lack of a 5 year supply of housing land. Whilst the weight to be given to a local landscape designation is less than for nationally protected landscapes, its protection is nevertheless desirable and commensurate with this status (para. 113 of NPPF). Additional weight is provided by those matters relating to its uniqueness, accessibility and landscape type.
- 5.9 In the case of policies E7 of the Adopted Local Plan and DM25 of the Emerging Local Plan, their weight is diminished due to the land supply question, but weight can be given due to their overall intention and compliance with NPPF Core Planning Principal.



- 5.10 Policy E6 of the Adopted Local Plan and parts of ST3 of the Emerging Local Plan are considered to be out of date, but weight should continue to be given to their overall intention due to their compliance with NPPF Core Planning Principal.
- 5.11 The Emerging Local Plan has moved on since the applicant's assessment made at section 5 of the planning statement. The Emerging Local Plan was submitted for examination on 20 April 2015, with the examination expected to take place later in 2015. Policies of the Plan should therefore be given the weight afforded by NPPF para. 216.

### **National Planning Policy Framework (NPPF)**

- 5.12 Also of importance to the determination of this application is the guidance as set out in the National Planning Policy Framework (NPPF) and the National Planning Practice Guidance (NPPG).
- 5.13 The NPPF sets out the Government's position on the planning system explaining that *"The purpose of the planning system is to contribute to the achievement of sustainable development. The policies in paragraphs 18 to 219 of the NPPF, taken as a whole, constitute the Government's view of what sustainable development in England means in practice for the planning system. At the heart of the National Planning Policy Framework is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision taking. For decision taking this means:*
- *Approving development proposals that accord with the development plan without delay; and*
  - *Where the development plan is absent, silent or relevant policies are out of date granting permission unless:*
    - *Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole; or*
    - *Specific policies in this Framework indicate development should be restricted."*
    -
- 5.14 It further outlines a set of core land use planning principles (para 17) which should underpin both plan-making and decision taking including to contribute to conserving and enhancing the natural environment and reducing pollution and encourage the effective use of land by reusing land that has been previously developed (brownfield land), provided that it is not of high value. It further states 'take account of the different roles and character of different areas, promoting the vitality of our main urban areas, protecting the Green Belts around them, recognising the intrinsic character and beauty of the countryside and supporting thriving rural communities within it'
- 5.15 At paragraph 18 it explains *"The Government is committed to securing economic growth in order to create jobs and prosperity, building on the country's inherent strengths, and to meeting the twin challenges of global competition and of a low carbon future."*

At Paragraph 47 it states that *"planning authorities should meet local housing needs and identify five year housing land supply with an additional 5% buffer"*. Paragraph 49 states *"that housing application should be considered in the context of the presumption in favour of sustainable development"* and that *"Relevant policies for the supply of housing should not be considered up to date if the local planning authority cannot demonstrate a five year supply of deliverable housing sites."*

- 5.16 Paragraph 64 of the NPPF states *“Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.”*
- 5.17 Paragraphs 47-55 seek to significantly boost the supply of housing. NPPF para. 49 confirms that the lack of a 5-year land supply triggers the presumption in favour of sustainable development as set out by NPPF para. 14. It is necessary to determine what the relevant policies for the supply of housing are in order to identify which are out of date. What constitutes a policy for the supply of housing has been the subject of legal judgement, which can be interpreted as either policies that have specific and direct impacts on housing supply or more indirect, but significant impacts on supply. Regardless of the approach taken, decision makers can and do take into account whether certain aspects of policies accord with the NPPF. Importantly, the decision maker must apply themselves properly to para. 49 and this regard, tabulated observations are offered in Appendix 1 in respect of relevant policies of the Adopted Local Plan, the Emerging Local Plan and the Kent Minerals and Waste Local Plan.
- Para 111 states ‘Planning policies and decisions should encourage the effective use of land by re-using land that has been previously developed (brownfield land), provided that it is not of high environmental value. Local planning authorities may continue to consider the case for setting a locally appropriate target for the use of brownfield land.
- 5.18 Paragraph 112 goes on to say *“Local planning authorities should take into account the economic and other benefits of the best and most versatile agricultural land. 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 a higher quality.”*
- 5.19 Paragraph 113 explains *“Local planning authorities should set criteria based policies against which proposals for any development on or affecting protected wildlife or geodiversity sites or landscape areas will be judged. Distinctions should be made between the hierarchy of international, national and locally designated sites, so that protection is commensurate with their status and gives appropriate weight to their importance and the contribution that they make to wider ecological networks.”*
- 5.20 Paragraph 142: *“Minerals are essential to support sustainable economic growth and our quality of life. It is therefore important that there is a sufficient supply of material to provide the infrastructure, buildings, energy and goods that the country needs. However, since minerals are a finite natural resource, and can only be worked where they are found, it is important to make best use of them to secure their long-term conservation”.*
- 5.21 And at paragraph 144 it stresses that Local Authorities should *“not normally permit other development proposals in mineral safeguarding areas where they might constrain potential future use for these purposes”*

### **Swale Landscape Character and Biodiversity Appraisal Supplementary Planning Document’**

- 5.22 The Swale Landscape Character and Biodiversity Appraisal were adopted as a Supplementary Planning Document in 2011<sup>1</sup>. The descriptions and guidelines relating to relevant landscape types (page 95) and character areas (CA40 and CA42) are applicable as material considerations. Also material are the landscape designation

<sup>1</sup><http://www.swale.gov.uk/assets/Planning-General/Planning-Policy/Landscape-Character-Appraisal-Final-Sept-2011/Dry-Valley-and-Downs-Landscape-Types-reduced-size-.pdf>

reviews undertaken by Jacobs consultants in 2003<sup>2</sup> and again, by SBC, in 2014<sup>3</sup>. These give the context and justification for the local landscape area designation applied to the application site since 2000. Although not adopted by the Council, a relevant material consideration for its consideration of general locations for growth is the Urban Extension Landscape Capacity Study prepared by Jacobs and published in June 2010<sup>4</sup>. Finally, alongside the applicant's own landscape evidence, consideration should be given to the SBC commissioned landscape evidence from David Huskisson Associates dated May 2015.

### **Kent Minerals and Waste Local Plan 2013-2031 (KMWLP)**

- 5.23 The KMWLP is currently undergoing examination and is likely to be adopted later this year. Given the advanced nature of the plan it is now a material consideration in development management decisions. Once adopted the KMWLP will form part of the development plan.
- 5.24 The NPPF has expanded the requirement to safeguard minerals, such as brickearth, to not only protect areas for potential extraction but all areas where the mineral is known to be. The NPPF also introduced the need for Mineral Safeguarding Areas (MSA) to be identified. For Swale the Safeguarding Area covers deposits of brickearth which cover a large proportion of the Borough.
- 5.25 Policies within the KMWLP require development to demonstrate that extraction of brickearth prior to building would not be practicable. Applicants have to submit a minerals assessment which KCC would assess as part of the consultation on a planning application.
- 5.26 Policy CSM5 outlines the approach of safeguarding minerals and sets out the need for to consult KCC on applications which fall within the safeguarded area. Policy DM7 requires all development within the safeguarded area to demonstrate the minerals is either not there, been worked out or that it is not viable to extract. Essentially this is the mechanism to ensure prior extraction of brickearth is explored before development on top of it is built. Within the proposed modifications there is the caveat that the need for development (e.g. housing delivery need) could override the policy.
- 5.27 The KMWLP is at an advanced stage, and the debate that took place at the Examination strongly indicates that the direction of travel of the plan will be accepted by the Inspector and that it will be adopted by the time of any planning appeal Inquiry into these development proposals.

### **The Strategic Housing Land Availability Assessment 2013/14 (SHLAA)**

- 5.28 The Council published its 2013/14 SHLAA update in May 2015. As with previous SHLAA since 2008, the application site is rejected (SW/050 refers) as not suitable for development, principally due to landscape and visual impacts. Also relevant are the inclusion and rejection of two adjacent sites (SW/107 and SW/204) on similar grounds. These matters are considered as material considerations in the determination of this application because of the likelihood of cumulative impacts. Members may wish to note that the loss of agricultural land is not an issue considered by the SHLAA.

<sup>2</sup><http://www.swale.gov.uk/assets/Planning-General/Planning-Policy/Local-Plan-2013/Misc/Swale-Landscape-Designation-Review.pdf>

<sup>3</sup><http://archive.swale.gov.uk/assets/Planning-General/Planning-Policy/Evidence-Base/Local-Plan-2014/Technical-Paper-6-pages-1-8-with-cover.pdf>

<sup>4</sup><http://www.swale.gov.uk/urban-extension-landscape-capacity-study-june-201/>

## 6.0 LOCAL REPRESENTATIONS

45 letters of objection have been received from neighbouring residents and 1 letter of support. Their comments can be summarised as follows;

### Objection

- Site not within the Local Plan nor recent Bearing Fruits – should not be allowed
- High quality agricultural land – against advice in NPPF
- Site in countryside/ outside built up area boundary/ Special Landscape Area
- Will erode gap between Sittingbourne and Highsted Valley/ Rodmersham
- Public footpaths across the site and just outside
- Site is in area of High Landscape Value
- Swale SPD explains the landscape here same as AONB and is of high sensitivity
- In important Local Countryside gap
- Put extra strain on health care
- Concern about water supply – cant' cope
- Confident new local plan will deal with housing requirements
- Area between Sittingbourne and Rodmersham would no longer be a valley, would be a hill
- Local Plan seeks to prevent perception of coalescence not just physical coalescence
- NPPF intends to promote growth of communities in informed and considered manner – not build as many homes as quickly as possible no matter the cost
- Would set a precedent for other nearby sites to come forward
- SHLAA 2011-12 said it did not meet suitable criteria for development
- Footpaths a much used local amenity
- Will cause noise nuisance to existing houses
- Siting of store will cause problems to residents
- Traffic assessment flawed
- Visual impact assessment does not include views of what it would look like after the development
- Crime and unemployment in Sittingbourne on the increase
- Sittingbourne has no facilities for young people
- Town is in decline
- Loss of local farm shop and business
- Need for low cost starter homes not more of the same
- Retail part will never come to fruition
- Affordable housing should be rented
- Building on Greenfields not sustainable
- Swale has lack of high paid jobs
- Tory Council more interested in new homes bonus than providing proper facilities and infrastructure
- Abundance of wildlife on site
- Use chalk pits to build on
- Overdevelopment means rainwater not soaking away
- Fuelled by greed not logic
- Should never be built on as is a Roman burial ground
- Lose my views, will devalue property
- My home will be overlooked
- My property will be affected by increased drainage/ flooding

## Support

- Hope this gets go ahead as Swale needs more houses to support growing population
- Will help economy grow

## 7.0 CONSULTATIONS

**Tunstall Parish Council raise objection to the application. Their comments can be summarised as follows:**

- A similar application was refused two years ago and same reasons apply today
- Capacity of physical infrastructure inadequate to supply water (according to Southern water)
- Kent police say development is “*unsustainable and unsound*”
- According to SBLP2008 site is in SLA policy E9, in Countryside Gap, policy E7 and in Countryside policy E6
- Highway issues – traffic generation, vehicular access, highway safety. Will put pressure on Swanstree Avenue
- No primary schools in area – will need to be driven
- Grade 1 agricultural land – goes against Government choice to use brownfield first
- Land is important if we are going to grow our own food- cannot keep affording to lose to developers
- 

**CPRE consider that the application should be refused. Their comments can be summarised as follows;**

- Planning applications need to be determined in accordance with the development plan unless there are other material considerations
- Saved policies of SBLP2008 remain up to date as are consistent with policy objectives of NPPF
- Do not accept applicants claim the provisions of whole plan out of date because it precedes NPPF
- Sole justification is SBC do not have a 5 year housing land supply
- SBC current housing land supply calculation does not take into account windfalls
- Recent guidance says OAN should not be taken as final housing target as not tested until examination – therefore not an agreed housing target for Swale
- P/g' s 14&47 of NPPF does not mean any development should automatically be given permission where no 5 year supply
- Consider adverse impacts here do outweigh benefits
- Application is deliberate attempt to undermine emerging local plan and the plan led approach
- Seeks to pre determine matters that are to be considered through the local plan process
- Grounds for refusing application on prematurity despite realising this reason cannot be used lightly refers to Annex 1 NPPF which provides advice on prematurity. Council can satisfy both these reasons
- Proposal is significant large scale development in open countryside contrary to E6 – disagree E6 out of date. Policy clearly environmental not supply
- Built up area boundaries have been defined to steer development to most appropriate and sustainable locations – this site consistently excluded from built up area due to landscape quality

- Under emerging LP the dry valley is focus of a strategic gap between Sittingbourne urban area and the AONB. Important green infrastructure to be protected under CP7 of new plan
- P/g 17 NPPF requires LPA's to recognise "intrinsic character and beauty of the countryside" and "prefer land of lesser environmental value". Therefore E6 is relevant and a primary consideration
- Should be refused for not complying with para 17 NPPF, E6, E9 and E11 of SBLP2008 and ST3, CP7 and DM24 of new LP and impact on setting of Kent Downs AONB
- E7 seeks to prevent coalescence of Sittingbourne and surrounding villages – here Sittingbourne and Rodmersham at risk. Important gap continues to be protected by DM25 of new LP. Gap would be reduced to 350m at closest point. Significant encroachment.
- These again are not housing supply policies but about maintaining character of settlements
- Site is mix of best agricultural land grades 1&2 – it enables wide range of agricultural and horticultural crops to be grown. Paragraph 112 NPPF seeks to use poorer quality land for this reason. 11g of ST1 echoes this
- Applicants have not shown there are no alternative sites involving lower quality land- this means not just Sittingbourne but throughout Borough
- Also not provided assessment as to how loss of site would affect viability of remainder of farm holding
- Proposal not sustainable as it results in environmental losses

**Environmental Protection Team Leader raises objection on basis of information submitted. Their comments can be summarised as follows:**

- Air quality and noise reports are inadequate and need to be more detailed
- Further work required to eliminate adverse impacts from contamination
- Air quality report brief and quite dismissive – concludes development of this size will have no adverse impact on air quality. However proposal is one of several proposals in and around Sittingbourne. When taken individually may not be significant but cumulatively they will. This is not dealt with in report
- Would have expected a recognised AQ modelling technique (such as ADMS Roads) to be used for large scale application like this
- A2 is only major route near site and inevitable traffic to and from this site will have to use this route
- There would be adverse impacts on the AQMAs at Ospringe Street and St Paul's Street
- To say only 4% of traffic from site will head westwards and 35% eastwards on A2 is difficult to believe
- Report is well meaning but too brief for development of this size and importance
- Recommend condition requiring a report be submitted
- Noise report is also brief assessment which is similarly dismissive
- Should be a noise assessment on how this residential development might be affected by traffic noise – recommend conditions
- A comprehensive desktop study is included that concludes low probability of contamination but recommends further work still required – as such recommend condition

### **Environment Agency**

Raise no objection to the proposal but recommend conditions regarding contamination. They also recommend a SUDS scheme be incorporated and several informatives.

### **Council's Tree Consultant raises no objection**

- The submitted reports appear detailed and accurate
- In principle, provided the recommendations and guidance detailed in the documents are followed I have no objections to the outline scheme
- If permitted I would like to see landscaping conditions attached together with a condition requiring the submission of an arboricultural method statement and all tree protection to be undertaken in accordance with the plans shown in the arboricultural impact assessment.

### **KCC Archaeology**

Currently in discussions with the applicant's archaeological consultant.

- The site has a particular archaeological potential regarding Roman burials in one area in the south west of the site and a general background potential for prehistoric and Roman remains.
- A geophysics survey has been carried out on the site recently and I have been provided with advance figures and await the full report in due course. The report proposes some targeted evaluation trenching on the site to inform the planning decision and I would agree with that approach

**KCC Public rights of Way Officer** does not object but raise several points that they consider need addressing prior to the grant of any permission including:

- Site would severely impact on the local walking resource. Path ZU31 is overlooked, however, the more developed setting will inevitably result in it losing its value as a recreational resource
- However, the additional circular routes and links will offer good amenity value
- They expect the PROW's to have surfaces to the standard of the County Council
- Cycling does not appear to have been considered. Provision must be made within the site
- Recommend a new Toucan Crossing is provided across Swanstree Avenue to connect to the footway/cycleway on the North side of that road
- That Path ZU30 is kept open and available to the public at all times.
- That those parts of existing footpaths ZU30 and ZU31, indicated on the attached plan, are upgraded to cycle track, including the off-site link to Peregrine Drive.
- That any necessary PROW changes and surfacing is agreed with KCC's PROW and Access Service prior to commencement

### **Rural Planning Consultant**

- A post 1998 Agricultural Land Classification survey shows it to be mainly Grade 1 (excellent) and Grade 2 (very good) quality ie. "best and most versatile" land for land use planning purposes, apart from a small area along the boundary

- Para 112 of NPPF states “Local Planning Authorities should take into account the economic and other benefits of the best and most versatile (BMV) agricultural land, and 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 a higher quality.”
- High quality agricultural land is valued because of its important contribution to food production and it also offers much greater potential than poorer land for growing alternative fuel/ energy crops
- Firstly must decide if the development is necessary
- If it is necessary the next stage is to decide whether sufficient arguments have been presented for overriding the NPPF guidance such as in this case, poorer land should not be sought in preference to higher quality land.

### **Kent Police**

- Supporting information makes no reference to Crime Prevention Through Environmental Design (CPTED)
- Would welcome a meeting with the applicant/agent to discuss Crime Prevention in more detail
- If the applicant fails to contact us, this may have an effect on the development with regards to Secure By Design (SBD), Codes for Sustainable Homes (CfSH) and BREEAM, as awarding these items retrospectively can prove difficult and costly. This could also have knock on effects for the
- future services and duties of the Community Safety Unit (CSU) and local policing
- Suggest conditions/ informatives

### **Swale Footpaths Group**

- several public footpaths cross the site.
- One is particularly useful as it is a direct route into the countryside from Sittingbourne and offers extensive views from the top of the hill.
- Is an "Area of High Landscape Value", and is not allocated for housing

### **Lower Medway IDB**

- The site of this proposal is outside of the IDB's district and, as the applicant proposes to restrict off-site runoff to 7l/s, is unlikely to directly affect the Board's interests
- I note that the proposals include the use of water butts which, whilst supported, should not be relied upon when calculating on-site storage (as butts can already be full prior to a storm)

### **Southern water**

Request if planning permission is granted an informative is included stating the developer must enter into a formal agreement with southern water to provide the necessary sewerage infrastructure as initial investigations indicate insufficient capacity and suggest conditions

### **Sittingbourne Society**

- Site outside built up area and in SLA
- Is an important countryside gap – proposal would significantly reduce the gap
- Site is high quality agricultural land – NPPF steers development to areas of lower quality land
- No assessment has been carried out to demonstrate impact on rest of holding



- Impact on public services including health
- Seriously affect traffic flows
- Increased hazards for children
- Strain on car parking in town
- Concern about water supply
- Confident new local plan will provide sufficient housing

**Rodmersham Parish Council** raise objection. Their comments can be summarised as follows:

- The site is in SLA as set out in policy E9
- It is within a countryside gap as designated under policy E7
- Site is within countryside as designated under policy E6
- We fully support these parts of the LP and do not feel mitigation could overcome these considerations
- A similar app was refused 2 years ago and same reasons apply
- Proposed exits will cause traffic problems, congestion, safety problems
- Schools oversubscribed
- Building here uses Grade 1 agricultural land when we have brown field sites
- Need green field agricultural land for growing food
- Dangerous for pedestrians
- Does not meet local need – people from outside will move in

**KCC Highways raise objection;**

- Transport assessment includes tandem parking and garages – do not accept garages as parking spaces and discourage tandem parking
- Although amenities nearby, not all roads here are suitable for walking
- Daunting route to town by bike involving crossing the A2
- Public transport not as frequent as necessary to encourage people to use it
- Trip rates used in transport assessment robust
- Report suggests the three accesses would be used equally – this is highly unlikely and cannot be considered properly until internal road layouts are decided
- Report not robust

**KCC Ecology**

- Satisfied the ecological surveys have considered on-site impacts from development, however, insufficient information submitted relating to assessing recreational impacts on European Designated Sites.
- Satisfied sufficient surveys carried out for protected/ notable species but if planning permission granted the finalised layout must ensure areas of highest ecological interest are retained

**KCC Minerals and Waste raise objection to the application. They state;**

*The site 'lies within the Swale Borough-Mineral Safeguarding Areas map for Brickearth (Faversham- Sittingbourne Area) and is not within an allocated site in an adopted development. On this basis it should be accompanied by a geological assessment that demonstrates the acceptability of non-mineral development against the tests set out in emerging policy DM7 of the MWLP'*

*'Please note that they may be subject to further minor modification by the Inspector. The MPA considers that in the absence of the tests in DM7 being met, then the County Council raises an objection to the non-mineral development on grounds of sterilisation of economically important minerals.'*

## **8.0 APPRAISAL**

8.1 I consider that the key material considerations in assessing this application are as follows:

- The housing target and land supply position for Swale
- The principle of the proposed development/ impact on character of countryside
- Is the development sustainable?
- Implications for landscape and visual amenity
- Impact of development on Swale SPA/ Ramsar site
- Implications for loss of BMV land
- Implications for sterilisation of a mineral safeguarded area
- Archaeology
- Residential amenity implications
- Highway implications
- Air Quality
- Flood Risk
- Developer Contributions

### **What is the housing target and land supply for Swale?**

8.2 The adopted Local Plan 2008 forms the basis for calculating housing land supply. As of 2013/14, Kent County Council's Housing Information Audit showed that Swale had a 3.17 years of housing land supply and therefore does not currently have a 5-year supply of housing land as required by paragraph 47 of the NPPF. Paragraph 47 explains that where a Council is unable to demonstrate a 5-year supply of housing due to persistent under-delivery, a Council will be required to provide a 20% buffer. However, in the case of Swale, whilst recent delivery has been below achieving a 5-year supply, this is simply a reflection of the post 2010 recessionary period and should not be used to characterise performance as a whole and I therefore make the case that the 20% buffer is not intended for cases such as ours.

8.3 Paragraph 49 of the NPPF confirms that the lack of a 5-year land supply triggers the presumption in favour of sustainable development and that relevant policies for the supply of housing should not be considered up-to-date if the Local Planning Authority cannot demonstrate this. It is necessary to determine what the relevant policies for the supply of housing are in order to identify which are out of date. What constitutes a policy for the supply of housing has been the subject of legal judgement, but can be interpreted as either policies that have specific and direct impacts on housing supply or more indirect, but significant impacts on supply. Regardless of the approach taken, decision makers can and do take into account whether certain aspects of policies accord with the NPPF. Importantly, the decision maker must apply themselves properly to paragraph 49 and in this regard, tabulated observations are offered in Appendix 1 in respect of relevant policies of the Adopted Local Plan, the Emerging Local Plan and the Kent Minerals and Waste Local Plan.

- 8.4 To conclude on the issue of housing land supply, the Council cannot currently demonstrate a five year housing land supply. However, this is not due to persistent under delivery, but has been a recent problem compounded by the effects of the recession and therefore the 20% buffer should not be engaged. The supply calculations have been calculated cautiously using the Sedgefield method rather than using the Liverpool method and by using the need figures from the Local Plan. This is the correct approach as to state that the five year supply should be calculated using figures from the Emerging Local Plan would be seeking to pre-determine the outcome of housing need ahead of the Local Plan Inquiry.

#### **The principle of the proposed development/ impact on character of countryside**

- 8.5 The site is located outside of any built up area boundary, within the designated countryside, although it does abut the built up area boundary of Sittingbourne, as set out in the adopted Local Plan. As had already been established, policies relating to the supply of housing in both the adopted and the emerging Local Plans are to be considered out of date as the Council does not currently have a 5-year supply of sites and this causes means we need to consider whether policies relating to the protection of the countryside are housing policies and could be considered to be out of date. It has been argued recently in planning appeals by planning agents that Policy E6 of the Adopted Local Plan relating to 'The Countryside' is to be considered out-of-date due to the fact it refers to 'development' which could include housing. However, it is important to note that the overarching aim of the policy is to protect and enhance the quality, character and amenity value of the wider countryside and that aim fully accords with the NPPF Core Planning Principle *'to take account of the different roles and character of different areas, recognising the intrinsic character and beauty of the countryside and supporting thriving rural communities'*. As such, I do not consider the overall aim of the policy to be out-of-date and give it significant weight in assessing the impact of the proposal on the character of the countryside.
- 8.6 The site is also located within an important local countryside gap between Sittingbourne and Rodmersham Green. The proposal would result in a significant physical erosion of this important gap which Members were very keen to see remain under the Emerging Local Plan and policy DM25 of the emerging Local Plan retains this important gap. Adopted policy E7 is also considered to be consistent with the NPPF Core Planning Principle to take account of the different roles and character of different areas, recognising the intrinsic character and beauty of the countryside and supporting thriving rural communities and can be afforded significant weight. The policy aims to retain the individual character of settlements and in order to do that states planning permission should not be granted where it would result in the merging of settlements or result in piecemeal erosion of land or its rural open and undeveloped character. In this case, although the topography of the area reduces the impact in views from Rodmersham Green, the impact on views from Swanstree Avenue towards Rodmersham and the journey for walkers would be significantly changed and urbanised, resulting in a significant loss of openness and rural character.
- 8.7 The site is also defined as containing best and most versatile land (BMV). A post 1988 Agricultural Land Classification survey of the site shows it mainly to be a mixture of Grade 1 (excellent) and Grade 2 (very good) quality (BMV land in planning terms) apart from an area of 5.7ha along part of the northern boundary which is Grade 3b (moderate quality). The issue of loss of BMV land is addressed within the NPPF whereby it states that Local Planning Authorities should seek to use areas of poorer quality land in preference to that of a higher quality for necessary development.

- 8.8 As well as economic benefits, as indicated within the NPPF, there are other benefits of BMV land. These include social/ strategic benefits in terms of securing the best land for local and national food production and environmental benefits in that better quality land is generally easier and more efficient to work, and not unduly subject either to drought or to bad drainage and more likely to achieve good and consistent yields. Its unnecessary loss should therefore be strongly resisted, particularly in cases where it results in a significant area of land.
- 8.9 It is therefore important to consider firstly whether this development is necessary (as required under para 112 of the NPPF), which it could be argued it is, due to the lack of 5-year housing land supply. Secondly, it becomes necessary to consider whether there are alternative more suitable sites available. As already discussed earlier in the report, the Council has a trajectory of alternative sites which are considered to be available. Lastly it is important to consider whether there are any material considerations that mean the advice as set out within the NPPF in this respect should be overruled. I am of the opinion that there is no justification in this case to allow the loss of such a significant area of BMV land where there are clearly options to provide a development of this size on alternative sites that are available elsewhere in the Borough.

### **Is the development sustainable?**

- 8.10 In terms of the three dimensions of sustainable development – namely economic, social and environmental considerations - NPPF, paragraphs 8 and 9 expects development to seek improvements across all three.
- 8.11 It should be acknowledged that the proposals will achieve social gains in terms of the provision of substantial numbers of new housing (including the provision of affordable homes) in an area with an acknowledged shortfall and with good access to existing and possible new services. In turn these make a positive contribution toward the economic role of sustainable development. However, the benefits achieved under this latter role are significantly diminished by a reduction in the economic benefits of BMV. They are also significantly impacted upon given the sterilisation of the land in terms of minerals; given the statement in NPPF paragraph 142, such economic dis-benefits could be very significant indeed. However, given that improvements across all three of the sustainable development dimensions is necessary, the contribution toward the environmental dimension also needs to be examined.
- 8.12 It is under the environmental role that the development most significantly fails to positively contribute. The applicant's assertion on page 5 (under the heading sustainable development) of the planning statement that "*The accompanying reports show there are no adverse impacts associated with the proposals*" is clearly not demonstrated by the actual likely impact as highlighted by the Council's own landscape evidence. To these already significant impacts (discussed further on in this report) is added the major loss of BMV (as discussed earlier).
- 8.13 As there is a failure to secure improvements across all three strands of sustainable development, the proposals would not amount to sustainable development as clearly required within the NPPF, irrespective of whether a 5-year supply of housing sites can be demonstrated or not.

### **Implications for landscape and visual amenity**

- 8.14 The application site forms part of a local landscape designation. For the Adopted Local Plan it is part of the North Downs Special Landscape Area (Policy E9), whilst for the Emerging Local Plan the area is part of an Area of High Landscape Value (Kent Level) (Policy DM24). The area has been designated for its special landscape qualities for many years which has been supported by landscape consultants, is not challenged by the applicant's evidence and its status has been endorsed by successive Local Plan Inspectors.
- 8.15 The value of the landscape here is increased by three matters:
- 1) Whilst the site is not subject to a national landscape designation, dry valleys and downland landscapes abut the site and adjoin the AONB. These landscapes have been recognised as a county landscape resource of more than local value.
  - 2) There is excellent accessibility to the landscape provided to the local population by the several public footpaths that cross, adjoin or give views of the site. People are able to rapidly access the countryside from the urban area, giving them considerable opportunities to appreciate the wider countryside.
  - 3) The combination of accessibility, the type of landform with its dramatic views, the stark change between urban and rural areas and its relative remoteness and tranquillity are unique to Swale.
- 8.16 With respect to the footpaths running both through and nearby to the site, they are well used for dog walking, rambling and for general walks. Although the footpaths would be retained, their qualities will be dramatically diminished if the development were to go ahead.

### **Applicant's landscape evidence and SBC review**

- 8.17 As confirmed by the landscape evidence commissioned by Swale Borough Council, the landscape report submitted by the applicant is lacking in a number of respects:
- an incorrect assessment of views and the significance of impacts;
  - inappropriate commentary on the balance between landscape impact and housing need leading to judgements beyond the remit of its authors; and
  - a failure to consider the landscape qualities of the designation and the guidelines from the Swale Landscape and Biodiversity Assessment Supplementary Planning Document.
- 8.18 The independent report commissioned by Swale Borough Council takes a counter view to the applicant's assessment and confirms the presence of significant and permanent harm to landscape interests, with the proposals clearly demonstrating an almost total disregard for their landscape and visual contexts. Such harm will also lead to irreversible pressures to develop adjacent sites included within the Council's SHLAA 2013/14, adding further significant cumulative impact upon the landscape designation.

### **Swale Landscape Character Assessment SPD 2011**

- 8.19 The proposals do not specifically consider the guidance contained within the adopted Supplementary Planning Document. For example, page 95 provides generic guidelines for dry valleys and downland stating:

*“Valleys are frequently tranquil and largely undeveloped. They are distinct features of the natural landscape that should be conserved.”*

- 8.20 Page 108 provides the following guidelines for the Rodmersham and Milstead dry valley area:

*“Conserve the rural setting of the Kent Downs AONB and the southern edge of Sittingbourne.”*

*“Conserve the distinctive and predominantly enclosed landscape character of valleys and hillsides (including panoramic views), together with the remaining landscape structure of hedgerows, shelterbelts, woodland and mature and remnant orchards. Additionally look for opportunities to restore this structure and to link features, especially within locally denuded parts of the area and along roads and lanes.”*

- 8.21 Page 112 provides the following guideline for the Tunstall Farmlands area:

*“Conserve the remote character belonging to the dry valley along the eastern edge of the area.”*

- 8.22 The proposals very clearly display significant and irreversible landscape harm, principally arising from their development of the valley side, their impact in views and the diminishment in the use, quality and role of the public footpaths in the area. The proposals also fail to address the Council's landscape SPD and specific guidelines and neglect their landscape context by their scale and indicative strategy for developing of the site. Albeit not a significant matter in its own right, the adverse impacts upon settlement separation also feed into the overall adverse conclusions. As a result the proposals fail to protect or enhance the quality, character and amenity value of the countryside as required by adopted and emerging Plan policies.

- 8.23 The proposals fail to accord with NPPF Core Planning Principle to take account of the different roles and character of different areas, recognising the intrinsic character and beauty of the countryside and supporting thriving rural communities. Additionally, they fail to protect and enhance valued landscapes as required by NPPF para. 109 and do not accord with NPPF para. 64 which states that permission should be refused for development of *“... poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.”*

### **Impact on Swale SPA/ Ramsar site**

- 8.24 The site is located within close proximity of the Swale Special Protection Area (SPA) and RAMSAR site, sites designated under European legislation for the conservation of wild birds. Under this legislation the Council has a duty to safeguard the habitats of migratory birds. Recent evidence commissioned by Swale Borough Council in conjunction with other Kent authorities has demonstrated that for all housing developments within a 6km distance from an access point onto the SPA there is the potential for disturbance to birds, principally (but not entirely) due to dog walking. For large projects this geographical influence may be even wider.
- 8.25 As such, in order to meet our European duty, for all planning applications relating to residential development, the Council needs to undertake a Habitats Regulations Assessment to determine whether there are likely to be significant adverse impacts on the SPA. Where this is confirmed, a full Appropriate Assessment (AA) would then be triggered.

- 8.26 The North Kent Councils have agreed a draft approach by which developments may be able to provide mitigation to enable development to proceed and fulfil the necessary duty under the European legislation. This will normally take two forms (both needing to be achieved):
1. The mitigation of impacts on site – normally by the creation of dog walking areas within a new development; and
  2. For those remaining off-site impacts the payment of a per-dwelling tariff – currently £223.58 per house.
- 8.27 Member should note that despite this issue being raised with the applicants at a meeting during the application process that no information has been provided to enable a Habitat Regulation Assessment (HRA) to be undertaken. Whilst the submitted ecological assessment refers to a mitigation payment, no draft legal agreement has been submitted and despite the issue being raised with the applicant during the application process, there has been no agreement that the payment would be made or suggestion of appropriate projects. As such, I am unable to fulfil the Council's duties under EU law and cannot establish whether there would be significant effects on the SPA.
- 8.28 The requirement for the Council to consider this is set out in European Law, however, it is clarified in planning terms in paragraphs 118-119 of the NPPF, together with Policy E12 of the adopted Local Plan and Policies CP8 and DM28 of the emerging Local Plan provide this.

#### **Implications for loss of BMV land**

- 8.29 Natural England Technical Information Note TIN049 confirms that BMV soils are the most flexible, productive and efficient in response to inputs and which can best deliver future crops for food and non-food uses such as biomass, fibres and pharmaceuticals. Current estimates are that Grades 1 and 2 together form about 21% of all farmland in England; Subgrade 3a also covers about 21%. Around 80% of Swale's land is managed through agriculture and it is estimated that the Borough has about 17% of Kent's grades 1 and 2 resources.
- 8.30 The Government re-affirmed the importance of protecting soils and the services they provide in the Natural Environment White Paper *The Natural Choice: Securing the value of nature* (June 2011), including the protection of best and most versatile agricultural land (paragraph 2.35).
- 8.31 Paragraph 109 of the NPPF looks to the planning system to contribute to and enhance the natural and local environment by "*protecting and enhancing valued landscapes, geological conservation interests and soils*". When allocating land for development, paragraph 110 looks to Council to allocate land with the least environmental or amenity value. This can be regarded as applying to agricultural land. The glossary to the NPPF confirms BMV land to comprise grades 1, 2 and 3a of the Agricultural Land Classification.
- 8.32 Paragraph 112 of the NPPF provides further guidance specific to agricultural land. It has three elements:
- 1) taking into account economic and other benefits of BMV land;
  - 2) whether significant development of agricultural land is necessary; and
  - 3) seeking to use areas of poorer quality land.

**Taking into account economic and other benefits of BMV land**

8.33 The benefits of BMV land will include<sup>5</sup>:

- Food security and self-sufficiency.
- Food quality.
- The economy.
- The environment and climate change.
- The countryside.

8.34 Many of these benefits are not quantifiable in monetary terms and when considering the economic benefits alone, there is currently no available published evidence on the value of agriculture to the Swale economy, although its value nationally is very significant indeed. With some of the largest and most successful fruit producers present in the Borough, the value at the local level is likely to be very significant indeed. There are some published data sources to indicate its relative importance:

- 2013 Defra statistics for 2013 show Swale having 1,867 persons engaged in agriculture (approx. 4.3% of total Swale jobs) - the 4<sup>th</sup> highest in South East England. This amounts to around 4% of the total involved in agriculture for the whole of the South East and higher than the South East average of 899 persons per district.
- 2013 Defra statistics for 2013 show Swale has having 22,815 ha of farmed land, the 4<sup>th</sup> highest amount of farmed land in Kent and slightly above the average for South East England.
- If farm prices were used as an indicator, the average value of English farmland rose by 4% in 2014 to £10,200 per acre, breaking the £10,000 per acre barrier for the first time in its history. Pre 2014, there was strong demand for land of all qualities, but since farmers have aimed for high quality land<sup>6</sup>.

8.35 Given the benefits of the resource locally, the loss of such a considerable area of BMV land, together with the pressures on other nearby land, weighs against the proposals. Furthermore, the applicant's assessment of economic benefits has not taken these issues into account and the loss of this land must offset the stated economic benefits of the development.

**Whether significant development of agricultural land is necessary**

8.36 The application involves a significant loss of agricultural land (including significant levels of BMV) that in turn places pressure on adjacent similar land. The site area is 25.7ha of which approximately 20ha is considered to be BMV land. I consider the loss of such a large area of BMV land to be significant in terms of the intention of the NPPF at paragraph 112. There does not appear to be any specific guidance on what amounts to 'significant' development. However, taking into consideration the fact that Natural England are statutory consultees on applications for the loss of 20ha or more of BMV land, this signifies the loss of land this size is considered to be significant by the Government.

8.37 It is accepted that it has already been necessary to release significant levels of agricultural land to meet development needs in the Borough and that this will remain the case to meet any of the housing targets currently being debated at the local plan level. However, more suitable sites involving less significant areas of BMV being lost and have

<sup>5</sup>[http://www.ukagriculture.com/the\\_importance\\_of\\_agriculture.cfm](http://www.ukagriculture.com/the_importance_of_agriculture.cfm)

<sup>6</sup>[www.smithsgore.co.uk](http://www.smithsgore.co.uk).



been identified and put forward for allocation ahead of this site on the basis that they are more suitable and involve less harm.

### **Seeking to use areas of poorer quality land**

- 8.38 Although the use of agricultural land may be inevitable in order to meet our housing targets going forward, the loss of BMV land is not inevitable, even if higher housing targets are pursued. The Council's 2013/14 SHLAA identifies sites on lower quality land to the north of the Borough that are equally available and will comfortably replace the dwelling numbers proposed by the application site.
- 8.39 The applicant's conclusions on this issue are not shared. NPPF paragraph 112 does not require Councils to "*take into account the preference to use poorer quality land*", but to "*seek*" to use areas of poorer quality land. This is more proactive than that suggested by the applicant, i.e. it would imply a need to look for or to try and find or achieve. It is clearly a policy consideration and is considered as such by Inspector's.
- 8.40 The application involves a significant loss of BMV; compounded by the pressure it would create on adjacent land of similar value. The significance of such land, both to the UK, but to the Swale economy in particular, are likely to be significant and significant weight should be given to its loss in circumstances where there were no alternative to it. In this case, there are available alternatives and therefore significant weight should be attached to Emerging Policy DM31 and NPPF paragraph 112.

### **Implications for sterilisation of a mineral safeguarded area**

- 8.41 The site is located within the Swale Borough Mineral Safeguarding Area map for Brickearth (Faversham – Sittingbourne Area), as defined in Policy CSM5 of the emerging Minerals and Waste local Plan for Kent. The submitted application contained no geological assessment that demonstrates the acceptability of non-mineral development in accordance with Policy DM7 of that Plan or any commitment to remove any resources prior to development taking place. These policies are not judged as affected by para. 49 of the NPPF and without them being addressed, development would result in the sterilisation of economically important minerals. Whilst this is a matter upon which planning permission could be refused, Members should note that policies are subject to change and the developer may choose to address the issues prior to any appeal being considered.

### **Archaeology**

- 8.42 The site is located within an area of potential archaeological value and a desk based archaeological assessment has been carried out and submitted as part of the application which indicated there was a moderate to high likelihood of archaeological potential. The report also recommended further archaeological evaluation be carried out to inform is mitigation would be necessary. This has not been carried out to date. However, KCC Archaeology have confirmed that they have been in discussions with the applicant and are awaiting a full report. The approach suggested by the applicant's archaeological consultant involves a targeted evaluation trenching approach which KCC consider appropriate.

### **Residential amenity implications**

8.43 In terms of residential amenity, the impact can only be looked at in general terms due to the fact this is an outline application with only indicative plans. The development would have a significant impact upon the character of the street scene in Swanstree Avenue altering the outlook for pedestrians using the street and those living in Swanstree Avenue and will affect the character of the street by introducing urban development into what is currently an undeveloped natural area. This will inevitably have an impact on the amenity of the nearest properties. However, it is likely that this could be successfully mitigated by the approval of suitably-designed reserved matters.

### **Highway implications**

8.44 Access to the site is an issue that is to be considered at this outline stage. Kent Highways Services have raised objection to the application. In respect of the proposed new accesses, they say that the application indicates that the three accesses would operate equally between the three. Kent Highways consider this conclusion to not be based on robust evidence and to be most unlikely. They further comment that this cannot be considered properly until the internal layout of roads has been submitted. This has raised the issue of how thorough the submitted transport assessment is and whether its conclusions are accurate. As this is a matter that needs to be considered at this stage and Kent Highways have serious concerns regarding how this would impact on traffic flows in and around the site and the submitted evidence is lacking, this is a serious concern.

8.45 Kent Highway Services have also raised concerns regarding how/ whether buses would access the site and explain that right turn lanes would help if that was the intention. They also note that the applicants state that garages would be used towards parking provision, which is not accepted locally due to the fact so few people use garages for parking cars. They also have raised concerns regarding access to and from the site by cyclists and pedestrians explaining that it is not a pleasant journey for either to the town, requiring crossing of the A2. As such, I am concerned that the lack of accessibility of the site to pedestrians, cyclists and public transport results in the development failing to achieve the Government's overall aim of sustainable development.

### **Air Quality**

8.46 The large-scale nature of the proposed housing development will result in an increase in air pollution from the additional vehicular traffic that would be generated by these proposals. The Environmental Protection Team Leader has commented that the submitted air quality assessment is brief and quite dismissive of the issue of air quality. The site is in close proximity (approximately 800m) to an Air Quality Management Area (AQMA), on Canterbury Road and East Street (the A2). As the A2 is the only main route near to the site, it is inevitable that some traffic arising from the proposed housing will use this route. The conclusions of the report that only 4% of the traffic from the site will head westwards and 35% eastwards on the A2 is challenged. It is also likely that the development would result in adverse impacts on air quality in the AQMA's at St Paul's Street, Sittingbourne and at Ospringe Street on the A2, immediately to the west of Faversham.

- 8.47 Paragraph 17 of the NPPF require the planning system to contribute to reducing pollution, whilst para. 111 requires that new development should not contribute to unacceptable levels of air pollution. Paragraph 124 states that 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. Finally, paragraph 124 also requires that decisions should ensure that any new development in Air Quality Management Areas is consistent with the local air quality action plan.
- 8.48 Both Adopted Local Plan policy SH1 and Emerging Local Plan ST3 and ST5 highlight air quality as a constraint to development. The development is considered to be contrary to the NPPF and these policies, alongside Adopted Local Plan policy E1 and Emerging Local Plan policies ST1 and DM6. These policies are considered to be up-to-date and unaffected by the NPPF paragraph 49 issue.

### Flood Risk

- 8.49 The eastern boundary of the site is located within a narrow wedge of a flood risk area (Flood Zone 3), however, there does not currently appear to be any development proposed within this area. The remainder of the site is in flood zone 1. The Environment Agency have not raised objection to the proposal considering the proposed SUDS an appropriate management method.

### Developer Contributions

- 8.50 The applicant has not made clear at this stage what developer contributions they would be willing to enter into. However, they have made clear that they would enter into any that are reasonable and meet the necessary tests and can be delivered without rendering the development unviable.

### Other matters

- 8.51 Members will note that there is no provision towards on-site gypsy/traveller sites. Taking into consideration the recent appeal decision under APP/V2255/A/14/2224500 for the residential site at Brogdale Road, Faversham, I note the Inspector's conclusion in respect of this issue, which was as follows:

*"I accept that in accordance with paragraph 216 of the Framework, account can be taken of emerging policies. However the SBLP has not yet been submitted for examination and there are unresolved objections to that part of SBLP Policy CP3 relating to the provision of gypsy and traveller sites. Furthermore the particular approach to site provision inherent in the policy is not one that is set out in the Framework or in the Planning Policy for Traveller Sites. Consequently I believe that very little weight can be attached to SBLP Policy CP3. As a result I find no policy justification for the Council's approach of seeking the provision of a gypsy and traveller pitch on the site."*

- 8.52 I am therefore of the opinion that it is not appropriate to pursue the provision towards gypsy/traveller pitches in this case.

- 9.0 RECOMMENDATION – REFUSE.** As noted above, this application is the subject of an appeal against non-determination. As such this application will not be determined by the Council, however, the decision of the Committee will indicate to the Secretary of State the Council's intended decision. The reasons for refusal recommended would have been as follows:

- (1) The proposed development, due to its location, scale and form, will not represent sustainable development as it fails to seek positive improvements across the three dimensions as required by paragraphs 7-9 of the National Planning Policy Framework 2012. Furthermore, notwithstanding the lack of availability of a 5-year supply of housing land, in accordance with paragraph 14 of the National Planning Policy Framework 2012, the proposals do not achieve the presumption in favour of sustainable development as the adverse impacts of development would significantly and demonstrably outweigh any benefits as a result of:
- (i) The likely significant adverse impacts on the landscape character, quality and value (including the contribution made by tranquillity and the amenity value of accessible countryside close to the urban area) of a designated local landscape area, as well as on the visual amenity enjoyed by users of the local public rights of way network;
  - (ii) Due to the topography and sensitive nature of the landscape, the development would result in a poor design that fails to appropriately respond to/take the opportunities for improving the character and quality of the area and the way it functions as required by para 64 of the NPPF;
  - (iii) The significant, permanent and unnecessary loss of best and most versatile agricultural land (including its economic and other benefits);
  - (iv) The failure to provide information to determine and address the mitigation necessary to avoid likely significant effects upon Special Protection Areas contrary to Article 4 of the EC Birds Directive.
  - (v) The site lies within the swale Mineral Safeguarding Area for brickearth and is not within an allocated site for development. The applicant has failed to demonstrate that potential sterilisation of this land and the loss of the wider economic benefits is acceptable
  - (vi) Air pollution from vehicle emissions, particularly nitrogen dioxide, resulting in cumulative air pollution levels that would be inconsistent with the local air quality action plans for the Canterbury Road AQMA, the St Paul's Street AQMA and the Ospringe Street AQMA;
  - (vii) Poor walking routes to the town centre with no footways at junctions, dangerous cycle route to the town centre and infrequent bus service.

(As a result, the proposals do not accord with the National Planning Policy Framework, being contrary to policies set out in paragraphs 14, 17, 64, 109, 112, 113, 117-119 and 142 - 144, nor with the Development Plan, being contrary to policies SP1, SP2, SH1, TG1, E1, E6, E7, E9, E12, E19 and H2 of the Swale Borough Local Plan 2008, together with guidelines of the Swale Landscape Character and Biodiversity Appraisal 2011 SPD. The proposals are also contrary to emerging Development Plan policies ST1, ST3, ST5, CP2, CP4, CP7, DM24, DM25, DM28 and DM31 of Bearing Fruits 2031: The Swale Borough Local Plan April 2015, together with policies CSM5 and DM7 of the Kent Minerals and Waste Local Plan 2013-2031.

- (2) The submitted transport assessment is inadequate, making unlikely assumptions on the likely trip generations of the proposed accesses to the site. As such, there are concerns that these assumptions are flawed and the assessment inaccurate. As such, the proposal would result in harm to highway safety and convenience, contrary to policies E1 and T1 of the Swale Borough Local Plan 2008 and emerging Development Plan policy DM6.

**Council's approach to the application**

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

- 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:

This application was considered to be fundamentally against the aims and provisions of the Development Plan and NPPF and the issues so fundamental that the application could not be amended to address these.

Case Officer: Claire Dethier

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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<b>3.2 REFERENCE NO - 14/500144/FULL</b>			
<b>APPLICATION PROPOSAL</b>			
Change of use of land to use as an extension to existing caravan site to form a total of 6 no. caravan pitches, each containing two caravans of which no more than one will be a static caravan/mobile home, including the laying of hard standing and erection of two amenity buildings			
<b>ADDRESS</b> Edentop Sheppey Way Bobbing Kent ME9 8QP			
<b>RECOMMENDATION</b> REFUSE subject to the views of Kent Highway Services			
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b>			
The proposal would harm the setting of the grade II listed building adjacent to the site, would harm the character and appearance of the countryside, the visual amenities of the area, would lead to the erosion and piecemeal development of the local important countryside gap, and would cause harm to the setting of the crematorium opposite the site.			
<b>REASON FOR REFERRAL TO COMMITTEE</b>			
Decision of the Head of Planning Services			
<b>WARD</b> Grove Ward	<b>PARISH/TOWN</b> Bobbing	<b>COUNCIL</b>	<b>APPLICANT</b> Mr Robert Beck <b>AGENT</b> Mr Philip Brown
<b>DECISION DUE DATE</b> 23/01/15	<b>PUBLICITY EXPIRY DATE</b> 23/01/15	<b>OFFICER SITE VISIT DATE</b> 2/7/15	
<b>RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):</b>			
<b>App No</b>	<b>Proposal</b>	<b>Decision</b>	<b>Date</b>
SW/07/1243	Erection of 1 residential dwelling.	Refused	2007
SW/09/0972	Change of use of land to use as a residential caravan site for one gypsy family with two caravans (including one static caravan), erection of amenity block and laying of hardstanding.	Refused Appeal Allowed	2010 2011

**MAIN REPORT**

**1.0 DESCRIPTION OF SITE**

The application site lies outside of any defined built up area boundary and within the countryside. The site lies 1.3km from the Petrol Filling Station, restaurants and hotel on the outskirts of Bobbing, 0.9km from Bobbing Primary School and 1.4km from the doctors surgery within Iwade village. A grade II listed residential dwelling lies to the east of the application site and there are various outbuildings associated with this property that run along the boundary between the two sites. The Garden of England Crematorium and Memorial Gardens lie directly opposite the application site on the north side of Sheppey Way, consisting of low buildings set in grounds behind high entrance gates and front boundary walls. The site is mostly surrounded by open fields. However, residential properties are scattered along this part of Sheppey Way and these are interspersed with large agricultural/commercial buildings.

The application site has been used as a small holding and has a lawful use as agriculture. There is a large barn immediately to the east of the application site. This building and the land to the south and west are owned by the applicant. This additional land and the adjacent barn are currently used by the applicant for the keeping of horses in association with his horse trading business.

The site currently contains two caravans, one of which is static, an amenity block and associated hardstanding, all of which was allowed on appeal by the Planning Inspector in 2010.

## 2.0 PROPOSAL

- 2.01 The planning application now being considered is for the change of use of part of an agricultural field to use as an extension to an existing residential caravan site in order to provide accommodation for a total of six gypsy families.
- 2.02 It is proposed that each of the six households would have two caravans, of which no more than one would be a static caravan/mobile home. In addition, the proposal involves the erection of two pairs of semi-detached amenity buildings – which will be in addition to that which is existing, and previously approved, on the site. Associated hardstanding for the stationing caravans and for the parking and manoeuvring of vehicles is proposed as part of this application. This includes the provision of an access road, with turning facilities to allow a refuse vehicle or emergency services vehicles to enter and leave the site in a forward gear.

## 3.0 SUMMARY INFORMATION

	Existing	Proposed	Change (+/-)
Site Area (ha)	0.14	0.98	0
Parking Spaces	2	6	+5
No. of Residential Units	1	6	+5

## 4.0 PLANNING CONSTRAINTS

- 4.01 The site lies outside the built up area of Sittingbourne, and within an Important Local Countryside Gap.

## 5.0 POLICY AND OTHER CONSIDERATIONS

### 5.01 National Planning Policy Framework (NPPF)

- 5.02 The NPPF was released on 27<sup>th</sup> March 2012 with immediate effect, however, para 214 states *“that for 12 months from this publication date, decision-makers may continue to give full weight to relevant policies adopted since 2004 even if there is a limited degree of conflict with this Framework.”*
- 5.03 The 12 month period noted above has expired. As such, it was necessary for a review of the consistency between the policies contained within the Swale Borough Local Plan 2008 and the NPPF. This has been carried out in the form of a report agreed by the Local Development Framework Panel on 12 December 2012. All policies cited below – other than H4 – are considered to accord with the NPPF for the purposes of determining this application and as such, these policies can still be afforded significant weight in the decision-making process.
- 5.04 As above: policy H4 is not considered to be NPPF-compliant, but will ultimately be superseded by a new Core Strategy policy to reinforce NPPF compliance and in particular, the Council will need to allocate sites via a Gypsy & Traveller Site Allocation development plan document and Gypsy & Traveller Assessment. The report to LDF Panel (as at 5.27 below) notes that *“in the interim, development proposals which do not have overwhelming material considerations to indicate refusal have been granted temporary planning permission, pending preparation of these documents.”*



5.05 National Policy

5.06 National Policy on Gypsy and Traveller sites is set out in the National Planning Policy Framework and the Planning Policy for Traveller Sites (PPTS). The requirement in both documents is very clear, in that the Council should now set pitch targets which address the likely need for pitches over the plan period. Furthermore, the Council has been required, since 2013, to maintain a rolling five year supply of sites that are in suitable locations and available immediately.

5.07 The PPTS was a considerable change in national policy, prior to which national policy was set out in Circular 01/2006 where the original intention was for regionally set pitch targets to be met.

5.07 The Council, in my view, responded positively and quickly to that change. The LDF Panel immediately recognised, and supported, the commissioning of a new Gypsy and Traveller Accommodation Assessment (GTAA), which was completed in June 2014 and identified a need for 82 pitches to be provided (adjusted down from 85 pitches in reflection of those sites granted consent whilst the document was under preparation).

5.09 From this the Council will also produce a Development Plan Document setting out deliverable sites to meet this need. However it is anticipated that this will take at least three years to become formal policy, as it relies upon successful adoption of the draft Local Plan, entitled "*Bearing Fruits*," which is unlikely to be formally agreed until at least early 2017.

510 Local Policyi) *The Swale Borough Local Plan 2008*

5.11 SBLP policy E1 sets out standards applicable to all development, saying that it should be well sited appropriate in scale, design and appearance with a high standard of landscaping, and have safe pedestrian and vehicular access whilst avoiding unacceptable consequences in highway terms.

5.12 SBLP Policy E6 seeks to protect the quality, character and amenity of the countryside, and states that development will not be permitted outside rural settlements in the interests of countryside conservation, unless related to an exceptional need for a rural location.

5.13 SBLP Policy H4 explains the Borough Council will only grant planning permission for the use of land for the stationing of homes for persons who can clearly demonstrate that they are gypsies or travelling showpersons with a genuine connection with the locality of the proposed site, in accordance with 1 and 2 below.

1. For proposals involving the establishment of public or privately owned residential gypsy or travelling showpersons sites:
  - a) there will be a proven need in the Borough for the site and for the size proposed;
  - b) the site will be located close to local services and facilities;
  - c) there will be no more than four caravans;
  - d) the site will be located close to the primary or secondary road networks;
  - e) in the case of a greenfield site there is no suitable site available on previously developed land in the locality;
  - f) the site is not designated for its wildlife, historic or landscape importance;

- g) the site should be served, or capable of being served, by mains water supply and a satisfactory means of sewage disposal and refuse collection;
  - h) there is no conflict with pedestrian or highway safety;
  - i) screening and landscaping will be provided to minimise adverse impacts;
  - j) no industrial, retail, commercial, or storage activities will take place on the site.
  - k) use of the site will not give rise to significant adverse impacts upon residential amenity, or agricultural or commercial use, of surrounding areas; and
  - l) the land will not be in a designated flood risk area.
2. Additionally to 1, for proposals for short term stopping places:
- m) there will be a planning condition to ensure that the length of stay for each caravan will be no longer than 28 days with no return to the site within 3 months.”
- 5.14 However, policy H4 has largely been superseded by *Planning Policy for Traveller Sites*.
- 5.15 SBLP Policies E6, E14, E19 and T3 aim to protect the character and general amenity of the countryside; to have special regard to the setting or any architectural or historic features of nearby Listed buildings; require development proposals to be well designed in general; and ensure that appropriate parking space is provided.
- 5.16 The site lies within an Important Local Countryside Gap, where SBLP policy E7 aims to restrict development that would result in the merging of settlements (in this case Bobbing and Sittingbourne) or result in piecemeal erosion of the countryside.
- ii) *Bearing Fruits 2031*
- 5.17 The Council’s Draft Core Strategy has now been replaced by the emerging draft Local Plan, entitled *Bearing Fruits 2031*, which is at draft publication stage and therefore carries some weight in the determination of applications.
- 5.18 Policy DM10 of the emerging Local Plan aims to provide pitches for gypsies and travellers as part of new residential developments, stating:
- “For housing proposals between 50 and 149 dwellings, one pitch shall be provided for gypsies and travellers. For 150 dwellings and above (or 200 dwellings on previously developed urban sites), unless a commuted sum has been agreed with the Council, 1% of the total number of dwellings proposed shall be serviced and made available to gypsies and travellers as pitches and/or bespoke accommodation, either for sale or rent, as appropriate, and up to a maximum of 10 pitches on any one allocation. Where identified, pitches may also be required to meet an affordable housing need.”*
- 5.19 The policy also notes that sites may need to be granted permission individually in order to meet the five-year supply, and this will be subject to certain general criteria, and also compliance with draft policies DM9 and ST3.

- 5.20 Draft policy DM9 requires applications for affordable housing / gypsy and traveller pitches within rural areas to demonstrate that:
- The site is well located to local service centres and villages, with access to day-to-day services;
  - There will be no significant impact upon character and amenity of the countryside; and
  - The need for the scheme is clearly demonstrated and justified by the applicant.
- 5.21 Policy ST3 sets out a settlement hierarchy for when considering proposals for new development, stating that outside of the defined built up areas *“permission will be granted for appropriate development involving...accommodation for gypsies and travellers that cannot be met at housing allocations or within or adjacent locations within”* the identified Borough centres, rural service centres, or other villages with built up area boundaries.

## 6.0 LOCAL REPRESENTATIONS AND CONSULTATIONS

Twenty one letters of objection have been received. The comments contained therein may be summarised as follows:

- Proposal is too close to the Crematorium
- The site is neglected and unsightly – an eyesore
- There is a lack of landscaping
- Unauthorised business activity on site
- The site has been unoccupied for three years
- The applicant has not complied with previous planning conditions
- The proposal is out of character/harmful to the rural views of the area
- The proposal is detrimental to the strategic and countryside gap between Medway and Sittingbourne, and, Bobbing and Iwade.
- The development is unnecessary – there are other available gypsy pitches in the Borough
- There is a potential for sub-letting of the caravans on site – contrary to the Planning Inspector’s comments on previous application.
- Overdevelopment of Bobbing area
- Potential increase in anti-social behaviour
- Incorrect neighbour consultation dates
- Incorrect address of the application site
- No council tax record for the site
- Decrease in value of local properties
- Proposal is a further detraction from the original use of the keeping and grazing of horses
- Unauthorised gas/water connection to the site

Bobbing Parish Council raise objections to the proposals which can be summarised as follows:

- The proposal is contrary to the Planning Inspector’s conditions in allowing the appeal. Namely, that 10% of the site is occupied and the current application will increase this to 33% of the land being developed - the Inspector stated that 90% would be retained as grazing land.
- Increase in traffic/noise and light goods vehicles considered inappropriate adjacent to the crematorium

- Greater visual impact – site can be seen from the road
- Other gypsy sites/pitches are available in Faversham, Dunkirk and Upchurch
- Inappropriate/overdevelopment of site – A greenfield site where, ordinarily, six affordable homes would be resisted
- Further development reduces amount of land for keeping of horses
- Current caravan on site considered to be unoccupied, therefore, site should be reverted back to original state
- Proposal is out of character with the surrounding neighbourhood
- Potential that ‘established’ homes on the site, will mean travellers doing less travelling

A letter was received by Gordon Henderson MP for Sittingbourne and Sheppey. He raises an objection to the proposal for the following reasons:

- Caravans on this site would ruin the aesthetically pleasing rural surroundings
- The site is opposite the entrance to the Garden of England Crematorium, which would conflict with the sensitive state of constituents when visiting for the funeral of loved ones
- The site would also have an effect on the number of vehicles going in and out of the crematorium every hour between 9am and 5pm, Monday to Friday
- The applicant is not a resident of Swale and has no connection with the area
- This is an extension of planning permission granted on appeal following refusal by Swale Borough Council in 2009. It is my understanding that the site has never been used for the purpose for which permission was granted and increasing its usage at this stage would be an abuse of the planning system.

## **7.0 BACKGROUND PAPERS AND PLANS**

7.01 Application papers and drawings relating to planning reference 14/500144/FULL.

## **8.0 APPRAISAL**

8.01 The key issues for Members to consider here are the principle of development, the impact of the development on the character and appearance of the countryside and on the important local countryside gap, on visual amenity, on residential amenity, on the setting of the listed building, on the setting of the adjacent crematorium, and on highway safety and convenience. Further to these, Members must have regard to the contents of the NPPF and PPTS, and in particular, whether the inability of the Council to demonstrate of a five year supply of available gypsy/traveller sites is a material consideration which should warrant the approval of the scheme.

### **Principle of Development**

8.02 The site is located in the countryside, outside the built up area of Sittingbourne/Bobbing and outside the built up area of Iwade, where development would normally be unacceptable as a matter of principle. However, gypsy/traveller sites are a form and type of development which are considered acceptable in such locations, subject to detailed matters relating to siting and design.

Members will note from the Corporate Policy Assessment, attached at Appendix B, that the site lies in a comparatively sustainable location, and that it is not within a flood risk zone, or a nationally designated area, such as an AONB. I consider below whether the development would have an acceptable impact on the setting of the listed building, the setting of the crematorium, the character and appearance of the countryside and

on the undeveloped character of the important countryside gap. Subject to these matters, the proposed use of the site is in my opinion acceptable as a matter of principle.

### **Visual Amenity, Character and Appearance of the Countryside and Important Local Countryside Gap**

8.03 The proposed development would be set back from Sheppey Way by approximately 30m and in line with the existing caravans and amenity block on the site. There is vegetation at a height of approximately 3.5m that runs along the boundary with Sheppey Way to the northwest of the existing caravans, and proposed caravans' location. This provides a certain amount of screening for the application site and, it is noted that the current caravans on site are fairly well screened, albeit that views into the site are still available at the access point and at various points along Sheppey Way. In my opinion, even with additional screening, the proposed development would be comparatively prominent and whilst I recognise that gypsy/traveller caravans are not uncommon in the countryside, development on the scale proposed would in my view appear obtrusive in an area characterised by sporadic development. Whilst the siting of the proposed caravans and utility blocks towards the centre of the site help to reduce this impact, it would nonetheless remain markedly at odds with the surrounding area, such that, in my view, due to the scale of development proposed, harm to the character and appearance of the countryside would occur.

8.04 In allowing the appeal for development of the site with two caravans, the Inspector gave thorough consideration to the impact of that (comparatively minor) development on the character and appearance of the countryside and on the important local countryside gap. Paragraphs 14-17 of the appeal decision (attached as Appendix A) to this report set out the detailed reasoning of the Inspector. In particular, he states the following:

Para 14 – *“...the gap between Bobbing and Iwade is narrow and...the pockets of urban and suburban development embedded within it make it especially fragile.”*

Para 15 – *“...I consider it important that, given its significance as maintaining open land in the Iwade-Bobbing Gap, the appeal site maintains its attractive rural appearance... I am firmly of the opinion that this can be best achieved by ensuring that the greater part of the land is kept open and maintained in a positive countryside use.”*

Para 17 – *“Provision of the amenity block, laying out of hardstanding and siting two caravans would take up no more than 10% of the whole appeal site. The remainder would be left as wholly appropriate grazing land in the countryside.....Overall, I conclude on this point that the presence of a static and touring caravan on this land, to supervise the keeping of this particular group of horses in the countryside and providing mobile residential accommodation for the purposes of horse trading, is the best method of keeping a valuable tract of open countryside in the narrow gap between the settlements of Bobbing and Iwade in good economic order and enhancing its appearance.”*

8.05 Indeed, the Inspector made the planning permission granted personal to the applicants, on the strength of the equestrian intentions of the applicant relating to the paddock area, part of which forms the site for the development now proposed.

- 8.06 In my opinion, the use now proposed would amount to a substantial development which would result in encroachment or piecemeal erosion of land and its rural open and undeveloped character, contrary to Policy E7 of the Swale Borough Local Plan 2008.
- 8.07 The existing caravans and utility building are partially visible from Quinton Road, to the southwest. However, this is at a distance of approximately 180m which significantly limits the presence of these structures within the landscape. Nonetheless, the presence of an additional 12 caravans, together with utility blocks, would give the impression of the consolidation of development within the important local countryside gap, and whilst from this distance there arguably would not be significant harm to the character of the countryside, in my view, the undeveloped nature of the gap would be compromised.
- 8.08 Given the above, I am firmly of the view that the proposed development would harm the character and appearance of the countryside, and would harm the open and undeveloped nature of the important local countryside gap, contrary to Policies E1, E6, E7 and E19 of the Swale Borough Local Plan 2008.

### **Residential Amenity**

- 8.09 The proposed development would be located a reasonable distance from adjacent dwellings such that harm to residential amenity is unlikely. Whilst there would be an inevitable increase in activity at the site, including vehicle movements to and from the site, I am not convinced that the impact of this would be so harmful as to amount to a reason for refusing planning permission. The access to the site is itself located some distance from Uppertoos, and is separated from it by landscaping and outbuildings. I do not envisage significant noise and disturbance arising in this regard.

### **Setting of Listed Building**

- 8.10 'Uppertoos' is the adjacent grade II listed residential building immediately to the north-east of the site. The application site is divided from this building by the large agricultural barn to the east of the siting of the existing and proposed caravans, dense vegetation runs along the boundary between the two sites and a collection of outbuildings within the curtilage of 'Uppertoos'. The main listed building is also approximately 27m from the siting of the proposed caravans. The Planning Inspector in his report on the previously allowed planning application, considered the setting and the impact of the proposal upon the listed building. He found that the siting of the caravans on Edentop would have: *'no appreciable impact on the setting of the listed building and its special interest.'*
- 8.11 He considered the existing structures on the site of 'Uppertoos' and the brick-built detached garage building – being much closer to the application site than the listed building, and that the garage may be viewed from the application site. He noted that there is *'dense evergreen vegetation, most of it on the owners of 'Uppertoos' land, screens the main house and the principal element of the listing very effectively from the appeal site'*.
- 8.12 I am mindful though that the previous application, and the associated appeal, sought permission for two caravans only. Whilst the 6 additional static caravans, together with 6 touring caravan pitches, utility buildings and hardstanding proposed here would be located further from the curtilage of the listed building, it would clearly be larger in scale

than the approved development and the mitigating factors identified by the Inspector are in my view somewhat less effective.

- 8.13 As set out above, the landscape setting of the listed building is of significance because of the historic and functional relationship between the farmhouse and its farmland, and it is relatively well preserved. The development of a significant area of the adjacent agricultural land, with structures that, whilst one might expect to see in the countryside, would necessarily not be of traditional materials or vernacular design, would cause some harm to the setting of the listed building.
- 8.14 Recent case law reiterates that Local Planning Authorities have a statutory duty to have regard to the impact of development on designated heritage assets, and that this duty is to be given substantial weight in the decision making process. In this case, I have identified harm to the listed building which is, in my opinion, not capable of being adequately mitigated. The NPPF sets out that, in such circumstances, Local Planning Authorities should give consideration as to whether there are any public benefits which outweigh the harm caused. I consider this below, with regard to the provision of gypsy/traveller sites within the Borough. However – as set out above, I conclude that the proposed development would cause harm to the setting of the listed building, contrary to Policies E1, E14 and E19 of the Swale Borough Local Plan 2008.

### **Crematorium**

- 8.15 A further issue raised by local representations received is the impact of the proposals upon the neighbouring crematorium, known as the Garden of England Crematorium.
- 8.16 The main issues raised relate to the visual and harmful impact of the proposals upon the crematorium. Letters received from local residents, the local MP and the Parish Council state, that the proposed development will conflict with the sensitive state of constituents when visiting for the funeral of loved ones, cause an increase in traffic and noise in the area, and, that the introduction of light goods vehicles on the application site are considered inappropriate adjacent to the crematorium.
- 8.17 The Inspector gave this matter careful consideration in determining the appeal, and states at paragraphs 18 & 19 that:

*“The case made on behalf of the Garden of England Crematorium essentially relates to the harmful visual impact of the present unauthorised caravan/portaloos upon the countryside gap, and especially on the immediate surroundings of the crematorium. I agree that this contrasts adversely with the carefully designed layout of the crematorium, intended to sooth the worries of its visitors at stressful times. If that were the planning proposal before me then I would concur that, if this were to remain in its present form, the rural setting for the crematorium would have been impaired. However, that is not what is proposed.*

*The main impact of the appeal site upon the setting of the crematorium is the grass field set behind the hedgerow onto Sheppey Way, upon which horses normally graze in significant numbers. This in itself can be considered an attractive rural setting to the crematorium which a limited residential presence could well assist to maintain in good heart. I consider that if that residential use and its attendant operational development were properly screened by indigenous planting then a wholly rural setting to the crematorium, to the benefit of visitors, could be maintained and enhanced.”*

- 8.18 It is clear from the above, that the Inspector gave some weight to the impact of development on the site on visitors to the crematorium, and that he again gave substantial weight to the use of the current application site (and the adjoining land) for the keeping of horses. The development now proposed would, as I have set out above, amount to prominent and visually harmful development. In my opinion, it would contrast markedly with the rural and peaceful surroundings of the crematorium and would cause some harm to the tranquil nature that visitors to that facility might reasonably expect. In my opinion, this is capable of amounting to a reason for refusal, being contrary to criterion 8 of Policy E1 (causing harm to a nearby sensitive use) – the proposal would amount to a jarring development, which would materially harm the setting of the crematorium.

### **Highway Safety and Convenience**

- 8.19 The access, from Sheppey Way, into the application site was established several years ago with planning permission granted for it in 1982 (SW/82/0425). There is an existing entrance driveway at the north-eastern end of the site frontage and there are wide highway verges either side. It is noted that, the Local Planning Authority raised no objection to the use of this access when planning permission was granted on appeal for the existing gypsy caravan site.
- 8.20 I recognise that this proposal would give rise to an intensification of the use of the access. I am awaiting the comments of Kent Highway Services on the proposal and will update Members at the Meeting.

### **Supply of available gypsy/traveller sites**

- 8.21 As set out above, the Council is unable to demonstrate a five year supply of available gypsy/traveller sites. I am mindful that a further 5 pitches would amount to a significant provision of gypsy/traveller sites, and would address a good proportion of the remaining need in the Borough up to 2031.
- 8.22 This is a significant material consideration which weighs in favour of the grant of planning permission, and Members must have regard to it.
- 8.23 However – this has to be weighed against the harm I have identified above. In my opinion, the proposal would harm the setting of the grade II listed building adjacent to the site, would harm the character and appearance of the countryside, the visual amenities of the area, would lead to the erosion and piecemeal development of the local important countryside gap, and would cause harm to the setting of the crematorium opposite the site. In granting personal planning permission for the two caravans allowed on appeal, the Inspector gave very substantial weight to the fact that the remainder of the wider site, including all of the current application site, would be retained in equestrian use, which he considered would protect the setting of the listed building, the setting of the crematorium, and the undeveloped and rural character of what he called a “flimsy” gap between Bobbing and Iwade.
- 8.24 I do not consider that the grant of a personal permission for two caravans (and associated development) weighs in favour of the large scale expansion of the site now proposed, and I do not consider that the provision of six additional gypsy/traveller pitches within the Borough is sufficient to outweigh the harm that I have identified.



8.25 The PPTS requires Local Planning Authorities to consider the grant of temporary planning permission for otherwise unacceptable sites, where a five year supply of sites cannot be identified, and where there remains unmet need for pitches. In this instance, I do not consider the grant of temporary permission to be appropriate. Such a decision might have been appropriate were a refusal of permission likely to result in families losing their homes and having to live by the roadside or in unauthorised developments elsewhere. However – this is a speculative application, and no details have been provided to demonstrate that the failure to provide these pitches would lead to immediate harm to the applicants or to any other parties in this respect. As such, I do not consider the grant of temporary permission to be appropriate here.

## 9.0 CONCLUSION

9.01 The proposed development would cause demonstrable planning harm as set out above. I have considered whether this harm would be outweighed by the provision of additional pitches within the Borough, in order to address the unmet need for gypsy/traveller accommodation and at a time where the Council is unable to demonstrate a five year supply of available pitches. I have concluded that it would not, and accordingly I recommend that planning permission is refused.

## 10.0 RECOMMENDATION – REFUSE for the following reasons:

1. The proposed development, by virtue of its scale, design and location would give rise to harm to the character and appearance of the countryside and the visual amenities of the area, and would amount to substantial development which would erode the openness and rural character of the important local countryside gap. The proposed development would therefore be contrary to Policies E1, E6, E7 and E19 of the Swale Borough Local Plan 2008.
2. The proposed development, by virtue of its scale, design and location would amount to development which would harm the setting of the adjacent crematorium, harmful to the amenities of visitors to this facility, and contrary to Policy E1 of the Swale Borough Local Plan 2008.
3. The proposed development, by virtue of its scale, design and location would harm the setting of the adjacent grade II listed building, contrary to Policies E1, E14 and E19 of the Swale Borough Local Plan 2008.

The Council's approach to this application:

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

Offering pre-application advice.

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

In this instance:

The application was considered by the Planning Committee where the applicant/agent had the opportunity to speak to the Committee and promote the application.

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

Case Officer: Artemis Christophi-Turner

## APPENDIX A

by Ian Currie BA MPhil MRICS MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 1 February 2011

**Appeal Ref: APP/V2255/A/10/2129278**

**Land adjacent to Upper Toes, otherwise known as Eden Top, Sheppey Way, Bobbing, Sittingbourne, Kent, ME9 8QP**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr Robert Beck against the decision of Swale Borough Council.
- The application (Ref:- SW/09/0972), dated 12 October 2009, was refused by notice dated 8 March 2010.
- The development proposed is change of use of land to use as a residential caravan site for one gypsy family with two caravans (including one static caravan), erection of amenity block and laying of hardstanding.

**Appeal Ref: APP/V2255/C/10/2129639**

**Land adjacent to Upper Toes, otherwise known as Eden Top, Sheppey Way, Bobbing, Sittingbourne, Kent, ME9 8QP**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr Robert Beck against an enforcement notice issued by Swale Borough Council.
- The Council's reference is ENF/10/018.
- The notice was issued on 5 May 2010.
- The breach of planning control as alleged in the notice is without planning permission, a mobile home has been located on the Land. Planning permission was refused by the Council for the use of the Land as a residential caravan site for one gypsy caravan with two caravans (including one static caravan), the erection of an amenity block and the laying of hardstanding on 8 March 2010. A copy of the refusal of planning permission was attached to the notice.
- The requirements of the notice are:-
  - (i) cease the use of the Land for the stationing of any mobile homes/caravans;
  - (ii) remove the caravan from the land.
- The period for compliance with the requirements is 3 calendar months.
- The appeal is proceeding on the grounds set out in section 174(2)(a) and (g) of the Town and Country Planning Act 1990 as amended.

**Decision on Section 78 Appeal Reference APP/V2255/A/10/2129278**

1. I allow the appeal, and grant planning permission for change of use of land to use as a residential caravan site for one gypsy family with two caravans (including one static caravan), erection of amenity block and laying of hardstanding on land adjacent to Upper Toes, otherwise known as Eden Top, Sheppey Way, Bobbing, Sittingbourne, Kent, ME9 8QP, in accordance with the terms of the application, Ref:- SW/09/0972, dated 12 October 2009, and the drawings submitted therewith (OS Sitemap to a scale of 1:2,500, site layout

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plan to a scale of 1:500, and four drawings to a scale of 1:50 showing plans and elevations of a proposed amenity block), subject to the following conditions:-

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The site shall not be occupied by any persons other than gypsies and travellers as defined in paragraph 15 of ODPM Circular 01/2006.
- 3) The occupation of the site hereby permitted shall be carried on only by Mr Robert Beck and his resident dependants.
- 4) When the land ceases to be occupied by Mr Robert Beck and his resident dependants, the use hereby permitted shall cease and all caravans, structures, materials and equipment brought on to the land in connection with the use, including the amenity block hereby approved, shall be removed. Within six months of that time, the land shall be restored in accordance with a scheme previously submitted to and approved in writing by the local planning authority.
- 5) No more than two caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968, (of which no more than one shall be a static caravan or mobile home) shall be stationed on the site at any time.
- 6) Any caravans positioned on the site shall be capable of being lawfully moved on the public highway without division into separate parts.
- 7) No vehicle over 3.5 tonnes shall be stationed, parked or stored on this site other than one horse box with a gross laden weight not exceeding 7.5 tonnes. All parking of vehicles, commercial or otherwise, shall take place on the proposed gravel hardstanding shown on the 1:500 site layout plan, unless otherwise agreed in writing with the local planning authority.
- 8) No commercial activities shall take place on the land, including the storage of materials, other than the keeping of horses.
- 9) The erection of the amenity block hereby approved shall not take place until samples of the materials, to be used in the construction of the external surfaces of the building, have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 10) No development shall take place until there has been submitted to, and approved in writing by, the local planning authority, a scheme of landscaping, including in particular a substantial shelter belt of indigenous trees and shrubs to the north-west and south west of the caravans, amenity block and hardstanding, which shall include indications of all existing trees and hedgerows on the land, and details of any to be retained, together with measures for their protection in the course of development.
- 11) All planting, seeding or turfing, comprised in the approved details of landscaping, shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants, which, within a period of 5 years from the completion of the development, die, are removed, or become seriously damaged or diseased, shall be

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replaced in the next planting season with others of similar size and species, unless the local planning authority gives written approval to any variation.

- 12) 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 with, the local planning authority.
- 13) No development shall take place until full details of surface water drainage have been submitted to and approved in writing by the local planning authority. The approved details shall show, amongst other things, that any surface water draining to a watercourse shall be attenuated for the 1:100 year return storm. The approved details shall be implemented in full prior to the occupation of the site.

**Decision on Section 174 Appeal Reference APP/V2255/C/10/2129639**

- 2. I dismiss the appeal and uphold the enforcement notice. I refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

**Procedural Matters**

- 3. My visit to the appeal site and its surroundings was carried out as an integral part of the hearing proceedings, with discussion proceeding on the site and adjoining land as well as at the hearing venue.
- 4. The section 174 appeal is said to have been made under ground (a) and that there is a deemed application for planning permission, following the submission of a fee for the planning application that is the subject of the section 78 appeal. However, it is apparent from the first sentence of the allegation in the enforcement notice ["a mobile home has been located on the Land"] that this bears little relationship to planning application SW/09/0972 ["use as a residential caravan site for one gypsy family with two caravans (including one static caravan), erection of amenity block and laying of hardstanding"]. Accordingly, the enforcement notice appeal will be treated as if it has been made on ground (g) only.

**The Section 78 Appeal – Main Issues:**

- 5. There is a specific policy in the Swale Borough Local Plan, adopted in February 2008, (Policy H4) for the provision of accommodation for gypsies and travelling showpersons. This policy says that the Borough Council will only grant planning permission for the use of land for the stationing of homes for persons who can clearly demonstrate that they are gypsies or travelling showpersons with a genuine connection with the locality of the proposed site, subject to various criteria. However, the reasons given for refusal by the local planning authority make no reference to this policy.
- 6. Instead, the two reasons for refusal refer back to a previous decision of the Council to refuse planning permission for permanent residential development and the inconsistency with this decision of granting planning permission for a site for travellers in the countryside, contrary to general policies on development criteria (E1) and design quality (E19) as well as a more specific Policy on the separation of settlements by means of strategic and local countryside gaps (E7). This is despite the concession, in the second reason for

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refusal, that there is an unmet need for the provision of gypsy traveller sites within the Borough.

7. As a consequence, I consider that the first main issue in the section 78 appeal is whether the proposed gypsy caravan site would constitute an unacceptable and alien form of development in a strategic/local countryside gap. The second main issue, following on from the representations on behalf of The Garden of England Crematorium, supported in the letter dated 24 June 2010 from Mr Gordon Henderson, the MP for Sittingbourne and Sheppey, is the visual impact of the proposed traveller site on those premises. The third main issue, raised principally by the owners of 'Upper Toes', is whether the proposed caravan site preserves or enhances the setting of that listed building.

**The Section 78 Appeal – Reasons**

**Site and Surroundings**

8. Sheppey Way was the original A249 main road linking the Isle of Sheppey to the mainland by means of a lifting bridge over the Swale. It now serves as the principal route between the settlement of Bobbing to the west and the rather larger village of Iwade to the east, both lying a short distance to the west of the much larger town of Sittingbourne.
9. The appeal site is on the south side of Sheppey Way, rather closer to Bobbing than Iwade. Most of it is laid out to grass and, although there were no animals present at the time of my inspection, the bulk of the land is clearly used for equestrian purposes. A substantial corrugated iron barn, predating its purchase by the appellants, has been divided into areas put to a number of horse-related activities. One part is subdivided into four stables/loose boxes, another is used for storage of hay, while a third area provides shelter for horse-drawn vehicles, two of them restored wooden carts of some age. It is adjoined in the open by a longstanding manège. It is also adjacent to the touring caravan and freestanding portable toilet, which are the subject of the enforcement notice appeal. Access to this part of the site is by means of a long drive running alongside the hedge separating the appeal site from the listed building, 'Upper Toes', to the east. There is a reasonably consistent hedge, incorporating some attractive mature trees, along most of the Sheppey Way frontage to the site.
10. Opposite is The Garden of Kent Crematorium, low buildings set in attractive grounds behind high entrance gates and front boundary walls. There is further sporadic housing development to its west. Because of its past history as a major road, there are significant pockets of development fronting Sheppey Way between Bobbing and Iwade, including pairs of semi-detached houses dating from the inter-war period, a substantial factory/warehouse and scrapyards/car breaking premises. The current A249 is a dual carriageway running in a cutting a short distance to the south. At the time of my visit to the site in mid-winter, the appeal site could be readily seen from a bridge carrying a minor road over this cutting through a row of bare trees.

**Impact on countryside in general which lies in Strategic Gap**

11. As mentioned at paragraph 6 above, three policies from the adopted Local Plan were cited in the two reasons for refusal. Policy E1 is a set of general development criteria requiring proposals to accord with the plan's policies and proposals and other planning guidance and generally to maintain high standards and protect amenity. Policy E19 seeks to achieve high quality design

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by, amongst other things, providing development that is appropriate to its context and ensuring the long-term maintenance of buildings, spaces and features. It seems to me that it is the third policy, Policy E7, "The Separation of Settlements", that is the most appropriate policy to relate to this case from the application of the criteria set out in Policy E1. Moreover, it is the best amplification available of the need to assess context and maintain spaces and features as required by Policy E19. Therefore, it is set out in full below.

12. It says:- *"In order to retain the individual character and setting of settlements, the following countryside gaps are defined on the Proposals Map:-*
- (i) *that part of the Strategic Gap between Maidstone and the Medway Towns falling in Swale;*
  - (ii) *that part of the Strategic Gap between the urban areas of the Medway Towns and Sittingbourne north of the M2 falling in Swale; and*
  - (iii) *the important local countryside gaps.*
- Within these gaps the Borough Council will not grant planning permission for development, including changes of land use, which would either:-*
- (a) *result in the merging of settlements; or*
  - (b) *result in encroachment or piecemeal erosion of land or its rural open and undeveloped character; or*
  - (c) *prejudice the Council's strategy for the redevelopment of urban sites."*

13. The appeal site does not lie within the Strategic Gap between Maidstone and the Medway Towns, but it does fall squarely within the equivalent gap between the Medway Towns and Sittingbourne. It is also within one of the important local countryside gaps identified on the Local Plan Proposals Map, that separating Sittingbourne from the villages to its west and separating the settlements of Bobbing and Iwade from each other. I heard no evidence from the Council that this development could be said to prejudice the Council's strategy for the redevelopment of urban sites. Therefore, the question remains:- Would this particular proposed gypsy caravan site harm the effectiveness of the strategic gap between the Medway Towns and Sittingbourne and the countryside gap between Iwade and Bobbing to the west of Sittingbourne by giving rise to the merging of settlements and/or the piecemeal erosion of rural open and undeveloped land contrary to adopted Local Plan Policy E7?

14. It is difficult to make a case that the wide strategic gap between Sittingbourne and the Medway Towns would be greatly affected by this small-scale development. However, the gap between Bobbing and Iwade is narrow and, as paragraph 10 above indicates, the pockets of urban and suburban development embedded within it make it especially fragile. Taking that into account, what is firstly abundantly clear to me is that the previous decision to refuse permanent residential development, giving rise to piecemeal erosion of rural undeveloped land, upon which the Council places so much reliance for refusing this proposal for a gypsy caravan site, was the correct one. It would have extended a small parcel of residential development further west into one of the few remaining significant tracts of unspoiled open countryside between Iwade and Bobbing. However, it does not automatically follow that a site for a traveller family is equally unacceptable, if it can be demonstrated that this particular form of development can assist in maintaining rural openness on a sensitive site.

15. The permanent built form of proposed development in this proposal is confined to a modest amenity block, shown on the submitted drawings to be some 7.5m

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surroundings of the crematorium. I agree that this contrasts adversely with the carefully designed layout of the crematorium, intended to sooth the worries of its visitors at stressful times. If that were the planning proposal before me then I would concur that, if this were to remain in its present form, the rural setting for the crematorium would have been impaired. However, that is not what is proposed.

- 19. The main impact of the appeal site upon the setting of the crematorium is the grass field set behind the hedgerow onto Sheppey Way, upon which horses normally graze in significant numbers. This in itself can be considered an attractive rural setting to the crematorium which a limited residential presence could well assist to maintain in good heart. I consider that if that residential use and its attendant operational development were properly screened by indigenous planting then a wholly rural setting to the crematorium, to the benefit of its visitors, could be maintained and enhanced.

Impact on Listed Building

- 20. In determining this appeal, I have borne in mind the duty imposed by section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (LBCA). This requires me to have special regard to the desirability of preserving the listed building, 'Upper Toes', or its setting, or any features of special architectural or historic interest it possesses.
- 21. 'Upper Toes' is designated as a Grade II Listed House. Its timber frame is said by English Heritage to date from the sixteenth century and it was clad in red brick and tile hung at first floor level in the eighteenth century and provided with a plain tile roof.
- 22. This main house is set well to the east of the boundary with the appeal site. There are semi-derelict wooden barn-type structures west of the main house and forward of it and a recently-built brick garage with a hipped tiled roof, designed to blend in with the materials employed in the main house, is sited behind the timber structures. Both of these are much closer to the appeal site and the garage can be seen from it. I appreciate that the restoration of the listed building has been a labour of love by its owners. However, dense evergreen vegetation, most of it on the owners of 'Upper Toes' land, screens the main house and the principal element of the listing very effectively from the appeal site. On that basis, I am forced to the conclusion that the proposals, the subject of this appeal, have no appreciable impact on the setting of the listed building and its special interest. Accordingly, the section 78 appeal succeeds on this point, after taking my special duties imposed by section 66 of the LBCA into account.

Conditions

- 23. The conditions attached to the planning permission to be granted are largely based on those proposed in the report on this matter to Swale's Planning Committee of 4 March 2010. The first condition, requiring development to be commenced within three years, is standard to most permissions. Conditions 2, 5 and 6, concerning the status of the appellant as a gypsy, and restricting the numbers and status of caravans/mobile homes, to two, essentially conditions 5 and 6 of the committee report, recognise gypsy status and provide protection to the countryside. My personal conditions, 3 and 4, go further, indicating that a permanent approval to Mr Beck arises from his strong economic links to horses and that this particular need for a residential presence in the countryside is an overriding reason for granting permission to him. If the

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leaves the site, all of the approved development, including the hardstanding and amenity block, should go too.

24. Conditions restricting commercial use and size of vehicles, 7 and 8, further stress the importance of equestrianism, allowing for the keeping of horses but also permitting the parking of a single 7.5 tonne motorised horse box, which is necessary for the appellant's business. This larger vehicle should be capable of being screened from the outside world by additional landscaping. Condition 7 also requires all parking to be confined to the hardstanding area, in line with condition 9 of the committee report. Condition 9 of this decision requires approval of the materials of the amenity building, which are not shown on the submitted building. Conditions 12 and 13 of this decision, on lighting and surface water drainage, are the same as 9 and 10 of the report and are imposed for the same reasons, to minimise the potential for light pollution in the countryside and to counteract the possibility of flooding. At my decision conditions 11 and 12, I have used the landscaping conditions of former Circular 1/85 because of their flexibility and simplicity, but I have emphasised the need for screening of the new development in the countryside gap by indigenous species around the periphery of the developed area of the site.

**Other matters**

25. Various other matters were adduced at the hearing as to why the appeal should be dismissed. The fact that the planning application was rejected by a wide majority of the members of the Committee, despite officers' recommendation for approval, was said to be a particularly important consideration, bearing in mind the impending introduction of the Localism Bill to Parliament. The announcement of the Secretary of State that Regional Spatial Strategies were no longer to be considered part of the development plan, the description by the Secretary of State that ODPM Circular 01/2006 was 'flawed' and would be replaced, and loss of residential property values were also considered important matters to take into account. However, the presence or absence of Regional Spatial Strategy for the South East policies, at the time that the decision was made, played no part in my reasoning overall in a situation where there was a current policy (H4) on gypsy site provision in the adopted Local Plan. Moreover, in connection with the reasons given for refusal, especially the site's location in countryside/strategic gaps identified in the adopted Local Plan, it needs to be stressed that the appellant's strong connections to rural activities was a key issue in determining the outcome of this appeal in his favour, despite powerful opposition to the development, both in the locality, including from Bobbing Parish Council, and among members of the Borough Council.

**The Appeal against the Enforcement Notice on Ground (g)**

26. It is uncertain whether the touring caravan and associated 'portaloo' currently placed on the land have ever been collectively occupied residentially. The appellant contended at the hearing that they have. Local residents asserted that the touring caravan had never been occupied as living accommodation by the appellant. What was not at issue was that, at the time of the hearing, the touring caravan was not occupied for residential purposes. As success on the section 78 appeal does not, on this occasion, grant planning permission for the development that is the subject of the section 174 appeal, and no appeal has been lodged on ground (f), the requirements of the enforcement notice, there seems to me no good reason why the existing touring caravan cannot be

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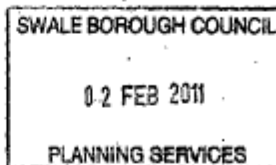
removed within three months of the date that this notice takes effect as nobody is currently living there. Accordingly, the appeal on ground (g) fails.

**Conclusions**

27. For the reasons given above, I conclude that the section 78 appeal should succeed and planning permission will be granted subject to conditions. To a large extent, following on from this the enforcement notice appeal does not fall to be considered, but it is dismissed overall for the reasons set out in the preceding paragraph.

*Ian Currie*

Inspector



**PLANNING COMMITTEE – 23 JULY 2015**

**PART 4**

Report of the Head of Planning

**PART 4**

Swale Borough Council’s own development; observation on County Council’s development; observation of development by Statutory Undertakers and by Government Departments; and recommendations to the County Council on ‘County Matter’ applications.

<b>4.1 REFERENCE NO - 15/503584/COUNTY</b>			
<b>APPLICATION PROPOSAL</b>			
Regulation 3 (KCC). Relocation of Halfway Houses Primary School including expansion from two form entry to three form entry comprising the construction of a part single, part two storey building with games court, sports pitches, car parking, drop off area and hard and soft landscaping.			
<b>ADDRESS</b> Land at Danley Road Minster-on-sea Kent			
<b>RECOMMENDATION: No Objection</b> subject to the views of Kent Highway Services			
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b>			
The principle of the relocation of the School is considered acceptable			
<b>REASON FOR REFERRAL TO COMMITTEE</b>			
Parish Council Objection and Neighbour Objections			
<b>WARD</b> Queenborough & Halfway	<b>PARISH/TOWN COUNCIL</b> Minster-on-Sea	<b>APPLICANT</b> KCC Property And Infrastructure Support <b>AGENT</b> KCC	
<b>DECISION DUE DATE</b> 09/06/15	<b>PUBLICITY EXPIRY DATE</b> 09/06/15	<b>OFFICER SITE VISIT DATE</b> 2/7/15	
<b>RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):</b>			
<b>App No</b>	<b>Proposal</b>	<b>Decision</b>	<b>Date</b>
SW/04/525	Retention of mobile classroom (existing temporary planning expired)	Granted	2004
SW/04/1522	Erection of 1no 2 bay mobile classroom	Granted	2005
SW/07/567	Replacement of 3 mobile classrooms with one larger mobile classroom	Granted	2007
SW/10/0304	Refurbishment of existing school buildings at Danley Middle School as part of the proposed Halfway Houses Primary School relocation to the site	Approved	2010

## **MAIN REPORT**

### **1.0 DESCRIPTION OF SITE**

- 1.01 Halfway Houses Primary School is currently located on the southern side of Queenborough Road and on the western side of Southdown Road to the rear of the dwellings fronting the street. It is proposed to relocate the school to the site of the former Danley Middle School premises ,which has been vacant and all the buildings demolished for approximately five years.
- 1.02 The application site is located on the corner of Halfway Road and Minster Road positioned behind the dwellings along these roads. The site is surrounded by residential development on its north, south and western sides. To the east is open grassland and Danley Farm. Along Minster Road to the south of the main school , the development is primarily characterised by terraced properties with long rear gardens backing onto the former school site. Along the part of Danley Road that abuts the application site there are terraced and detached dwellings – all with long rear gardens backing onto the site. The majority of the northern boundary is formed by the rear gardens of properties along William Rigby Drive and Buddle Drive. Development here is predominantly semi-detached with more moderate sized rear garden areas.
- 1.03 The application site benefits from existing two vehicular accesses, one from Halfway Road and the other Danley Road. However the proposed development site indicates that the main entrance for the new school will be from Danley Road, whilst the access from Halfway Road will be used as a secondary access to provide pedestrian and alternative emergency site access.
- 1.04 The site is located outside the built-up area boundary as set out in the adopted Local Plan and in the Important Countryside Gap as set out in Policy E7 of the Local Plan. The site adjoins the Coastal Zone.

### **2.0 PROPOSAL**

- 2.01 This is an application to Kent County Council – Swale Borough Council has been asked for comments , and is not the determining authority – for the “ relocation of Halfway Houses Primary School including expansion from two form entry to three form entry comprising the construction of a part single, part two storey building with games court, sports pitches, car parking, drop off area and hard and soft landscaping.
- 2.02 As part of the Kent Basic needs Programme it was identified that the expansion of Halfway Houses Primary School from a two form entry primary school (60 pupils into Reception class) to a three form entry (90 pupils into Reception class) is required. Therefore, to enable this to happen, the school requires the relocation to a new site as there is considered to be inadequate room for expansion in its current location.

- 2.03 It is anticipated that the proposed increase in housing in the area will require additional school places. To accommodate the increased pupil roll, it is proposed to construct a new school on the site of the former Danley Middle School towards the south west corner of the site . The proposal would also incorporate new hard and soft landscaping around the new built form.
- 2.04 The proposed development also involves minor alterations to widen the existing vehicular entrance onto Danley Road. In addition, a new car park and pick up/drop off loop road is proposed to be constructed. The proposed car park would provide 81 spaces whilst an additional 10 drop off/pick up spaces would also be provided. An existing pedestrian link to the south of the site linking it to Minster Road will be retained as part of the proposals
- 2.05 The proposed new school would be two storey and arranged in an east/west direction. The design of the building has been encouraged through discussions with the Local Planning Authority, Kent County Council and the Education Funding Agency. The proposed building would be clad with sustainable materials including timber weatherboarding and, is proposed to utilise passive design features and natural ventilation/heating to reduce the building’s carbon emissions.

### 3.0 SUMMARY INFORMATION

	Existing	Proposed	Change (+/-)
Site Area (ha)	63,027.7sq. m	63,027.7sq. m	0
No. of Storeys	0	2	2
Parking Spaces - Car	0	81	81
Parking Spaces - Cycle	0	24	24
Parking Spaces – Other e.g. Bus	0	10	10

### 4.0 POLICY AND OTHER CONSIDERATIONS

4.01 The relevant policies from the Local Authority’s adopted Local Plan (2008) are:

- SP1 – Sustainable Development
- SP2 – Environment
- SP7 – Community Services and Facilities
- SH1 – Settlement Hierarchy
- E1 – General Development Criteria
- E6 – The Countryside
- E7 – Separation of Settlements
- E10 – Trees and Hedges
- E11 – Protecting and Enhancing the Borough’s Biodiversity and Geological Interests
- E13 – Coastal Zone
- E19 – Achieving High Quality Design and Distinctiveness
- E20 – Promoting Safety and Security through Design

- E21 – Sustainable Design and Build
- T1 – Providing Safe Access to New Development
- T3 – Vehicle Parking for New Development
- T4 – Cyclists and Pedestrians
- T5 – Transport Assessment and Travel Plan
- C1 – Existing and New Community Services and Facilities

- 4.02 The emerging Local Plan (Bearing Fruits 2031) published December 2014 policies are:

- ST1 – Delivering Sustainable Development in Swale
- ST3 – The Swale Settlement Strategy
- CP4 – Promoting Healthy Communities
- CP6 – Conserving and Enhancing the Natural Environment – providing for green infrastructure
- DM6 – Managing Transport Demand and Impact
- DM7 – Vehicle Parking
- DM14 – General Development Criteria
- DM17 – Open Space, Sports and Recreation Provision
- DM19 – Sustainable Design and Construction
- DM21 – Water, Flooding and Drainage
- DM28 – Biodiversity and Geological Conservation
- DM29 – Woodlands, Trees and Hedges

- 4.03 The National Planning Policy Framework provides specific support for school related development and states that the Government attaches great importance to ensuring a sufficient choice of school places is available to meet the needs of new and existing communities.

- 4.04 Paragraph 72 directs Local Planning Authorities to *'give great weight to the need to create, expand and alter schools'*. Paragraph 74 specifically seeks to protect existing open space, sports and recreational buildings and land, including playing fields, from development. Chapter 7 of the NPPF establishes a need to ensure development is of good design, as this is seen as being a key aspect of sustainable development. It states that individual buildings should function well, add to the overall quality of their surroundings and be visually attractive. Chapter 11 reinforces the requirement to protect and enhance biodiversity and in particular protected habitats and species.

## **5.0 LOCAL REPRESENTATIONS**

- 5.01 I would remind members that Swale Borough Council is a consultee to this application and not the determining authority. All comments have therefore been submitted directly to KCC and it is for their officers to undertake any further consideration.
- 5.02 Twenty four letters of objection have been received. It is noted that, many of the letters received supported the principle of the development. The comments contained therein may be summarised as follows:

- No further development on the site
- Inadequate fencing to the east boundary for security leading to potential unlawful entry into Danley Farm
- Not enough neighbouring properties consulted on application
- Not enough parking proposed for school drop-offs/pick-ups or teaching staff
- Too many children proposed to attend the new school
- Increase in traffic and congestion in locality
- Narrow access proposed onto the site
- Concern raised over the playing field being sold for housing – it would be better suited to open space for local community use
- School playing field should be reserved for potential school expansion as the community grows
- Poor design of the proposal
- Poor drainage provision
- Query over non-provision of solar/sustainable energy sources

## 6.0 CONSULTATIONS

- 6.01 Minster-on-Sea Parish Council state that the principle of the development is supported alongside the expansion of the school. However, objections were raised over the increase in the number of children may be compromised by not utilizing the existing playing field, which is considered contrary to government policy and against the advice of Sport England.
- 6.02 The Environment Agency raised no objections to the proposed development. They state that they are satisfied with the submitted FRA, which shows that the risk of flooding to the site will be low.
- 6.03 Sport England initially raised concerns with the proposal in an email to Kent County Council dated 15<sup>th</sup> May 2015. In summary, they state that due to a lack of justification for the loss of the playing field through the development of the car park and the proposed installation of fence which adversely affects playing fields.
- 6.04 However, Sport England have since written a further letter summarising that they raise no objections to the proposed development. This was received following a revised plan, reference: Drawing no 334\_SK\_012 rev A. Sport England state, '*clearly shows that the cricket pitch can be retained which deals with one of my concerns. The other is resolved through drawing no 334\_SK\_012 rev A which clearly shows that the playing field area which is to become the car park is not suitable to be laid out as a playing pitch which would meet our planning policy exception E3.*'
- 6.05 For reference, Sport England state that they will oppose the granting of planning permission for any development which would lead to the loss of, or prejudice the use of, all/part of a playing field, unless one of the 5 exceptions applies. In this case, policy exception E3 of Sport England's Policy states that

the development only affects land incapable of forming part of a playing pitch and would lead to no loss of ability to use/size of playing pitch.

- 6.06 Kent County Council Highways and Transportation raise no objection to the application subject to the applicants funding the progression of a Traffic Regulation Order and associated highway works to make Danley Road one-way only, and the imposition of conditions relating to site operatives parking on site; loading and turning on site; preventing mud being deposited on the highway; the provision of parking on site for cars and cycles prior to occupation of the school; pedestrian visibility splays; the positioning of any gates; and the need for a School Travel Plan.
- 6.07 The County Council's Landscape Officer has requested a change in the type of plants proposed for the new landscaping scheme to reflect the 'Minster Marshes' landscape character area.

## **7.0 BACKGROUND PAPERS AND PLANS**

Application papers and drawings relating to planning reference 15/503584/COUNTY

## **8.0 APPRAISAL**

### **Principle of Development**

- 8.01 Kent County Council have consulted the Local Planning Authority (Regulation 3) for a formal opinion on the planning application they received for the relocation of Halfway Houses Primary School including expansion from two form entry to three form entry comprising the construction of a part single, part two storey building with games court, sports pitches, car parking, drop off area and hard and soft landscaping. It is therefore considered that the main issue for consideration by the Local Planning Authority is the principle of the proposed development, including its location and impact upon the locality.
- 8.02 It is considered that the proposed expansion will provide Swale with additional primary school places in a very popular catchment area, making a significant contribution in supporting parental choice. The existing school, in its current form, is unsuitable for such an expansion – either by extending or refurbishment.
- 8.03 In terms of the principle of the development, the application site is vacant but was last used for educational purposes as, Danley Middle School. It is located on the edge of the defined settlement boundary at Sheerness in an area of Countryside designated as local countryside gap. The site is well located in relation to residential development and so is close to its catchment population. The site is not in a conservation area and there are no Tree Preservation Orders on or near the application site. Furthermore, there are no Listed Buildings nearby or other site designations in the Local Plan preventing development on the site.



- 8.04 It is noted that planning permission has previously been granted for the relocation of Halfway Houses School to the currently proposed site – this would have involved the refurbishment of the former Danley Middle School building. However this permission has not been implemented. Members should also note that policy SP1 seeks to focus development on previously developed sites such as this.
- 8.05 Furthermore, the previous and the proposed school has acceptable pedestrian and vehicular links with the surrounding urban area and is located in a sustainable position.

### **Siting, Design and Appearance**

- 8.06 The proposed new school is sited in the south-west corner of the site on roughly the same footprint as the former Danley Middle School. It would be of a modern design with materials comprising render and timber cladding, with roof lights running along the linear classroom block, which would provide light to the first floor and the ground floor corridor via double height voids. The flat roof design is common with many new schools and the layout (although tailored for this specific school) follows the guidelines of the Education Funding Agency for a three form entry primary school. It should be noted that there is very little opportunity now to depart from the Government imposed design templates for new schools, if Government funding is to be achieved. Therefore earlier examples of more individual or iconic Kent school building designs, including on the Isle of Sheppey, are no longer possible under the current Government's funding restrictions. The current design templates may be less striking in their visual appearance to some commentators, but they have the advantages of being functionally compact, ergonomically cost effective as well as achieving sound environmental performance standards. The main entrance to the school would be on the northern façade, and would be located in relation to the car park and the other pedestrian accesses. There would be a first floor overhang on both the north and south facades which would create visual interest to the elevations; reduce the appearance of massing; provide shelter; and form a natural place to enter the building.
- 8.07 The school would be laid out with the classrooms being separated from the halls by the main entrance to the school, which would allow access to the large and small hall both during and outside of school hours, without disturbing the teaching in the classrooms, and meeting school security issues. The key stage 1 classrooms would be located at ground floor level and key stage two at first floor. There would be two staircases (one at either end of the classroom block) and a platform lift. All of the ground floor classrooms would have direct access to the outside, with the reception classes having a secure outside play area separate to the larger playgrounds.
- 8.08 Given the site's previous use as a Middle School it is considered that the presence of a new building on this site would not be considered out of keeping with the character of development in the area. The school would be sited sufficiently far away from the neighbouring houses to the west and south so as not to cause any problems with overshadowing or it being considered

overbearing. There is a good existing amount of landscaping along these boundaries, which would continue to help screen the development, and indeed the proposals include further strengthening of the landscape screening here.

- 8.09 It is considered therefore, that the proposed new school would have no adverse visual impact upon the appearance of the site and the surrounding area due to its design and choice of materials, and that it incorporates the principles of saved Policies SP1, E1 and E19 of the Swale Local Plan. It should also be noted that the new school would be more compact and therefore more visually appealing than the previous agglomeration of buildings which occupied the site.

### **Access, Parking and Highway Impacts**

- 8.10 The planning application was supported by the submission of a Transport Assessment that considered the impact the proposed school was likely to have on the existing highway network, and the parking demand on the surrounding streets. It also took into account the former use of the site as a middle school, the existing Halfway Houses School located on Queenborough Road and the previous planning permission to relocate the Halfway Houses School as a two form entry establishment.
- 8.11 Kent Highway Services have considered the information submitted and concluded that the analysis provided is a very robust assessment of the situation. He states that although one of the conclusions is that the Halfway Road/Queenborough Road junction would be over capacity in 2021 (when the proposed school would have a full 3 form roll), the junction would be over capacity without the development as well, and it has to be appreciated that the impact of the school is likely to be limited to a 15 minute period within the peak hour before returning to normal conditions.
- 8.12 The proposals include child drop-off and collection provision within the school grounds in addition to parent parking facilities that were not previously available for the former middle school, and are not currently available for the existing Halfway Houses Primary. This provides the ability for children to be dropped off in a safe environment, and would remove much of the parking demand that would otherwise need to be accommodated entirely on-street. The car park would cater for 81 formal parking spaces, which significantly exceeds the numbers normally expected for a 3 form entry school. With the drop-off layby within the school grounds, the general habit for parents to park up off-site and walk their children the remaining distance to school would be minimised, as they would be able to drop the children directly at the building entrance and continue on their journey. The layby can accommodate around 10 vehicles at a time, so the throughput of dropping off should be able to work fairly efficiently with a large turnover. It is also likely that parents would drop off children along the access road in advance of the layby when traffic begins queuing for it, again directly onto the footway leading to the entrance, and then pass the layby without needing to stop. This would further increase the parking capacity on site. The car park would then mainly be used by those

parents needing to accompany younger children, or those who need to interact with the School itself.

- 8.13 As with most schools, the parking situation associated with the end of the school day operates in a different fashion to that of the start, as parents have to wait for the children to be let out of school, and therefore park over a longer period. The parking demand would be greater during that period than it would be during the AM drop-off, so there is likely to be more on-street parking as a result. Once the school car park has been filled, additional parking could take place in the drop-off layby, providing for around 10 vehicles, and it is likely that parents would continue to park along the length of the access road leading to it, and informally within the other internal routes around the car park. The roads immediately outside the school are also expected to provide much of the parking too, and the study shows that around 60 to 70 vehicle spaces are typically available at the start and end of the school day along Danley Road, Filer Road and St. Katherine's Road.
- 8.14 However, it should also be remembered that up until 2009, these roads were already serving the parking needs for Danley Middle School, which did not have any on-site parking provision for parent's vehicles, and so residents arguably have experienced a respite from school traffic over the last 6 years. In this location, as with many schools, on street parking within residential streets is mainly an amenity/nuisance issue, as opposed to a matter of highway safety, but it is expected these roads would have been used to capacity previously. Generally, at the end of the school day, the traffic activity and parking demand within residential areas is largely only associated with schools, as this does not overlap with the highway network peak period or when most of the residents are at home.
- 8.15 Consideration should also be given to the consequences of removing the Halfway Houses Primary School from its current site, as this would transfer away much of the parking demand that occurs around that site, and the traffic issues that are associated with it. This would generally be seen as a benefit to those residents that live close to the existing school who would no longer experience the difficulties with parking and congestion there. As noted earlier, there are no drop-off and collection facilities with that existing school, and they would be moving to a site that until recently was also a school without those facilities either. The new school on this site would now include parking and drop-off/pick-up provision, and for the reasons given above, is considered to be an acceptable and adequate solution to serve the proposed development.
- 8.16 Given that Danley Road is narrow and two-way traffic is likely to become congested when any parked vehicles are present, the School intends to promote the use of a voluntary one-way system from St Katherine's Road and Filer Road to access the school, with vehicles departing via Danley Road. However, whilst this may in theory operate reasonably successfully, as evidenced at several other school sites across the county, there is concern that some people might ignore the one-way system and turn into Danley Road from Halfway Road, unless the one-way system is to be formalised. The applicant has suggested the use of advisory/information signs to encourage

the operation of the one-way system, but such signage is not currently sanctioned in Kent.

- 8.17 The Highway Authority considers that it would be more favourable if a permanent one-way system were formally introduced, whereby only Danley Road would be covered by the restriction to prevent vehicles from entering it directly off Halfway Road. That would ensure that vehicles do not overrun the footways to pass one another, and still maintains St Katherine's Road and Filer Road as two-way, so that traffic leaving the school can still disperse onto Halfway Road over 2 junctions, if required. It is therefore recommended that the development should fund the progression of a permanent Traffic Regulation Order and its associated physical works to introduce a one-way system to Danley Road. Kent Highways consider that build-outs would be required at its junction with Halfway Road to restrict the entry width into Danley Road and accommodate the signage, and a contribution would need to be secured from the applicant to fund this in an appropriate manner. Note that the introduction of traffic management via a Traffic Regulation Order is a separate process to the planning consent process, with its own publicity and consultation mechanism, and it would have to be pursued separately in the event that planning consent is obtained.
- 8.18 One of the representations received from residents adjoining the site was that the school should have an access in from Danley Road but exit elsewhere within the site, so as to create an 'internal' one way loop. The only possible other access point for cars to enter and leave the site is the point currently proposed as the emergency access along the western boundary, via the unmade road between 22 and 26 Halfway Road. However Kent Highways consider that the intense use of this junction so close to the traffic signals at Minster Road/Queenborough Road would cause highway safety problems, particularly with the likelihood of opposing traffic flows from other parent's vehicles entering that short section of road in order to park. It would be much safer for the vehicles leaving the site to do so further away from the traffic signal controlled junction, where activity is less concentrated. It should be noted that the notion of using this side road access was investigated through the previous planning application on this site, and it was strongly opposed by the occupiers of properties reliant on that road for parking and rear access.
- 8.19 It is therefore considered that the on-site parking provision for vehicles and cycles is acceptable for a three form entry school, in conjunction with the introduction of a School Travel Plan and would accord with saved Policies T3, T4 and T5 of the Swale Local Plan. Subject to the introduction of a formal one-way only system for Danley Road it is also considered that the proposed access and exit for the school would be acceptable in relation to highway safety and would therefore accord with Policies SP6 and T1 of the Local Plan.

### **Ecology and Biodiversity**

- 8.20 The application was supported by the submission of an Extended Phase 1 Habitat Survey; a Reptile Population Size Class Assessment; a Reptile Mitigation Strategy; and a Great Crested Newt Scoping Survey and Impact

Assessment. The Phase 1 Habitat Survey had highlighted the need for additional survey work due to the presence on site of features that could potentially support reptiles and also be used by great crested newts.

- 8.21 In terms of the great crested newts, the additional survey work, carried out in September 2014, assessed the suitability of the three individual ponds located within 500m of the site against the habitat suitability index and concluded that no mitigation work was required in relation to great crested newts.
- 8.22 The reptile assessment concluded that the site supports a low population of slow worms, common lizard and grass snake. The development of the site would involve the loss of an area of reptile habitat to the west of the site, therefore a 'Translocation Scheme and Habitat Creation and Management Plan' has been produced. There is no space within the proposed school boundary to create a new habitat for reptiles, therefore the area to the north of the school boundary line would be used as the receptor site, and this land will remain within the ownership and responsibility of Kent County Council.
- 8.23 An initial concern was raised that the land used for the receptor site (the land outside the school boundary but within the red line) would itself come forward for development in the future and that the reptiles would need to be relocated again. As stated above there are no current proposals for any development on this remaining land. Should a development proposal be submitted at a future date it is considered that the ecology could be reassessed at that time, and mitigated with any appropriate measures at the appropriate time.
- 8.24 In terms of this application it is considered that the relevant ecological issues have been dealt with by the applicant, and the necessary mitigation measures put in place. Provided the development is carried out in accordance with the recommendations set out in the ecological assessments, the application would accord with the aims of saved Policy E11 of the adopted Swale Local Plan.

## **Landscape**

- 8.25 In landscape terms the site falls within the 'Minster Marshes' landscape character area and land designated as open countryside. The existing mature woodland edge along the western, southern and eastern perimeters of the site would be retained and is due to be developed into Forest School facilities for the new school. The scheme would require the removal of seven trees along the eastern edge of the access road, adjacent to the boundary of 17 Danley Road, to allow the access road to be widened allowing two cars to pass and provide a footpath link to the school. There would be insufficient room for any new trees to be replanted along this part of the access road (within the site) once the development was completed. The removal of the trees would result in the adjoining property being more open and therefore more likely to hear vehicles entering and leaving the site at the start and end of the school days. However, it is considered that this potential disturbance would not be sufficiently harmful to the occupiers here to object to the removal of the trees,

especially given the traffic is limited to two short periods during the day and only during term times.

- 8.26 Due to the change in levels across the site the proposal would require some cut and fill to be undertaken to create a level terrace upon which the building could be located. Where existing site levels are to be retained the former playing field grassland would be renovated to provide the new playing fields, and where levels are altered the reinstated playing field areas would be reseeded.
- 8.27 Kent County Council's Landscape Officer has assessed the information submitted and given the fact the landscape character is grassland/marshland, they have suggested that appropriate grassland species be used within the scheme rather than the wildflower seeds which would bear no relation to the local area. This amendment could be secured through an appropriately worded landscape condition.
- 8.28 The location of the school building close to the existing built development would ensure that the open landscape character of the remainder of the site would be retained and this would therefore be in keeping with the aspirations of the Minster Marshes character area. It is considered that subject to the imposition of conditions covering a landscape scheme to be submitted and the ongoing maintenance of such planting, that the proposals would accord with saved Policies E9 and E10 of the Swale Local Plan.
- 8.29 Therefore, it is considered that the principle of the proposed development to relocate and expand Halfway Houses Primary School to three form entry, would be acceptable by the Local Planning Authority and would comply with policies as set out in the adopted and emerging Local Plans.

## **9.0 RECOMMENDATION:**

Raise No Objection to the proposed development, subject to the following conditions:

1. Prior to the commencement of development hereby approved, details of the external finishing materials to be used on the development hereby permitted 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.

2. Prior to the commencement of development 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 and in pursuance of policies E1 and E19 of the Swale Borough Local Plan 2008.

3. No construction work in connection with the development shall take place on any Sunday or Bank Holiday, nor on any other day except between the following times:-  
Monday to Friday 0730 – 1900 hours, Saturdays 0730 – 1300 hours unless in association with an emergency or with the prior written approval of the Local Planning Authority.

Reason: In the interests of residential amenity

4. During construction of the development adequate space shall be provided on site, in a position previously agreed by the Local Planning Authority to enable all employees and contractors vehicles to park, load and off load and turn within the site.

Reason: In the interests of highway safety and convenience in accordance with policy T1 of the Swale Borough Local Plan 2008.

5. Adequate precautions to be previously agreed in writing by the Local Planning Authority, shall be taken during the period of demolition and construction to prevent the deposit of mud and/or other debris on the public highway.

Reason: In the interests of highway safety and convenience.

6. Wheel washing facilities by which vehicles will have their wheels, chassis and bodywork effectively cleaned and washed free of mud and similar substances shall be installed prior to, and during construction of the development hereby approved, details of which must first be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that vehicles can be parked or manoeuvred off the highway in the interests of highway safety and in pursuance of Policies E1 and T1 of the Swale Borough Local Plan 2008.

7. The area shown on the submitted plan as car parking 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 prior to the occupation of the school 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.

8. No development shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the Local

Planning Authority. These details shall include existing trees, shrubs and other features, planting schedules of plants, noting species (which shall be native species and of a type that will encourage wildlife and biodiversity, ) plant sizes and numbers where appropriate, means of enclosure, hard surfacing materials, and an implementation programme.

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

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

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

10. Upon completion of the approved landscaping scheme, any trees or shrubs that are removed, dying, being severely damaged or becoming seriously diseased within five years of planting shall be replaced with trees or shrubs of such size and species as may be agreed in writing with the Local Planning Authority, and within whatever planting season is agreed.

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

11. The scheme of tree planting and landscaping shown on the submitted plans shall be carried out within 12 months of the completion of the development. Any trees or shrubs removed, dying, being severely damaged or becoming seriously diseased within five years of planting shall be replaced with trees or shrubs of such size and species as may be agreed in writing with the Local Planning Authority.

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

12. 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, 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.

Reason: In the interests of visual amenity and the residential amenities of occupiers of nearby dwellings, in pursuance of policy E1 of the Swale Borough Local Plan 2008.

Case Officer: Artemis Christophi-Turner

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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**PLANNING COMMITTEE – 23 JULY 2015**

**PART 5**

Report of the Head of Planning

**PART 5**

Decisions by County Council and Secretary of State, reported for information

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- **Item 5.1 – Scotts Hill, Old House Lane, Lower Hartlip**

**APPEAL ALLOWED**

**Observations**

Whilst this decision is disappointing, it is not entirely unexpected given the changes in central government guidance, namely the National Planning Practice Guidance amendments, brought in shortly before the Council submitted its Appeal Statement. The wider implications of this appeal will be given careful consideration when dealing with future applications and appeals for this sort of application.

- **Item 5.2 – Focus, West Street, Sittingbourne**

**APPEAL ALLOWED**

**Observations**

A disappointing decision given the scale and conspicuous location of the advertisement.

- **Item 5.3 – 62 Park Drive, Sittingbourne**

**APPEAL DISMISSED**

**Observations**

A good decision that fully backs the Council's decision and preserves the urban grain of the area.

- **Item 5.4 – Roseann, Saxon Avenue, Minster**

**APPEAL DISMISSED**

**Observations**

A good decision that will restore the residential amenities of the adjoining occupiers of Pendower once the offending development is removed. The Inspector considered the increased sense of enclosure and consequential harm to the outlook of the neighbours decisive in dismissing the appeal.

- **Item 5.5 – 75 – 77 High Street, Milton Regis**

**APPEAL DISMISSED**

**Observations**

A good decision that backs the Council's decision to refuse permission based on the insufficient marketing information submitted.



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## Appeal Decision

Site visit made on 9 June 2015

by **C Thorby MRTPI IHBC**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: **3 July 2015**

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**Appeal Ref: APP/V2255/W/15/3003010**

**Scotts Hill, Old House Lane, Lower Hartlip, ME9 7SP**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Schedule 2, part 3, Class Q the Town and Country Planning (General Permitted Development)(England) Order 2015.
  - The appeal is made by Mr and Mrs Gary and Ruth Auger against the decision of Swale Borough Council.
  - The application Ref 14/501272/PNBCM, dated 24 June 2014, was refused by notice dated 20 October 2014.
  - The development proposed is change of use of an agricultural building to a dwelling house (class C3).
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### Decision

1. The appeal is allowed and approval is granted under the provisions of the Town and Country Planning (General Permitted Development)(England) Order 2015 for change of use of an agricultural building to a dwelling house (class C3) at land at Scotts Hill, Old House Lane, Lower Hartlip, ME9 7SP in accordance with the terms of the application Ref 14/501272/PNBCM, dated 24 June 2014 and the plans submitted with it, subject to the standard conditions set out in the Order.

### Reasons

2. The main issues in this case are whether the location and siting of the building makes it otherwise impractical or undesirable for a building to change from agricultural use to a dwelling house.
3. National Planning Practice Guidance (PPG) makes it clear that the permitted development right in this class does not apply a test in relation to sustainability or location. Therefore, the appeal would not fail on this ground. It would not appear to be an impractical location for conversion, as it has its own access from a main road and there is no evidence that the conversion works necessary could not be undertaken at the site.
4. The location and siting would not be undesirable; the appeal building is small, is visible from the road and is not seen as part of the open countryside. Therefore, a residential use would not be incompatible with its surroundings. I have taken account of the footpath, but in this location the change of use to the appeal building, including a domestic curtilage, would have very little impact in the landscape. The appeal building would not be considered as an isolated house in the countryside as it is only 85 metres from a residential area, visible from a partly residential road and close to the settlement

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[www.planningportal.gov.uk/planninginspectorate](http://www.planningportal.gov.uk/planninginspectorate)

Appeal Decision APP/V2255/W/15/2003010

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boundary. The decisions referred to by the Council are not relevant because they either pre-date the PPG alterations relating to class Q, are located much further away from the settlement or relate to a holiday let (with little indication of a specific distance from the village).

5. There is no intention to replace structural elements, and the design and external appearance would be appropriate, maintaining the simple, rural character of the building. There is no dispute that there would be no harmful impact on/from transport, highways, noise, contamination, flooding or design. The time limit for the scheme and carrying out the works in accordance with the plans are covered by the standard conditions imposed by the Order.
6. The appeal scheme would boost the supply of housing as sought by the National Planning Policy Framework and it would comply with national policy in seeking to protect the character and appearance of the countryside. In these circumstances, prior approval is granted.

*C Thorby*

INSPECTOR




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## Appeal Decision

Site visit made on 12 March 2015

by **Cullum J A Parker BA(Hons) MA MRTPI AIEMA**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 08 April 2015

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**Appeal Ref: APP/V2255/Z/15/3002381**

**Focus, West Street, Sittingbourne, Kent, ME10 1AN**

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 against a refusal to grant express consent.
  - The appeal is made by Mr Jason Gratton of Lidl 1st Floor Property Office against the decision of Swale Borough Council.
  - The application Ref 14/500280/ADV, dated 6 June 2014, was refused by notice dated 13 November 2014.
  - The advertisement proposed are *2.5m square illuminated fascia sign to east elevation, 2.5m square internally illuminated fascia sign to south elevation, 2.5m square illuminated free standing goalpost sign above entrance and 2.5m square flagpole on corner of West Street and Dover Street.*
- 

### Decision

1. The appeal is allowed and express consent is granted for the display of the advertisements, as applied for. The consent is for five years from the date of this decision and is subject to the five standard conditions set out in the Regulations and to the following conditions:
  - 6) The illumination of the sign hereby permitted shall not be of a flashing type.
  - 7) The source of the illumination for the proposed sign shall not be visible to the users of the highway.
  - 8) The maximum luminance should not exceed the values given in the Institution of Lighting Engineers Technical Report Number 5 'Brightness of Illuminated Advertisements'.

### Procedural Matters

2. The Council issued a split decision, and did not object to the installation of a 2.5m square illuminated fascia sign to east elevation, a 2.5m square internally illuminated fascia sign to south elevation, and a 2.5m square illuminated free standing goalpost sign above entrance. For the avoidance of doubt, I have therefore only considered the proposed 2.5m square flagpole on the corner of West Street and Dover Street.
3. The postcode given on the application form is ME10 1AR. However, that given on the appeal form and decision notice is ME10 1AN. It is clear that both parties are aware of where the appeal site is and have based their cases upon this; irrespective of which postcode is used. For the avoidance of doubt, I have adopted the latter postcode as that for the appeal site.

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### **Main Issues**

4. The main issue is the effect of the proposed sign on the character and appearance of the locality.

### **Reasons**

5. The National Planning Policy Framework (the Framework), at Paragraph 67, provides that advertisements should be subject to control only in the interests of amenity and public safety. These reflect similar aims set out in the Advertisement Regulations. The Council has drawn my attention to the policies they consider to be relevant to this appeal and I have taken them into account as a material consideration.
6. The location of the appeal site and proposed sign is on the corner of West Street and Dover Street. The street scene is characterised by a mix of commercial uses on the ground floor of buildings with associated illuminated and non-illuminated signage, together with residential accommodation above. Neither the Council, nor the relevant highways authority raises concerns in terms of public safety relating to highway users. I note that conditions have been suggested by the local highways authority relating to illumination of the sign, and I consider these are reasonable and necessary to reduce the potential distracting to drivers. Given such circumstances such conditions would meet the tests set out in Paragraph 206 of the Framework, as supported by the Planning Practice Guidance, relating to the use of planning conditions.
7. The Council point to the fact that the sign would be exceptionally tall and on the corner of a conspicuous junction. The result would be considerable harm to the character and appearance of the area. However, the area is characterised by a mixture of signs, and whilst that proposed would be quite tall, it would be directly linked to the use of the site as Lidl Supermarket. Moreover, the sign would be viewed not only in the context of the supermarket itself, but also in the context of the wider commercial nature of the street scene. In such circumstances, I do not find that the height proposed would cause considerable harm to the character and appearance of the area, or to the interests of amenity.
8. I therefore conclude, for the reasons given above, that the display of the advertisement would not be detrimental to the interests of amenity and public safety.

*Cullum J A Parker*

INSPECTOR






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## Appeal Decision

Site visit made on 24 June 2014

**by Claire Victory BA (Hons) BPI MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 16 July 2014

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**Appeal Ref: APP/V2255/A/14/2216263**

**61 Park Drive, Sittingbourne, Kent ME10 1RD**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Mr and Mrs D J Nutting against the decision of Swale Borough Council.
  - The application Ref SW/13/1020, dated 9 August 2013, was refused by notice dated 10 October 2013.
  - The development proposed is described on the application form as "proposed erection of 2 No. two storey 4 bedroom detached dwellings with attached garages on land at the side and to the rear of an existing detached dwelling, including shared private driveway".
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### Decision

1. The appeal is dismissed.

### Procedural Matters

2. The application was submitted in outline, with appearance and landscaping reserved for future consideration. Submitted plan ref. 3451/p03 rev: B shows the proposed layout of the two dwellings, including parking layout and site access. Whilst appearance is a reserved matter, the dwellings are indicated on the plan as two storeys in height.

### Main Issue

3. The main issue in the appeal is the effect of the development on the character and appearance of the surrounding area.

### Reasons

4. The appeal site forms part of the garden of No 61 Park Drive. Park Drive is a suburban road characterised by large detached houses which generally fill the width of their plot, with long rear gardens. To the rear is King Georges Fields, a public park. The consistent building line of these dwellings makes a positive contribution to the character and appearance of the area.
  5. The outline proposal would involve the erection of two detached dwellings within the rear garden of No 61, and the construction of a shared private driveway between Nos 61 and 65 (there is no No 63). This would result in a pair of dwellings situated well behind the main building line. At least one of the dwellings would be visible at street level from Park Drive, and both would be seen from the upper floors of adjacent dwellings. I accept that the appeal site
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is unusually wide in relation to other plots in the street. However, during my site visit, I saw no other examples of dwellings set back further than the general building line of dwellings facing Park Drive. Such an arrangement would be an incongruous development that would be out of character with the prevailing pattern of development in the area.

6. The Swale Borough Local Plan (LP) does not have a specific policy regarding backland development, but LP Policy E1 states that development should reflect the positive characteristics of the site and its locality, and LP Policy E19 requires high quality design appropriate to its context, and which promotes and reinforces local distinctiveness. The development would undermine positive characteristics of the locality, including the consistent front building line and long rear gardens. Consequently the development would cause material harm to the character and appearance of the area. I do not consider that a landscaping scheme, submitted as a reserved matter, would overcome the harm identified.
7. The appellants have referred to other examples of development in the wider area in support of the appeal proposal. The properties at Borden Lane are a considerable distance from the appeal site and are therefore not considered to be relevant to this appeal. Chegworth Gardens and Blandford Gardens are cul-de-sacs located on the edge of King Georges Fields. The properties are a mix of bungalows and two storey dwellings, but they generally maintain a consistent building line. Cranbrook Drive, further from the appeal site, is a backland development, but the access road is adopted highway land, and the relationship with adjacent properties is different to the appeal site. The access is significantly wider, and includes a dedicated footway and substantial landscaping. I therefore consider these examples are not directly comparable to the proposal before me, and have afforded them limited weight in my decision.
8. There have also been concerns from neighbours that if the appeal was allowed it would set a precedent for similar development in other back gardens along this section of Park Drive, using the new access. The appellants have indicated that permission would not be granted to provide access to other rear gardens, but given that I have found the development would harm the character and appearance of the area, I consider the scope for other dwellings to develop their rear gardens in a similar manner would be limited. In any case, each scheme would be considered on its merits, with regard to the development plan and all other material considerations.
9. For all of the above reasons I conclude that the development would harm the character and appearance of the surrounding area. Thus it would conflict with the design objectives of LP policies E1 and E19. These policies are consistent with the National Planning Policy Framework (the Framework), which seeks to secure a high quality of design in all new development. As such the development would not constitute sustainable development as defined by the Framework.

#### **Other Matters**

10. The appellants have made the point that the Council is unable to demonstrate a five year supply of specific deliverable housing sites as required by the Framework. I do not have sufficient information before me in this regard, but in any case my decision does not turn on this matter.

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11. The appellants also highlight the sustainability of the location within the urban area close to shops and services, but this does not outweigh the harm identified in relation to the main issue.
12. Adjacent neighbours at Nos 59 and 65 are concerned about potential loss of light to their rear gardens and overlooking from first floor windows in the proposed dwellings. The Council did not consider that there was any harm to the living conditions of the occupiers of neighbouring dwellings, and as they would be over 20 metres from the rear of Nos 59 and 65, I agree no harm would be demonstrated in this respect.
13. I am aware of other concerns relating to increased vehicular use and the consequent effect on highway safety, increased noise and disturbance, and the loss of biodiversity that may occur as a result of the development. However, based on the information before me, these matters would not constitute reasons to dismiss the appeal. As such they have not been decisive in leading to my overall conclusion.
14. Finally my attention has been drawn to a covenant that is purported to restrict development within the site. That may be the case, but this is a private legal matter between parties to the covenant and not a matter for this appeal.

#### **Conclusion**

15. For the above reasons, and having regard to all other matters raised I conclude that the appeal should be dismissed.

*Claire Victory*

INSPECTOR

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## Appeal Decision

Site visit made on 13 January 2015

by **Nigel Burrows BA MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: **17 February 2015**

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**Appeal Ref: APP/V2255/C/14/2220485**

**Roseann, Saxon Avenue, Minster, Kent, ME12 2RP**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr David Grey against an enforcement notice issued by Swale Borough Council.
- The Council's reference is ENF/MIN/13/013.
- The notice was issued on 16 May 2014.
- The breach of planning control as alleged in the notice is 'the construction of a rear extension and garage, the approximate positions of which are highlighted on the plan, which in the opinion of the Council would require planning permission.'
- The requirements of the notice (as set out in paragraph 5) are:-
  - (i) Demolish the rear extension and the garage;
  - (ii) Remove any materials or debris etc from the Land caused in complying with the requirements of 5(i) above.
- The period for compliance with the requirements is 6 months.
- The appeal is proceeding on the grounds set out in section 174(2) (a) and (c) of the Town and Country Planning Act 1990 as amended.

**Summary of Decision: The appeal is dismissed and the enforcement notice is upheld**

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### Procedural Matters

1. The appeal against the enforcement notice was originally lodged on ground (a). However, the submissions lodged on the appellant's behalf also included arguments normally considered under ground (c), namely that the garage extension did not require planning permission. The appeal is therefore proceeding on grounds (a) and (c). The main parties were subsequently given the opportunity to make further ground (c) submissions, which have been taken into account in my consideration of the appeal.

### The appeal on ground (c)

2. Ground (c) is known as one of the 'legal' grounds of appeal. The onus is on the appellant to make out the case that there has not been a breach of planning control.
3. The erection of the rear extension and garage constitute development for the purposes of section 55 of the 1990 Act. It is therefore necessary to consider whether these works are permitted development under the provisions of the Town and Country Planning (General Permitted Development) Order, as amended (i.e. the GPDO). Bearing in mind the rear extension and garage are attached to the dwelling, they should be assessed against the provisions of Class A, Part 1, Schedule 2 of the GPDO.
4. There is no firm evidence before me to indicate when the unauthorised development commenced. However, the Council's submissions include photographs of the construction works. A photograph apparently taken on 18 April 2013 indicates the

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works were well advanced at this time. On the balance of probability, I therefore consider the development falls to be considered against the amendments to Class A, Part 1, Schedule 2 of the 1995 GPDO which came into force on 1 October 2008<sup>1</sup>.

5. The provisions of Class A allowed the enlargement of a dwellinghouse, subject to certain limitations. The appellant's stance is the single storey garage extension erected to the side of the bungalow did not require planning permission. The inference appears to be that it complied with all of the limitations and conditions set out within Class A, including paragraphs A.1 (a) to (i). However, according to the Council, the rear extension and garage were erected as a 'single building operation'. The Council's stance is the whole of the development therefore required planning permission.
6. The ground (c) submissions for the appellant appear to focus on the garage extension. These submissions state "... in reality it is only the conservatory that does not meet permitted development criteria." However, the conservatory and garage are linked. The Council's photographs indicate they were under construction at the same time. The appellant has not provided any evidence to refute the Council's assertion that the building works involved one overall project to enlarge the bungalow, nor has any firm evidence been provided to demonstrate that the overall enlargement of the property met all the relevant limitations and conditions of Class A, or any other part of the GPDO.
7. It is well established in planning law that the onus rests with the appellant to make out his or her case. I find that burden has not been satisfactorily discharged in this instance. As matters stand, I conclude that building operations have taken place at the property without the necessary planning permission and a breach of planning control has occurred as alleged in the enforcement notice. The appeal on ground (c) fails.

#### The ground (a) appeal and deemed application

8. The main issue in this appeal is the effect of the development on the living conditions of neighbouring residents, with particular reference to their outlook and sunlight.
9. The enlargements to the side and rear of the bungalow appear to have resulted in a significant increase in the overall bulk and proximity of built development near the boundary with the adjacent bungalow, 'Pendower'. The development appears to have resulted in an increased sense of enclosure to the occupiers of this property, to the extent that it significantly impinges upon their outlook. The oppressive impact of the garage is accentuated by its gabled flank wall, which is noticeable from some of the neighbours' side windows and passageway. The additional rearward projection of the linked conservatory exacerbates this sense of enclosure, to the extent that the neighbours are likely to feel hemmed in by the cumulative effect of the enlargements.
10. The appellant indicates the depth of the conservatory does not exceed 3.0m - as recommended in the Council's SPG<sup>2</sup>. It is also alleged the SPG is dated, as a 4.0m deep rear extension would not require planning permission. Be that as it may, given the cumulative effect of the current enlargements, they constitute an unneighbourly form of development. The appellant also argues the recent amendments to the GPDO would allow the provision of an 8.0m deep rear extension<sup>3</sup>. However, this would need to be the subject of the prior approval procedure. In any event, there is no firm evidence to demonstrate there is 'a greater than theoretical possibility' that such a development might take place. This argument cannot be given significant weight in this appeal.
11. Concerns have been expressed about additional overshadowing of 'Pendower'. However, this has not been quantified, for example by reference to any sunlight or daylight calculations. Bearing in mind that a garage previously existed alongside 'Roseann', it is

<sup>1</sup> S.I. 2008 No. 2362: The Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008

<sup>2</sup> Supplementary Planning Guidance - 'Designing an Extension: A Guide for Householders'

<sup>3</sup> S.I. 2013 No. 1101: The Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2013

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not clear whether the new extensions have unacceptably diminished the levels of sunlight available to 'Pendower' (or daylight). In any event, the increased sense of enclosure and consequential harm to the outlook of the neighbours constitutes a decisive objection to the development. In this respect, I find it conflicts with the objectives of 'saved' policies E1 and E24 of the Council's Local Plan<sup>4</sup> to ensure that residential amenity is protected.

12. The appellant is evidently willing to replace the high-level windows on the west side of the conservatory<sup>5</sup> with obscure glazed, fixed lights. However, this step would not overcome the overbearing and dominating impact of the development. It is not obvious to me that the adverse impact of the scheme could be overcome by any other planning conditions.
13. Having said that, I recognise that it might be possible for the parties to explore whether or not a mutually acceptable solution could be found for some alternative form of enlargement to the property. I also note the Council has given the appellant a period of up to 6 months to comply with the notice. This should allow adequate time for the parties to explore the matter further or, alternatively, for the appellant to comply with the notice.
14. The Council's concern to protect residential amenity is generally consistent with the Government's objectives for the planning system. Paragraph 14 of the National Planning Policy Framework (March 2012) sets out the presumption in favour of sustainable development. The economic, social and environmental dimensions of sustainable development should be addressed. Paragraph 9 also makes it clear that pursuing sustainable development includes seeking positive improvements in the quality of the environment and improving people's quality of life. I conclude the existing development materially conflicts with the latter objectives. The appeal on ground (a) therefore fails.

#### **Conclusions**

15. I have taken into account all the other matters raised, including the personal and financial circumstances of the appellant, but I find they do not alter or outweigh the main considerations that have led to my decision. For the reasons given above, I shall uphold the enforcement notice and refuse to grant permission on the deemed application.

#### **Formal Decision**

16. The appeal is dismissed, the enforcement notice is upheld, and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

*Nigel Burrows*

INSPECTOR

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<sup>4</sup> Swale Borough Local Plan (2008)

<sup>5</sup> Which appear to encroach across the boundary when open

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The Planning Inspectorate

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## Appeal Decision

Site visit made on 4 August 2014

by **Kenneth Stone Bsc(Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 7 August 2014

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**Appeal Ref: APP/V2255/A/14/2219483**

**75-77 High Street, Milton Regis, Sittingbourne, Kent ME10 2AR**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr John Stephens against the decision of Swale Borough Council.
  - The application Ref SW/14/0245, dated 29 January 2014, was refused by notice dated 22 April 2014.
  - The development proposed is described as the change of use from commercial premises previously a Post Office to residential use.
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### Decision

1. The appeal is dismissed.

### Procedural matter

2. I have used the site address from the appeal form in the heading above, which differs from that on the application form, as this more accurately describes the site and is used on the Council's decision notice.

### Main Issue

3. The main issue in this appeal is the effect of the proposed change of use on the vitality and viability of the High Street.

### Reasons

4. The appeal site is on the ground floor of a three storey Grade II Listed Building located in the High Street of Milton Regis a small historic settlement that is now a suburb of Sittingbourne. The High Street and surrounding area are within a designated Conservation Area.
5. The property accommodates a commercial area, formerly used as a Post Office, on the front half of the ground floor with residential accommodation to the rear and the upper floors. The proposal would convert the commercial floor space into residential use integrated with the remainder of the property. In respect of this appeal Policy B3 in the Swale Borough Local Plan February 2008 (LP), seeks to maintain and enhance the functioning, vitality and viability of other commercial areas outside of the core and secondary shopping areas by only allowing non-retail uses that meet certain criteria. Those criteria of particular relevance to this appeal require market testing to demonstrate that there is insufficient demand for either the retention of the retail use or that another service or facility, not currently provided in the locality, cannot be provided from the unit.

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6. Whilst there are a number of marketing particulars provided by the appellant all relate to the whole premises and rely heavily on the Post Office use. There is little reference to other retail uses or indeed other services or facilities that may be appropriate in this location. The marketing periods are spread over a significant period of time and there are long gaps between some of these, particularly with the most recent marketing which was only commenced in November 2013 after a break of in excess of 3 years. This latter marketing has been on the basis of the whole property as residential and provides little reference to commercial use of this space.
7. The concern that a significant impediment to the use of the commercial area for a viable retail use is the limited space and lack of facilities. However, the marketing has been on the basis of the premises as a whole whereby the operator of the retail unit would also have access to the residential areas. Indeed as there are no physical alterations proposed to this Listed Building this would need to be the case and the commercial floor space would not be provided as an independent unit. I am not persuaded therefore that this is a significant obstacle.
8. The appeal is located in the middle of the High Street in a small village centre which plays an important role in catering for the day-to-day shopping requirements of the surrounding community. There were a limited number of vacant premises in the centre but given the total number of units I wads of the view the centre appeared reasonably active. The introduction of a residential use, being a non-retail use or non-service facility, at this location in the centre would introduce an inactive frontage in the middle of the commercial frontage to the detriment of the centre. This would erode its retail function and undermine its vitality and viability.
9. For the reasons given above I conclude that the proposed change of use would result in material harm to the vitality and viability of Milton Regis High Street and there has been insufficient evidence provided to demonstrate that there is a lack of demand for an appropriate use. Consequently the proposed development would conflict with policy B3 of the LP which amongst other things seeks to maintain and enhance the functioning, vitality and viability of other commercial areas in the built up area of Sittingbourne.

#### *Other Matters*

10. There are no physical alterations proposed and the Council have concluded that there would therefore be no impact on the Listed Building or the Conservation Area. I see no reason to disagree with their conclusions in this regard and thereby the proposal would preserve the Listed Building, including any features of special architectural or historic interest which it possesses, and the character and appearance of the Conservation Area. However, this does not outweigh the harm that I have identified above.

#### **Conclusion**

11. For the reasons given above I conclude that the appeal should be dismissed.

*Kenneth Stone*

INSPECTOR

By virtue of paragraph(s) 1, 2, 3, 4, 5, 6, 7 of Part 1 of Schedule 12A of the Local Government Act 1972.

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