

# Public Document Pack

## AGENDA

### PLANNING COMMITTEE MEETING

Date: Thursday, 13 August 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 |
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1. Apologies for Absence and Confirmation of Substitutes
  2. Minutes  

To approve the Minutes of the Meeting held on 23 July 2015 (Minute Nos. 128 - 133) 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 3 August 2015 (Minute Nos. to follow).

15/503484/FULL (2.4) – Chapel Farm, Hillside Road, Stalisfield, Kent, ME13 0JE

### 5. Report of the Head of Planning

1 - 157

To consider the attached report (Parts 2, 3 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 12 August 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, 5 August 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

**13 AUGUST 2015**

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**PART 2** Applications for which permission is recommended

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**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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**Land Adj 71 South Road**



**PLANNING COMMITTEE – 13 AUGUST 2015**

**PART 2**

Report of the Head of Planning

**PART 2**

Applications for which **PERMISSION** is recommended

<b>2.1 REFERENCE NO - 15/503828/FULL</b>		
<b>APPLICATION PROPOSAL</b> Erection of single storey front extension and part conversion of integral garage with door to side.		
<b>ADDRESS</b> 38 Berkeley Close Dunkirk Kent ME13 9TR		
<b>RECOMMENDATION - Approve</b>		
<b>REASON FOR REFERRAL TO COMMITTEE</b> Parish Council objection		
<b>WARD</b> Boughton & Courtenay	<b>PARISH/TOWN COUNCIL</b> Dunkirk	<b>APPLICANT</b> Mr And Mrs Masters <b>AGENT</b> LT Drawing Services Ltd
<b>DECISION DUE DATE</b> 03/08/15	<b>PUBLICITY EXPIRY DATE</b> 10/07/15	

**1.0 DESCRIPTION OF SITE**

1.01 The site is located on a residential road with semi-detached houses of similar designs. The site is located within built area boundary of Dunkirk. The dwellings were originally designed with a flat roof front projection providing a garage, with a concrete driveway to the front with a small grassed area to the side.

1.01 The application property is now paved across the front with a small landscaped area behind, as are many of the other dwellings in the area.

1.02 Further down the road a neighbour has had a similar front extension built adjacent to the garage space.

**2.0 PROPOSAL**

2.01 This application seeks planning permission for a single storey front extension and part conversion of integral garage with door to side. The extension will project forward from existing front elevation by approx. 1.9m depth by 3.9m in width. It sits back from the existing garage 0.2m

2.02 The extension will have a flat roof, measuring 2.7m in overall height.

**3.0 PLANNING CONSTRAINTS**

3.1 None relevant.

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

- 4.1 The National Planning Policy Framework (NPPF) and the National Planning Practice Guidance (NPPG) are relevant in terms of encouraging good design standards and minimising the potential impacts of any development upon the amenity of neighbouring residents.
- 4.2 The adopted Swale Borough Local Plan 2008 echoes a similar sentiment, and policies E1, E19 and E24 in particular encourage the provision of high-quality development and minimising potential amenity impacts for local residents.
- 4.3 The Council's adopted Supplementary Planning Guidance (SPG) entitled "Designing an Extension" is also relevant, and provides general design guidance. The SPG remains a material consideration, having been through a formal review and adoption process. This generally advises against the loss of garaging where all parking will be to the front of the property.

#### **5.0 LOCAL REPRESENTATIONS**

- 5.1 None received

#### **6.0 CONSULTATIONS**

- 6.1 The Parish Council objects to this application on the grounds of loss of visual amenity to the neighbouring property.

#### **7.0 BACKGROUND PAPERS AND PLANS**

- 7.1 Application papers and drawing referring to application reference 15/503828/FULL.

#### **8.0 APPRAISAL**

- 8.1 The key considerations in this case are whether the proposal is acceptable in terms of design and whether the loss of the garage as a parking space and providing all parking to the front of the property is acceptable
- 8.2 With regards to the first issue, the extension has been designed to project broadly in line, but set back slightly from the front elevation of the existing garage and is of an acceptable design. Several other properties within the area have carried out front extensions, some of which are not particularly sensitively designed, and in my view this is a better design than some others in the area. Taking this into consideration, I am not convinced that the proposal would result in such significantly poor design it would warrant refusal of the application.
- 8.3 With regards to the loss of the garage, The Council have SPG that provides advice on conversion of garages. This SPG is adopted guidance and referred to in the Swale Borough Local Plan 2008 at paragraph 3.71 where it

states the SPG remains a material consideration. The SPG states at paragraph 7.0

*"Extensions or conversions of garages to extra accommodation, which reduce available parking space and increase parking on roads are not likely to be accepted. Nor is the provision of all car parking in the front garden a suitable alternative as the position is unlikely to be suitable for a garage and will create a poor appearance in the street scene."*

However, as the front driveway here is already fully paved providing two parking spaces, with no lawn area being lost as part of this scheme, there would no detrimental impact the street scene. Also many properties in the street have paved driveways to the front. In such situations, and despite the Council's clear policy, I regret to say that it is now the norm for Planning Inspectors to allow such garage conversions where adequate off-street car parking is available without additional hardstanding or loss of frontage greenery being required.

- 8.4 In terms of the Parish Council's concern over the amenities of the neighbour, I disagree with their view. The extension will only project some 1.9m in front of the house. I do not consider that this small extension will have significant impact on the neighbour's amenities or on the visual amenities of the area.
- 8.5 I therefore believe that the general thrust of policies E1, E19 and E24 is complied with in this case, and I consider that the proposal is acceptable in principle, subject to compliance with relevant Development Management policies.

## **9.0 CONCLUSION**

- 9.1 I consider that the proposal is a modest extension of an appropriate scale and design, and which would not give rise to harm to neighbouring or visual amenities. Accordingly I recommend that planning permission should 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 1900 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.

**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.

<b>2.2 REFERENCE NO - 15/503997/FULL</b>		
<b>APPLICATION PROPOSAL</b>		
Construction of part single and part two storey rear extension and loft conversion with dormer windows to the rear		
<b>ADDRESS</b> 13 Grainey Field Hartlip Kent ME9 7SR		
<b>RECOMMENDATION - APPROVE</b>		
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b>		
The proposal would not give rise to unacceptable harm to residential or visual amenities.		
<b>REASON FOR REFERRAL TO COMMITTEE</b>		
Parish Council Objection		
<b>WARD</b> Hartlip, Newington & Upchurch	<b>PARISH/TOWN COUNCIL</b> Hartlip	<b>APPLICANT</b> Mr R Smith <b>AGENT</b> Insight Architects
<b>DECISION DUE DATE</b> 17/07/15	<b>PUBLICITY EXPIRY DATE</b> 09/06/15	
<b>RELEVANT PLANNING HISTORY</b>		
<b>App No</b>	<b>Summary</b>	
SW/96/0922	Residential development and access road – comprising 17 houses and bungalows – APPROVED 03.12.96	

**1.0 DESCRIPTION OF SITE**

1.01 13 Grainey Field, Hartlip is a modern, mid-terrace property with block paved parking to the front. The rear garden is enclosed with a paved patio area and lawn. The rear of the property backs onto farmland. The site lies within a modern housing estate but, notwithstanding this, it is outside the built up area boundary of Hartlip.

**2.0 PROPOSAL**

2.01 This application seeks permission to construct a part single storey and part two storey rear extension and loft conversion with dormer windows to the rear and one rooflight in the front roof slope. However, I would advise Members that planning permission is not required for the loft conversion, the dormer windows or the roof light. These elements of the scheme are not therefore considered under this application.

2.02 The single storey element of the proposed rear extension would project by 3m to the rear, and the two storey element will project by 1.8m. The proposed extension would span the width of the dwelling and would feature pitched, tiled roofs.

### **3.0 POLICY AND OTHER CONSIDERATIONS**

- 3.01 The National Planning Policy Framework (NPPF) and the National Planning Practice Guidance (NPPG) are relevant in terms of encouraging good design standards and minimising the potential impacts of any development upon the amenity of neighbouring residents.
- 3.02 The adopted Swale Borough Local Plan 2008 echoes a similar sentiment, and policies E1, E19, E24 and RC4 in particular encourage the provision of high-quality development, minimising potential amenity impacts for local residents and seek to minimise the impact of domestic extensions on the character of the countryside by limiting such extensions to those which are modest in comparison to the original dwelling..
- 3.03 The Council's adopted Supplementary Planning Guidance (SPG) entitled "Designing an Extension" is also relevant, and provides general design guidance. The SPG remains a material consideration, having been through public consultation prior to its adoption in 1993. It remains a material consideration and is specifically referred to in paragraphs 3.71 & 3.139. The SPG sets out maximum depths for rear extensions – 3m at ground floor level, and 1.8m at first floor level. It also sets out that pitched roofs are a preferable design, and that, in the countryside, extensions should normally amount to no more than a 60% increase in floorspace over that of the original dwelling.

### **4.0 LOCAL REPRESENTATIONS**

Three letters of objections have been received from neighbours. The points raised are summarised as:

- Loss of light;
- The inclusion of a veranda will intrude on privacy [NB – Members should be aware that no veranda is proposed]
- Overlooking of rear garden
- Development will look out of place
- Dormer windows will lead to overlooking and loss of privacy to the rear garden
- A Juliette balcony will lead to loss of privacy [NB Members should be aware that no Juliette balcony is proposed]
- Overshadowing of back windows and loss of sunlight making rear rooms dark
- Object to loft conversion between small properties
- If a balcony is approved, this will cause loss of privacy to rear gardens [see above – no balcony is proposed here]

### **5.0 CONSULTATIONS**

Hartlip Parish Council has objected on grounds that the application site is too small and not suitable for the proposed extension.

## **6.0 BACKGROUND PAPERS AND PLANS**

Application papers and drawings referring to the application reference 15/503997/FULL.

## **7.0 APPRAISAL**

- 7.01 The modest extension of dwellings in the countryside is normally acceptable as a matter of principle, subject to matters relating to the bulk and scale of the extension, its design and impact on visual and residential amenity.
- 7.02 I set out above that we would normally expect extensions to dwellings in the countryside to amount to a modest extension only, in order to prevent harm to the character and appearance of the countryside. In this case however, the application site is located within an established modern housing estate, and I would find it hard to argue that a large extension to a dwelling in such a setting would harm the character and appearance of the countryside.
- 7.03 Nonetheless, I have calculated the increase in floorspace proposed here. The original dwelling has a floorspace of 84 square metres. The proposed extension would add a further 20.16 square metres, and would amount to an increase of less than 25%, well within the Council's normal guidelines.
- 7.04 In my opinion, the proposed extension would be modest in scale, and due to its design, would cause no harm to the character and appearance of the dwelling. Indeed, the SPG gives pictorial examples of acceptable designs of extensions, and this proposal is identical to one shown in that document.
- 7.05 The depth of both the ground and first floor extension have been designed to specifically comply with the SPG, and are in my view acceptable. No significant harm would occur to the amenities of the occupiers of the dwellings to either side by virtue of overshadowing or loss of day/sunlight.
- 7.06 I note the objections raised on the basis of overlooking. However, the degree of overlooking experienced by the properties to either side would in fact be reduced by virtue of this extension, as the area of private garden immediately adjacent to each dwelling would not be visible from the upper floor windows proposed.
- 7.07 I note the objection of the Parish Council regarding the size of the application site, but even with the proposed extension the dwelling would retain a rear garden of approximately 12m in depth. This is in excess of the normal minimum depth of 10m, and is acceptable.

## **8.0 CONCLUSION**

- 8.01 The proposed development would be of an appropriate design, would not give rise to harm to residential amenity, and would not harm the visual amenities of the area or the character and appearance of the countryside. I therefore recommend approval.

**9.0 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.

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

- (2) The 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

**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 applied for pre-application advice. As a result of that advice the applicant has addressed the points raised and submitted this current application for consideration.

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.



<b>2.3 REFERENCE NO - 15/502738/FULL</b>		
<b>APPLICATION PROPOSAL</b> Relocation and winter storage of 44 seasonal workers caravans and 4 mobile communal facilities.		
<b>ADDRESS</b> Land Behind Tinbridge Cottages London Road Boughton Under Blean Kent ME13 8YN		
<b>RECOMMENDATION – Approve – SUBJECT TO views of the County Archaeological Officer (closing date 19 August 2015)</b>		
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b> Limited impact on the landscape character and in accordance with Local Plan Policies.		
<b>WARD</b> Watling	<b>PARISH/TOWN COUNCIL</b> Faversham	<b>APPLICANT</b> Edward Vinson Ltd <b>AGENT</b> The Vinson Trust
<b>DECISION DUE DATE</b> 16/06/15	<b>PUBLICITY EXPIRY DATE</b> 15/05/15	

**1.0 DESCRIPTION OF SITE**

- 1.01 The site is open agricultural land located to the rear of Tinbridge Cottages, on the northern side of Canterbury Road, to the east of Faversham, and extends to 0.96 hectares. Currently located on the site are a number of polytunnels which are screened by the existing mature shelter belts/hedge planting on all sides
- 1.02 The site slopes downwards to the east towards Brenley Corner. The site is located in the designated countryside outside of any built-up area boundary. Access to the site is via a gate which comes out onto an existing dead-end lay-by off the A2, not direct onto the main carriageway.

**2.0 PROPOSAL**

- 2.01 Planning permission is sought for the over winter storage of 44 seasonable agricultural caravans and 4 mobile communal associated facilities. The application is only for the over winter storage of the caravans and communal facilities and not for the use of the caravans during the agricultural season by agricultural workers for which planning permission is not required. The agent has stated that *‘the proposed relocation arises from and is required following the resolution to grant outline planning permission for a mixed-use residential and employment development at Love Lane where the seasonable workers caravans are currently stored over the winter’*. Some of the caravans would be moved from the existing site at Lady Dane Farm where they are currently sited, others might be replacement for caravans too fragile to be moved.
- 2.02 The site would contain 44 workers caravans with a 6 metre separation gap between each caravan and four further caravans/units containing communal facilities. The caravans measure 10m x 3.5m and would also provide a communal wash room, a kitchen and leisure facilities.
- 2.03 An additional landscaped bund and tree planting is proposed at the southern end of the site to the rear of Tinbridge Cottages. The existing landscaping along the boundary of the site will remain.

### 3.0 SUMMARY INFORMATION

	Existing	Proposed	Change (+/-)
Site Area (ha)	0.99 ha	0.99 ha	0
No. of caravans	44 (at Lady Dane Farm)	44	20

### 4.0 PLANNING CONSTRAINTS

#### 4.01 The Countryside

Potential Archaeological Importance

### 5.0 POLICY AND OTHER CONSIDERATIONS

#### 5.01 Swale Borough Local Plan 2008

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.

Policy E6 states that the character of the countryside will be protected and where possible shall be enhanced.

Policy E19 requires all development to achieve high quality design and distinctiveness.

### 6.0 LOCAL REPRESENTATIONS

#### 6.01 14 letters of objection have been received (some from the same address) making the following summarised comments:

- Application detail is vague
- Serious road traffic hotspot, the 50mph speed limit is often ignored
- No information on vehicle parking has been provided
- No details on foul sewage
- Concerned about water supply
- Landscape character impact
- Will be a large scale stand-alone campsite set away from the farm buildings and management.
- Concerns over the anti-social behaviour of caravan occupants
- Access to the site is narrow and dangerous
- The caravans should remain in the old location
- Concerned they will be used as residential accommodation all year round
- Concern about loss of agricultural land
- Views already compromised by the siting of polytunnels
- The site may increase in the future
- Noise and disruption from the site
- Alternative sites should be explored
- Inadequate infrastructure

- The caravans should be located close the amenities and facilities of the existing farm
- Local parking is already insufficient
- Possibly 200+ workers living here for 11 months a year
- More suitable locations within the farm that would have less impact on the existing residents living- no benefit to the local community
- The existing caravans are only being re-sited to make room for the Love Lane development

## **7.0 CONSULTATIONS**

- 7.01 Faversham Town Council- no response. Faversham Town Council were consulted on 21<sup>st</sup> April 2015- I am awaiting comments and hope to be able to report these to Members at the meeting.
- 7.02 Kent Highway Services- no response. Please note that the application is for the storage of the caravans over the winter period and the caravans will not be occupied during this period.
- 7.03 The County Archaeological Officer has only recently been consulted, his consultation deadline is now 19 August 2015, though I hope to be able to update Members at the meeting.

## **8.0 BACKGROUND PAPERS AND PLANS**

- 8.01 All relevant plans and information submitted under 15/502738/FULL.

## **9.0 APPRAISAL**

- 9.01 This application seeks permission simply for the storage of the agricultural workers caravans and associated facilities over the winter period on land behind Tinbridge Cottages, London Road. These caravans are currently located at Lady Dane Farm, Love Lane and would be relocated to the new site. It is important to note that planning permission for the use of the caravans for agricultural workers during the agricultural season is not required and as such I am not considering the impact of the caravans during this period in terms of matters such as noise, access, and infrastructure.
- 9.02 The main consideration in the determination of this application is the impact of the siting and storage of the caravans on the site and the surrounding landscape over the winter months, and the degree to which allowing the caravans to remain on site, rather than being removed for off-site storage each year, assists the rural economy.
- 9.03 In my opinion the site is already very well screened on all sides with established and mature hedging which a high degree of existing screening into the site. In addition as part of the application it is proposed to plant an additional landscape bund and tree planting in the southern part of the site to the rear of Tinbridge Cottages. In my view this additional planting will go some way towards mitigating the possible visual impacts of the development on the surrounding area. The polytunnels located on the site currently are not highly visible from the surrounding views due to the established landscaping along the boundaries and in my opinion there will be no significant increase in the impact on the surrounding landscape and views from neighbouring properties than the existing situation.

- 9.04 The static caravans would be stored on the site over the winter season and would not be used for human habitation during that period. I have added a condition requiring the caravans to have been occupied by an agricultural worker(s) during the preceding agricultural period to ensure that the caravans are used in the manner in which they are intended to be used.
- 9.05 As discussed above I am of the opinion that the storage of the caravans would have little impact on the surrounding landscape. However I have added a condition requiring the planting to be carried out within 12 months of any storage of any of the caravans. In my opinion the proposed additional landscape bund and tree planting would provide additional screening of the caravans both during the storage period and also during the agricultural season, though this is not a consideration of this planning application.
- 9.06 I note the comments raised by some of the neighbours and except for the visual impact considerations I cannot consider these comments as part of this application. The fact remains that the caravans can be used by agricultural workers during the agricultural season and can during that time be sited in this location without the need for planning permission under permitted development rights. As such the matters relating to parking provision within the site, access, noise, loss of agricultural land, highway safety, foul sewage and water supply cannot be considered under this application as planning permission is not required for the habitation of the workers caravans during the agricultural season. Therefore the main objections raised to the application are not planning matters for me to consider under this application.
- 9.07 My main consideration is the impact on the landscape and the surrounding wider views which have been discussed above in detail. In my view the site is suitable for the winter storage of the caravans and seems a logical solution to the need for re-siting the caravans elsewhere within farmers landholdings. The alternative of having to remove caravans at the end of each season will be very disruptive and costly, and will not assist the efficient running of the farm.

## **10.0 CONCLUSION**

- 10.01 The storage of the caravans will have a limited impact on local landscape character; the additional landscape buffer will further reduce the impact of the caravans. In my opinion the proposal meets the aims of local planning policy and is acceptable.
- 10.02 I recommend that the application be approved, subject to strict conformity with conditions given below and outstanding comments from Faversham Town Council and County Archaeological Officer.

## **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 No static caravan shall be stored on the site at any time unless it has been occupied by an agricultural worker(s) in the preceding agricultural season.

Reasons: As the site lies outside any area in which permanent residential use of the caravans would be permitted.

- 3 No static caravan being stored on the site shall be used for human habitation.

Reasons: As the site lies outside any area in which permanent residential use of the caravans would be permitted.

- 4 The static caravans shall be sited on the site in accordance with the details shown on the submitted drawing 19144A/20 Revision J.

Reasons: In accordance with the terms of the application and in the interests of the amenities of the area

- 5 The scheme of planting and landscaping shown on the submitted plan 19144A/20 Revision J received shall be carried out within 12 months of the first date of any storage of any caravan. 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.

**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.

<b>2.4 REFERENCE NO. – 15/505023/FULL</b>		
<b>APPLICATION PROPOSAL</b>		
Erection of a detached 1 ½ storey three bedroom barn style dwelling (revised scheme)		
<b>ADDRESS</b> 1 Wheelwrights Cottages Lewson Street Road Norton Kent ME9 9JN		
<b>RECOMMENDATION</b> Approve – <b>SUBJECT TO receipt of amended drawings regarding site boundary treatments.</b>		
<b>WARD</b> Teynham & Lynsted	<b>PARISH/TOWN COUNCIL</b> Norton And Buckland	<b>APPLICANT</b> Mr Ian Mynott <b>AGENT</b>
<b>DECISION DUE DATE</b> 20/08/15	<b>PUBLICITY EXPIRY DATE</b> 03/07/15	
<b>RELEVANT PLANNING HISTORY</b>		
<b>App No</b>	<b>Summary</b>	
14/501478/FULL	New dwelling REFUSED 13 January 2015	

## 1.0 DESCRIPTION OF SITE

- 1.01 The site is part of the curtilage 1 Wheelwrights Cottage, a semi-detached grade II listed building located on the corner of Lewson Street and Norton Lane in Norton. The site subject to this application is set in the southern corner of the plot adjacent to Norton Lane.
- 1.02 It currently provides the parking area for 1 Wheelwrights Cottage and access to the existing garage. To the rear of the plot, until recently destroyed by fire, was a single storey barn style workshop building.
- 1.03 The site is located within the built up area boundary for the village and falls within the Lewson Street conservation area.
- 1.04 To the rear (south) of the site open fields adjoin, whilst other residential properties and the village of Lewson Street lie to the north and north west.

## 2.0 PROPOSAL

- 2.01 The proposal is a revised scheme submitted after extensive discussions with officers following a previous refusal for a similar proposal.
- 2.02 The new proposal is to provide a new residential property measuring 13.3m in width and 6.6m in depth with an eaves height of 2.6m and a 6.4m ridge height. It will provide a kitchen/ dining area, utility room and living room on the ground floor and 2 bedrooms and a bathroom on the first floor.
- 2.03 The existing access would remain and be utilised for both the new property and 1 Wheelwrights Cottage. A parking area for the new dwelling measuring 5m by 5m is proposed close to the access. In addition a similar parking space for 1 Wheelwrights Cottage is provided for, as is a large area of landscaping.

- 2.04 Amended drawings are to be provided to include the retention of the vegetation along the fencing adjacent to Norton Lane, and the replacement of the rear proposed rooflights with a conservation rooflight

### **3.0 PLANNING CONSTRAINTS**

Conservation Area Lewson Street

MOD Thurnham MOD Safeguarding Directive Thurnham

Thurnham Exclusion Zone Thurnham, Kent

Thurnham Wind Station THURNHAM WIND SAFEGUARDING

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

The National Planning Policy Framework (NPPF)

National Planning Practice Guidance (NPPG)

Development Plan Adopted Swale Borough Local Plan Policies E1, E14, E15, E19 and H2

### **5.0 LOCAL REPRESENTATIONS**

- 5.01 Two letters of support has been received and the comments have been summarised below:
- The scale and height is no more obtrusive than other buildings developed over the past few years
  - Concerns about the junction of Lewson St onto Norton Lane are no more of a hazard than elsewhere towards the A2 providing appropriate speed is adhered to on a country lane
  - Support the plan to replace the old burnt down barn as it is in accordance with the guidelines of both the Council and Heritage
  - It will be a replacement for the barn used by the Wheelwright but that it will be an annex to the house and will remain as such in the future
- 5.02 Four letters of objection have been received from local residents, their comments have been summarised below:
- The barn that was burnt down was neither a barn, nor particularly large, it was simply a single storey workshop
  - Even though the new scheme is more modest than the previous one, it is still considerably bigger than the original workshop – this plan cannot be considered as a replacement, it would dwarf the original cottage and be quite out of character
  - Concern as to the height of the proposed building and its impact on the land to the south and east and /or the hardening of the edge of the conservation area and the lack of a drawing showing the scale and height of the proposed building in relation to Wheelwrights cottage
  - Concern that the detailing and materials of the building should be appropriate



- Do not like the cars and caravan currently parked on the site and considered this will get worse as the space is divided and reduced
- This is far less intrusive than the previous proposal but is still a lot larger than the workshop that burnt down
- It should not be a separate dwelling but only an annexe to the main house
- Windows and doors should match the other properties in the conservation area.
- Consider the current gated access is extremely problematic and to maintain it would be extremely dangerous
- Expect the same safety regulations (the planning conditions attached to the permission for the building of a nearby property in 1994) would apply and be taken into account here
- To build a dwelling in the garden would be detrimental to the listed building and the conservation area
- Already difficult visibility when making an exit from Lewson Street onto Norton Lane, and an additional dwelling would make this more hazardous
- As a conservation area application should not be considered at all as the look and feel of the original area should be preserved

## **6.0 CONSULTATION RESPONSES**

6.01 Norton, Buckland and Stone Parish Council resolved to object to the application, their comments are summarised below:

- The Parish Council is opposed to new development within the conservation area, past developments which were allowed have only diminished the amenity for the area and any further encroachment should be rejected
- The applicant's reference is made to a "large barn structure which burnt down" was in fact a small historic workshop with virtually no visual impact. This dwelling is substantially greater and would impact adversely on the very edge of the conservation area
- Whilst the design has changed the height, footprint and siting are not altered from that previously rejected
- The proposed building is poorly described in the application
- Concern that the access to the site is already hazardous and increased usage is felt to be dangerous. Suggestion is made that the existing gates are set back to allow a "pull in" for vehicle entering or leaving.

6.02 Southern Water, Scotia Gas Networks and UK Power Networks raise no objection

6.03 Kent Highway Services consider that the application does not fall within their remit and have not offered any comments.

## **7.0 APPLICANT'S SUPPORTING COMMENTS (summary of key points)**

7.01 The reason for the submission of the revised application remains the same from the previously refused application 14/501478

7.02 “My Father in law was made a widower and needs constant care and supervision and my daughter suffers acutely and chronically from a condition akin to severe arthritis and a form of Autism. It is unlikely she would be able to live a fully independent life and as such we hope to use the bungalow as accommodation for my father in law and for my daughter”

## 8.0 APPRAISAL

8.01 This application needs to be considered on a number of issues, firstly, the principle of the development, in addition the Council has a statutory duty to have special regard to the desirability of preserving the listed building and its setting and to preserving or enhancing the character or appearance of the Lewson Street conservation area. Finally the design of the proposal needs to be assessed.

8.02 As a background to the submission of this application, application no 14/501478/FULL was previously submitted for a 3 bedroom barn style dwelling. This measured 13.3m in width and 6m in depth with a ridge height of 6.7m and a high two storey gabled feature to the front elevation. This was refused on the grounds that “The proposed dwelling by virtue of its size, design and siting would not preserve the setting of the adjacent listed building or preserve or enhance the character and appearance of the conservation area. The proposal is therefore contrary to policies E1, E14, E15 and E19 of The Swale Borough Local Plan”.

8.03 Extensive pre application discussions have been conducted with the applicant and his agents and a scheme more in tune to meet his requirements and to address the impact on the listed building, Wheelwrights Cottage and the conservation area has been submitted.

8.04 The principle of the proposal needs to be addressed initially and, as the site lies within the built up development boundary for the village of Lewson Street, the principle of a new dwelling is acceptable here.

8.05 In determining this application the Council has a statutory duty to have special regard to the desirability of preserving the listed building and its setting and to preserving or enhancing the character or appearance of the Lewson Street conservation area. There is a strong statutory presumption towards preserving heritage assets and their settings and against development which falls short of these objectives.

8.06 Furthermore the NPPF requires in relation to heritage assets that “*great weight should be given to the assets 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.*”

- 8.07 The applicant has submitted a drawing to show the visual relationship between the listed building and the proposed building showing it to be set down from the main residence by 528mm and, although perspective has not been applied, as it will be set to the rear of the site the building will appear lower, and due to its simple form and low eaves height. The plans show the character of the building to be of “workshop” style, wholly appropriate to the area.
- 8.08 The proposed building would be set back in the site and over 12m away from the listed building. With its lower scale low level vegetation, and post and rail fencing, the visual link between the two buildings remains, as it was historically with the former workshop building. Furthermore with the existing boundary treatments and the site features, the subservient nature of the building in the context of the site is clear.
- 8.09 I therefore consider the building would not have an adverse impact on the listed building or its setting given the design, size and scale of the proposed building and the vegetation, distances and other mitigating factors of the site.
- 8.10 I am aware of the other listed buildings in the immediate vicinity, Myrtle Cottage grade II opposite and 2 Wheelwrights Cottage to the north, which would be less affected by the proposal, and consider there would not be any significant degree of harm to their setting by the proposal.
- 8.11 The boundary treatments including the retention of the vegetation along Norton Lane and the proposed thickening of the native hedge to the rear of the site would help to retain the link between the site and its rural setting. Furthermore the amount of hardstanding and the parking area would be reduced and softened by additional vegetation and planting the site, compared to the previous refused scheme.
- 8.12 With regard to any impact on the conservation area, the character of this part of Lewson Street conservation area is to do with the linear nature of the village and its historical development arising from its close relationship to the surrounding farmland. The site itself is characterised by the transition from the historic village to rural lane as Norton Lane itself remains undeveloped between Lewson Street and Provender Lane.
- 8.13 When entering the conservation area from the south 1 and 2 Wheelwrights cottages and Myrtle Cottage on the other side of the street are prominently located to form a gateway feature announcing the start of the historic village. I am satisfied that the proposed dwelling, being set back within the site, and with its low scale, workshop style details, and intervening vegetation will appear subservient and as such the aforementioned properties will remain the dominant features upon entering the village.
- 8.14 In terms of the design of the building the workshop style is in keeping with the site and is appropriate to this location. The building’s form, with low eaves and a steep pitched roof, features, such as the open eaves and materials of timber

boarding and Kent peg tiling do draw architectural reference from local barn buildings, and thus will be seen more as an outbuilding subservient to the main dwelling rather than a new stand alone property.

- 8.15 I am aware of the current access arrangements and the likely relative increase in the use of the current access. Whilst in the interests of the listed building the previously proposed new access adjacent to the listed building was not supportable. However following initial informal discussions with Kent Highways the option of a new access is not supportable and use of the existing access is preferred.
- 8.16 I am also mindful of the personal circumstances of the family and their desire to provide close by accommodation for their father in law and their daughter. As such the reduction in the height of the building to a single storey but which can provide accommodation in the roof to facilitate the specific medical needs of the family would seem to satisfy their requirements and also ensure the heritage asset and conservation area remain protected.
- 8.17 I note the comments from local residents in relation to the height and impact of the proposed building, particularly in relation to what previously existed on the site. However as explained earlier the height, scale and the resultant impact of the building has been reduced from the previous refusal and is now considered to be an acceptable proposal. Furthermore the previous workshop was shown on historic maps and was approximately 10m in length by 3m in width and as such was rather more than a “modest shed or small building” remembered by some local residents.
- 8.18 I note the Parish Council’s comments about opposition to any further development in the conservation area, but each application must be assessed on its own site specific details and treated on its own merits.
- 8.19 The further concern expressed regarding the detailing and the materials is unfounded as it has been agreed to be timber weatherboarding and Kent peg tiles, however a condition has also been added to ensure the materials are appropriate to this sensitive location.
- 8.20 I note the concern from both the Parish Council and neighbours regarding the access. However careful and correct driving to the conditions of the area would not cause a hazard here and as other options considered were not appropriate or acceptable this access remains the best option.
- 8.21 Finally the scale and bulk of the building has been reduced considerably from the previous refusal and as such presents now as a subservient, workshop style building which visually appears as an addition to and not in competition with no 1 Wheelwrights Cottage or its sensitive setting.

**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.

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

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

Reason: In the interests of residential amenity

- 3) Prior to the commencement of development, 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 works shall be implemented in accordance with the approved details.

Reason: In the interest of visual amenity and to ensure these details are approved before works commence.

- 4) Details in the form of British Standards or commercial specifications of the proposed colouring of the weatherboarding materials shall be submitted to and approved by the Local Planning Authority before the development is commenced.

Reason: In the interest of visual amenity and to ensure these details are approved before works commence.

- 5) Details in the form of cross-sectional drawings through the site, of the existing and proposed site levels shall be submitted to and approved in writing by the Local Planning Authority before work commences and the development shall be completed strictly in accordance with the approved levels.

Reason: In order to secure a satisfactory form of development having regard to the sloping nature of the site and to ensure these details are approved before works commence.

- 6) 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.

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

- 7) Detailed drawings at a suggested scale of 1:5 of all new external joinery work and fittings together with sections through glazing bars, frames and mouldings shall be submitted to and approved by the Local Planning Authority before any development takes place. The development shall be carried out in accordance with the approved details.

Reason: In the interest of preserving or enhancing the character and appearance of the surrounding area and to ensure these details are approved before works commence.

- 8) No development shall take place until constructional details at a suggested scale of 1:5 of the eaves have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: In the interest of preserving or enhancing the character and appearance of the surrounding area and to ensure these details are approved before works commence.

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

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

- 10) 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.

- 11) Upon completion, no further development, whether permitted by Classes A, B, C or D of Part 1 of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order) or not, shall be carried out without the prior permission in writing of the Local Planning Authority.

Reason: In the interests of the amenities of the area

- 12) 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

- 13) The area to the front of the dwelling shall be kept available for the parking and turning of vehicles and no permanent development, whether permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking or re-enacting that Order) or not, shall be carried out on the land or in such 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 in a manner detrimental to highway safety and 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 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 applicant/agent was provided formal pre-application advice.

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.

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<b>2.5 REFERENCE NO - 15/503706/FULL</b>			
<b>APPLICATION PROPOSAL</b> Single-storey side extension and two-storey rear extension.			
<b>ADDRESS</b> 19 Hartlip Hill, Hartlip, Kent, ME9 7NZ.			
<b>RECOMMENDATION GRANT</b> subject to no further representations being received (closing date 3 August 2015)			
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b> Proposed extension would be of an acceptable scale and design and would not give rise to any serious amenity issues.			
<b>REASON FOR REFERRAL TO COMMITTEE</b> Parish Council objection.			
<b>WARD</b> Hartlip, Newington & Upchurch	<b>PARISH/TOWN</b> Hartlip	<b>COUNCIL</b>	<b>APPLICANT</b> Mr And Mrs Kevin And Claire Fisher <b>AGENT</b> Robert Lewis Thornton
<b>DECISION DUE DATE</b> 06/07/15	<b>PUBLICITY EXPIRY DATE</b> 03/08/15		
<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/13/0548	Grant of permission for two-storey side and rear extension, flue to wood-burning stove, and erection of detached garden building to provide garage, office and store.	Approved	2013
Proposed extension addressed previous refusals by repositioning the bulk of the extensions away from the neighbouring bungalow. The scale of the extensions (amounting to an increase of 282% over the original floor space) was in excess of the 60% maximum stipulated within the adopted SPG, but held by Members to be acceptable in light of the substantial extensions to properties elsewhere along this stretch of road.			
SW/12/1337	Refusal of permission for a two-storey side extension to the western flank, a single-storey drive-through extension on the eastern flank, and a detached outbuilding to provide office, store and garage.	Refused	2012
Amended scheme further to refusal below. Amendments did not adequately address previous reasons for refusal.			
SW/11/1503	Refusal of permission for a two-storey side extension to the western flank, a single-storey drive-through extension on the eastern flank, and a detached outbuilding to provide office, store and garage.	Refused	2011

Application refused due to the bulk, scale and proximity of the side extension to the common boundary which gave rise to amenity concerns for the neighbouring residents; and due to the bulk, scale and poor design of the proposed outbuilding.

SW/99/0729	Grant of permission for a single-storey rear extension.	Approved	2009
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The approved extension has been constructed, but would be replaced by the current proposal (or the extension approved under SW/13/0548).

**MAIN REPORT**

**1.0 DESCRIPTION OF SITE**

- 1.01 The application property is a detached house situated in the countryside near Hartlip, forming part of a ribbon development of dwellings along this section of the A2 London Road. The house is set back from the road within a generous garden, with vehicle parking to the front, side and rear, and a single-storey detached outbuilding / garage at the foot of the garden. To the rear of the property is agricultural land.
- 1.02 The street scene here is very mixed in terms of types and designs of dwellings. No.17 (to the east) is a bungalow while nos. 19 and 21 are houses, and there is a varied mix of houses, bungalows and chalet bungalows within the area.

**2.0 PROPOSAL**

- 2.01 The application seeks planning permission for the erection of a two storey rear extension and single storey side extension (on the western flank, adjacent to no.21).
- 2.02 The proposed two-storey rear extension will project approximately 6.5m from the original rear wall of the dwelling at first floor level, across the full width of the elevation. It will feature a pitched roof joined at 90 degrees to the existing roof slope, with a gable end facing the garden. No side windows are proposed other than a small window to the ensuite.
- 2.03 The proposed side extension will sit on the western flank of the house. It will run the full depth of the house including proposed rear extension, and measure approximately 14.3m deep x 3.1m wide x 4m high. It will feature a flat roof with a lantern light towards the rear, and windows at ground level.
- 2.04 The works will provide a large master bedroom with ensuite and large kitchen / lounge area.
- 2.05 Members should note that the proposed extensions are of a smaller scale than those approved at committee under SW/13/0548.

**3.0 PLANNING CONSTRAINTS**

- 3.01 None.

#### 4.0 POLICY AND OTHER CONSIDERATIONS

- 4.01 The National Planning Policy Framework (NPPF) encourages good design as a part of its general drive towards sustainable development. The National Planning Practice Guidance (NPPG) offers similar advice.
- 4.02 Policies E1, E6, E19, E24 and RC4 of the Swale Borough Local Plan 2008 are relevant to householder extensions.
- 4.03 The Council's adopted SPG entitled "Designing an Extension" is also relevant, and remains a material consideration having been through a formal review and adoption process. It states, along with policy RC4 of the Local Plan, that only 'modest' extensions of not more than 60% of the original floor space will be permitted within rural areas.

#### 5.0 LOCAL REPRESENTATIONS

- 5.01 None.
- 5.02 A second set of consultation letters were sent out after a correction to the description of development (the application originally referred to only single-storey extensions). No letters have been received at the time of writing, but the closing date is 3<sup>rd</sup> August and I will update Members at the meeting.

#### 6.0 CONSULTATIONS

- 6.01 Hartlip Parish Council objects to the application, commenting:

*"Members of the Parish Council are not clear whether this area along the A2 is within what is described as "the built up area boundary of Hartlip or outside within the rural area". If outside it is clearly against Policy.*

*Whether it is inside or outside, the Parish Council has concerns about the size of the proposals. The description of the proposals is misleading in that it should include "first floor extension".*

*The Parish Council objects to the scale and bulk of the 2 storey extension which appears to increase the size by 100%. It will affect the amenity of the neighbours and no doubt you will consider this carefully together with any comments put forward by them."*

- 6.02 Kent Highway Services have no comments, noting that the scale of the development does not fall within their remit.

#### 7.0 BACKGROUND PAPERS AND PLANS

- 7.01 The previous application noted above, ref. SW/13/0548, is particularly relevant to this application as planning permission was granted for a considerably larger extension in terms of bulk and visual impact. The approved rear extension was 1m shorter in depth, but the side extension was two-storey and brought the property much closer to no.21.
- 7.02 That development would have increased the size of the property by approximately 282% over the floor space of the original property, contrary to the advice of the SPG. However Members of the planning committee recognised the unusual circumstances

of the location (Hartlip Hill, whilst within the countryside, features a number of properties with significant extensions) and approved the application as an exception to the SPG and policy RC4.

- 7.03 The above should be at the forefront of Member's consideration of this application, which seeks extensions amounting to an increase in floor space of approximately 150% over the original property. Members should also note that the previously approved extensions could be constructed if this application were refused.

## **8.0 APPRAISAL**

### **Principle of Development**

- 8.01 The application site lies outside of any defined built up area boundary, and as such the principle of development is governed by policies E6, RC4, and the adopted SPG. These advise that "modest" extensions in the countryside will be acceptable subject to them not increasing the size of the dwelling by more than 60% over the floor space of the original property.
- 8.02 This application proposes extensions that amount to a floor space increase of approximately 150% over the original. However, given the previous approval for a significant extension as discussed above, and the better design of the current proposal (as discussed below) I consider this application to be acceptable in principle. In this regard, therefore, I do not agree with the Parish Council in respect of the principle of the scale of the extension.

### **Visual Impact**

- 8.03 The proposed rear extension would not be prominent in views from the highway, and would have very limited impact upon the character and appearance of the street scene in my opinion.
- 8.04 The proposed side extension would be single storey and set back from the road. It too would have very little impact upon the area in my opinion. It would also retain a gap between no.19 and no.21 (adjacent) at first floor level, which will help to keep the sense of openness at the site and allow for views through from the road to the skyline at the rear.

### **Residential Amenity**

- 8.05 Whilst the two-storey rear extension would be substantial in size, it would be set well away from the side boundaries with the neighbouring properties – approximately 4.2m from no.21 and 4.5m from no.17. It will also be set to the south of the host property. In this regard I do not consider that it would give rise to any serious issues of overshadowing or loss of light for the neighbours and I note the lack of local objections.
- 8.06 I have no serious concerns in regards to the single-storey element, and do not believe that it would give rise to any serious amenity issues by virtue of its low height.
- 8.07 Again, I do not agree with the Parish Council's objection and consider the scheme to be acceptable in terms of impact upon neighbour's amenity – particularly with regard to the more intrusive scheme previously approved. I have, however, recommended a condition to prevent the insertion of further flank windows to minimise the potential for overlooking of the neighbouring properties in future.

**Highways**

8.08 Parking for several vehicles (in excess of 4) is available to the front, side, and rear of the property. I therefore have no serious concerns in this regard.

**Landscaping**

8.09 There is already hedge planting to the front of the site (adjacent to the highway and along the common boundary with no.21) and the rear garden has been soft landscaped to some extent, albeit not yet settled / bedded-in due to construction of the outbuilding to the rear. I therefore see no particular need for a landscaping condition to be attached to this application.

**9.0 CONCLUSION**

9.01 The proposed development would be acceptable in principle and would represent an improvement (in terms of scale and design) over the scheme approved in 2013 under SW/13/0548.

**10.0 RECOMMENDATION** – GRANT subject to no further representations being received before 3 August 2015 and to the following conditions:

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

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.

(3) No additional windows, doors, voids or other openings shall be inserted, placed or formed at any time in the first floor flank walls hereby permitted unless agreed in writing with the Local Planning Authority.

Reasons: To prevent the overlooking of adjoining properties and to safeguard the privacy of their occupiers.

(4) 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.

Reasons: In the interests of residential amenity.

(5) Adequate precautions shall be taken during the period of demolition and construction to prevent the deposit of mud and/or other debris on the public highway.

Reasons: In the interests of highway safety and convenience.

**The Council's approach to this application:**

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

Offering pre-application advice.

Where possible, suggesting solutions to secure a successful outcome.

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

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

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

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

<b>2.6 REFERENCE NO - 15/501978/FULL</b>			
<b>APPLICATION PROPOSAL</b> Change of use from A4 (Drinking Establishment) to C3 (dwellinghouse) use			
<b>ADDRESS</b> Wheatsheaf Inn Warden Road Eastchurch Kent ME12 4HA			
<b>RECOMMENDATION Approval</b>			
<b>SUMMARY OF REASONS FOR RECOMMENDATION/REASONS FOR REFUSAL</b> Sufficient information has been provided to demonstrate that the loss of the public house and loss as a potential community/employment use is acceptable. The use of the building as a residential dwelling would provide its future occupants with a good quality living environment.			
<b>REASON FOR REFERRAL TO COMMITTEE</b> Parish Council objection			
<b>WARD</b> Sheppey Central	<b>PARISH/TOWN</b> Eastchurch	<b>COUNCIL</b>	<b>APPLICANT</b> The Wheatsheaf Inn <b>AGENT</b>
<b>DECISION DUE DATE</b> 03/06/15	<b>PUBLICITY EXPIRY DATE</b> 16/05/15		

**MAIN REPORT**

**1.0 DESCRIPTION OF SITE**

1.01 The application site lies outside of the built-up area boundary and is within a remote part of the Isle of Sheppey, 1.2km from Warden and 1.7km from Eastchurch. The application site totals 0.2ha and contains a single two storey building with a tiled pitched roof and white painted brickwork. All signs that the building was previously a public house have been removed. There is a small grassed area to the front of the site, an access onto Warden Road and a car park to the rear. A rear garden is enclosed with 1.8m high close boarded fencing.

**2.0 PROPOSAL**

2.01 The proposal is for the change of use from a public house (closed since November 2014) to a single dwelling. There are no external alterations proposed and only minor internal changes.

**3.0 PLANNING CONSTRAINTS**

None

**4.0 POLICY AND OTHER CONSIDERATIONS**

The National Planning Policy Framework (NPPF) – Para.55

*“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 such as:*

- *the essential need for a rural worker to live permanently at or near their*
- *place of work in the countryside; or*
- *where such development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets; or*
- *where the development would re-use redundant or disused buildings and lead to an enhancement to the immediate setting; or*
- *the exceptional quality or innovative nature of the design of the dwelling.*

*Such a design should:*

- *be truly outstanding or innovative, helping to raise standards of design more generally in rural areas;*
- *reflect the highest standards in architecture;*
- *significantly enhance its immediate setting; and*
- *be sensitive to the defining characteristics of the local area.*

Para. 70

*To deliver the social, recreational and cultural facilities and services the community needs, planning policies and decisions should:*

- *plan positively for the provision and use of shared space, community facilities (such as local shops, meeting places, sports venues, cultural buildings, public houses and places of worship) and other local services to enhance the sustainability of communities and residential environments;*
- *guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community's ability to meet its day-to-day needs;*
- *ensure that established shops, facilities and services are able to develop and modernise in a way that is sustainable, and retained for the benefit of the community; and*
- *ensure an integrated approach to considering the location of housing, economic uses and community facilities and services."*

Swale Borough Local Plan 2008:

4.01 Policy E1 gives general guidance regarding design and amenity, amongst others.

4.02 Policy B1 seeks to retain existing employment uses and notes that planning permission will not be forthcoming unless it can be demonstrated by expert advice that the site is no longer suitable for any employment use. Policy C1 seeks to retain existing community services and facilities, including public houses within villages. Proposals that result in the loss of such uses will be resisted unless evidence is submitted to demonstrate that the use is no longer needed or viable, nor likely to become viable.





- 4.03 Policy RC2 seeks to retain and enhance rural services and facilities and requires evidence that local services/facilities, either in use or vacant, are neither viable nor likely to become viable before planning permission will be granted for a change of use. Planning permission will only be granted for a change of use where evidence had been submitted of genuine efforts having been made to sell or let the enterprise.
- 4.04 Policy T3 (SBLP) deals with traffic, and seeks to minimise the highways impacts of any new development through the provision of adequate parking, sightlines, turning space, etc.

Emerging Local Plan – Bearing Fruits 2031 Publication Version December 2014

Policy DM3 (Rural Economy) is relevant.

## **5.0 LOCAL REPRESENTATIONS**

- 5.01 Twenty-two objections have been received in response to this planning application. A summary of their comments is as follows:
- The Wheatsheaf has always been an integral part of the community and it was a busy and thriving pub before the current owners took it over;
  - The previous owners made a comfortable living from the establishment whereas the new owner appears to have made little/no effort – the business has been run-down;
  - The new owners have not given the pub a chance to establish itself;
  - The pub encouraged tourist activity in the area;
  - No effort to market the pub as a going concern at a reasonable price;
  - No evidence that the pub is not viable and nothing to suggest that a new landlord committed the running the business will could now show a profit;
  - Does not comply with policy DM3;
  - Contrary to paragraph 70 of the NPPF;
  - If the new owners were not able to see the previous owners accounts then how do they know that trade was declining;
  - There is a large amount of trade in the summer months from holiday-makers;
  - The pub has been operating for 100 years, why now in the last year has it failed?;
  - The maintenance and repairs required at the pub have been overplayed by the current owners;
  - The business failed because of a reduction in the car park area, reduction in restaurant area, restricting opening hours, change of menu, increased prices and, closed immediately after purchase;
  - How will the funds be raised to convert the property into a dwelling?
- 5.02 Two letters of support have been received. They comment that if the locals had supported them by visiting the premises, they wouldn't be in this situation now. The closure of the pub is upsetting for the new owners as well. The new owners put in a lot of hard work and were a 'great family'.

## **6.0 CONSULTATIONS**

- 6.01 Eastchurch Parish Council have objected to this application. The pub was a busy and popular venue before the current owners took it on. They are concerned that alterations have already taken place inside the building, including the removal of the bar. The plans submitted are inadequate and the proposal is contrary to policies SP7; SP3 and; E1 of the Swale Borough Local Plan 2008.
- 6.02 Environmental Services have no objection subject to a condition to control the hours of construction.

## **7.0 BACKGROUND PAPERS AND PLANS**

Existing and proposed ground and first floor plans; supporting statements including confidential document providing information about purchase prices and trading accounts and; evidence of past and current marketing.

## **8.0 APPRAISAL**

### **Principle of Development**

- 8.01 In accordance with the above mentioned planning policies, the applicant is required to demonstrate that the employment/community use, which the public house currently provides, is no longer viable and that it is not likely to become viable in the future. This can be demonstrated through market testing, details of the trading accounts factoring in required expenditure to make the building fit for purpose and, an appraisal of the need for the use having consideration to the uses within the surrounding area. I have sought the following information from the applicant:
1. Details of how the property has been marketed in the past and the level of interest shown;
  2. The value of the property against the costs of running the business (including details of any improvements required to the building that are essential to the success of the business);
  3. Details of alternative pubs, clubs, community halls and bars within the vicinity of the property.
- 8.02 The applicant has provided additional information in response to this request and I consider the following to be of note in the consideration of the proposed change of use.
- 8.03 By way of background information, the applicant purchased the public house on 19<sup>th</sup> November 2013 and after some refurbishment works, opened the pub on 9<sup>th</sup> December 2013 to take advantage of the Christmas trade. The applicant states that they purchased the pub without the benefit of reviewing the accounts which had allegedly been lost in the theft of the safe under the previous ownership. They were aware of the poor trading figures but put this

down to the circumstances of the owner at the time which meant that he couldn't devote his full time and attention to running the business. The applicant felt confident that they would be able to turn the business around. The applicant provides information about various marketing strategies that they used in an attempt to increase trade at the pub including special evening events, coffee mornings and quiz nights. They also attempted to modernise the food menu and provided a children's area within the pub. The applicant also initially extended their opening hours from the previous owners but after making losses, they subsequently reduced the hours (after the peak season) so that they were closed Monday-Wednesday, opening at 5pm on Thursdays and Fridays and opening at 12pm on Saturdays and Sundays as takings were not covering basic staff costs.

- 8.04 The public house remained open for business until 3<sup>rd</sup> November 2014 and has not been open to the public since then. The applicant has been living in the property without operating it as a pub but I understand that they only utilise first floor and half of the ground floor of the building for this purpose. They confirm that contrary to the comments of the Parish Council, they have not removed the bar. The reason for the closure of the public house was, according to the applicant, a result of poor trade, their inability to raise further funds to keep the business afloat (information provided in confidential document regarding a restriction on the property) and inability to make a profit. In fact, the applicant was apparently making a loss for many months prior to its closure. The applicant has provided me with details of their accounts in the confidential document. This demonstrates that in the period between December 2013 (the first operation of the pub under the applicant's ownership) and November 2014 (the closure of the pub) significant losses were made. They have also provided a summary of the VAT returns for the last year of the previous owner's occupation which also demonstrated that a loss was made, although not as significant as under the current owner.
- 8.05 In terms of marketing the property, the applicant has provided some evidence but it is fair to say that the past estate agents for the pub have not been forthcoming with any useful information. The applicant informs me that the property was marketed prior to 2012 until they purchased it in November 2013. I have evidence that marketing was done by Preferred Commercial from March 2012. The marketing information provided shows that the purchase price of the pub was reduced from £435,000 to £409,950 during the marketing period. The applicant also informs me that the property was also being marketed by Guy Simmons at the time of their purchase which I understand was for a price substantially less than it was purchased for. Both of these estate agents are nationwide commercial agents specialising in the sale of public houses.
- 8.06 In March 2014, the applicant was approached directly by a potential purchaser but it is understood that on examining the trading figures, they were advised that the business was not viable. In November 2014, the applicant was again approached directly with a view to purchasing the property but upon visiting it, she was put-off by the number of improvements required to bring the building to an acceptable standard.

- 8.07 The property is currently being marketed (since May 2015) as a business by Christies Commercial Agents who specialise in the sale of commercial and licenced business. This commercial agent confirms that the purchase price advertised is currently £395,000 and that the pub has been advertised via their website and that there is a sale board at the property. They confirm that they have received a high number (above average) of enquiries into the pub but that this has only materialised into one viewing. No offers have been made. The general feedback that they have received is that historic levels of trade would not be sufficient to make a business viable. In the opinion of this commercial agent, they concur with this view. They are of the view that there is not a sufficient level of trade for that location all year round. They have however, had a number of enquiries for the property as a residential use only.
- 8.08 The applicant has also pursued other potential community uses for the property having contacted this Council's Economic Development Officer, a specialist school and a local campaigner who would like to see The Wheatsheaf become a co-operative facility. In the applicant's view however, the size of the building, its location, and the poor state of the building structurally would effectively prevent voluntary organisations from taking the building on.
- 8.09 The refurbishment of the public house took place over a 12 month period but only resulted in the closure of the pub for three weeks immediately following their purchase in November 2013 (of which the costs are not insignificant at £40,000). Refurbishment was concentrated in the public areas of the building and back of house. These included structural repairs to the roof, placement of flooring, replacement of kitchen equipment, renewal of plumbing to kitchen and bar area, recover soft furnishings, replacement and refurbishment of public toilets and installation of disabled toilets. It is also noted that they did not carry out any repair or other works to the living accommodation. Despite the refurbishment works that have already taken place at the pub, according to the applicant, further works are required to ensure that the ground floor is water tight. General improvements to the living accommodation would also require substantial investment in the applicant's view.
- 8.10 In terms of alternative community venues, the applicant provides evidence of 12 licensed drinking establishments within a 1.7 mile distance from The Wheatsheaf (by road). These include the bars and clubs within the holiday parks that provide live bands and similar entertainment also. They also note that the established pubs within Eastchurch village offer live entertainment, pool facilities, race nights and other events. The list also includes the village halls in Eastchurch and Warden.
- 8.11 In terms of the marketing information provided and available for the purposes of this planning application, it is the case that the evidence of past demand for the use of the building as a public house is somewhat light insofar as the information from the past commercial estate agents about the level of interest in the property is not available. However, we do have evidence that it was on the market in 2012 and information about the purchase price of the property in 2013 which was for a significantly reduced price than advertised. We also

have information from the current commercial estate agent about levels of interest. Although this current period of marketing has only been since May this year, the fact that there has only been one viewing and no offers made is noted. I am also mindful of the comments by the current agent in respect of the viability of the business and I give weight to the applicant's trading accounts demonstrating significant losses as mentioned above. I note that further refurbishment works are required at the pub and this would have to be carried out to ensure that the building is able to provide a suitable business and living environment in the long-term.

- 8.12 I also note the presence of a number of local pubs, bars and community spaces within a short distance of the application site. I would expect that the pub would be busiest during the holiday seasons but am mindful that a number of the holiday parks close by have their own bars and entertainment spaces. This would cater for the holiday-makers whilst the local pubs within Eastchurch will generally cater for the local residents. In this respect, whilst the loss of this pub is regrettable and was quite clearly viewed fondly by local residents, I do not consider that the loss of this pub would be significantly harmful to the local community. I give weight to the fact that many of the local residents who had previously used the pub chose not to despite the fact that it was open for 11 months. Had the pub been such an important part of the local community, residents would have supported it by continuing to visit. I have sympathy for the current owners who do seem to have made attempts, including an investment of £40,000 into physical improvements to the public areas of the building, to make the business work over the 11 months that it was open.
- 8.13 The past and current marketing may well have advertised the pub as just that – a pub, but any commercial business or community type venture would have had sight of the particulars and could have made an offer on the property had there been sufficient interest. I have no evidence that any such offers have been made. Indeed, the applicant has made efforts to advertise the availability of the premises for other commercial/community uses (see 9.07 above) but has had not success.
- 8.14 Whilst the loss of the public house is regrettable, I am of the view that the applicant has provided sufficient evidence to demonstrate that there is very little, if any, prospect of the public house being a viable use for this building in the future. I note the lack of interest from other commercial/employment uses and community uses and note the likely significant investment needed in the building for any future use. I am also mindful of the fact that the pub would have only provided a limited number of jobs and therefore consider that the loss of an employment use here would not have a significant impact. I therefore conclude that the proposal meets the policy tests of B1, C1 and RC2 of the adopted Local Plan 2008 and paragraph 70 of the NPPF.
- 8.15 I am mindful of paragraph 55 of the NPPF which seeks to resist isolated houses in unsustainable locations. This proposal is though different to one that would see the establishment of a new dwelling in the countryside. It is the case here that there has always been residential accommodation within the

property, albeit associated with the pub. Also, there are a number of residential properties along Warden Road. The property is therefore not entirely isolated in my view. I also note that paragraph 55 of the NPPF does allow for the re-use of redundant and disused buildings. I do not therefore consider that this proposal would be contrary to paragraph 55 of the NPPF.

### **Visual Impact**

8.16 No external alterations are proposed as part of this application. As such, I do not consider that the proposal would cause any harm to visual amenity. I do though recommend the imposition of condition (2) below, which allow the Council to control extensions to the dwelling, in the interests of the amenities of the area.

### **Residential Amenity**

8.17 The proposed internal changes would provide a generously-sized dwelling and there is a good sized garden to the rear with potential to increase the garden space into the existing car park. I therefore consider that the building will function well as a dwelling and will provide its occupants with a good quality living environment. In terms of the impact on the adjacent resident amenities, the noise and activity at the site will be significantly reduced as a consequence of the loss of the public house. This will be of benefit to the adjacent residential properties in my view. I do not feel that it is necessary to add a condition to control the hours of construction in this case as any works required to convert the building into residential are internal only. Therefore construction noise would be limited.

### **Highways**

8.18 The property has a large car parking area to the rear and there is an existing access to the site from Warden Road. The change of use to residential will decrease the number of vehicles using this access and the requirement for parking will be reduced significantly. I therefore consider that there would be no harm to highway safety or amenity.

## **9.0 CONCLUSION**

9.01 Having considered the comments from local residents, the Parish Council, the relevant planning policies and the evidence from the applicant, I am of the view that the change of use from public house to a dwelling its acceptable. Sufficient evidence has been provided in my view to conclude that the use of the premises as a public house or any other type of employment/community is not viable and would be unlikely to be viable in the future. I do also not consider that the proposal would conflict with paragraph 55 of the NPPF. There are no external alterations proposed and I conclude that there would be no detrimental harm to visual, highway or residential amenities as a consequence of this proposal. I therefore consider that planning permission should be granted.

**10.0 RECOMMENDATION – GRANT** Subject to the following conditions.

1. The development hereby approved shall be carried out in accordance with the following approved drawings: Proposed floorplan – Ground floor; Proposed floor plan – First floor.

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

2. Upon completion, no further development, whether permitted by Classes A, B, C, D or E of Part 1 of Schedule 2 to the Town and Country Planning (General Permitted Development) Order 2015 (as amended) (or any order revoking and re-enacting that Order) or not, shall be carried out without the prior permission in writing of the Local Planning Authority.

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

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.

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>2.7 REFERENCE NO - 15/502716/FULL</b>			
<b>APPLICATION PROPOSAL</b> Change of use of land to single gypsy pitch and associated development			
<b>ADDRESS</b> Breach Farm Paddocks Land North-east Of Breach Farm Bungalow Breach Lane Upchurch Kent ME9 7PE			
<b>RECOMMENDATION</b> Grant permanent permission subject to receipt of KCC Biodiversity officer comments (closing date 17 August 2015)			
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b> The application would provide a permanent unit of occupation for a gypsy family, within a sustainable location, and without giving rise to serious amenity concerns or harm to the character or amenity of the countryside.			
<b>REASON FOR REFERRAL TO COMMITTEE</b> Objection from Ward Member and local objections.			
<b>WARD</b> Hartlip, Newington & Upchurch	<b>PARISH/TOWN</b> Newington	<b>COUNCIL</b>	<b>APPLICANT</b> Mr M Love <b>AGENT</b> Patrick Durr
<b>DECISION DUE DATE</b> 08/07/15	<b>PUBLICITY EXPIRY DATE</b> 09/06/15	<b>OFFICER SITE VISIT DATE</b> 15.05.2015	
<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/87/1388	Construction of agricultural dwelling in association with use of land as smallholding.	Refused.	11.12.87
Refused as the construction of single, open-market dwellings is contrary to policies of rural restraint.			

**MAIN REPORT**

**1.0 DESCRIPTION OF SITE**

- 1.01 The site lies to the south of Lower Halstow on a small single-track lane linking Breach Lane to the west with School Lane, Newington, to the east. The site lies on the northern side of the road, approximately 250m from Breach Lane and is accessed via an existing agricultural gate and track. The access track runs northwards for approximately 80m before opening out to a cleared area currently used for the storage of farm machinery, two shipping containers, and a number of small dilapidated structures.
- 1.02 The site itself is largely clear and covered in loose gravel / hard standing and there are some large bushes / small trees at the southwestern corner. Land levels generally slope upwards to the east and downwards to the west, and the site is predominantly surrounded by grazing pasture.

1.03 Mature planting along the lane and within surrounding fields, the change in land levels and the position of the site itself largely obscure views from public vantage points. There are clear views of the site from the north west from an existing field access to the south of Oast Cottages, approximately 300m from the site.

1.04 The closest dwelling is Breach Farm Bungalow to the south west, approximately 80m from the closest point of the proposed layout.

**2.0 PROPOSAL**

2.01 The application seeks permission for change of use of the land to a single gypsy pitch with associated development, including the stationing of one static caravan, one touring caravan, an amenity building, and shipping container.

2.02 All structures would be positioned adjacent to the western boundary of the site: the static caravan to the north, the amenity building to the south of that, then the touring caravan, and finally the shipping container would be placed adjacent to the existing planting.

2.03 The static and touring caravans would be of a standard design.

2.04 The amenity building will measure approximately 6.5m wide (7.5m including a small lean-to log store) x 4.9m deep x 4.2m high. It will be clad with dark-stained timber boarding and feature a pitched roof with dark grey cement tiles. Internally it will provide a kitchen / day room, bathroom and store room.

**3.0 SUMMARY INFORMATION**

	<b>Proposed</b>
Site Area (ha)	0.1ha
No. of residential units	1

**4.0 PLANNING CONSTRAINTS**

4.01 None.

**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 Policy
- i) *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 Policy E19 requires development proposals to be well designed.

5.16 SBLP Policy T3 requires adequate parking to be provided.

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.
- iii) *Corporate Policy*
- 5.22 In January 2009 the Council published a consultation draft Gypsy and Traveller Corporate Policy to address the issue of gypsy site provision. This recognised that the Borough has traditionally had one of the largest gypsy and traveller populations within Kent and the South-East of England, often related to traditional farming activities.
- 5.23 The policy is based on meeting the predicted site needs from the Council's original GTAA (and was designed to meet the expected RSS figures) and explains that the combination of the wide range of pitch numbers potentially required, and the Council's good record of approving small private sites, meant that at this stage a site allocations approach is not the right way forward for Swale.
- 5.24 The Council undertook a full survey of potential sites against a set of criteria in accordance with Government guidance. This included a review of current temporary permissions and an assessment of the potential of publicly owned land to meet the identified need. This site is mentioned in the survey.
- 5.25 This, together with finding a solution for a persistent group of families at Sittingbourne (who were responsible for the vast majority of the unauthorised encampments in the Borough), was expected to see the Council making adequate provision to meet needs.
- 5.26 Potentially acceptable sites have then been assessed against a range of criteria including ownership (deliverability), utilities, highway issues, landscape impact and ease of access to local services. These assessments are a simple but objective measure of the likely suitability of each site, but are not intended to be the sole consideration in determining planning applications, which remain to be determined on their own merits. Some sites have been excluded from these assessments due to flood risk or national or international nature conservation grounds, serious landscape or heritage impact or site suitability over a range of issues.
- 5.27 The Policy produced a schedule of possible sites to address local need, and these were published in the March 2010 Gypsy and Traveller Corporate Policy Site

Assessment Consultation. The result of public consultation on that schedule and the assessment scores of potential sites was considered by the Council on 7 October 2010.

5.28 The Local Development Framework Panel at its meeting on 7 October 2012 accepted the following recommendations:

- (1) *“That site assessments are a material consideration for the purpose of decision making subject to review when new national guidance is produced and further note the report on site scores. Also, as sites come forward as planning applications the site assessment be reviewed for currency*
- (2) *That sites to be removed from the Site Assessment process in Appendix 2 be agreed.*
- (3) *That assessment work so far and consultation responses as evidence base for the LDF be noted.*
- (4) *That the Corporate Policy and Site Assessment be reviewed when new national guidance is produced.*
- (5) *That consideration of the Borough's pitch numbers be resolved when new national guidance is produced.*
- (6) *That the unapproved draft of Core Strategy policy be received for initial comments.”*

5.29 The Council had thus been working towards meeting the anticipated requirement for provision of pitches through the publication of its Gypsy and Traveller Corporate Policy Site Assessment criteria. This has now been agreed as being a material consideration in the determination of planning applications. The site was scored when under consideration in 2010 and received a total of 36 points – a very high score.

5.30 The Corporate Policy has in my view been largely successful in guiding the provision of gypsy and traveller sites, however the 2013 GTAA identified a Borough-wide shortfall of 40 pitches. The current application site was not one considered through the formal site allocations process and therefore counts as a windfall provision towards that shortfall.

## **6.0 LOCAL REPRESENTATIONS**

6.01 Cllr. Wright, one of the Ward Members for the area, has objected to the application:

I wish to object to this application for the following reasons:

*“The number of gypsy sites now within this area is and has changed the rural aspect and character of the area, this site will change the last remaining road from Upchurch to Newington without a pitch. This goes against Swales Environmental protection policies that protect the countryside.*

*Local facilities and character are not being enhanced or renewed by all these small but significant applications that urbanise this area and by stealth eat into the rural character and nature without giving anything back to the community or environment. There cumulative impact is and has been significant on the countryside, wildlife, community facilities and services making this type of development unsustainable.*

*It seems there is no over riding need for this person to move onto this site only a wish to be more conveniently situated near to his horses.*

*The access to the site is very poor.*

*The site is very visible from the south and west.*

*The site shown is very large and could accommodate even more pitches, therefore this is not a good efficient use of the site.*

*It is not a sustainable site.*

*It is not in the local plan as an allocated site, the applicant has shown no attempt to acquire an allocated site."*

6.02 5 letters of objection have been submitted by local residents, raising the following concerns:

- Large number of sites within vicinity is changing character of the area;
- Particular proliferation of gypsy and traveller sites within Upchurch and Lower Halstow and impact upon settled community;
- Impact of this scheme itself on appearance of the area;
- Proposal is contrary to environmental policies;
- The design of the proposed structures would not sit comfortably with nearby properties;
- Negative impact on nearby listed buildings [NB: closest listed building approximately 290m to the south west, with intervening buildings];
- Potential for additional pitches to be created on the site;
- The amenity building constitutes a house;
- Difficult to screen views due to hillside location;
- The applicant has not demonstrated an attempt to acquire an allocated site;
- Damage to roads, verges, and sometimes utilities from transporting caravans;
- Visual impact of fences and other structures;
- Will add to traffic and pollution;
- The junction with Breach Lane has limited visibility;
- The lane is narrow and there are frequent accidents;
- A site notice was not posted [NB: the case officer posted a notice on the fence adjacent to the site entrance on 15.05.15] and the Council has deliberately avoided informing neighbours;
- Site is remote and unsustainable;
- The application should not be considered until the Gypsy and Traveller Site Allocations document is formally adopted by the Council;
- The site is not 'brownfield' land;
- Loss of privacy for existing dwellings;
- The ecological survey does not examine birds that regularly fly in the area; and
- Badgers have been seen crossing the site at night.

## **7.0 CONSULTATIONS**

7.01 I have not received a response from either Newington or Upchurch Parish Councils.

7.02 Kent Highway Services have no comments, noting that the scale of the development does not fall within their remit.

7.03 The Council's Environmental Health Manager has no comments.

7.04 Comments from the KCC Biodiversity officer are awaited, likely response date 17 August.

7.05 No other representations received.

## **8.0 BACKGROUND PAPERS AND PLANS**

- 8.01 The application is supported by existing and proposed plans, an ecological assessment, and a family history of the applicant (Mr Love).



## 9.0 APPRAISAL

### Principle of Development

- 9.01 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.”*

I have no reason to doubt the applicant’s traveller heritage (the Love family are known to officers as local travellers) nor have I been presented with any evidence to the contrary.

- 9.02 The site lies within the countryside where the principle of new residential development is normally resisted. However, as discussed above, it is clear that policies relating to gypsy and travellers permit countryside development as this is in line with their cultural heritage and lifestyles, and a reflection of the availability of land for such sites.
- 9.03 The site is not located in an area at risk of flooding, nor is it located in a designated area relating to landscape or biodiversity. There are no TPOs nearby and, whilst Connetts Farm to the north contains a number of listed buildings, these are so far removed (a minimum of 300m, with intervening buildings) as to be irrelevant to this proposal.
- 9.04 The site is not listed within the Gypsy and Traveller Corporate Policy or the accompanying Site Assessment Report, and therefore must be considered a windfall site in terms of contribution to the Council’s pitch provision requirements. Furthermore the site scores very highly on the Council’s Site Allocation Assessment Methodology (attached as appendix), with all but one of the indicators falling within the “fully meets criteria” range (I have been unable to determine if utilities are in place on the site, but this is not a reason to discount / refuse in principle). The site is therefore appropriate, at least in terms of the Council’s adopted assessment tools, for gypsy / traveller accommodation.
- 9.05 I am therefore confident that the principle of the proposed development is acceptable under national and local policy.

### Visual Impact

- 9.06 The site sits on higher ground, that generally rises up to the east and down to the west (to Breach Lane). There are views of the site from the access track to the front, and also from Breach Lane (particularly from the field access to the south of Oast Cottages and, from the rear of those dwellings. However the views are all at a considerable distance – approximately 80m from the lane and 300m from Oast Cottages, as noted above, and I do not consider that the proposed development would be prominent or intrusive when seen from such distances. Furthermore I consider that a suitable landscaping scheme (secured by condition below) along the site boundaries would further help to screen and soften views of the site from surrounding vantage points.

- 9.07 I have walked the surrounding public footpaths and views are very much infrequent – often obscured entirely by local topography – and at a considerable distance as to be insignificant, in my opinion.
- 9.08 The proposed static caravan and amenity block are of typical scale and design, and I have no serious concerns in this regard. I was initially concerned about the proposed storage container, as these generally appear out of place within the countryside but, having visited the site and surrounding areas I believe that it can be adequately mitigated / screened with appropriate landscaping and thus do not object to it.
- 9.09 I am therefore confident that the development has no serious impact upon the character or appearance of the area or the wider countryside, and that there is no reasonable justification for refusal of permission on such grounds.

### **Residential Amenity**

- 9.10 The site is positioned well away from neighbouring dwellings: a minimum of 80m to Breach Farm Bungalow to the south west and approximately 300m to Oast Cottages to the west across fields. I therefore consider that residential use of the site would have little impact upon existing surrounding residents.
- 9.11 I note local concerns relating to a local proliferation of gypsy and traveller sites, and the suggestion that they are coming to dominate the local settled community. However in terms of nearby existing gypsy sites, I note that The Paddocks (Holywell Lane) is approximately 830m (as the crow flies) from the current site; the Oak Lane site roughly 1.5km; and Ridgedale Stables (Halstow Lane) roughly 1.7km. Given this geographic spread I do not agree that the sites are dominating the settled communities of Upchurch or Lower Halstow

### **Highways**

- 9.12 The development makes use of an existing access, and adequate parking and turning is provided within the site. I therefore have no serious concerns in regards to highway safety or amenity. I note local concern regarding highway safety within the area in general but that is not a material planning consideration in the determination of this application.

### **Landscaping**

- 9.13 As noted above the site has adequate space to implement a robust landscaping scheme, and I have conditioned this accordingly. Subject to such landscaping I believe that the development would not be seriously prominent, intrusive or harmful to the character or appearance of the countryside.

### **Other Matters**

- 9.14 The site, whilst situated on a narrow, rural lane, lies approximately 1km from Newington via the public footpath to the east. Further services and facilities are available within Lower Halstow (2.1km by road), Upchurch (2.7km by road, 2.3km by public footpath) and Rainham (3km). I therefore consider the site to be within suitable distance of the necessary services, facilities and public transport links, and believe that it should be considered a sustainable location for the purposes of providing gypsy and traveller accommodation.

- 9.15 There is no requirement for the applicant to demonstrate that he has attempted to acquire an allocated site.

## 10.0 CONCLUSION

- 10.01 This proposal would result in the provision of a single residential gypsy site within a good location and without giving rise to serious amenity issues or harm to the character or appearance of the countryside. The development is in accordance with local and national policy and would contribute towards the Council's pitch provision shortfall.

- 10.02 I therefore recommend that planning permission should be granted subject to receipt of comments from the KCC Biodiversity officer (closing date 17 August 2015).

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

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

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 site shall not be occupied by any persons other than gypsies and travellers as defined in Annex 1 to the DCLG Planning Policy for Traveller Sites.

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.

- (3) No more than one static caravan, one touring caravan, one amenity building and one shipping container shall be stationed on the site at any one time, as shown on drawing 295/14/04 A, received 23 March 2015.

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.

- (4) The site shall only be used for residential purposes and it shall not be used for any business, industrial or commercial use. In this regard no open storage of plant, products or waste may take place on the land, and no vehicle over 3.5 tonnes shall be stationed, parked or stored on the land.

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 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 and preserving rural amenity.

- (6) Within 6 months from the date of this permission the area shown on the submitted layout as vehicle parking space shall be provided, surfaced and drained in accordance with details to be agreed in writing by the Local Planning Authority, and shall thereafter be retained for the use of the occupiers of, and visitors to, the premises, and no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order), shall be carried out on that area of land so shown or in such a position as to preclude vehicular access to this reserved parking space.

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

- (7) The use hereby permitted shall cease and any caravans, utility blocks, sheds, other structures, hard standings, fences, materials and equipment on the site and connected with the use, together with all ancillary vehicles and equipment, shall be removed within 28 days of any one of the following requirements not being met:
- (i) within 3 months of the date of this decision there shall have been submitted for the approval of the Local Planning Authority a landscaping scheme comprising full details of both hard and soft landscape works. 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 and enhance wildlife and biodiversity), plant sizes and numbers where appropriate, means of enclosure, hard surfacing materials, and an implementation programme. In addition, details of a surface water drainage scheme and details of the external finishing materials to the utility buildings shall be submitted shall be submitted within 3 months of the date of this decision.
  - (ii) within 11 months of the date of this decision the landscaping and drainage schemes and schedule of finishing materials shall have been approved by the Local Planning Authority or, if the Local Planning Authority fail to approve such a scheme, or fail to give a decision within the prescribed period an appeal shall have been lodged and accepted as validly made, by the Secretary of State.
  - (iii) if an appeal is made in pursuance of requirement (ii) above, that appeal shall have been finally determined and the submitted landscaping scheme shall have been approved by the Secretary of State.
  - (iv) all works comprised in the landscaping scheme as approved shall have been implemented, and completed within the timetable set out in the approved scheme and the drainage scheme shall have been implemented.

Reasons: In the interests of the visual amenities of the area, highway safety and amenity, and encouraging biodiversity.

#### **The Council's approach to this application:**

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

Offering pre-application advice.

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

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

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

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<b>2.8 REFERENCE NO - 15/505010/FULL</b>			
<b>APPLICATION PROPOSAL</b>			
Minor Material Amendment for: Development of an up to 18MW ground mounted solar farm on land at Orchard Farm, Iwade, Kent, ME9 8QE to include solar arrays, transformer enclosures; substation and control room, access tracks; perimeter fence and small-scale CCTV cameras (14/502072). Amendments: Removal of the northern parcel of land from development to reduce capacity from 18MW to 10MW, change in the design from a single substation to separate DNO and customer substations including auxiliary transformer, and decrease in the number of modules, weather stations, CCTV poles, fences and roads.			
<b>ADDRESS</b> Land West Of Orchard Farm School Lane Iwade Kent ME9 8QG			
<b>RECOMMENDATION</b> Approval subject to no objections from KCC SUDs Team			
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b>			
The scheme now before us would reduce the impact on the environment and reduce traffic to and from the site during and after construction.			
<b>REASON FOR REFERRAL TO COMMITTEE</b>			
Parish Council objection			
<b>WARD</b> Bobbing, Iwade & Lower Halstow	<b>PARISH/TOWN</b> Iwade	<b>COUNCIL</b>	<b>APPLICANT</b> Mr Alejandro Alvarez <b>AGENT</b> Mr Mark Westcott
<b>DECISION DUE DATE</b> 18/09/15	<b>PUBLICITY EXPIRY DATE</b> 18/09/15	<b>OFFICER SITE VISIT DATE</b> 14/07/15	
<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>
14/502072/FULL	Development of an up to 18MWp ground mounted solar farm on land at Orchard Farm, Iwade, Kent, ME9 8QE to include solar arrays, transformer enclosures; substation and control room, access tracks; perimeter fence and small-scale CCTV cameras	Approved	22.10.2014
14/505397/SUB	Submission of details - Condition 8 - Construction Management Plan, Condition 12 - Substation details, Condition 14 - Surface Water Drainage, Condition 15 - archaeological watching brief, Condition 16 - Badger Survey Report, Condition 19 - Construction Management Plan; Condition 20 - acoustic treatment.	Approved	30.06.2015

**MAIN REPORT**

**1.0 DESCRIPTION OF SITE**

1.01 The application site totals 23ha (56.8 acres) and is located approximately 1.5 km to the southwest of Iwade village. The site is currently in agricultural use as arable fields. The ground is mostly flat and level with the surrounding roads – High Oak Hill and Stickfast Lane. The fields are largely visible from these roads with little screening by way of trees and hedgerows. There is however a strong tree line along the eastern boundary of the site. Orchards lie to the north of the site.

- 1.02 Orchard Farm Cottages lies immediately to the north of the site. Tiptree Cottage also lies to the north, on the opposite side of the road. Tiptree Bungalow lies opposite the site approximately halfway along the western boundary of the application site, and there is also a gypsy site opposite the western boundary.
- 1.03 There is an existing access track from High Oak Hill that currently serves the farm and also leads to a model aircraft flying field that would be surrounded to the west and south by the proposed solar farm.
- 1.04 The land to the west of this site slopes upwards to a ridge before descending towards the Medway Estuary. The surrounding area is characterised by arable fields interspersed with trees and hedgerows.
- 1.05 The site lies on land identified under the Agricultural Land Classification (1988) data as partly Grade 3a (north section and part of southern section) and partly Grade 3b southern section.

## **2.0 PROPOSAL**

- 2.01 The original proposal would have seen solar panels occupying the whole of the application site - 23 ha. The current proposal has reduced the area to be covered by solar panels to 13.7ha. The parcel of land to the north of the existing access road from High Oak Hill (leading to the model aircraft field) would now not be developed. The output from the solar panels would therefore be reduced from 18MW to 10MW.
- 2.02 The panels would be a height of 1.8 metres above ground level and would be 0.4-0.7m above the ground. The solar farm would be decommissioned after 25 years. This has not changed since the original application.
- 2.03 Access to the site would still be from the existing access off High Oak Hill. The proposal would result in the access being widened slightly to the east. Internal access tracks would be created. These internal tracks would be changed slightly under this application to reflect a slightly different layout to the solar panels.
- 2.04 The site would be secured by deer fencing at a height of 2 metres with timber posts. Gates would be installed at the end of the main access track to allow access to the site. CCTV cameras/poles are proposed to be erected around the perimeter of the site. There would also be a fence and CCTV provided across the middle of the site, dividing the north and south parts of the land and this is a change since the original proposal. The number of CCTV poles within the southern parcel of land would increase slightly as a result but only by 4. The CCTV would be a height of 3m as under the previous planning application.
- 2.05 The proposal also includes mitigation measures in the form of tree and hedgerow planting along the boundaries of the site, retention and improvement of existing hedgerows, a native species-rich grass and wildflower seed mix will be sown under the panels and in the areas around the boundaries of the site to develop a wildflower meadow. Other ecological enhancements include the provision of bat boxes, hibernacula and copse. The applicant is providing mitigation measures to address the presence of Great Crested Newts and Badgers.



- 2.06 The construction phase of the development would have been likely to take 3 months under the original proposal. As the number of solar panels has been significantly reduced, it is anticipated that this construction phase would also be shortened. Construction traffic is expected to travel from the A249, through Bobbing and along Stickfast Lane.
- 2.07 The applicant submitted a request to the Council for a screening opinion as to whether this development required an Environmental Impact Assessment (EIA) (EIA/14/0006). This was for the original scheme that would have seen a larger site area and greater number of solar panels. It was concluded that this development did not have a significant impact on the environment and as such, an EIA was not required. However, the applicant was advised to submit various reports to support their proposal, which have subsequently been submitted.

### **3.0 PLANNING CONSTRAINTS**

- 3.01 Potential Archaeological Importance
- 3.02 The land immediately to the west of the application site is designated as an Area of High Landscape Value.

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

#### International, European and National Considerations

- 4.01 In 1997 the Kyoto Protocol set internationally-agreed and binding targets for the reduction in emissions of greenhouse gases up to 2012. The UK had a legally binding target to reduce the emissions of greenhouse gases by 12.5% below 1990 levels. The UK government then set a domestic goal to reduce emissions to 20% below the 1990 levels by 2020. The 2009 Copenhagen Accord, United Nations Climate Change Conference, Durban 2011 and the 2012 UN Climate Change Conference have also had an influence on the UK's approach to tackling climate change.
- 4.02 On a European level, Directive 2009/28/EC – the promotion of the use of energy from renewable sources is significant. Each Member State has a target for the use of renewable energy as a percentage of its overall energy consumption until 2020. In particular, this Directive commits the UK to a target of generating 15% of its total energy from renewable sources by 2020. In 2009 only 3% of the total UK energy consumption was met from renewable sources. Directive no. 406/2009/EC of the European Parliament set targets for the reduction in greenhouse gases.
- 4.03 At the national level, The 2008 UK Climate Change Bill sets an 80% target for reduction in greenhouse gas emissions by 2050 (based on 1990 levels). The UK Committee on Climate Change 2008, entitled 'Building a Low Carbon Economy', provides guidance in the form of recommendations in terms of meeting the 80% target set out in the Climate Change Bill, and also sets out five-year carbon budgets for the UK. The 2009 UK Renewable Energy Strategy (RES) provides a series of measures to meet the legally-binding target set in the aforementioned Renewable Energy Directive. The RES envisages that more than 30% of UK electricity should be generated from renewable sources. The UK Low Carbon Transition Plan (2009) white paper is also significant as is the National Renewables Energy Action Plan for the UK. This emphasises the need to drive major changes in the way energy is used and supplied.

- 4.04 Since the Coalition Government came to power (in 2010), various statements have been issued in respect of renewable energy. Climate change is recognised as an urgent threat and the need to respond to this is stressed. In 2011, the National Policy Statement EN1: Overarching National Policy Statement for Energy was approved by Parliament and this is to be a material consideration in the determination of planning applications for renewable energy. This guidance reiterates the targets set at a European and National level. Importantly, this states:

*'Large scale development of renewables will help the UK to tackle climate change,...It will also deliver up to half a million jobs by 2010 in the renewables sector.'* (Paragraph 3.4.2).

- 4.05 The UK Renewable Energy Roadmap was also produced in 2011 by the Department of Energy and Climate Change and identifies eight technologies that have the greatest potential to help the UK meet the 2020 target. Solar farms are not included within these identified technologies but the Roadmap does highlight solar technology as having the potential to contribute towards this target. Dept of Energy and Climate Change: Gregory Barker Letter, dated 1<sup>st</sup> November 2013, titled "Solar Energy" Where he highlights, among other things, his focus of growth "to be firmly on domestic and commercial roof space and previously used land".
- 4.06 Despite this National target for the provision of renewable energy, at a County or Borough wide level no such targets exist.

National Planning Policy Framework 2012 (NPPF)

- 4.07 The NPPF was released with immediate effect; however, **Paragraph 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."
- 4.08 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 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.
- 4.09 The NPPF at **paragraph 14** sets out the presumption in favour of sustainable development. It outlines a set of core land-use planning principles (**Para 17**) which should underpin both plan-making and decision-taking including to, support the transition to a low carbon future in a changing climate and encourage the use of renewable resources but to also:
- 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 within it;
  - Contribute to conserving and enhancing the natural environment and reducing pollution.
  - Allocations of land for development should prefer land of lesser environmental value, where consistent with other policies in this Framework; 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.

- 4.10 Meeting the challenge of climate change, flooding and coastal change states that,
- “Planning plays a key role in helping shape places to secure radical reductions in greenhouse gas emissions... and supporting the delivery of renewable and low carbon energy and associated infrastructure. This is central to the economic, social and environmental dimensions of sustainable development.”
- 4.11 **Para 28** supports a strong rural economy and **Para 97** continues that local planning authorities should recognise the responsibility on all communities to contribute to energy generation from renewable or low carbon sources. They should:
- “have a positive strategy to promote energy from renewable and low carbon sources; design their policies to maximise renewable and low carbon energy development while ensuring that adverse impacts are addressed satisfactorily, including cumulative landscape and visual impacts; consider identifying suitable areas for renewable and low carbon energy sources, and supporting infrastructure, where this would help secure the development of such sources; and identify opportunities where development can draw its energy supply from decentralised, renewable or low carbon energy supply systems and for co-locating potential heat customers and suppliers.”
- 4.12 **Para 98** advises that, when determining planning applications, local planning authorities should:
- “not require applicants for energy development to demonstrate the overall need for renewable or low carbon energy and also recognise that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions; and approve the application if its impacts are (or can be made) acceptable. Once suitable areas for renewable and low carbon energy have been identified in plans, local planning authorities should also expect subsequent applications for commercial scale projects outside these areas to demonstrate that the proposed location meets the criteria used in identifying suitable areas.”
- 4.13 Conserving and enhancing the natural environment states the planning system should contribute to and enhance the natural and local environment by:
- “protecting and enhancing valued landscapes; and minimising impacts on biodiversity and providing net gains in biodiversity where possible, contribution to the Government’s commitment to halt the overall decline in biodiversity.”
- 4.14 **Para 112** reads as follows:
- “Local planning authorities should take into account the economic and other benefits of the best and most versatile agricultural land (namely Grades 1, 2, and 3a). 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.”
- 4.15 **Para 118** advises that, when determining planning applications, local planning authorities should aim to conserve and enhance biodiversity by applying the following principles relevant to this development:

“if significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused;

4.16 DCLG’s “Planning Practice Guidance for Renewable and Low Carbon Energy” (July 2013)

4.17 **Para 013** relates to large scale ground mounted solar photovoltaic farms in particular advises Local Planning authorities to consider, amongst other things:

- encouraging the effective use of previously developed land, and if a proposal does involve greenfield land, that it allows for continued agricultural use and/or encourages biodiversity improvements around arrays
- that solar farms are normally temporary structures and planning conditions can be used to ensure that the installations are removed when no longer in use and the land is restored to its previous use
- the effect on landscape of glint and glare and on neighbouring uses and aircraft safety
- the extent to which there may be additional impacts if solar arrays follow the daily movement of the sun
- the need for, and impact of, security measures such as lights and fencing
- great care should be taken to ensure heritage assets are conserved in a manner appropriate to their significance, including the impact of proposals on views important to their setting.
- the potential to mitigate landscape and visual impacts through, for example, screening with native hedges
- the energy generating potential, which can vary for a number of reasons including, latitude and aspect.

#### South East Plan

4.18 The South East Plan (SEP) has now been revoked and, as such, carries no weight. However Members may find it useful to note that the SEP set regional and sub-regional targets for production of renewable energy. The regional target for 2016 was 895 MW of installed capacity (or 8% of total regional electricity generation capacity) and 1130 MW (or 10%) in 2020. The sub-regional target for Kent was 111 MW in 2010 and 154 MW in 2016.

4.19 Kent County Council’s ‘Renewable Energy for Kent’ report (2012) should also be noted.

#### Swale Borough Local Plan 2008

4.20 The following policies are relevant to this case: SP1 (sustainable development), SP2 (environment), SP3 (economy), SP5 (rural communities); SP6 (transport and utilities); E1 (general development criteria), E6 (rural restraint), E9 (landscape which includes a degree of protection for Areas of High Landscape Value), E10 (trees and hedges), E11 (biodiversity), E16 (archaeological sites), E19 (design), RC1 (rural economy); (RC7 (rural lanes), and U3 (renewable energy).

4.21 Supplementary Planning Document 'Swale Landscape Character and Biodiversity Appraisal' (2011)

This document identifies the application site as being within the Iwade Arable Farmlands. The document identifies gentle undulating rural landscape. The medium and large scale arable fields provide uninhibited views across the open landscape in places. There are many fragmented woodlands and mature broken hedgerows. Narrow country lanes connect small villages and isolated cottages. Many intrusive pylons and power lines cross the landscape and are prominent on the skyline. Condition is poor and sensitivity to change of moderate. The SPD recommends restoring and creating.

4.22 Bearing Fruits 2031 - The Swale Borough Local Plan, Publication Version (December 2014)

4.23 Draft policy DM31 is particularly relevant to this application. It states:

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

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

4.24 Draft policies DM3 (Rural Economy) and DM20 (Renewable Energy & Low Carbon Energy) from the Emerging Local Plan are also relevant.

Other guidance of material consideration

4.25 The Government has also produced a number of documents that are of relevance: UK Solar PV Strategy Part One: Roadmap to a Brighter Future (2013); UK Solar PV Strategy Part Two: Roadmap to a Brighter Future (2014); National Solar Centre Planning Guidance for Development of Large Scale Ground Mounted Solar PV Systems and; National Solar Centre National Planning Guidance – Biodiversity.

4.26 The first of these documents states: “...The key issue is ensuring that proposals to deploy solar PV take account of the circumstances of each project...Likewise, even plots of the highest grade agricultural land could include areas which are in themselves lower grade and could legitimately be used for solar PV deployment. There is increasing evidence that, if well planned and managed, there can be biodiversity benefits arising from the deployment of solar PV at large scale....”

4.27 The document entitled - National Solar Centre Planning Guidance for Development of Large Scale Ground Mounted Solar PV Systems identifies steps for developers to work through with regard to siting development on agricultural land. A flow chart is provided to aid the Local Planning Authority in understanding why a development is proposed on Best and Most Versatile land. If located on Grade 3a land developers should:

- “1. Provide an explanation of why the development needs to be located on the site and not on land of lesser agricultural classification within the area;

2. Provide information on the impact of the proposed development on the local area's supply of farming within the same classification;
  3. If the proposed development site makes up part of an existing farm, provide information on the viability of this farm to continue to function (as an agricultural unit) with the development in situ;
  4. Consider the cumulative impact of the proposed development and other permitted large-scale solar PV development on the supply of agricultural land within the same classification across the local area."
- 4.28 Swale Borough Council has approved its own guidance entitled: Renewable Energy Planning: Guidance Note 2: The Development of Large Scale (>50kW) Solar Arrays. This reiterates much of the guidance and policy above and provides the developer with details on all aspects of the solar farm developments.
- 4.29 Also of note is a speech by Greg Barker (MP) to the solar PV Industry on 25<sup>th</sup> April 2013 where he states:
- "...for larger deployments, brownfield land should always be preferred. Where solar farms are not on brownfield land, you must be looking at low grade agricultural land which works with farmers to allow grazing in parallel with generation..."
- And a letter to Local Authorities on 22<sup>nd</sup> April 2014 in which he states:
- "...the main message from the Strategy is that we are keen to **focus growth of solar PV in the UK on domestic and commercial roof space** and on previously-used land."
- 4.30 Written Ministerial Statement on Solar Energy by Eric Pickles MP, 25 March 2015, also referred to within the NPPG, included the following statement:  
*"Meeting our energy goals should not be used to justify the wrong development in the wrong location and this includes the unnecessary use of high quality agricultural land. Protecting the global environment is not an excuse to trash the local environment. When we published our new planning guidance in support of the Framework, we set out the particular factors relating to large scale ground mounted solar photovoltaic farms that a local council will need to consider. These include making effective use of previously developed land and, where a proposal involves agricultural land, being quite clear this is necessary and that poorer quality land is to be used in preference to land of a higher quality. We are encouraged by the impact the guidance is having but do appreciate the continuing concerns, not least those raised in this House, about the unjustified use of high quality agricultural land. In light of these concerns we want it to be clear that any proposal for a solar farm involving the best and most versatile agricultural land would need to be justified by the most compelling evidence."*
- 4.31 Also of relevance is the Natural England Technical Note TIN049 (2012) and Natural Environment White Paper the Natural Choice: Securing the Value of Nature (2011).

## 6.0 LOCAL REPRESENTATIONS

None received

## 7.0 CONSULTATIONS

- 7.01 Iwade Parish Council object to the application. They refer to their original comments for 14/502072/FULL. They object on the following grounds: visual amenity – impact on Area of High Landscape Value and Green Corridor between Sittingbourne and surrounding villages; loss of agricultural farmland, 50% of which is grade 3a; size of the development which should be on brownfield land; loss of outlook for residents close to the site; out of character with the surrounding farmland; impact on the safety of the roads; request that no construction traffic enters Iwade Village and concerns over future running and decommissioning policies.
- 7.02 Kent Highways have no comments on the current proposal.
- 7.03 The Environment Agent have no further comments on this proposal.
- 7.04 KCC Ecology note that this proposal would reduce the area of solar array. Protected species mitigation has been agreed under the original permission. No objection on the understanding that this agreed mitigation will be applied to the current application.
- 7.05 The Council's Rural Planning Consultant notes that no further agricultural assessment is required for this proposal which removes an area of land for the original scheme. I repeat his original comments here for clarity:
- “R. Bryan, the applicant's retained arable consultant for the last 30 years, provides evidence that in practice, due to problems with a weakly textured topsoil with a high silt content, the Upper Field (which comprises the majority of the 3a land) also has problems with poor drainage and difficult crop establishment, and has actually proved less productive than the Lower Field (which contains the Grade 3b land). The consultant also explains that another potential alternative field outside the current site, to the north (Tiptree Field) is actually more productive than either the Lower Field or the Upper Field, despite Tiptree Field being ALC grade 3b (albeit the relevant ALC study determining that grading has not been provided, to my knowledge).*
- There was a complete crop failure in much of the Lower Field in 2013, and a crop failure in the Upper Field in 2012.*
- On this basis, whilst at face value the ALC grading would suggest the potential choice for any solar farm development here would be the Lower Field and Tiptree Field, it does not appear unreasonable to accept the owner/farmer's “on the ground” experience, and favour the current proposal for the use of the Upper Field, as poorer quality land, rather than Tiptree Field.*
- To summarise, if a solar farm on greenfield land here is considered necessary, it appears that the requirements of the NPPG would be met, at least in terms of using poorer quality land in preference to higher quality land.”*
- 7.06 Kent Police have no additional comments to make given the reduction in scheme size but draw our attention to their original comments in respect of the type of fencing and general crime prevention.
- 7.07 Natural England note that they previously commented on the original proposal and these still apply here. They do not object.
- 7.08 Comments from KCC SUDs Team are awaited.

## **8.0 BACKGROUND PAPERS AND PLANS**

Covering letter and general layout plan.

## **9.0 APPRAISAL**

### **Principle of Development**

- 9.01 The principle of this development has already been established by the approval of the previous planning application which would have seen the development of a much larger area of farmland. The applicant explains the reduction in size as being a more efficient use of the land. As such, one can only assume that it is more financially viable to concentrate the development on the parcel of land to the south of the access road. Whilst it is a shame that the energy produced from the site would be reduced as a consequence, the remaining solar array would still provide a good amount of renewable energy and any negative effects of this reduction must be weighed against the positive impact that the reduced site area would have on the environment, local roads, landscape impact and local residents.

### **Visual Impact**

- 9.02 The reduction in the size of the solar array would be of benefit to the landscape and visual amenities in my view. As well as the solar panels, the proposal would also result in a reduction in the number of transformer cabinets within the site, the removal of CCTV poles and fence from the northern parcel of land and internal access roads. The amount of built development/engineering works would therefore be significantly reduced and I consider that this can only be of benefit to the landscape character and visual amenities of the area. I have considered the proposal against the previously approved landscaping scheme and note that the current proposal does not seek to change this in any way. However, I do not anticipate that the applicant will be providing the agreed additional soft landscaping surrounding the northern parcel that will now not be developed. The boundary that would now enclose the northern extent of the solar array already has a thick, mature strip of vegetation with a mix of trees and shrubs. However, there are some areas of this boundary that will need to be planted with new trees/hedges so that the solar panels are screened at this location. I have recommended a condition to require the submission of a revised landscaping scheme to ensure that the additional planting is provided along the new northern boundary and also to remove the requirements to provide additional planting to the boundaries surrounding the northern parcel.

### **Residential Amenity**

- 9.03 The amendments would see the solar array moved away from the residential properties at Orchard Farm and Tiptree Farm. Again, I can only see a benefit to residential amenities as a result.

### **Highways**

- 9.04 As this proposal will reduce the amount of construction required, the traffic impact from construction vehicles will therefore be reduced. This is a positive outcome of the proposed amended scheme in my view.



### Other Matters

- 9.06 In terms of the impact on protected species, the mitigation measures that were agreed under the previous proposal will be similarly required for this proposal. The applicant's agent notes that the revised scheme will actually reduce the impact on Great Crested Newts as the development would be located further from ponds to the north of the site. I note the comments of KCC Ecology who have no concerns about the current proposal providing that the agreed mitigation is carried out. It is true that the amount of biodiversity enhancement would reduce as a consequence of this proposal. However, this is relative to the reduction in the amount of land occupied by the solar array. I therefore consider that this proposal would have no detriment to ecology/biodiversity.
- 9.07 Members should note that I have adapted a number of the original conditions to reflect that agreement of further details that were required to be submitted post-decision. These details were agreed under 14/505397/SUB.

### 10.0 CONCLUSION

- 10.01 Having considered the comments from Iwade Parish Council, consultees and the relevant planning policies, I am of the view that the proposal would actually have a reduced impact on the landscape, environment, ecology/biodiversity, residential amenities and, highway safety and amenity. The larger solar array development at this site has already been granted planning permission by the planning committee in October 2014 and this current scheme seeks to make changes to this approval by way of reducing the area upon which solar panels would be placed – 23ha down to 13.7ha. Whilst this reduction and the subsequent changes to the arrangement of the solar panels and associated plant and engineering works are material, they are minor in their impact on the surrounding area in my view and will have no significant harm.

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

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

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 development hereby approved shall be carried out in accordance the following approved drawings: General Layout 1.2 rev 3, Landscape Masterplan and Site Layout, CCTV post detail rev. 1, Typical frame and anchor detail, Typical security fence detail, typical control room detail, typical transformer housing detail – preferred, typical solar panel detail, 47069948-TRA-002.

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

3. The planning permission is for a period not exceeding 25 years from the date that the development is first connected to the electricity grid. The date of first connection shall be notified to the planning authority within 28 days of that event occurring. All solar arrays, their supports and foundations; inverters; transformer stations; site substation; access tracks; fencing; and security cameras and their supports; must be removed from site and the site be reinstated to its former arable condition within 12 months of the solar park ceasing to be operational.

Reasons: To reflect the temporary nature of the development and ensure appropriate reinstatement of the site.

4. No development shall take place until full details of 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, which shall include additional planting to the boundary along the existing internal access road, 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 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.

Reasons: In interests of visual amenity, landscape character and ecology and biodiversity.

5. No impact pile driving in connection with 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  
Mondays to Fridays or 09:00 to 17:00 hours, unless in association with an emergency or with the prior written approval of the District Planning Authority.

Reasons: In the interests of residential amenity.

6. No construction work in connection with the development shall take place on any Sunday or Bank Holidays, nor on any other day except between the following times:-  
Mondays to Saturdays or 07:00 to 18:00 hours, Sundays 09:00 – 13:00 hours unless in association with an emergency or with the prior written approval of the District Planning Authority.

Reasons: In the interests of residential amenity.

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. 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.

Reasons: In the interests of visual amenity, the residential amenities of occupiers of nearby dwellings and the protection of bats.

8. The details of the area for parking for site personnel/operatives and their construction vehicles/visitors, loading, off-loading and turning on the site approved under 14/505397/SUB shall be submitted shall be implemented as agreed and retained throughout the construction of the development.

Reasons: In the interests of highway safety and convenience.

9. During construction on site, adequate precautions shall be taken during the progress of the works to guard against the deposit of mud and similar substances on the public highway in accordance with proposals to be submitted to, and agreed in writing by the Local Planning Authority.

Reasons: In the interests of highway safety and convenience.

10. The development shall be implemented in accordance with the submitted Transport Report July 2014 and approved under 14/502072/FULL.

Reasons: In the interests of highway safety and amenity.

11. Prior to the removal of the Solar Farm hereby approved, a Decommissioning Management Plan shall be submitted to and approved in writing by the Local Planning Authority and the decommissioning shall not proceed other than in accordance with the approved programme.

Reasons: In the interests of highway safety and the proper programming of the development.

12. The details of the substation as approved under 14/505397/SUB shall be implemented at the site.

Reasons: In the interests of visual amenity.

13. The transformer housing hereby approved shall be finished in Juniper green (BS12B29).

Reasons: In the interests of visual amenity.

14. The details of the method of disposal of surface waters as approved under 14/505397/SUB shall be implemented before the first use of the development hereby permitted.

Reasons: In order to prevent pollution of water supplies and localised flooding.

15. The watching brief approved under 14/505397/SUB shall be implemented throughout the course of the construction work at the site.

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

16. Should works on site not commence within 6 months of the date of this permission, an updated badger survey should be submitted to the Local Planning Authority for

approval in writing and a site walk-over to identify the presence of Great Crested Newts shall take place prior to the commencement of works and any revised mitigation recommended shall be implemented in accordance with the approved details.

Reasons: In the interests of ecology and biodiversity.

17. An ecological impact assessment and mitigation strategy shall be submitted to the Local Planning Authority for approval in writing prior to the decommissioning of the solar array.

Reasons: In the interests of ecology and biodiversity.

18. The mitigation measures and recommendations set out in the Great Crested Newt Advice Document rev A, the recommendations set out in the letters from Landscape Partnership dated 27<sup>th</sup> August 2014 and 12<sup>th</sup> September 2014 and the mitigation measures agreed under 14/505397/SUB shall be implemented.

Reasons: In the interests of ecology and biodiversity.

19. The Construction Management Plan agreed under 14/505397/SUB shall be implemented throughout the construction period of the development.

Reasons: In the interests of highway safety and proper programming of development.

20. The acoustic treatment to the inverters approved under 14/505397/SUB shall be implemented.

Reasons: In the interests of residential amenities.

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.

<b>2.9 REFERENCE NO - 14/506167/OUT</b>			
<b>APPLICATION PROPOSAL</b> Demolition of existing buildings. Outline application for the erection of 42 dwellings, with all matters reserved for future consideration.			
<b>ADDRESS</b> Floplast Ltd, Howt Green, Sheppey Way, Bobbing, Sittingbourne, Kent, ME9 8QX.			
<b>RECOMMENDATION</b> Delegate to officers to approve the application subject to ecological matters being resolved, the comments of and any subsequent amendments required by KCC sustainable drainage team (deadline for comments 12 <sup>th</sup> August 2015) and the negotiation and agreement of an appropriate Section 106 legal agreement to secure developer contributions, affordable housing, off site highway improvements and appropriate public open space.			
<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 and Iwade Parish Council's object.			
<b>WARD</b> Grove	<b>PARISH/TOWN</b> Bobbing	<b>COUNCIL</b>	<b>APPLICANT</b> Mr Bryan Lynch <b>AGENT</b> Harrison Mutch
<b>DECISION DUE DATE</b> 1/10/15	<b>PUBLICITY EXPIRY DATE</b> 12/8/15		
<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/96/0074	Free standing single storey warehouse building, lean-to warehouse attached to existing building, first floor office extension	Approved	
SW/94/1066	Externally illuminated fascia sign	Approved	
SW/94/0317	Change of use to manufacture, storage and distribution of plastic building products	Approved	
SW/93/1080	Outline application for demolition of existing buildings followed by residential development	Refused for the reasons below	
<p>(i) The proposal is one that should be considered in the context of the Local Plan Process and is premature prior to consideration of the Swale Borough Local Plan Consultative Draft Written Statement published in February 1994.</p> <p>(ii) Policy RS6 of the Kent Structure Plan 1990 states inter alia that development will not normally be permitted in rural Kent other than at the villages and small rural towns unless:</p> <p>(a) it is demonstrated to be necessary to agriculture, forestry, the winning or import of materials or other land use essentially demanding a rural location; or</p> <p>(b) it relates to an acceptable change of use of redundant buildings, where the change would provide the best reasonable means of conserving the character, appearance, fabric and setting of buildings which are of architectural or historic interest, or whose loss would be detrimental to the character of the countryside; or</p> <p>(c) it consists of the acceptable re-use or redevelopment of the existing built area of redundant institutional complexes; or</p> <p>(d) it relates to the ' acceptable rebuilding or modest extension of a dwelling currently in residential use in an appropriate location; or</p> <p>(e) it is the provision of public or institutional uses for which the rural location is justified; or</p> <p>(f) it is for businesses provided for under Policy RS5.</p> <p>The proposed development is within rural Kent, does not fall within these categories and is</p>			

therefore contrary to Policy RS6.			
(iii) The site has not been allocated for housing development in the Sittingbourne and Milton Regis Area Local Plan Consultative Draft 1991 and is therefore contrary to Policies HI, H4 and H5 of that plan which seek to limit new residential development to sites shown on the proposals map.			
(iv) The location of the site in close proximity to the A249 Sheppey Way and the proposed A249 Iwade By-pass, scheduled to commence in 1994, makes the site unsuitable for residential development due to the probable noise impact of these heavily trafficked roads.			
SW/74/1094	Partial demolition alterations construction of workshop and car parking facilities	Approved	

**MAIN REPORT**

**1.0 DESCRIPTION OF SITE**

- 1.01 The site is located on Sheppey Way within Howt Green. The surrounding area is characterised by sporadic residential, agricultural, commercial and community uses and buildings of varying forms. The site abuts the A249 to the south east, Bramblefield Lane (which leads to a footbridge over the A249) to the north east with an area of hardstanding with partially demolished building beyond, residential dwellings to the south west and orchards to the north west with two isolated cottages located further south. Bramblefield Lane is a designated cycle route. Kemsley train station is located 800m away (to the north-east) over the A249 footbridge.
- 1.02 The site is relatively flat and consists of a concrete pad that covers the entire site surrounded by 3 metre palisade fencing and three buildings used as a production building, storage building, and storage and workshop building totalling 5006sqm of floorspace which employs 5 full time employees. The existing operation includes plastics manufacturing, storage and distribution in the B1, B2 and B8 use classes. The site has two vehicle accesses from Sheppey Way. The large bank of land between the site and the A249 is covered in tall and dense trees which provide an effective landscape barrier to the site.

**2.0 PROPOSAL**

- 2.01 This is an application for outline planning permission for the erection of 42 dwellings, with all matters reserved for future consideration. As such, the submitted housing layout is illustrative, and this application does not seek approval for it. The site area is 1.54 hectares giving a density of 27 dwellings per hectare. The application forms state that surface water will be dealt with by sustainable drainage system. Whilst all matters are reserved the application forms indicate that 16 two bedroom, 19 three bedroom and 2 four bedroom market dwellings and 5 three bedroom affordable dwellings are proposed. This equates to 10% affordable housing on site.
- 2.02 The planning statement confirms the proposal aims to provide “...up to 42 dwellings with a new internal road layout, communal green space and off-street parking. Although the detail is reserved for future consideration, units are envisaged to comprise of two, three and four bedroom dwellings in the form of terraces, semi-detached and detached two storey properties, with three-storey town houses indicatively shown in the south eastern edge of the site.” A central communal greenspace will be provided which will be a minimum of 10% of the total site area equipped with a children’s play area.
- 2.03 The existing buildings, hardstanding and services will be removed from the site.

### 3.0 SUMMARY INFORMATION

	Existing	Proposed	Change (+/-)
Site Area (ha)	1.54	1.54	na
Approximate Ridge Height (m)	9, 11 and 7	na	na
Approximate Eaves Height (m)	7, 6 and 6	na	na
Approximate Depth (m)	56, 55 and 35	na	na
Approximate Width (m)	53, 22 and 15	na	na
No. of Storeys	2/1, 1 and 1	na	na
Net Floor Area	5006m <sup>2</sup>	na	na
Parking Spaces	10+	na	na
No. of Residential Units	0	Up to 42	Up to +42
No. of Affordable Units	0	5	+5

### 4.0 PLANNING CONSTRAINTS

- 4.01 The application site is located within the countryside, a strategic gap and important local countryside gap as defined by the Proposals Map of the Swale Borough Local Plan 2008. A high pressure gas pipeline is located within the south western boundary of the application site.

### 5.0 POLICY AND OTHER CONSIDERATIONS

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

- 5.01 The NPPF relates in terms of achieving sustainable development, building a strong competitive economy, supporting a prosperous rural economy, promoting sustainable transport, 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; seek high quality design and amenity for existing and future occupants; recognise the intrinsic character and beauty of the countryside and supporting thriving rural communities within it; support a low carbon future; reuse brownfield land; and manage growth to make use of public transport, walking and cycling.
- 5.03 The NPPF attaches significant weight to economic growth to create jobs and prosperity. Paragraphs 29 and 30 encourage sustainable transport and reductions in greenhouse gas emissions. Paragraph 32 requires a transport statement for developments that generate significant amounts of movement and that decisions take account of whether proposals take opportunities for sustainable transport, and safe and suitable access to the site has been achieved for all. Paragraph 35 promotes pedestrian and cyclist priority, and promotes access to public transport.
- 5.04 Regarding housing provision the NPPF requires a significant boost in housing supply and states Council's 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.

- 5.05 Paragraph 51 states that Local Authorities should "normally approve planning applications for change to residential use and any associated development from commercial buildings (currently in the B use classes) where there is an identified need for additional housing in that area, provided that there are no strong economic reasons why such development would be inappropriate."
- 5.06 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".
- 5.07 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.
- 5.08 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; affording substantial protection to Special Protection Areas and affording Ramsar sites the same protection as European sites.
- 5.09 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 123 requires decisions to avoid noise giving rise to harm to health and quality of life, and use conditions to mitigate harm. Paragraph 128 makes clear archaeology can be considered a heritage asset and should be assessed appropriately.
- 5.10 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 code for sustainable homes was cancelled on 27<sup>th</sup> March 2015 as confirmed in the written statement to parliament entitled "Planning updated march 2015"

**The Swale Borough Local Plan 2008.**



- 5.11 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 management 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 gaps and important local countryside 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.
- 5.12 E9 seeks to ensure development within the countryside is sympathetic to local landscape character in accordance with the below mentioned Supplementary Planning Document, 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; or demonstrated by expert advice that the site is no longer suitable for any employment use; or demonstrated by market testing that there is insufficient demand to justify its retention for employment use; allocated for other purposes; and additionally for residential proposals it should be demonstrated that a mixed use would not be appropriate.
- 5.13 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. H3 requires 30% affordable housing on developments of 15 dwellings or more which are to be of a suitable size and tenure, including rented housing. Such will be secured by appropriate legal agreement.
- 5.14 Policy RC3 sets out a stringent set of criteria for acceptable rural housing schemes. T1 states that proposals will not be permitted that generate volumes of traffic in excess of the capacity of the highway network and or result in a decrease in safety on the highway network unless those impacts can be addressed. 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. T5 requires proposals to be well located in relation to public transport. Where need arises through development, developers may be required to fund enhanced public transport through legal agreement.
- 5.15 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 more than 20 dwellings the Council will require 10% of net site area to be set aside for open space for equipped children's play areas and casual kick about areas. A contribution will be sought under policy C2 towards those elements of open space that cannot be provided on site. If open space is to be adopted by the Council, a legal agreement will secure a

commuted sum for future maintenance of that land. All such requirements will be secured by legal agreement.

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

- 5.16 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 if 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.
- 5.17 Policy DM3 on the rural economy states that permission for residential development will not be permitted where this would reduce the potential for rural employment unless the site/building is demonstrated as having no demand for such purposes or its use would be undesirable or unsuitable. Policy DM6 requires a transport assessment for proposal that generate significant transport movements and requires proposals to utilise sustainable transport and 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 'Sittingbourne town, urban extensions and Iwade' affordable housing at 10% 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. DM17 requires the provision of open space in accordance with the table at 7.5.1. DM19 requires all housing to achieve code level 3 of the code for sustainable homes but this policy is out of date in light of the statement to parliament outlined above and so should not be afforded any weight. Policy DM21 requires sustainable drainage systems where possible incorporating appropriate discharge rates and protection of receiving watercourses. Policy DM24 requires appropriate consideration of noise pollution and land contamination to prevent harm to human health.
- 5.18 Policy DM25 seeks to retain important local countryside gaps and strategic gaps including between Bobbing and Sittingbourne. DM28 sets out that internationally designated wildlife sites such the Ramsar and Special Protection Area to the north of the application site are afforded the highest level of protection. DM34 requires appropriate consideration of archaeology.
- 5.19 Supplementary Planning Documents; Swale landscape character and biodiversity appraisal 2011 (The guidelines are to restore and create within the Iwade Arable Farmland); and Developer Contributions 2009.

## **6.0 LOCAL REPRESENTATIONS**

- 6.01 Three letters of objection have been received which are summarised as follows;
- Would any windows from the two storey block near our house overlook our side windows and result in loss of privacy?

- What would happen to the metal fence along the boundary as this adds security? Who's responsibility would a new fence be? Would the proposed building works require access to our property?
- Very hard to obtain information from the website.
- Object to extra work likely to happen in Bramblefield Lane.
- Object to all matters being reserved as this could lead to work being carried out in Bramblefield Lane.
- No extra amenities have been installed- without these extra pressure is put on existing housing in area.
- Extra traffic would exacerbate traffic problems on Sheppey Way.
- The density is too high and out of character with the area.
- Howt Green population will double as a result of this proposal.
- The development will give us more support against the planning department for any future development at any site along Sheppey Way.
- Iwade and Bobbing Primary Schools are already full as will be the doctors surgery once the housing development is complete in Iwade.
- Insufficient off road parking will result in parking on Sheppey Way, causing obstruction.

6.02 Two letters of support have been received which are summarised as follows;

- Site formerly GPO Telephones depot. Existing metal clad building not in keeping with area. Proposal can put this right.
- Site not allocated in emerging plan. Application should be determined on its merits. There appears to be no logical grounds for refusal. Proposed layout sympathetic to area and more attractive than existing Floplast building.
- Reservations about unrealistic residents and visitors parking provision. Garages will be used for storage. Overflow parking on old Sheppey Way should be prevented as a hazard. Bramblefield Lane should similarly be protected as it is a cycleway and pedestrian route.
- Three storey development should be avoided in semi-rural areas.
- One of proposed dwellings is uncomfortably close to no 8 Woodshole Cottages.
- Proposal should include dwellings for first time buyers to help the local community.
- Existing public utilities should be proven to be adequate to serve the proposal.
- If the emerging Local Plan housing allocation in north west Sittingbourne is acceptable then so too is this proposal.
- Floplast should be allowed to move its Howt Green operations closer to its other facilities in Sittingbourne to prevent heavy vehicle traffic between sites.
- We support the proposal provided there is adequate parking for residents/visitors.
- 42 dwellings need roughly 154 car parking spaces based on a space per bedroom. The number of dwellings may therefore need to be reduced. Overspill onto Sheppey Way could be very dangerous.

6.03 Bobbing Parish Council objects and its comments are summarised as follows;

- Traffic- vehicle entrance is on a bend which has poor visibility and could be hazardous.
- Housing is too dense and should be reduced to 30 units and more car parking spaces provided to prevent overspill parking on Sheppey Way.
- Traffic survey only carried out on North side and not South side.
- The development was not included in the Local Plan.

- The submitted Transport Statement does not change the Parish Council's views.

6.04 Iwade Parish Council objects and its comments are summarised as follows;

- Site not allocated in current or emerging local plan.
- Site is within important local countryside gap which proposal will erode. It will set a precedent for further development within the gap.
- Will impact on Grovehurst Road roundabout which is already at full capacity.
- Traffic survey only carried out on North side- not South side.
- The vehicle entrance is on a blind corner.
- Visitor cars will spill on to Sheppey Way.
- Site not in use at the moment (only for storage), so this application will increase traffic on Sheppey Way.
- No nearby services. The footbridge over the A249 is not lit at night so will not be used. There are no footpaths to Iwade or Bobbing meaning residents will use their cars to access facilities.
- 35% affordable housing, not 10%, should be provided.
- Too many houses, too little parking.
- "Referring to item 2.7 in the Design and Access Statement; this is not true, the Parish Council's present did not favour this proposal."

## 7.0 CONSULTATIONS

- 7.01 The Council's Greenspaces Manager notes that there is no indication of the size of the open space to be provided, but that it seems appropriate, is central and usable. He will be interested to see the reserved matters in relation to the open space provision. If the public open space is to be transferred to Council ownership then a 10 year commuted sum will be required using the standard formula in the Developer Contributions SPD. A contribution towards off-site play provision is required at £861.80 per dwelling to improve capacity and local facilities.
- 7.02 The Council's Head of Service Delivery notes the content of the submitted noise assessment and contaminated land assessment and agrees with their findings. No objection is raised subject to conditions regarding noise mitigation, contaminated land, a restriction on the hours of impact pile driving, a restriction of the hours of construction, dust suppression and no asbestos to remain on site.
- 7.03 The Council's Economic Development Officer wishes to emphasise the importance of supporting FloPlast's retention and continued growth within the Borough. It is now one of the Borough's major employers and since the relocation of its core business to Eurolink has continued to expand the scale of its operations and employment. The consolidation of the operation to its main site on Eurolink provides operational efficiencies and helps drive the next large scale investment by the company in the locality in the form of a new 60,000sqft distribution facility.
- 7.04 There are limitations to what future employment use the site would be viable for. Underpinning this is the analysis presented by the applicant that the site is now less favourably located in relation to the highway network. I consider this a fair reflection of the circumstances, with access to the trunk road network either through Bobbing or Iwade which would be a significant barrier to marketing the site. Despite the existing use of the site, these contextual changes mean that significant traffic movements especially HGV's may not be desirable, causing issues within the immediate area. This would likely be of concern to potential users of the site.

- 7.05 The Economic Development Officer is unable to comment in detail on the existing accommodation and possible subdivision. However, the age and layout would mean a relatively low quality offer. Redevelopment for employment would also be challenging because B class premises would be marginal in this location. Rent/sale value would not justify the investment hence unviability. Economic Development also promotes more easily accessed mainstream locations to the development community to improve the amount and quality of commercial space. On balance, the loss of the site for employment will have no meaningful cost for economic development and employment creation.
- 7.06 The Council's Climate Change Officer notes the design and access statement aspires to code level 3 of the Code for Sustainable Homes but that there is no supporting paperwork. It is suggested that code level 3 and renewables be conditioned. However, Members will have noted above that the Government have cancelled the Code. Members will also note condition (8) below.
- 7.07 The Council's Housing Officer requests 30% affordable housing to provide 13 dwellings, 70% or 9 of which are to be affordable rent and 30% or 4 intermediate housing as per the Council's adopted SPD. There is a requirement for affordable housing in Sittingbourne including Bobbing for all types and sizes of accommodation. Where appropriate we would seek a small number of fully adapted wheelchair homes in agreement with the Registered Provider. The following mix is suggested;

<b>Property Type</b>	<b>Total to be provided</b>	<b>30% requested as affordable</b>
2BH	16	5
3BH	24	8
4BH	2	0
<b>TOTAL</b>	<b>42</b>	<b>13</b>

- 7.08 The Council's Tree Consultant raises no objection to the principle of development from an arboricultural perspective. No tree conditions are required at this stage and landscaping can be dealt with appropriately at reserved matters stage.
- 7.09 Kent Highway Services generally concur with the submitted Transport Statement. Vehicle movements would be slightly lower from residential use compared to the existing commercial use. HGV activity would be significantly less, which would benefit the amenities of residents along Sheppey Way, although it is noted there is currently not a highway safety issue relating to HGV use of Sheppey Way and that the road is of a suitable design for this purpose. Although not being determined at this stage, use of the existing access for this proposal would be appropriate in terms of visibility. There is no crash record associated with the existing use of the site and its access, and there has only been once personal injury accident recorded in the relevant review period nearby but this related to a vehicle being pursued by police. There is nothing to suggest safety concerns arising from the development. It is suggested that the A249 footbridge be lit, a footway is provided on the western side of Sheppey Way from the existing layby to a point opposite the site access as part of the proposal, and a bus shelter be provided on the southbound route of Sheppey Way. These can be secured by condition or legal agreement. A number of highway conditions are recommended and are attached below.
- 7.10 Kent County Council Developer Contributions requests the following;

- Primary Education @ £2360.96 per applicable house (x42) = £99160.32 towards the Phase 1 of the Regis manor Primary School expansion.
  - Secondary Education @ £2359.80 per applicable house (x42) = £99111.60 towards Phase 1 of the Sittingbourne Community Academy expansion.
  - Library bookstock £2016.66 project: bookstock for the new residents of this development alone (supplied to Mobile Library service covering Bobbing and the Sittingbourne library).
  - Delivery of 1 wheelchair accessible home within the affordable housing on site.
  - A condition requiring superfast fibre optic broadband as part of the reserved matters.
- 7.11 Kent County Council Archaeology requires a programme of archaeological works condition.
- 7.12 Kent County Council Public Rights of Way Officer says no PROW will be affected but that Bramblefield Lane and the bridge over the A249 are a public highway.
- 7.13 Kent County Council Ecology notes no ecological information has been submitted and confirm that there is limited habitat within the site to be suitable for protected/notable species therefore no scoping survey is required. Bats may use woodland adjacent to the site therefore lighting should be designed in line with relevant guidance. Ecological enhancements should be provided within the landscaping plan if approved. The site is within 3km of the Swale SPA and Ramsar site and Medway Estuary and Marshes SPA and Ramsar site. The Ecologist is concerned that no information is provided by the applicant addressing the proposals impact on European Designated Sites to enable Swale Borough Council to address the requirements of the Habitats Directive. We are concerned about increase recreation on European Sites.
- 7.14 The *Phase 1 Bird Disturbance Report*, undertaken by Footprint Ecology on behalf of the North Kent Environmental Planning Group (of which Swale Borough Council is a key member), concludes that it is not possible to rule out any likely significant effects on the integrity of the north Kent European sites as a result of increased housing. The 'north Kent European sites' covers the Medway Estuary and Marshes SPA and Ramsar site, the Thames Estuary and Marshes SPA and Ramsar site and The Swale SPA and Ramsar site.
- 7.15 The *Phase 1 Bird Disturbance Report* concludes that development within 6km of access points to the European sites is particularly likely to lead to increase in recreational use of the SPAs and that mitigation measures will need to be considered as "*it will not be possible to demonstrate no adverse effect on integrity of the European sites*". As such Swale Borough Council will need to carry out a Habitats Regulations Assessment and should seek the information necessary to complete this from the applicant. Following the outcomes of the bird disturbance work, a strategic access and recreational management plan is being developed by the north Kent local planning authorities, including Swale Borough Council. We advise that the Swale Borough Council representative on the North Kent Environmental Planning Group is contacted for progress in relation to this as it may be possible for a 'full' HRA to be avoided if contributions to the strategic-level mitigation measures can be secured.
- 7.16 Natural England note the application site is in close proximity to European designated sites and therefore has the potential to affect their interest features. European sites are afforded protection under the Conservation of Habitats and Species Regulations 2010 as amended (the 'Habitats Regulations'). The application site is in close proximity to the Medway Estuary and Marshes and The Swale Special

Protection Areas (SPAs). The sites are also listed as the Medway Estuary and Marshes and The Swale Wetlands of International Importance under the Ramsar Convention. In addition they are also notified at a national level as the Medway Estuary and Marshes and The Swale Sites of Special Scientific Interest (SSSIs).

- 7.17 In considering European site interest, NE advises the Council that it should have regard for any potential impacts that a project may have. NE notes the consultation documents do not include a habitat regulations assessment. The proposal is not necessary for the management of a European site and the Council should therefore determine whether the proposal is likely to have a significant effect on any European site, proceeding to the appropriate assessment stage where significant effects cannot be ruled out. NE advises that there is currently not enough information to determine whether the likelihood of significant effects can be ruled out and it is recommended that further information is obtained to help undertake a HRA including; clarity on how impacts from increased recreational pressure to the coastal designated sites will be avoided/mitigated for as a result of this proposal. This information is also required to ensure there are no impacts on the Medway Estuary and Marshes and the Swale SSSIs. Upon submission of this information further advice can be provided. I have since been informed by Natural England that if developer contributions are secured to provide mitigation of recreational disturbance to the Special Protection Area, this will enable the proposal to be screened out of the need for a full appropriate assessment.
- 7.18 The Environment Agency raises no objection. It is satisfied with the submitted flood risk assessment and supports the use of SUDS for the discharge of surface water. However, due to the geology on site, we advise that permeability tests are carried out to ensure SUDS are viable. Land contamination; the EA does not consider the proposal to be high risk therefore no site specific advice is provided. It wants to be informed if contamination is subsequently identified that poses a significant risk to controlled waters. The developer should address risks to controlled waters from contamination on site following the requirements of the NPPF and EA's Guiding Principles for Land Contamination. Pollution prevention, soakaway and waste advice is also offered.
- 7.19 The Lower Medway Internal Drainage Board states it has not been able to access documents on the website but that the site is outside its area and provided off-site surface water runoff is not increased the proposal is unlikely to affect the Boards interests.
- 7.20 The Highways Agency, subsequently changed to Highways England, offers no objection whilst noting that the proposal is not considered to represent in itself any significant risk to the strategic road network but that it will add to the cumulative effects of development on this part of the A249.
- 7.21 The Health and Safety Executive notes the high pressure gas pipeline near the site is thick walled in the immediate vicinity of the site. The HSE provided a bespoke response that does not advise, on safety grounds, against the granting of planning permission. It is advised to contact the pipeline operator before deciding the application.
- 7.22 Southern Gas Networks comments are as follows;

*"There is a high pressure gas pipeline in the vicinity of the proposed development which has a Building Proximity Distance (BPD). The building proximity distance (zone 1) is 3 metres either side of the pipeline. This should not however be confused with*

*the HSE consultation zones 2 & 3 which will be considerably greater. Zone 1 is a safety factor with reference to habitable buildings as recommended by IGE/TD/1. It is calculated from the diameter, material, wall thickness and pressure of the particular pipeline. Under Pipeline Safety Regulations 1996 this distance is declared to the HSE. Any intrusion within this safety zone should not be taken lightly and any intention to proceed should be accompanied by a risk assessment or provision of other supporting evidence especially in the event of any legal proceedings at a later date. I have attached a copy of our plans showing the pipelines in relation to this site. Pipelines laid in private land are protected by a Deed of grant, which prohibits certain activities within the easement strip like no addition to or removal of surface levels, no structures over or within the specified distance of the pipeline. Further details are available if you require them. A request to us for any copies could incur a small fee, payable in advance.*

*The easement strip is 6 metres in width. 3 metres either side from the centre-line of the pipeline. No part of the easement is to be within private gardens. The pipeline easement has trees along its route which will not be acceptable, as these can cause damage to the pipeline coating and makes accessibility difficult. All planting within the easement strip should comply with "Notes for Guidance on Tree Proximity". Any vehicle crossings over the pipeline will require: calculations to prove that no additional stresses will be incurred; a design showing the roadway in relation to the pipeline; and method statements to be agreed with SGN before it goes ahead. Road crossings need to be kept to a minimum. This pipeline is of prime importance to the gas supplies of this area. Should any work be contemplated it is essential that you comply with the restrictions detailed below and in the document SGN/SP/SSW22 in order to protect our plant and equipment and for the safety of your own operatives" (list of 12 restrictions not included here).*

- 7.23 Southern Water provides a map of sewers in the area. The applicant is to determine the exact position of public sewers before finalising the layout. No development or tree planting is to be within 3m of a public sewer and all existing infrastructure is to be protected during construction. No soakaways should be within 5m of a public sewer. A condition regarding protection of public sewers is recommended. There is inadequate foul sewage capacity to serve the development therefore risk of flooding may increase. Additional off-site sewers, or improvements to existing sewers, will be required under section 98 of the Water Industry Act 1991. Alternatively, the developer can discharge foul flow no greater than existing. An informative re contact details for sewerage infrastructure is requested. SUDS guidance is also provided. A condition re foul and surface water sewerage disposal is requested. Southern Water can provide water to the site and an informative is requested.
- 7.24 Kent Police considers parking spaces to the rear of the dwellings fronting Sheppey Way lack natural surveillance. Parking to rear creates issues with unloading vehicles and may result in the rear door being used as the main entrance. There has been no communication from applicant/agent. There needs to be discussions regarding formal applications for codes, BREEAM and Secured By Design if appropriate. The applicant's attention should be drawn to the Kent Design Initiative. The Police would like to meet the applicant to discuss crime prevention and community safety. A condition/ informative or letter is recommended re crime prevention measures.

## **8.0 BACKGROUND PAPERS AND PLANS**

- 8.01 The following information has been submitted with the application;
- Planning Statement
  - Design and Access Statement



- Economic Supporting Statement
- Flood Risk Assessment
- Transport Statement
- Noise Impact Assessment
- Stage 1: Desktop Study & Walkover Survey

8.02 Harrisons Chartered Surveyors have submitted an Economic Supporting Statement which, amongst other issues, comments on supply and demand for employment property/ land in Swale and the retention of FloPlast Limited's existing premises/ site for employment purposes. The applicant's contention is that the existing buildings and site are no longer appropriate for employment use. This lengthy document concludes that the loss of the site for employment purposes is acceptable because it is poorly located for vehicle access; the premises no longer serve FloPlast's needs as it is currently used as a satellite site and a dedicated facility is to be built on land adjacent to its Eurolink premises. The premises were expanded by FloPlast as a single occupier so is unlikely to attract an alternative acceptable single occupier due to the constraints of the site to modern business including traffic; the retention of the existing premises for employment use is unrealistic given it is incapable of subdivision and modernisation at economic cost, as supported by the Council's Property Register which includes more attractive options in more modern business locations; redevelopment for employment use is inappropriate due to better alternatives and the site would be expensive to redevelop and prove unattractive to investors/developers given the constraints; a mixed use development would be impractical and unviable. Therefore, a 6 month marketing exercise as suggested at pre-application stage by the Council would be inappropriate as this would only serve to delay the delivery of much needed housing and FloPlast's own expansion needs at Eurolink. The loss of the site for employment is therefore justified in light of Local Plan policy B1 and it has been demonstrated that the site is no longer suitable for long-term Employment use. Funds from the sale of the Sheppey Way site would be channelled into the Eurolink site development.

8.03 The applicant's Transport Statement concludes that such impacts will be acceptable. The vehicle access accords with relevant design standards and vehicle parking will be provided in accordance with Kent Highways Interim Guidance Note 3. This should ensure overspill; parking will not occur on surrounding roads. Appropriate cycle parking will be provided within the curtilage of each dwelling. Road safety implications would be acceptable. The vehicle trip generation would have a negligible impact on the road network over and above the existing use if it were to be used to its maximum capacity.

## **9.0 APPRAISAL**

9.01 I note local residents and the Parish Council's comments and address them as follows. The window layout is not being dealt with under this outline application. The existing metal fence would be removed but I do not consider this a security risk. Responsibility for the new fences is not a material planning consideration. It is not clear whether access to third party land would be required to develop the land but this is not a material planning consideration. Required works within Bramblefield Lane are discussed below in terms of highway improvements requested by Kent Highway Services including lighting. The applicant is legally entitled to make an outline planning application with all matters reserved. Extra amenities will be installed and developer contributions secured to provide extra services in the area including funding for schools.

- 9.02 The impact on highway safety and convenience is considered acceptable as set out below including vehicle parking and visibility. The housing density [namely 27 dwellings per hectare] is considered appropriate to the site and surroundings. It is considered that the site can accommodate a certain amount of three storey development given the size of the existing buildings on site. The proximity of the dwellings shown on the indicative layout to existing properties is not being considered at this stage as this is an outline planning application with all matters reserved. Affordable housing is to be included within the proposal to help the local community and is discussed further below. Public utilities will need to be upgraded to accommodate the proposal. It is not clear what is meant by the Parish Council saying the traffic survey was only carried out on the North side and not the South side. Whilst the site is not allocated in the adopted or emerging local plans, the proposal has to be determined on its merits. The impact on the countryside, important local countryside gap and strategic gap are considered below.

### **Principle of Development**

- 9.03 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 out of date.
- 9.04 The site is not allocated for residential development in the adopted or emerging local plan. The Council would ordinarily consider residential development within the countryside, strategic gap and important local countryside 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. It would result in the removal of large industrial buildings and associated palisade fencing that surrounds the site and its replacement with residential development that will enhance the area in my opinion. 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.
- 9.05 The site is relatively removed from services, facilities and amenities with the nearest shops being at Bobbing Services 1 mile to the south east, Iwade Village Centre 1 mile to the north east, and the general store on Grovehurst Road 600m to the east which is accessed via the footbridge over the A249. The nearest schools are Bobbing and Iwade Primary Schools and Westlands Secondary School within Sittingbourne. The nearest doctors surgery is on Grovehurst Road with another in Iwade, whilst the nearest dentists is in Sittingbourne. There are bus stops located at regular intervals along Sheppey Way and the site is 800m away from Kemsley Train Station. Whilst

most journeys are likely to happen by car, there are good cycle links in the area with the National Cycle Route on the footbridge over the A249. Therefore, whilst the site could be more ideally located in terms of integration with existing settlements I consider it to be a reasonably sustainable location for residential development. It is noteworthy that the site is located on the opposite side of the A249 from the north west Sittingbourne mixed use allocation in the emerging local plan which means that in the fullness of time the application site could be on the edge of Sittingbourne with the allocation containing a site for a primary and secondary school on the opposite side of the footbridge, a community hub and expanded health centre.

9.06 I do not consider the site to be isolated as set out in the NPPF as it is on the outskirts of Bobbing, Iwade and Sittingbourne and the associated services. The physical site context is that it is bounded to the south east by the A249 and is very well screened from it by the existing landscaping that would remain. To the south west is a residential property and its rear garden. To the north west is open agricultural land and to the north east a partially demolished building with open land beyond. The site is reasonably well contained by its surroundings resulting in no significant harm to the character and appearance of the countryside or harm to visual amenity. It would also not result in the merging of settlements, encroachment or piecemeal erosion because this is brownfield development entailing the demolition of very large buildings. 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 note permission was refused for residential development on the site in the past (see pages 1 and 2 above) but the planning policy context is entirely different now. I believe the policy and physical context weighs in favour of accepting the principle of development.

9.07 The principle of development in my opinion is acceptable for these reasons.

#### **Loss of employment land**

9.08 The content of the report by Harrisons is noted. I concur that the vehicle access to the site is not ideal for alternative employment uses because the two main routes are either through Iwade village via a traffic calmed road layout, or past Bobbing Primary School which is heavily parked at peak times. Furthermore, it seems unlikely that an alternative single occupier of the site would be found given the traffic constraints and availability of better suited and located sites for businesses such as on the Eurolink industrial estate. The site is considered incapable of subdivision and modernisation at economic cost. Redevelopment for employment use is inappropriate due to better alternatives and the site would be expensive to redevelop and prove unattractive to investors/developers given the constraints; a mixed use development would be impractical and unviable.

9.09 The possible end use of the site may likely be for relatively low grade industrial uses such as independent vehicle repairs and storage which would be an undesirable use in such close proximity to residential dwellings. It is noteworthy that funds from the proposal would contribute towards the development at FloPlast's Eurolink site (approved under outline planning application SW/02/1180 for residential, employment, open space and supporting facilities and subsequent reserved matters application SW/09/0630 for provision of principle access to site off Bingham road together with internal circulation roads. Provision of landscaping details, including powder coated steel palisade fencing. Submission of details relating to the siting of principal storage building, ancillary utility buildings, two storey office building and external storage yard).

- 9.10 In my opinion, it has been demonstrated that the site is no longer suitable for employment use and is poorly located for such purposes in accordance with Local Plan Policy B1. The loss of employment land is acceptable for these reasons in my opinion. Members will have noted above that the Economic Development Officer does not oppose the proposed development.

### **Visual Impact**

- 9.11 The proposal would result in the removal of the large industrial buildings on the site along with the palisade fencing and its replacement with a less conspicuous residential development that will be set further away from Sheppey Way. I have recommended condition 4 below to secure a large landscape buffer between the dwellings and Sheppey Way in order to ensure the proposal reflects the character of the area which has numerous dwellings set far back from the highway. The impact on the visual amenities of the area and the character and appearance of the streetscene would be acceptable in my opinion.

### **Residential Amenity**

- 9.12 The precise impact on residential amenity arising from the design of the dwellings will be dealt with as part of the subsequent reserved matters application(s) should Members decide to grant outline planning permission. However, in general terms the site is relatively removed from residential dwellings because it is bordered on three sides by non-residential land. The indicative layout shows a number of dwellings that would face out onto the rear gardens of the dwellings at Woodshole Cottages to the south. In my opinion, the site is sufficiently large to enable an appropriate separation distance to be secured between the proposed dwellings and the neighbouring existing residential dwellings and their rear gardens. The 3m easement either side of the gas pipeline which runs along the southern boundary of the application site will act as a no build zone which will further protect the existing properties from any harm. The noise assessment concludes the new dwellings will be exposed to levels of external noise which require some minor noise mitigation measures for living room and bedroom windows on the building elevations facing towards the A249. An appropriate noise mitigation scheme has been recommended and is secured by condition 26 below to protect residential amenity. The proposal would not result in harm to residential amenity and the impact in this regard is acceptable in my opinion.

### **Highways**

- 9.13 It is noted that Kent Highway Services raises no objection to the proposal on highway safety or convenience grounds. The proposal would change the nature of the traffic generated by the site from commercial HGV movement to residential traffic. This can be accommodated by the existing access to the site with appropriate visibility splays available whilst noting access is not being determined at this stage. I have sought the agreement of the applicant to provide the range of improvements to the highway suggested by Kent Highway Services as part of the legal agreement associated with this application if Members decide to grant permission. The size of the site and the number of dwellings proposed will enable the provision of vehicle parking in accordance with Interim Guidance Note 3 to be achieved. I seek delegation to resolve the outstanding highway matters.

### **Other Matters**

- 9.14 The adopted Local Plan demands 30% affordable housing for such proposals. The applicant offers 10% affordable housing based on the emerging Local Plan. I have

asked the applicant to provide 30% with the tenure split and mix suggested by the Council's Housing Officer and SPD regarding developer contributions. I seek delegation to resolve the outstanding affordable housing matters and secure them by appropriate legal agreement.

9.15 The following developer contributions are required;

- KCC Primary Education @ £2360.96 per applicable house (x42) = **£99160.32** towards the Phase 1 of the Regis manor Primary School expansion.
- KCC Secondary Education @ £2359.80 per applicable house (x42) = **£99111.60** towards Phase 1 of the Sittingbourne Community Academy expansion.
- KCC Library bookstock = **£2016.66** project: bookstock for the new residents of this development alone (supplied to Mobile Library service covering Bobbing and the Sittingbourne library).
- KCC Delivery of 1 wheelchair accessible home within the affordable housing on site.
- Greenspaces- a contribution towards off-site play provision is required at £861.80 per dwelling to improve capacity and local facilities = **£36195.60**.
- SBC wheelie bin charge of £75.22 per dwelling totalling = **£3159.24** applies
- Contribution towards strategic level mitigation measures for the Special Protection Area at £223.58 per dwelling = **£9390.36**
- SBC 5% monitoring charge = **£12451.68**
- Total = **£261485.46**

Members will note paragraph 9.17 below: if the open space proposed is adopted by the Council, a 10-year commuted sum will also be payable, and the 5% monitoring fee would need to be adjusted accordingly.

9.16 I have asked the applicant to agree in principle to these contributions and I will confirm the applicants decision to Members at them meeting. I will reconsult Natural England with the applicants agreement to pay for mitigation of the Special Protection Area so that its comments can be changed accordingly. The Special Protection Area contribution will, in part, enable the proposal to be screened out of the requirement for a full appropriate assessment under the habitat regulations. Such mitigation in combination with the on-site ecological enhancements secured by the condition recommended below will ensure that the ecological implications of the proposal are acceptable. KCC Ecology has confirmed that there is no requirement for a preliminary ecological appraisal given the nature of the site and its surroundings.

9.17 The indicative layout shows an area of open space within the centre of the site. Whilst the exact location and design of the open space will be dealt with under the reserved matters, I consider the site capable of accommodating this number of dwellings and the requirement for 10% of the site area to be open space. I have requested clarification from the applicant regarding whether ownership of the open space would be transferred to the Council. If this is the case, a 10 year commuted sum will be required along with contributions towards play equipment all of which will be secured by legal agreement. I seek delegation to resolve these matters.

9.18 Southern Gas Networks objects to the proposal because it appears to infringe on the building proximity distance and easement of the high pressure gas pipeline. I have requested that the applicant amends the indicative layout to show the gas pipeline and easement zone overlaid. No building, garden land or planting not in accordance the named planting technical document can be located within the easement. The Health and Safety Executive raises no objection. Provided these amendments are

received I consider the proposal to be acceptable in relation to safety issues relating to the gas pipeline. I recommend condition 6 below to prevent such development within the easement.

- 9.19 Archaeology matters can be dealt with by condition 7 as suggested by Kent County Council.
- 9.20 The submitted flood risk assessment demonstrates that the risk of flooding to the development is acceptable. I am awaiting the comments of Kent County Council sustainable drainage team and seek delegation to resolve this issue including any design changes it may require. I recommend condition 24 to deal with the general flooding, drainage and waste issues raised by the Environment Agency, Southern Water and Lower Medway Internal Drainage Board.

### **Habitat Regulations Assessment**

- 9.21 This HRA has been undertaken without information provided by the applicant. The application site is located approximately 2km south of the Swale Special Protection Area (SPA) and Ramsar site both of which are European designated sites afforded protection under the Conservation of Habitats and Species Regulations 2010 as amended (the Habitat Regulations). SPAs are protected sites classified in accordance with Article 4 of the EC Birds Directive. They are classified for rare and vulnerable birds and for regularly occurring migratory species. Article 4(4) of the Birds Directive (2009/147/EC) requires Member States to take appropriate steps to avoid pollution or deterioration of habitats or any disturbances affecting the birds, in so far as these would be significant having regard to the objectives of this Article. The proposal therefore has potential to affect said site's features of interest.
- 9.22 In considering the European site interest, Natural England advises the Council that it should have regard to any potential impacts that the proposal may have. Regulations 61 and 62 of the Habitat Regulations require a Habitat Regulations Assessment. NE also advises that the proposal is not necessary for the management of the European sites and not enough information is available to determine whether the likelihood of significant effects can be ruled out. I have since had discussions with Natural England in which it was confirmed that if contributions are secured towards SPA mitigation, significant effects can be ruled out and the proposal can be screened out of a full HRA. It was also confirmed that no on site mitigation is required but that off-site mitigation, as will be secured, is required. Once the applicant has agreed to pay the contribution, I will re-consult Natural England and it will then change its comments to reflect the agreed approach.
- 9.23 In terms of screening for the likelihood of significant effects from the proposal on the SPA features of interest, the following considerations apply:
- The proposal will provide on-site and off-site mitigation against harm to the SPA and Ramsar site. The proposal will provide 10% of the site for open space and a play area. This will help in part to reduce off site recreational pressures. A contribution will also be secured toward enhancement of off-site play areas which will again result in less recreational pressure on the SPA/Ramsar site. I have also sought contributions towards strategic mitigations measures to prevent harm to the designated sites. This money will be allocated towards a range of projects or strategies. These measures will be secured by legal agreement.
  - This proposal is relatively small scale and the impacts of recreational disturbance on the SPA/Ramsar site would be proportional.

9.24 For these reasons, I conclude that the proposal can be screened out of the need to progress to an Appropriate Assessment. I need to consider further the normal Natural England requirement to have the strategic mitigation measures in place prior to occupation of the dwellings proposed.

## 10.0 CONCLUSION

10.01 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.

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

- 1) Details relating to the layout, scale and appearance of the proposed buildings, the access thereto and the landscaping of the site 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 shall include no building within 12m of the application site boundary with Sheppey Way.

Reason: In order to secure an appropriate separation distance between the buildings and Sheppey Way, and to reflect the character of the area.

- 5) The details submitted pursuant to condition 1 shall include biodiversity enhancements and a lighting scheme designed to minimise impact on any bats within the surrounding area in accordance with the Bat Conservation Trust's Bats and Lighting in the UK. The details as agreed shall be implemented in full prior to the first occupation of the development.

Reason: In order to secure biodiversity enhancements and to ensure no harm to commuting/foraging bats in the area and to ensure that such matters are dealt with before development commences.

- 6) The details submitted pursuant to condition 1 shall include no building, residential garden or landscaping (other than that permitted by Southern Gas Networks Tree Planting Guidelines, a copy of which is available on request to Swale Borough Council) within 3m of either side of the high pressure gas pipeline which is located near the southern boundary of the application site.

Reason: To ensure that the development does not result in unacceptable risk to human life and to ensure that such matters are dealt with before development commences.

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

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.

- 8) 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.

- 9) Prior to the commencement of development the following off-site highway works shall have been carried out in accordance with a design and specification to be submitted to and approved in writing with the Local Planning Authority and shall be fully implemented in accordance with the details agreed;
- (i) a footway on the western side of Sheppey Way between the existing bus stop south of the development site and a point level with the site access.
  - (ii) the footway shown on drawing 1083.02B linking the site to the existing footway on the eastern side of Sheppey Way.
  - (iii) street lighting along the length of Bramblefield Lane to provide a continuous facility between the development site and the existing street lighting.
  - (iv) The abandoned northern vehicular access has been permanently stopped up and the kerb/verge reinstated.

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

- 10) 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.

- 11) Prior to the commencement of development 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.

- 12) 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.

- 13) The details submitted in pursuance of condition 1 shall show adequate land reserved for parking in accordance with the Approved County Parking Standards and, upon approval of the details this area shall be provided, surfaced and drained before any building is occupied and shall be retained for the use of the occupiers of, and visitors to, the dwellings. Thereafter, no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order), shall be carried out on the land so shown or in such a position as to preclude vehicular access to the reserved vehicle parking area.

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

- 14) None of the dwellings shall be occupied until space has been laid out within the site in accordance with details to be submitted and approved in writing by the Local Planning Authority for cycles to be securely stored and sheltered.

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 and to ensure that such matters are dealt with before development commences.

- 15) 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 development commences.



- 16) Before the first occupation of a dwelling the following works between that dwelling 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.

- 17) 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) 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.
  - b) 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.

- 18) 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.

- 19) 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.

- 20) 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.

- 21) 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.

- 22) 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.

- 23) 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.

- 24) Prior to the commencement of development details of the measures to be undertaken to protect public sewers throughout demolition and construction; and 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.

- 25) 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.

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

- 26) The details submitted pursuant to condition 1 shall incorporate full details of noise pollution prevention measures including glazing, ventilation and external areas in accordance with paragraphs 4.1 to 4.9 of the submitted MRL Acoustic Noise Impact Assessment report dated March 2014. The measures agreed shall be implemented in full prior to the first occupation of the dwelling concerned and shall subsequently be maintained.

Reason: In order to prevent harmful noise pollution for the future residents of the development and to ensure that such matters are dealt with before development commences.

- 27) The details submitted pursuant to condition 1 shall provide 10% of the application site area as public open space which shall include a play space to be surfaced and equipped with play equipment, in accordance with a schedule agreed by the Local Planning Authority before development is commenced and shall be provided before the first dwelling is occupied; no permanent development whether permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 or not shall be carried out in the areas so shown without the prior written approval of the Local Planning Authority.

Reason: To ensure that these areas are made available in the interests of the residential amenities of the area and to ensure that such matters are dealt with before development commences.

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 changes required to the application and these were agreed.

The applicant/agent was provided formal pre-application advice.

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

## INFORMATIVES

KCC wishes to make the applicant aware that Superfast Fibre Optic Broadband 'fibre to the premises' should be provided to each dwelling of adequate capacity (internal minimum speed of 100mb) for current and future use of the buildings.

The applicants attention is drawn to the content of the letter dated 29/1/15 from Southern Gas Networks (available on the Council's public access system) which provides general guidance and a list of restrictions that must be adhered to when developing near to the adjacent high pressure gas pipeline. It is considered essential that the applicant fully takes account of the content of this letter prior to commencing development.

Southern Water wishes to make the applicant aware that they should enter into a formal agreement with Southern Water to provide the necessary sewerage infrastructure and water supply required to service this 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) .

Kent Highway Services wishes to make the applicant aware of the following. 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.

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.

**PLANNING COMMITTEE – 13 AUGUST 2015**

**PART 3**

Report of the Head of Planning

**PART 3**

Applications for which **REFUSAL** is recommended

<b>3.1 REFERENCE NO - 15/503258/FULL</b>		
<b>APPLICATION PROPOSAL</b>		
Partial demolition of existing dwelling house and demolition of outbuilding to facilitate two-storey side and single-storey rear extensions, and construction of a double garage		
<b>ADDRESS</b> Brickfield House Seasalter Road Graveney Kent ME13 9DY		
<b>RECOMMENDATION - Refuse</b>		
<b>SUMMARY OF REASONS FOR REFUSAL</b>		
This proposed extension is not considered to be modest in scale and impact on the character of the dwelling and on the character of the countryside.		
<b>REASON FOR REFERRAL TO COMMITTEE</b>		
Recommendation contrary to Parish Council view		
<b>WARD</b> Boughton & Courtenay	<b>PARISH/TOWN COUNCIL</b> Graveney & Goodnestone	<b>APPLICANT</b> Mr Matthew French <b>AGENT</b> Diocesan Architects
<b>DECISION DUE DATE</b> 02/07/15	<b>PUBLICITY EXPIRY DATE</b> 13/05/15	

**1.0 DESCRIPTION OF SITE**

1.01 Brickfield House is a detached property immediately abutting Seasalter Road which makes it very prominent in the streetscene. There is a separate very dilapidated outbuilding set back from main property which now has a replacement flat roof, and which sits on the boundary of the adjoining property, Marsh View. The property is located within the countryside, in Seasalter Road near the junction with Monksill Road. There is open land to the side and opposite the property.

**2.0 PROPOSAL**

2.01 The proposal seeks permission for partial demolition of the existing dwelling house and demolition of the outbuilding to facilitate a two-storey and single-storey rear extensions, and construction of a double garage.

- 2.02 The overall proposed extensions to the main dwelling, would measure approximately 7.5m wide and approximately 8.2m deep. The original dwelling is approximately 9.2m wide and 8.2m deep with a single storey porch beyond. The proposal would reconfigure the ground floor to provide a utility room, reposition the bathroom and an enlarged kitchen. The first floor would be extended or provide an additional bedroom with en-suite and bathroom. In extended for the property would then have overall dimensions of 14.3m by 9.8m. The extensions would have a ridge height only slightly less than that of the main ridge, but would extend the length of the main ridgeline from 6.8m to 14.3m. The extension would be largely clad in black weatherboarding over red brick whereas the existing property is faced in white render over red brick. New roof ties would match the existing but the new roof would feature a very wide flat roofed dormer window on the prominent roadside elevation.
- 2.03 The proposed garage building, with roof space, would replace the existing flat roofed single storey outbuilding. This would measure approximately 10m wide x 6m deep. The roof space would be accessed by an external staircase situated at the rear of the building. Five roof lights are proposed in the roof – three to the front and two on the rear slope, along with a pitched roof porch providing access from the stairway.
- 2.04 The garage building would be positioned in the same location as that of the existing – close to the boundary with Marsh View.
- 2.05 The applicant points out that the overall net floorspace of the extension represents an increase is 54%, but fails to mention that at pre-application stage advice was given that despite this the extension appeared large and would benefit from being reduced in size. UPVC windows are to be replaced with timber units.

### 3.0 SUMMARY INFORMATION

EXTENSION TO DWELLING	Existing	Proposed	Change (+/-)
Approximate Ridge Height (m)	7.7	7.3 – 7.7	0
Approximate Eaves Height (m)	1.9 - 5	1.9 - 5	0
Approximate Depth (m)	10.8	9.8	- 1
Approximate Width (m)	9.2	14.3	+ 5.1
No. of Storeys	2	2	0
Net Floor Area (sq m)	149.71	229.98	+ 80.27

REPLACEMENT GARAGE	Existing	Proposed	Change (+/-)
Approximate Height (m)	3.2	5.8	+ 2.6
Approximate Depth (m)	5	6	+ 1
Approximate Width (m)	10	10	0



#### **4.0 PLANNING CONSTRAINTS**

4.01 Potential Archaeological Importance

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

5.01 The National Planning Policy Framework (NPPF) and the National Planning Practice Guidance (NPPG) are relevant in terms of encouraging good design standards and minimising the potential impacts of any development upon the amenity of neighbouring residents.

5.02 The Council's adopted Supplementary Planning Guidance (SPG) entitled "Designing an Extension" is also relevant, and provides general design guidance. The SPG remains a material consideration, having been through a formal review and adoption process. This gives advice on scale and on the design of dormer windows.

5.03 The adopted Swale Borough Local Plan 2008 echoes a similar sentiment, and policies E1 (General Development Criteria); E6 (Countryside); E19 (Design); E24 (Alterations and Extensions) in particular encourage the provision of high-quality development and minimising potential amenity impacts for local residents. Policy RC4 (Extensions to dwellings in rural areas), aims to restrict development within the countryside and recommends that extensions to rural properties are modest. It refers to the SPG (see above) which states at paragraph 3.3 that in the countryside scale is of particular importance, that the Council do not normally approve extensions which increase the floor space of the original property by more than 60% in total, and that "In many cases even extensions of this size are not acceptable".

5.04 The publication draft of the emerging Local Plan, entitled Bearing Fruits 2031, was agreed by Members at Full Council late last year and, as such, carries some weight in the determination of planning applications. Policies DM11 (extensions to, and replacement of, dwellings in the rural area) and DM14 (general development criteria) are relevant in this instance.

#### **6.0 LOCAL REPRESENTATIONS**

6.01 One letter of support has been received, from the neighbouring property, commenting the changes would improve the general appearance of the property especially the outbuilding which at present is an eyesore. The application would enhance the rural region generally.

#### **7.0 CONSULTATIONS**

7.01 Graveney Parish Council objects to the proposed garage, in particular its height and it being a 3 bay garage; the proximity of the garage to the neighbouring property at Marsh View, and it possibly extending beyond the boundary of Brickfield House. They also expressed concern over the potential future use of the garage, given the large scale and possibility of its

conversion to residential use. They conclude by supporting the extensions to the main dwelling, but object to the garage development.

7.02 The County Archaeological Officer raises no objection to the application, saying that no archaeological measures are required

7.03 Kent Highways raise no objection

## **8.0 BACKGROUND PAPERS AND PLANS**

8.1 Application papers and drawings referring to the application reference 15/503258/FULL

## **9.0 APPRAISAL**

9.01 The main issue for concern in this case is the modesty and scale of the proposed development due to the location in the countryside. Also of consideration is the design, impact on neighbouring amenity and highway safety/convenience.

9.02 Council policy resists large extensions on small cottages in the countryside, and seeks modest additions to enhance the character and appearance of the property and visual amenity. The proposed development is of such a scale and mass that it would create a large property at odds with its current simple appearance and causing harm to visual and residential amenity.

9.03 Adopted Council guidance, as stated in the SPG “Designing an Extension: A Guide for Householders” states: *“In the countryside, scale is of particular importance, in rural areas, policies are designed to maintain their attractive character and the extension of a small cottage to create a large house will normally be resisted. The Council will not normally approve an extension to a dwelling in a rural area if it results in an increase of more than 60% of the property’s original floorspace. In many cases even extensions of this size are not acceptable.”*

9.04 This proposed extension is an increase of approximately 54% floorspace from the original dwelling. However, SPG makes clear the increase in floorspace is only one consideration when assessing modesty. In this case, the rural dwelling would visually be doubled in width (appearing much more than a 60% increase) significantly altering the simple modest nature of this property. Therefore, the bulk, scale and design of the proposal is not modest and will result in significant harm to the character of the property and the streetscene.

9.05 Whilst the proposed garage/outbuilding would be located very close to the shared boundary with the neighbouring property, it would result in a much improved design to the existing outbuilding. I note it would be higher and slightly bigger than existing, however, I do not consider this would result in any significant harm to neighbouring amenity. The current building is currently extremely unattractive and the garage block proposed is not of an unusual

nature for a rural property. I believe that will enhance the appearance of the area.

- 9.06 With regards to highway safety/convenience, the proposal provides ample space for parking utilizing the existing access.

## **10.0 CONCLUSION**

10.01 I do not consider that the proposed extension to Brickfield House is of a modest nature in terms of design, due to the size, bulk and scale. The impact of the proposed extension fronting the highway would dominate this part of Seasalter Road, creating an elevation measuring 14.3m, out of scale with a modest extension to the existing cottage. The length of the ridgeline would also cause an adverse effect on the visual amenities of this countryside location, creating a roofline measuring over 14m, over double that which exists now. I consider this increase to be unacceptable and I recommend that that planning permission be refused.

10.02 The proposed garage building would be a welcome development. The current building is in a very poor state of repair and the planned replacement building proposed would be of a design to match that of the original building with a pitched roof. The size and location of this building would not have a detrimental impact of the residential amenities of the area.

**11.0 RECOMMENDATION** – Refuse for the following reasons:

### **REASONS**

1. The proposed extension would be of a poor design, resulting in a considerable visual increase in bulk and scale, doubling the width of this rural dwelling resulting in an immodest extension. As such, the proposal would be detrimental to the character and appearance of the dwelling and the street scene, contrary to policies E1, E6, E19, E24 and RC4 of the Swale Borough Local Plan, and to paragraph 3.3 of the Council's adopted Supplementary Planning Guidance entitled "Designing an Extension – A guide for householders".

### **Council's Approach to 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 applied for pre-application advice, this was given advising to reduce the scale and impact of the proposal, not all issues were addressed with this 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.

<b>3.2 REFERENCE NO - 15/504208/FULL</b>		
<b>APPLICATION PROPOSAL</b> New dwelling		
<b>ADDRESS</b> Land To Rear Of 143 Minster Road Minster-on-Sea Kent ME12 3LJ		
<b>RECOMMENDATION</b> Refuse		
<b>SUMMARY OF REASONS FOR RECOMMENDATION/REASONS FOR REFUSAL</b> The dwelling would have a very small area of private amenity space that would be overlooked by 143 Minster Road and would appear cramped within the plot. This would amount to an overdevelopment of the site.		
<b>REASON FOR REFERRAL TO COMMITTEE</b> Parish Council support		
<b>WARD</b> Sheppey Central	<b>PARISH/TOWN</b> Minster	<b>COUNCIL</b>
		<b>APPLICANT</b> Mrs D Davie <b>AGENT</b> Nigels Sands And Associates
<b>DECISION DUE DATE</b> 30/07/15	<b>PUBLICITY EXPIRY DATE</b> 30/07/15	<b>OFFICER SITE VISIT DATE</b> 16/05/15

**MAIN REPORT**

**1.0 DESCRIPTION OF SITE**

1.01 The application site forms part of the rear garden of 143 Minster Road and is 220 sq m in area. 143 Minster Road is a detached two storey dwelling on the corner of Minster Road and Parsonage Chase. The ground level that the dwelling would sit on is higher than the existing dwelling by approximately 1.5m. There is a medium sized tree in the rear garden that would have to be removed as part of this proposal. The residents of 143 Minster Road currently use the land that would be covered by the proposed new dwelling as a parking area and there is a large area of concrete hardstanding provided. The boundary treatment along Parsonage Chase comprises of a 1.8m high close boarded fence.

**2.0 PROPOSAL**

2.01 The proposal is to use the end of the rear garden of 143 Minster Road to site a one bedroom dwelling. This would have a pitched roof and would be 'L' shaped. Access to this property would be from Parsonage Chase. One parking space would be provided to the side of the new property and two new parking spaces for the existing property (no 143) would be provided adjacent to this. A new vehicular access would be required.

2.02 As a result of the proposed development, No. 143 Minster Road would be left with a rear garden depth of 9m. The proposed new dwelling would have a garden area to the side approximately 40 sq m in area.

**3.0 PLANNING CONSTRAINTS**

3.01 None

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

- 4.01 The National Planning Policy Framework (NPPF) and National Planning Practice Guidance (NPPG).
- 4.02 Swale Borough Local Plan 2008: Policies E1 (general development criteria), E19 (high quality design), H2 (new houses) & T3 (Vehicle parking)

#### **5.0 LOCAL REPRESENTATIONS**

- 5.01 One letter of objection has been received from a local resident. They are concerned that this would be an overdevelopment of the site leading to an adverse impact on the character of the area. They are also concerned about the provision of a new dropped kerb which would remove on-street parking along Parsonage Chase which becomes congested at school drop-off and pick-up times.

#### **6.0 CONSULTATIONS**

- 6.01 Minster-on-Sea Parish Council support the application. They do not provide any further comment on why they support it but I am hoping to get clarification before the meeting so that I can update Members.
- 6.02 Southern Water do not object but require a formal application by the applicant for connection to the public foul sewer. They note that there is a communications pipe within the site and recommend that Building Control is consulted on the adequacy of the soakaway.
- 6.03 Environmental Services have no objection but recommend a condition to control the hours of construction.

#### **7.0 BACKGROUND PAPERS AND PLANS**

- 7.01 Drawing entitled "Proposed scheme 2 for new bungalow."

#### **8.0 APPRAISAL**

##### **Principle of Development**

- 8.01 It should be noted that the principle of the development of a new dwelling within the built-up area of Minster-on-Sea would be acceptable under planning policy H2 of the Swale Borough Local Plan 2008.

##### **Residential Amenity/Visual Impact**

- 8.02 The proposal would provide a small dwelling on a small plot. Whilst I acknowledge that the architect has sought to ensure that the proposed dwelling is provided with an adequate outlook by the careful positioning of windows and rooms and has also provided a small area of amenity space to the side, I still consider that the proposal represents an overdevelopment of the site. The dwelling and parking area and small area of amenity space would look cramped within the plot and in this respect I consider that the proposal would be detrimental to the visual amenities of the area and its character. Properties in the surrounding area are generally well-spaced with garden areas that can normally be described as providing a reasonable amount of good quality private space. The proposed dwelling would be built right up against the northern and eastern boundaries of the site and the garden area would be small and

overlooked. The first floor rear windows within no. 143 Minster Road and also potentially 145 Minster Road would have views of the garden to the proposed dwelling which I consider to be a particularly important space given the limited room within the plot. Future residents of the proposed dwelling would rely significantly on this amenity space given the limited room within the site and the bungalow itself. The garden area itself is limited in size and the fact that it would also be overlooked amounts to a poor quality living environment for future residents in my view. The provision of a row of three parking spaces fronting Parsonage Chase would also add to the cramped appearance of the development. I therefore consider that the application should be refused on this basis.

- 8.04 I have no concerns in respect of the impact of this property on the amenities of 145 Minster Road or no. 3 Parsonage Chase due to its size and position.

### **Highways**

- 8.05 The proposal would provide an adequate amount of parking for the existing and proposed dwelling. I note the concerns of the neighbour regarding the loss of on-street parking but also note that there are existing dropped kerbs adjacent to 143 Minster Road that would not be used should the development be approved. In this case, a suitably worded condition could be imposed to ensure that the kerbs are reinstated prior to the new kerb being installed. I therefore have no concerns in respect of highway safety/amenity.

## **9.0 CONCLUSION**

- 9.01 Having considered the comments from the Parish Council, local resident, consultees and the relevant planning policies, I am of the view that this development would appear cramped within the site and constitutes an overdevelopment in relation to the size of the plot. The amenity space provided for the new dwelling would be of poor quality being small and overlooked. This would be detrimental to the residential amenities of the future residents of the proposed dwelling in my view. I have no concerns in respect of highway safety/amenity.

## **10.0 RECOMMENDATION – REFUSE for the following reasons:**

1. The proposed new dwelling, by virtue of its size within the plot, location of parking spaces and poor quality amenity space which would be overlooked by 143 and 145 Minster Road, would amount to an overdevelopment of the site having a detrimental impact on the visual amenities and character of the surrounding area as well as being detrimental to the residential amenities of the future occupants of the dwelling. The proposal would therefore be contrary to Policies E1 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 to be fundamentally contrary to the provisions of the Development Plan and the NPPF, and these were not considered to be any solutions to resolve this conflict.

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.



<b>3.3 REFERENCE NO - 15/500815/OUT</b>			
<b>APPLICATION PROPOSAL</b>			
Outline (Access not reserved) - Two-storey detached three-bedroom dwelling and new single-storey pitched roof double garage			
<b>ADDRESS</b> 48 Keycol Hill Bobbing Kent ME9 8ND			
<b>RECOMMENDATION - REFUSAL</b>			
<b>SUMMARY OF REASONS FOR RECOMMENDATION/REASONS FOR REFUSAL</b>			
The application is outside the designated settlement boundary and therefore constructing an additional dwelling in the countryside is contrary to the development plan.			
<b>REASON FOR REFERRAL TO COMMITTEE</b>			
At the request of Councillor Stokes			
<b>WARD</b> Grove Ward	<b>PARISH/TOWN</b> Bobbing	<b>COUNCIL</b>	<b>APPLICANT</b> Mr And Mrs D Blythe <b>AGENT</b> Alpha Design Studio Limited
<b>DECISION DUE DATE</b> 06/04/15	<b>PUBLICITY EXPIRY DATE</b> 22/04/15		
<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/07/1036	New dwelling.	Withdrawn by Applicant	25.10.2007
SW/08/0080	New dwelling within the curtilage	Refused	17.03.2008
Proposal would result in the provision of an additional dwelling in a rural location, outside the defined built-up area boundary of Sittingbourne. Insufficient level of turning space and car parking provision, likely to result in harm to the safety and convenience of road users			

**MAIN REPORT**

**1.0 DESCRIPTION OF SITE**

1.01 The application site lies outside of any defined built up area boundary and is therefore within the countryside. The site lies within a small residential cluster, approximately 0.2miles west of the A249. The site is approximately 0.19ha and is bound by the A2 Keycol Hill to the south, residential units to the east and west and agricultural land to the north.

- 1.02 The existing buildings on site are set back from the road, with an area of soft landscaping separating the site and the A2 Keycol Hill. The existing site comprises of a triple garage, an additional single garage and an indoor swimming pool. The land to the west of the development site is also owned by the applicant and comprises a 3 bedroom bungalow with associated outbuildings. Additional residential buildings exist to the west and south of the development site – a chalet bungalow to the northeast, a pair of semi-detached two storey houses fronting Keycol Hill, and to the west as number of two storey dwellings.
- 1.03 Access to the existing dwelling is shared with the neighbouring houses nos 44 and 46 Keycol Hill.
- 1.04 Keycol Hill is made up of detached and semi detached houses, the majority of which are set back from the street, with existing front driveways.

## **2.0 PROPOSAL**

- 2.01 This is an outline application with all matters reserved except access, for the demolition of the existing triple garage, and the erection of a two storey detached three bedroom dwelling and a new single storey pitched roof double garage.
- 2.02 The development proposal is within the curtilage of No. 48 Keycol Hill. Indicative drawings show an L-shaped dwelling, located between the existing dwelling and the existing swimming pool. Two parking spaces are shown.
- 2.03 The existing vehicular access off Keycol Hill is to be used for the proposed development.

## **3.0 PLANNING CONSTRAINTS**

- 3.01 The site is located outside the built up area of Sittingbourne/Bobbing.

## **4.0 POLICY AND OTHER CONSIDERATIONS**

SH1, E1, E6, T1, T3 of the Swale Borough Council Local Plan 2008

CP3, DM7, DM9, DM14 of the Publication Draft of “Bearing Fruits 2031” – The Swale Borough Local Plan Part 1

## **5.0 LOCAL REPRESENTATIONS**

- 5.01 Two local letters of objection have been received. Their comment can be summarised as follows:
- provision of an additional dwelling in a rural location, outside the defined built-up area boundary of Sittingbourne. The development is therefore contrary to policy

- the proposed development, by virtue of the insufficient level of turning space and car parking envisaged, would be likely to result in harm to the safety and convenience of road users.
- Additional pressure on the existing access and shared driveway
- Privacy issues with neighbouring properties.

5.02 Councillor Stokes has requested that the application be reported to the Planning Committee.

## **6.0 CONSULTATIONS**

6.01 Kent County Council Highway Services consider that the existing access is not currently suitable to accommodate the level and traffic using it at present, and ask that the proposal includes the provision to widen the access so that 4.8m width is available for a minimum of 10m from the carriageway edge. This would allow 2 vehicles to pass one another at the entrance.

6.02 Bobbing Parish Council had no comment with regard to the application.

## **7.0 BACKGROUND PAPERS AND PLANS**

7.01 Application papers and correspondence relating to planning reference 15/500815/OUT

## **8.0 APPRAISAL**

8.01 The key issues with regard to the application are the

### **Principle of Development**

8.02 The proposed development would result in the provision of an additional dwelling in a rural area, outside the defined built-up area boundary of Sittingbourne. The development is therefore unacceptable as a matter of principle, contrary to the objective of protecting the countryside for its own sake.

### **Visual Amenity**

8.03 The application site is set at a higher level than the adjacent highway, and the proposed dwelling (notwithstanding that it would replace an existing garage) would be prominent in the streetscene, despite being set back from the highway. The proposal is for a two storey dwelling, which would sit adjacent to a bungalow. There are two storey dwellings abutting Keycol Hill to the south west of the site, a chalet bungalow to the north east, and two storey dwellings further afield to the west. Nonetheless, a two storey dwelling here would in my view contrast markedly with the existing bungalow, (the immediate context in which it would be seen). The site retains an open character, and in my view the introduction of two-storey development would cause the loss of this, and would harm the current openness of the streetscene such that planning permission should be refused.

## Highways

- 8.04 Kent Highway Services object to the application as submitted. The current access is not considered to be suitable to accommodate the level of traffic using it at present. It is expected to be wide enough for 2 vehicles to pass one another at the entrance so it does not become obstructed and interrupt the free flow traffic on the A2. The introduction of a further dwelling will increase the likelihood of this occurring, unless the access is improved to allow sufficient movement. The provision of a wider access (4.8m width for a minimum of 10m from the carriageway edge) would allow greater movement of vehicles and reduce the impact on the existing access and the A2.
- 8.05 The widening of the access could be the subject of amended plans. However – as the development is unacceptable as a matter of principle, I have not sought such amendments.

## Residential Amenity

- 8.06 Whilst all matters are reserved except for access, I have had regard to the impact that a new dwelling here could have on residential amenity. In my view, the site could accommodate a dwelling without giving rise to significant overshadowing or overlooking. In addition, the indicative plan shows that, with a two storey dwelling, an adequate provision of private amenity space for the occupiers of such a dwelling could be provided.

## 9.0 CONCLUSION

- 9.01 The proposed dwelling would harm the visual amenities of the area and would fail to protect the countryside for its own sake. In addition, the intensification of the use of the access would give rise to harm to the safety and convenience of all users of the highway. The scheme is unacceptable and I therefore recommend that planning permission be refused.

## 10.0 RECOMMENDATION – REFUSE for the following reasons:

- 1) The site lies outside the built up area of Sittingbourne, as defined in the Swale Borough Local Plan 2008. Residential development in such areas is unacceptable in principle, and the proposed development would be contrary to Policies SH1, E1, E6 and H2 of the Swale Borough Local Plan 2008.
- 2) The development of the site with a two storey dwelling would give rise to a harmful loss of openness, detrimental to the character and appearance of the streetscene and the countryside, contrary to Policies E1, E6 and E19 of the Swale Borough Local Plan 2008.
- 3) Access to the site would be taken from Keycol Hill (the A2). The existing access is not capable of supporting the use of a further dwelling, and the proposed development would be likely to give rise to vehicles either waiting

on the highway or reversing onto it, harmful to the safety and convenience of all users of the highway, and contrary to Policies E1 and T1 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 to be fundamentally contrary to the provisions of the Development Plan and the NPPF, and these were not considered to be any solutions to resolve this conflict.

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

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<b>3.4 REFERENCE NO - 15/503038/FULL</b>			
<b>APPLICATION PROPOSAL</b> Change of use from A1 and C3 use to C3 use only.			
<b>ADDRESS</b> 75 High Street Milton Regis Sittingbourne Kent ME10 2AR			
<b>RECOMMENDATION - REFUSAL</b>			
<b>SUMMARY OF REASONS FOR RECOMMENDATION/REASONS FOR REFUSAL</b> The proposal fails to provide sufficient marketing information to demonstrate that there is no demand for the retention of the shop in retail use, or that of another service or facility. In the absence of such information, the proposed use would fail to maintain the vitality and viability of High Street, contrary to Policy B3 of the Swale Borough Council Local Plan 2008.			
<b>REASON FOR REFERRAL TO COMMITTEE</b> At the request of Councillor Clark			
<b>WARD</b> Milton Regis	<b>PARISH/TOWN COUNCIL</b>	<b>APPLICANT</b> Mr John Stephens <b>AGENT</b> CJS Design Services	
<b>DECISION DUE DATE</b> 25/06/15	<b>PUBLICITY EXPIRY DATE</b> 12/05/15		
<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/14/0245	Change of use from commercial premises previously a Post Office to residential use	Refused	22/04/2015
Reason for refusal: The proposal fails to provide sufficient marketing information to demonstrate that there is no demand for the retention of the shop in retail use. In the absence of such information, the proposed use would fail to maintain the vitality and viability of High Street, contrary to Policy B3 of the Swale Borough Council Local Plan 2008.			
SW/14/0245 (APP/V2255/A/1 4/2219483)	Appeal made against above refusal to grant planning permission	Appeal is dismissed	07/08/2015
Appeal dismissed - The 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.			

## MAIN REPORT

### 1.0 DESCRIPTION OF SITE

- 1.01 The application site is within central Milton Regis, located on the High Street within the commercial centre. The site is bound by retail units to the north and south, the High Street to the east and Cortland Mews to the west. The site currently comprises a vacant shop unit, previously used as a Post office, and associated residential accommodation to the rear and the upper floors. Neighbouring properties are made up of retail and other commercial units.
- 1.02 The application site relates specifically to the ground floor of a three storey Grade II Listed Building, first listed in 1951. The building is one of a number of listed buildings on the High Street. The High Street and surrounding area are within a designated Conservation Area.

### 2.0 PROPOSAL

- 2.01 This planning application is for a change of use from Class A1 and C3 use to C3 use only. The development site currently consists of retail space, formally used as a Post Office, on the front half of the ground floor, with residential accommodation to the rear and upper floors. The proposal would convert the commercial floor space into residential use integrated with the remainder of the property.
- 2.02 The existing commercial space would be converted into a living room area, with the existing residential accommodation remaining the same. The application is not proposing to make any structural or external alterations.
- 2.03 The previous proposal (SW/14/0245) was for the Change of use from commercial premises previously a Post Office to residential use. The previous application was very similar to the current planning application and was refused permission for the following reason:

*“The proposal fails to provide sufficient marketing information to demonstrate that there is no demand for the retention of the shop in retail use. In the absence of such information, the proposed use would fail to maintain the vitality and viability of High Street, contrary to Policy B3 of the Swale Borough Council Local Plan 2008.”*

- 2.04 The refusal was subsequently appealed (a copy of the appeal decision is appended to this report). The appeal was dismissed on the grounds 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.
- 2.05 The Design and Access Statement submitted with the current application seeks to address the points made in the Council’s reasons for refusal and the Inspector’s appeal decision, and is accompanied by a number of letters and emails from estate agents and a planning agent.



### **3.0 PLANNING CONSTRAINTS**

- 3.01 The site is located in the Milton Regis High Street conservation area, and the building is Grade II Listed.

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

Policies E1, E14, E15, B3 and C1 of the Swale Borough Local Plan 2008.

In particular, Policy B3 sets criteria for change of use of retail premises outside core and secondary shopping areas. Planning permission will be granted if it:

- a. is demonstrated by market testing that there is insufficient demand to justify the retention of the unit in retail use;
- b. is demonstrated by market testing that another service or facility, not currently provided in the locality, cannot be provided from the unit;
- c. does not result in the loss of existing residential accommodation or a use important to the community; and
- d. does not lead to a loss of residential amenity.

### **5.0 LOCAL REPRESENTATIONS**

- 5.01 Councillor Clark has requested that the application be reported to the Planning Committee, commenting that new evidence has been submitted, and the application should be considered by Members. He believes that the applicant has a right to have a fair and impartial hearing, and suggests that the application should therefore be considered not by officers but by Members, who all have an interest in the Swale Area to promote all our High Streets.

### **6.0 CONSULTATIONS**

- 6.01 The Environmental Services Manager does not raise objection

### **7.0 BACKGROUND PAPERS AND PLANS**

- 7.01 Application papers and correspondence relating to planning applications 15/503038/FULL and SW/14/0245, and appeal reference APP/V2255/A/14/2219483

### **8.0 APPRAISAL**

- 8.01 The proposed use would not give rise to harm to the special character of the listed building, and would have a neutral impact on the conservation area. There would be no significant highway impacts, and I do not envisage harm to residential amenity. The key issue for Members to consider is whether the change of use is acceptable, having regard to Policy B3 of the Swale Borough Local Plan 2008, and whether sufficient information has been submitted to

address the previous reason for refusal and the appeal decision. In order to do so it must be demonstrated that the proposed change of use would not result in material harm to the vitality and viability of Milton Regis High Street. Failing this, it must be demonstrated that there is a lack of demand for either the retention of the retail use or that of another service facility and that the premises have been properly marketed, attracting little or no interest.

8.02 In the appeal decision, at paragraph 8, the Inspector states that

*“The appeal [site] 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 was 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.”*

No information has been submitted with the application which seeks to demonstrate that this is no longer the case. In my view the Inspector’s comments on this matter are wholly correct. The loss of this retail unit would harm the vitality and viability of Milton High Street, in a harmful manner.

8.03 At paragraph 6 of the appeal decision, the Inspector effectively discounts the marketing carried out prior to August last year. In particular, he concludes that the preceding marketing either related to use only as a post office, or for use as a dwelling (which of course did not have planning permission and in any case does not demonstrate a lack of demand for possible commercial use(s).) I will therefore concentrate solely on the evidence of marketing since the appeal decision, and whether it is considered adequate.

8.03 The application is accompanied by letters from various estate agents, including commercial estate agents, with their comments as follows:

Apex Business Sales – Property not marketed with this firm.

Ashley Tate Ltd – Property not marketed with this firm

Bairstow Eves – The property is currently marketed with this firm, who state that they have yet to secure a viewing. It is however disappointing to note that the current marketing of the property again describes the site as a four bedroom house, and that although reference is made to the commercial use of the retail area, it is not apparently marketed as a commercial/residential premises. An example of this is that, on “Rightmove” it is available to view under residential property for sale, being described as a house, but not under commercial property for sale.

Humberstones – Property marketed with this firm in 2009, but not since.

Ward and Partners – Property marketed with this firm in 2013-2014. Marketed as a dwelling only.

- 8.04 Of the above, all but Bairstow Eves and Ward and Partners refer to the difficulty of attracting a purchaser given the scale of residential use within the property, compared to the commercial floorspace. They also refer to the potential difficulty of purchasers to obtain a mortgage or loan on either or part of the premises. I do not consider the estate agents advice as appropriate evidence of an inability to obtain a mortgage or loan. For the applicant to properly address this issue they should in my view provide evidence from banks, buildings societies or commercial lenders.
- 8.05 Whilst I give the content of the letters some weight, I do not consider them to be determinative here - I note that the letters from Apex and Ashley Tate are based simply on telephone conversations with the applicant, and not a proper appraisal of the premises nor the local market. No such appraisal has been submitted, and the property is currently marketed as a 4 bedroom house.
- 8.06 Given the above, I can only conclude that it has not been adequately demonstrated by market testing that there is insufficient demand to justify the retention of the unit in retail use. No market testing has been carried out. The proposal therefore fails to meet criterion (a) of Policy B3 of the Local Plan as set out above.
- 8.07 No evidence has been submitted to demonstrate, by market testing or otherwise, that another service or facility, not currently provided in the locality, could not be provided from the unit. The proposal therefore fails to meet criterion (b) of Policy B3 as set out above.
- 8.08 The applicant has provided additional information with regard to historic land uses on site. "Originally a residential dwelling. At some point in the mid 20th century the then owner/occupier converted a ground floor front room for use as a retail shop. This was later converted to use as a Sub-Post Office by the present owner/occupier who became the sub-postmaster." Whilst I note that the shopfront is comparatively modern, this application does not seek to replace it (this would require planning permission and listed building consent) and the continued use of the shop for retail or other commercial uses without any alterations would not harm the character of the listed building.

## **9.0 CONCLUSION**

- 9.01 In common with the Planning Inspector who assessed the loss of this unit for commercial purposes last year, I am firmly of the view that the proposed change of use would harm the vitality and viability of Milton Regis High Street. The information submitted with the application is insufficient to demonstrate compliance with Policy B3 of the Local Plan.

9.02 In view of the harm identified, and the lack of information submitted demonstrating that the property is unsuitable for retention for commercial uses, I recommend that planning permission be refused.

**11.0 RECOMMENDATION –REFUSE** for the following reasons:

- (1) The proposal fails to provide sufficient marketing information to demonstrate that there is no demand for the retention of the shop in retail use, or that of another service or facility. In the absence of such information, the proposed use would fail to maintain the vitality and viability of High Street, contrary to Policy B3 of the Swale Borough Council Local Plan 2008.

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

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

## APPENDIX A



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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.
- 

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

**APPENDIX A**

Appeal Decision APP/V2255/A/14/2219483

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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

<b>3.5 REFERENCE NO - 15/500671/OUT</b>			
<b>APPLICATION PROPOSAL</b>			
Outline application for residential development of up to 330 dwellings plus 60 units of extra care (including a minimum of 30% affordable), an allocated 1/4 acre of serviced land for potential doctors surgery, demolition of farm outbuildings, planting and landscaping, informal open space, children's play area, surface water attenuation, a vehicular access point from London Road and associated ancillary works. (Access being sought)			
<b>ADDRESS</b> Land Off London Road Newington Kent			
<b>RECOMMENDATION</b> This application is the subject of a planning appeal. As such this application will not be determined by 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 FOR REFUSAL</b>			
The proposal will not represent sustainable development, it will have a major adverse impact within the open countryside outside a defined built-up area, it will result in the significant loss of an area of the best and most versatile agricultural land, it will result in an adverse impact upon the free flow of traffic on the A2, together with the local road network, it will cause increased air pollution from increased vehicle emissions, inconsistent with the Newington AQMA, it will result in the loss of a group of listed farm buildings, which are an integral part of a Grade II listed farmhouse and it will cause the sterilization of economically important minerals,			
<b>REASON FOR REFERRAL TO COMMITTEE</b>			
The large number of objections which have been received from local residents, the Local Parish Councils and elected Members to these Significant proposals.			
<b>WARD</b> Hartlip, Newington & Upchurch	<b>PARISH/TOWN</b> Newington	<b>COUNCIL</b>	<b>APPLICANT</b> Gladman Developments <b>AGENT</b>
<b>DECISION DUE DATE</b> 15/05/15	<b>PUBLICITY EXPIRY DATE</b> 15/05/15	<b>OFFICER SITE VISIT DATE</b> 03/03/15	
<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>
15/500694/LBC	Listed Building Consent for the demolition of redundant farm buildings to the listed Pond Farmhouse, in association with outline application for residential development under 15/500671/OUT	Refused	08/05/15
<i>Summarise Reasons</i> The listed buildings are within the curtilage of a Grade II listed farmhouse and are an integral part of the rural setting of the listed building.			
14/502978/ENVS CR	EIA Screening opinion – Residential development of up to 300 dwellings and associated access from London Road	EIA Not required	November 2014
<i>Summarise Reasons</i> The housing development would be compatible environmentally with the adjoining housing development in the village of Newington.			

**MAIN REPORT**

**BACKGROUND**

An appeal against the non-determination of the application has been lodged by the applicants. As a result it is important for the Members of the Committee to pass a resolution to refuse the application and state the reasons for refusal which would have been used if the application was within the jurisdiction of the Council to determine. The starting date for the appeals is 29 July 2015

## 1.0 DESCRIPTION OF SITE

- 1.01 The site consists of an area of open farmland, which has been cultivated for a number of fruit farm orchards on land to the south of London Road, A2 and immediately to the west of the village of Newington. The site includes a group of two storey redundant agricultural buildings which are situated immediately to the south of Pond Farm House, a Grade II listed building, which is sited to the south of London Road (A2) but just outside the application site. The farm buildings are sited to the north of an area of orchards which are part of a large fruit farming holding, which is now abandoned. There is an area of open farmland to the south of the site, a modern residential area off Playstool Road, to the east of the site and an area of open land which adjoins the Newington Industrial Estate to the west of the site.
- 1.02 The site covers an area of 12.9 hectares (or 31.9 acres). The land has an undulating topography which rises to the south of the site. A number of fruit farms and orchards dominate the landscape as a whole. The quality of the agricultural land is high with all the farmland classified as Grade 1 or 2 farm-land, which constitutes best and most versatile agricultural land. The breakdown between the two is shown on Map 2 in the 'Soils and agricultural land use quality' report. There is a strong network of mature field boundaries throughout the landscape which have become established over a number of years.
- 1.03 The group of agricultural building on the site are sited within the curtilage and setting of Pond Farm House, which is a Grade II listed building. These buildings are considered to be within the rural setting for the listed building. The farm buildings are in a poor state of repair but they are not beyond being refurbished and retained for other beneficial uses. The buildings consist of an oast house with truncated rounded and stowage building, cart sheds, stables and animal shelters around a fold yard. The quality of the brickwork and other architectural features is good. The buildings have not been well maintained and the owners have not kept them in sound condition. A separate application – for listed building consent – has, as set out above, recently been refused for the demolition of the redundant farm buildings under (15/500694/LBC). The reason for refusal reads as follows:

*“The proposals would result in the unacceptable loss of a group of farm buildings which are an integral part of the curtilage, rural character and setting of Pond Farmhouse, a Grade II listed building. As well as the harm resulting directly from the loss of these buildings themselves, the removal of these buildings would seriously undermine the character and setting of a listed building. In the absence of a clear and convincing or exceptional justification for the loss of these buildings, this would be contrary to paragraphs 131, 132, 133 and 134 of the National Planning Policy Framework, policy E14 of the Swale Borough Local Plan 2008 and policy DM32 of the Emerging Swale Borough Local Plan Bearing Fruits 2031 – Publication Version December 2014 (submitted to PINS April 2015).”*

- 1.04 An existing public right of way cuts across the north-west corner of the site, linking land to the west of the site with London Road.
- 1.05 The site is located in the Strategic Gap between Sittingbourne and the Medway Towns.

## 2.0 PROPOSAL

- 2.01 It is proposed to develop the site for up to 330 dwellings, plus 60 units of extra care (including a minimum of 30% - or 99 units - affordable housing). The application



includes the provision of a plot of land for a doctor's surgery, demolition of a number of farm outbuildings, landscaping, informal open space, children's play area, surface water attenuation, a vehicular access point from London Road and associated ancillary works.

- 2.02 The application is in outline form with only details of the vehicular access – on to the A2 London Road – submitted for approval. As such, details of layout, scale, appearance and landscaping are reserved for future consideration.
- 2.03 The housing would be developed on 10.7 hectares of the site, according to the illustrative 'Development Framework Plan', at a density of 32 dwellings per hectare.
- 2.04 The proposed vehicular access would feature a six-metre-wide carriageway with 10-metre radii at the junction with the London Road, and would be located opposite Numbers 62 and 64, London Road, and towards the centre of the site's northern frontage. The centre-line of the access would be approximately 200 metres west of the western edge of the garden to Pond Farm House. The application envisages changes to the pavement and the provision of a right-hand turning lane, with a refuge island and crossing point, to London Road.

### **3.0 SUMMARY INFORMATION**

- 3.01 Pond Farm has a close relationship with its historic farmland to the south and south west of the site. The close visual and historic relationship between the farmhouse and the farmland is important to the setting of the listed building and is a feature of special interest. There is a strong statutory presumption towards preserving the setting of listed buildings.

### **4.0 PLANNING CONSTRAINTS**

- 4.01 Potential Archaeological Importance
- 4.02 Setting of a Grade II Listed Building

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

- 5.01 The National Planning Policy Framework (NPPF) and the National Planning Practice Guidance (NPPG) are both pertinent to this case.
- 5.02 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.*”
- 5.03 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’
- 5.04 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.”*
- 5.05 At Paragraph 34 deals with sustainable travel modes and suggests developments generating significant vehicle movements should be located where the need to travel will be minimised.
- 5.06 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.”*
- 5.07 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.”*
- 5.08 Paragraphs 47-55 seek to significantly boost the supply of housing. NPPF paragraph 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.
- 5.09 Paragraph 109 deals with the conservation and enhancement of the ‘natural and local environment’, and is discussed in the ‘appraisal’ section below.
- 5.10 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.

- 5.11 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.”*
- 5.12 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.”*
- 5.13 The impact of the proposed development upon the designated heritage assets, which are irreplaceable and any harm or loss requires clear and convincing justification (paragraph 132)
- 5.14 Where a proposed development would lead to substantial harm or loss of designated heritage asset consent should be refused unless it can be demonstrated that its loss is necessary to achieve substantial public benefits that outweigh the harm or loss. In addition, the heritage asset prevents all reasonable use of the site, no viable use of the heritage asset can be obtained through appropriate marketing, conservation by grant funding or public ownership is not possible, the harm or loss is outweighed by the benefits of bringing the site back into use (paragraph 133)
- 5.15 Where a development proposed will lead to less than substantial harm to the heritage asset, this should be weighed against the public benefits of the proposals (paragraph 134)
- 5.16 The total loss of the farm buildings at Pond Farm constitutes substantial harm to a designated asset. No attempt appears to have been made to re-use the buildings, which are capable of conversion and re-use. The tests of paragraph 133 of the NPPF are not met..
- 5.17 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”.*
- 5.18 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”*
- 5.19 The adopted 2008 Swale Borough Local Plan, however, remains the primary consideration for determining this application. This will be discussed in further detail later in this section.
- 5.20 The key policies from the adopted Local Plan are:
- SP1 (Sustainable Development)
  - SP2 (Environment)
  - SP3 (Economy)
  - SP4 (Housing)

- SP5 (Rural Communities)
- SP7 (Transport and Utilities)
- SH1 (Settlement Hierarchy)
- TG1 (Thames Gateway Area)
- E1 (General Development Criteria)
- E6 (Countryside)
- E7 (Strategic Gap)
- 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)

5.21 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.

5.22 The emerging Minerals and Waste Local Plan for Kent, which is being completed through the statutory process at present, is also relevant as the site contains areas suitable for brick earth extraction.

5.21 Swale Landscape Character and Biodiversity Appraisal 2011 – The site is included within the Newington Fruit Belt, where the predominant landscape form consists of a number of orchards and fruit farms with a mature field boundary network. The Newington Fruit Belt has a strong landscape structure formed by the network of mature hedgerows and shelter belts that surround orchards. The area is characterised by narrow winding lanes enclosed by hedgerows, linear villages with scattered farmsteads and cottages. The area needs sensitive management and protection.

**6.0 LOCAL REPRESENTATIONS**

		COMMENTS RECEIVED	
Newington Council	Parish	- Objections; Newington does not have the capacity to accommodate the additional 330 homes, which would be built on a greenfield site. The existing levels of air pollution on the A2 in the centre of the village are already very significant. A large increase	

	<p>in vehicular traffic from the housing development would exacerbate the problems.</p>	
<p>Residential Objections Number received – 87 letters:</p>	<ul style="list-style-type: none"> <li>- Class 1 agricultural land would be developed</li> <li>- Access would be taken from a congested A2 London Road</li> <li>- No school provision for the additional children</li> <li>- Wildlife habitats would be removed</li> <li>- Newington village status would be undermined</li> <li>- Overshadowing and loss of privacy for adjoining residents</li> <li>- Increased traffic generation and highway dangers for a single carriageway road</li> <li>- Increased noise and disturbance from the activity associated with 330 homes</li> <li>- Adverse impact upon the listed Pond Farmhouse</li> <li>- No local services such as doctor, dentist for the additional people</li> <li>- No local jobs for the additional households</li> <li>- Little local shops to serve the additional people</li> <li>- Minimal public transport services for the additional people</li> <li>- The site is not allocated for housing in the local plan</li> <li>- The poor air quality issues with the centre of Newington will be exacerbated with the increased traffic flows</li> <li>- There is no scope to widen the A2 in the centre of Newington</li> <li>- There are many more suitable sites for housing development</li> <li>- Increased infrastructure to serve the additional housing will erode the rural character of the area</li> <li>- The housing development would not be sustainable</li> <li>- The strategic gap between Rainham and Sittingbourne would be undermined</li> </ul>	
<p>Residential Support Number received:</p>	<ul style="list-style-type: none"> <li>- No letters of support have been received</li> </ul>	



## 7.0 CONSULTATIONS

- 7.01 Kent Highways Services raise objections; the housing development will have a significant impact upon traffic flows on the A2 London Road. It is predicted to result in a peak-time increase of 24% in vehicle movements, which is significant. The air pollution in the Air Quality Management Area, which includes the centre of Newington, will be adversely affected by the additional traffic generation for the development. These facts are compounded by the narrow section of the A2, in the centre of Newington, which cannot allow two large vehicles to safely pass each other. On a general note parking provision within garages is not supported and there is little opportunity for cycle use along the section of the A2 which passes through Newington.
- 7.02 Environment Agency – No objections; a sustainable surface water drainage system is required to be submitted for approval. This type of drainage system offers significant advantages over conventional piped systems in reducing flood risk. Appropriate pollution prevention measures are needed to be implemented. All precautions must be taken to prevent polluted water discharges to the ground water supplies during and after the construction work on site,
- 7.03 Environmental Protection Team Leader – Objections; the proposed housing development will generate an increased level of vehicular traffic which will result in an increase in air pollution levels, particularly on the A2 London Road, in and around the centre of Newington. Noise levels associated with increased vehicular traffic will be raised for the A2 London Road and nearby industrial sites. Mitigation measures to deal with increased noise levels will be required. Contaminated land assessments are required and remediation measures carried out where necessary.
- 7.04 Medway Council – No objections
- 7.05 Highways England – Raise objection as the housing development would result in an increase in the number of vehicles travelling eastward and impacting on the Key street roundabout. It may result in severe harm to the A249 Trunk Road, increased traffic queuing which will tail back to encroach on the A249 through route.
- 7.06 Natural England – The full impact of the housing development upon the wildlife habitats of the area – particularly the SPA / SSSI / Ramsar site - needs to be fully analysed. Suitable mitigation measures are needed to be carried out where protected species are affected. European designated nature conservation sites are not adversely affected.
- 7.07 Hartlip Parish Council – Raise objection on the grounds that it is not a suitable housing site and its development is contrary to policy H2 of the Local Plan. It is not a sustainable development and is sited outside the built up area for Newington. Its development would be contrary to policy E1 of the Local Plan. Increased traffic congestion along the A2 would result. It would lead to increased air pollution in the centre of Newington. There are no additional employment opportunities and high quality agricultural land would be lost to development. The strategic gap between Rainham and Newington would be affected.
- 7.08 Upchurch Parish Council – Raise objection on the grounds of the increased traffic from the development will increase traffic congestion and air pollution levels. Access difficulties onto the A2 will increase. Other housing developments off the A2 in Rainham, Four Gun Field, and Otterham Quay Lane will add to the traffic congestion problems. Brick earth extraction in Newington will bring a large number of heavy

goods vehicles to the area. The agricultural land in the area should not be developed for more housing.

- 7.09 Public Rights of Way & Access Officer – The access to the play area and open space will involve crossing the main access point close to the exit onto London Road, which is considered unnecessary. A signalled crossing is needed to enable access to the northern continuous footway. A controlled pedestrian crossing of London Road should be provided. The housing units close to London Road should be removed to provide a greener frontage to London Road and provide a safe access to the footpaths, open space and play areas. Improvements to the National Cycle Network Route are needed and footpaths which cross the site should be safeguarded.
- 7.10 C.P.R.E. Kent – Objections are raised to the large scale housing development which is proposed for a rural area beyond the defined built-up area for Newington village.
- 7.11 Cllr. J. Wright – local councillor for Hartlip, Upchurch and Newington – Raises objections; the site is not allocated for housing in the Local Plan. It is unsustainable development and should be refused. It would increase the size of Newington by 30%, swamp local services and be inaccessible for local primary schools. Increased traffic movements and increased air pollution levels through central Newington's Air Quality Management Area would result. No additional local jobs are available, causing more traffic movements in the area. Fewer trains and buses operate in the area. There would be a loss of high grade agricultural land and brick earth extraction may be protected for the site. Access onto the A2 would cause lights to shine into properties during hours of darkness, leading to a loss of amenity. The land was considered for a bypass for Newington previously and would not be available if developed for housing as proposed.
- 7.12 Kent C.C. Archaeology – An archaeological field evaluation needs to be carried out, followed by a preservation in situ of any important archaeological remains identified on the site prior to the commencement of development on the site. These measures should be submitted to and approved by the Local Planning Authority. In addition, a programme of building recording in accordance with a written specification and timetable which has been submitted to and approved by the Local Planning Authority.
- 7.13 Kent Police – Measures to minimise the risk of crime on the site need to be incorporated into the proposals. These measures need to be undertaken in the interests of securing crime prevention and community safety.
- 7.14 The Council's Housing Officer – No objections providing between 30 and 40 per cent of the housing built is for affordable housing. The affordable housing units should be evenly distributed across the site in clusters of between 6 and 15 dwellings. Affordable wheelchair adapted houses should be included in the affordable housing provision.
- 7.15 Kent C.C. Education, Social Services and Libraries – the following provisions are needed :-  
 Primary School - £590.24 per flat and £2360.96 per house  
 Secondary School - £589.95 per flat and £2359.80 per house  
 Community Housing - £60.43 per household  
 Youth Service - £65.78 per household  
 Libraries - £227.00 per household  
 Social Services - £63.33 per household plus 3 wheelchair accessible units as part of the Affordable Housing delivery on the site.





## 8.0 APPLICANT'S SUPPORTING DOCUMENTS

8.01 The applicants have submitted a number of reports to support their proposals. These are as follows:

- Design and Access Statement
- Planning Statement
- Noise and Vibration Assessment
- Transport Assessment
- Framework Travel Plan
- Affordable Housing Statement
- Soils and agricultural land Use report
- Landscape and Visual Impact Appraisal
- Ecological Appraisal
- Energy Statement
- Flood Risk Assessment
- Archaeological Assessment
- Arboricultural Assessment
- Socio-Economic Sustainability Statement
- Utility Law Solutions
- Framework Travel Plan
- Assessment of Current and Future Sustainability.

8.02 The completed application forms, the site location plan, 'proposed site access and improvements' plan and the 'development framework plan' have also been provided.

## 9.0 APPRAISAL

9.01 The main issue to determine is whether the proposals represent sustainable development in terms of paras. 7-9 of the NPPF and whether they achieve the presumption in favour of such development as set out in para. 14. This requires the benefits and dis-benefits of the proposals to be considered and balanced or whether there are specific policies in the NPPF that indicate that the proposals should be resisted.

### Contribution to housing

9.02 The Borough currently has 3.2 years of housing land in its 5-year supply (2013/14). This is based on the current adopted Local Plan, although it should be noted that the possibility of a higher housing target being agreed through the Local Plan process may be a consideration for any appeal Inspector.

9.03 However, against the current target, the proposals will make a significant contribution to both this supply and housing needs generally. Furthermore, the supply of affordable housing (99 dwellings) would also be beneficial, as would the contribution made by the proposed care home. Given that paragraph 47 of the NPPF seeks a significant boost in the supply of housing, overall these benefits should be viewed as substantial.

9.04 Although the site is not allocated for housing, para. 49 of the NPPF confirms that in situations where there is no 5-year supply, housing proposals should be considered under the presumption in favour of sustainable development (para. 14 of the NPPF), whilst development plan policies that control the supply of housing may be assessed as being out of date. How this is assessed is a matter of judgement, but has been

made having regard to whether the policy both directly and specifically deals with land supply or whether it indirectly, but significantly, has an impact.

- 9.05 This position impacts to varying degrees upon a number of policies of the adopted (ALP) and emerging local plans (ELP), in particular policies H2 and E6 of the ALP. This has an effect that sites outside the built up area boundaries of settlements can be considered potentially acceptable for development. However, this is not a presumption in favour of all such developments as very careful scrutiny of their actual impacts is still required, as are the principles and policies of the NPPF and the compliance of policies and development proposals with them.

#### Effects on character and appearance of area

- 9.06 The proposals have a number of adverse visual impacts due to their scale and location. Firstly, although the site is visually well contained in longer distant views from the south, there are adverse visual and landscape impacts around the site boundaries, whilst further adverse impacts result from longer distant views from the north. Secondly, the scale of the site relates poorly to the existing settlement pattern for Newington and will be detrimental to the marked and sudden change between the village and more rural and attractive character of the land immediately to the west. This detrimental impact would be further accentuated by the harm to the existing buildings on the site because of the significant contribution they currently make to that character.
- 9.07 Thirdly, ALP policy E7 seeks to limit the consolidation of development in the A2 corridor between the Medway Towns and Sittingbourne. The proposals represent a significant encroachment onto rural open and undeveloped land in the A2 corridor that makes an important contribution to the character and appearance of the corridor and the journey for travellers. If developed, the rural outlook of the road at this point would be lost, whilst placing additional development pressure on a potentially large number of undeveloped and partly-developed sites elsewhere in this locality and further afield. Over time, development along the roads length would become consolidated and the rural and semi-rural nature of the journey between Sittingbourne and Rainham replaced with a more urbanised corridor. This would be harmful to the objective of the policy.
- 9.08 Together, the above matters are significantly harmful in landscape and visual terms, contrary to ALP policies SP2, SP5, SH1, E6, E7, E9 and E10, together with ELP policies ST1, ST3, ST5 and DM24 and DM29.
- 9.09 Whilst some policies impact upon the supply of housing and may be considered as out of date, others are not – ALP policies SP2, E9 and E10 and ELP DM24 and DM29 are judged up-to-date. However, the remaining policies, including ALP policy E6, do nevertheless contain elements compliant with the principles and policies of the NPPF – notably “to take account of the different roles and character of different areas, recognise the intrinsic character and beauty of the countryside and supporting thriving rural communities” and para. 109 of the NPPF - “to contribute to and enhance the natural and local environment by “protecting and enhancing valued landscapes...”. The proposals are therefore contrary to this NPPF principle and policy and the aspects of development plan policies considered to support this principle should be afforded significant weight.

Impacts on agriculture

- 9.10 The proposed site comprises best and most versatile agricultural land (BMV = Grades 1, 2 and 3a), which would be permanently lost. Para. 112 of the NPPF expects Councils to take into account economic and other benefits of BMV land and if the significant development of agricultural land is necessary, they should seek to use areas of poorer quality land. ELP policy DM31 also looks for the loss of BMV land to be avoided if possible.
- 9.11 Agricultural land of this scale and quality derives a number of economic and other benefits: food security and self-sufficiency; food quality; the economy; the environment and climate change; and the countryside. Economically, the value of agriculture is potentially very significant in the Swale economy and BMV is its most precious resource.
- 9.12 It is though 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, particularly if the Council were to have to meet any of the higher housing targets that will be debated at the Local Plan examination later this year. However, although the use of agricultural land may be inevitable, it is not necessarily the case that the loss of BMV land at this scale is inevitable in cases where there is a shortfall in the land supply. Whilst the Borough may have significant resources of BMV land overall, there are significant areas of the Borough with lower grades. The Council's 2013/14 Strategic Housing Land Availability Assessment identifies sites on lower quality land that are equally available and capable of replacing the dwelling numbers proposed by the application site. Even if BMV land were required to meet development needs, the balance of other planning considerations is likely to lead to the development of sites at other larger (sustainable) settlements within Policy SH1 of the ALP and ST3 of the ELP. Whilst aspects of some of these policies are affected by para. 49 of the NPPF, where they are acting in support of para. 112 of the NPPF, they should be given significant weight.

Transport effects and accessibility

- 9.13 Paragraphs 17 and 34 of the NPPF look for patterns of growth to be managed to make the fullest possible use of public transport, walking and cycling, focusing significant development in locations which are or can be made sustainable.
- 9.14 Newington is identified as one of a number of Rural/Local Service Centre by ALP policy SH1 and ELP ST3. After the main towns in the Borough, these are regarded as the next most sustainable locations. These centres are intended to provide the main focus for growth in the rural areas and as such the proposals derive some policy support from this location, however, these centres vary in the scale of opportunities available. Para. 4.3.20 of the ELP notes that "*Despite its role and level of services, development opportunities are very limited due to the valued and important heritage, landscapes and habitats to the north of the village, poor pedestrian connections between north and south of the village, a restricted internal road network, poor air quality and surrounding high quality agricultural land.*" Vehicle and pedestrian movements in and around the village therefore play an important role in the scale of the development that can be accommodated at the village. If development at this scale is required in the Borough, it is likely that it can be met at other, at least equally (or more so) sustainable settlements.

- 9.15 As a result of locating development at Newington, this scale of growth will have a significant impact upon vehicular traffic flows on the A2 London Road and it is predicted they will result in a peak-time increase of 24% in vehicle movements. For the strategic highway network, the development has adverse impacts on the A249 at the A2 junction with Key Street, whilst there are more localised adverse impacts on the A2 in the centre of the village. Notwithstanding the sites location at a relatively assessable settlement with reasonable levels of services and public transport options, transport impacts are compounded by the location of the site itself relative to the rest of the village and its services, many of which are located to the north or in its centre. This leads to the need for cars and pedestrians to travel through a heavily trafficked area, often crossing the A2 for such facilities as the local school and rail station, perpetuating difficult north-south movements via an unsuitable local road and pedestrian network. Together these impacts would be contrary to para. 32 of the NPPF and ALP policies T1 and T2 and ELP policies CP2 and DM6. These policies are judged up-to-date, as they are not affected by the NPPF para. 49 issue.

#### Air Quality effects

- 9.16 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 a 24% increase in peak-time traffic flows along the A2 London Road would result if these proposals were accepted. The levels of air pollution from vehicular traffic in the central parts of Newington along the A2 London Road are already significantly high and the proposed additional houses would exacerbate these problems. The A2 into and out of Newington has been declared an Air Quality Management Area as Nitrogen Dioxide levels exceed government guidelines for the control of air pollution.
- 9.17 Paragraph 17 of the NPPF require the planning system to contribute to reducing pollution, whilst paragraph 111 states that new development should not contribute to unacceptable levels of air pollution. Paragraph 124 of the NPPF 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. 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.
- 9.18 Paragraph 4.3.20 of the ELP, together with policy ST5 highlights air quality as a constraint to development at Newington. The development is considered to be contrary to the NPPF and these policies, alongside ALP policy E1 and ELP policies ST1 and DM6. These policies are considered to be up-to-date and unaffected by the NPPF para. 49 issue.

#### Effects on heritage issues

- 9.19 It is proposed to demolish a number of disused listed agricultural buildings, which are sited within the curtilage (and rural setting) of Pond Farmhouse; a Grade II listed building. A separate application for listed building consent for the demolition of these farm buildings considered the loss of the heritage assets. This application has, as noted above, already been refused permission for the following reason:

*“The proposals would result in the unacceptable loss of a group of farm buildings which are an integral part of the curtilage, rural character and setting of Pond Farmhouse, a Grade II listed building. As well as the harm resulting directly from the loss of these buildings themselves, the removal of these buildings would seriously undermine the character and setting of a listed building. In the absence of a clear and convincing or exceptional justification for the loss of these buildings, this would be contrary to paragraphs 131, 132, 133 and 134 of the National Planning Policy Framework, policy E14 of the Swale Borough Local Plan 2008 and policy DM32 of the emerging Swale Borough local Plan Bearing Fruits 2031 – Publication Version December 2014 (submitted to PINS April 2015).”*

- 9.20 The impact of this development on the setting of Pond Farm and its outbuildings is an important consideration in the determination of this application. In this respect, the issues overlap with those related to the refusal of listed building consent.
- 9.21 Pond Farm enjoys a close relationship to its historic farmland to its south and south west. This close visual, functional and historic relationship between farm house and farmland is important to the setting of the listed building and is a feature of special interest. As such there is a strong statutory presumption towards preserving the setting.
- 9.22 The loss of historic setting through demolition of historic farm buildings and development on its historic farmland setting, would fail to preserve the special interest of Pond Farm House. The listed building would no longer be seen against its historic rural backdrop or its historic farm buildings. It would become totally surrounded by suburban residential development which would substantially lessen its significance as a heritage asset. Development in these circumstances should be assessed against: the following:
1. The LB&CA Act 1990 which requires the Council to have special regard to the desirability of preserving the listed building and its setting and any features of special interest which it possesses.
  2. The NPPF, notably paras. 17, 132-134; and
  3. Local Plan policies, notably ALP policy SP2 and E14 and ELP CP8 and DM32, which largely reflect the importance placed on preserving heritage assets and their settings in the Act and in the NPPF.
- 9.23 One of the Core Planning Principles of the NPPF set out in para. 17 is to *“conserve heritage assets in a manner appropriate to their significance so that they can be enjoyed for their contribution to the quality of life of this and future generations”*.
- 9.24 Paragraph 132 of the NPPF confirms that *“...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”*. Where a proposed development will lead to substantial harm to or total loss of significance of a designated heritage asset, para. 133 of the NPPF states that local planning authorities should refuse consent, unless it can be demonstrated that *“... the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss...”*, or where a number of tests can be met. Finally, para. 134 requires that *“Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use”*.

- 9.25 As with the application for listed building consent, it is concluded that the total loss of the listed outbuildings to Pond Farm constitutes substantial harm to a designated heritage asset. No attempt appears to have been made to reuse the buildings which are well suited to conversion and reuse so the tests in paragraph 133 are not met.
- 9.26 The Council is required to assess whether there are any substantial public benefits from the development which can be weighed against the substantial harm. Whilst clearly the proposal has a number of potential public benefits, notably by the provision of new housing and associated developer contributions, these are not unique to the application site and could equally be achieved on sites not involving heritage assets. Therefore, it is concluded that such benefits do not outweigh the substantial harm. The statutory duty and the considerable weight which the Act, the local plan and the NPPF attach to the conservation of designated heritage assets and their settings all strongly point to a refusal of planning permission on the grounds of harm to the designated heritage asset and its setting.

#### Effects on mineral resources

- 9.27 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. Members should note that these policies are subject to change and the developer may choose to address the issues prior to any appeal being considered.

#### Impacts upon biodiversity

- 9.28 Due to the sites location relative to the Medway and Swale Special Protection Areas, the Council is required to undertake a Habitats Regulations Assessment (HRA). This assessment is appended to this report.
- 9.29 Paras. 117-119 of the NPPF consider the approach toward biodiversity in respect of European sites. In the case of proposals requiring an appropriate assessment, the presumption in favour of sustainable development does not apply.
- 9.30 The HRA requires Councils to consider the impacts upon the SPA arising from recreational pressures (e.g. disturbance to birds from humans and dogs) from increased populations brought about by housing development. Evidence confirms the likelihood of significant impacts on the SPA arising from proposals within 6 km of an access onto the SPA. However, strategic actions undertaken by the North Kent Councils, as agreed by Natural England, potentially enables mitigation to be undertaken that will normally ensure that residential development can proceed avoiding a likely significant effect on the SPAs. If such actions are followed then it will normally be the case that proposals would be screened out from requiring a formal Appropriate Assessment. The policy context for such actions is provided by policies CP7 and DM28 of the ELP.
- 9.31 The application site is located within some 2-2.5 km of a popular access point onto the Medway SPA at Lower Halstow. Taking a precautionary approach it is probable that likely significant off-site effects on the SPA would occur. However, the applicant has indicated a willingness to address the off-site impacts by use of a dwelling tariff,

but has not committed to the actual proposed tariff contained in the Thames, Medway and Swale Estuaries – Strategic Access Management and Monitoring Strategy (Footprint Ecology 2014), neither has this been amplified in any draft S106 agreement.

- 9.32 If the full tariff were is committed to, it could be concluded that the proposals could be screened out for purposes of Appropriate Assessment as they would not lead to likely significant effects on the SPA. However, until matters affecting the tariff are resolved it would not be safe to assume this position and on this basis the application should not be allowed to proceed without a full Appropriate Assessment because of likely significant effects on the SPA. In the absence of the evidence required to justify this approach, planning permission should be refused.

Do the proposals represent sustainable development?

- 9.33 In terms of the three dimensions of sustainable development – economic, social and environmental – paragraphs 7 to 9 of the NPPF expects development to seek improvements across all three.
- 9.34 It is acknowledged that the proposals will achieve social gains in terms of the provision of substantial numbers of new housing (inc. affordable homes and a care home) in an area with an acknowledged shortfall and that Newington has reasonable levels of services. Little weight is given to the proposed GP surgery, as it is not currently a firm commitment. In turn these would make a positive contribution toward the economic role of sustainable development, but are potentially substantially diminished by the loss of economic (and other) benefits of BMV, alongside the economic potential of brickearth reserves. To some degree there would also be a diminishment arising from additional congestion within the A2 and A249 corridors. As a result, it is therefore not possible to conclude that net economic gains would accrue from the proposals.
- 9.35 In the case of the environmental role of sustainable development, adverse landscape, visual and agricultural land impacts are demonstrated by the development, whilst heritage, transport, air quality and SPA impacts are additionally adverse and significant/substantial. The proposals therefore clearly fail to contribute to the environmental role of sustainable development.
- 9.36 Even if the brickearth and SPA issues are capable of resolution, there remains a clear failure to secure improvements across all three strands and as such the proposals cannot be regarded as sustainable development. It is concluded that they are contrary to ALP policy SP1 and ELP ST1 and ST5. These policies are judged up-to-date, as they are not affected by the NPPF paragraph 49 issue.

Overall conclusions

- 9.37 Notwithstanding the conclusions as to whether development represents sustainable development, as a result of the shortfall in housing land supply in the Borough, NPPF para. 49 require the proposals to be considered under the 'presumption in favour of sustainable development' as set out by NPPF para. 14. For decision-making, this firstly means approving development proposals that accord with the development plan. As highlighted in the discussion section, the proposals do not accord with a number of the policies of the adopted and emerging LPs. Whilst it is acknowledged that aspects of some of these policies are out of date due to their influence on housing supply (NPPF para. 49), they are considered to carry significantly weight



- where they support principles and policies in the NPPF, notably those concerned with environmental protection.
- 9.38 Paragraph 14 of the NPPF requires the Council to consider whether the adverse impacts of development would significantly and demonstrably outweigh the benefits, or whether there are specific policies of restraint in the NPPF that indicate that planning permission should be refused in their own right.
- 9.39 Firstly, considering the balance of benefits and disbenefits, the housing development would cause significant/substantial harm to the appearance of the local landscape and to a designated heritage asset. It would also result in the significant loss of an area of the best and most versatile agricultural land and give rise to unacceptable traffic flows beyond the capacity of the existing highway network with additional air quality impacts within an Area Quality Management Area. Unless addressed, there would also be significant impacts on mineral reserves and the SPA. Added to these issues are the economic dis-benefits arising from the loss of best and most versatile agricultural land and mineral reserves.
- 9.40 These significant/substantial impacts need to be weighed against the Council's inability to demonstrate a 5-year housing land supply and the substantial benefits of the proposals in terms of meeting housing needs, including affordable housing and boosting housing supply. However, in this case, in terms of the scale, location, severity and permanence of the adverse impacts, it is the Council's opinion that they would be so significant and demonstrable as to outweighs the identified benefits. This conclusion is reached in the knowledge that mineral and SPA impacts may be addressed by the time an appeal is considered.
- 9.41 Members should be aware that some of the above matters and their contribution to the overall planning balance are potentially open to a different interpretation as to their scale of impact and relevance. However, paragraph 14 of the NPPF also support the refusal of planning permission where specific policies of the Framework indicate development should be restricted. Aspects of the harm from this application – heritage, minerals, SPA, transport and air quality – strongly point toward a refusal of planning permission in their own right, regardless of the overall planning balance, because of the restrictive nature of relevant policies of the NPPF.
- 9.42 Given that there is an appeal already lodged against non-determination, it will be important that the Council is supported at any public inquiry by witnesses to address policy, conservation, landscape, transport and air quality issues.
- 9.43 Finally, in recommending that planning permission should be refused, Members should be aware that a number of matters might potentially impact upon the context and reasons for refusal for this application over the coming 12 months. These include:
- The likely adoption of the Kent Waste and Minerals Local Plan.
  - Consideration of the emerging Local Plan at its Examination in November and any matters relating to housing requirements that may arise.
  - New housing land supply data for 2014/15 which may impact upon housing land supply.
  - The possible resolution of minerals issues.
- 10.0 RECOMMENDATION** – REFUSE for the reason set out below. This application is, as explained above, the subject of a planning appeal. As such this application will not be determined by the Swale Borough Council, however, the decision of the committee will indicate to the Secretary of State the Council's intended decision



**Reason for refusal**

The proposed development, due to its location, scale and form, will not represent sustainable development as it fails to seek positive improvements across its 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. The adverse impacts of development are considered to significantly and demonstrably outweigh any benefits (and/or specific policies of the NPPF indicate development should be restricted) as a result of:

1. Change to the visual amenity, settlement form and landscape character of the area;
2. The significant loss of best and most versatile agricultural land (including its economic and other benefits);
3. Vehicular traffic flows on the A2 London Road leading to traffic congestion and limits on the free flow of traffic on the strategic road network and the A2, together with impacts on the local road network and pedestrian connections in the vicinity of the site, particularly at peak traffic times;
4. Air pollution from vehicle emissions, particularly nitrogen dioxide, resulting in cumulative air pollution levels on the A2 that would be inconsistent with the local air quality action plan for the Newington AQMA;
5. The loss of a group of listed farm buildings which are an integral part of the curtilage, rural character and setting of Pond Farmhouse, a Grade II listed building. As well as the harm resulting directly from the loss of these buildings themselves, their removal, without any clear and convincing or exceptional justification, would also seriously undermine the character and setting of a listed building (including its close visual, functional and historic relationship between farmhouse and farmland);
6. The unjustified sterilisation of economically important minerals; and
7. 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.

As a result, the proposals do not accord with paragraphs 14, 17, 109, 112-113, 117-119, 124, 131-134, 142-144 of the National Planning Policy Framework 2012. The proposals are also contrary to the following Development Plan policies: SP1, SP2, SP5, SH1, TG1, E1, E6, E7, E9, E12, E14, E15, E19, H2, T1 and T2 of the adopted Swale Borough Local Plan 2008; ST1, ST3, ST5, CP2, CP4, CP7, CP8, DM6, DM14, DM24, DM28, DM29, DM31, DM32 and DM33 of Bearing Fruits 2031: The Swale Borough Local Plan April 2015 (submission draft to PINS); and CSM5 and DM7 of the Kent Minerals and Waste Local Plan 2013-2030 November 2014.

**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 to be fundamentally contrary to the provisions of the Development Plan and the NPPF and there were not considered to be any solutions to resolve this conflict.

## **APPENDIX: HABITATS REGULATIONS ASSESSMENT**

### **Context**

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

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

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

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

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

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

- There have been marked declines in the numbers of birds using the three SPAs.
- Disturbance is a potential cause of the declines. The bird disturbance study provided evidence that the busiest locations support particularly low numbers of birds.
- Within the Medway, the areas that have seen the most marked declines are the area north of Gillingham, including the area around Riverside Country Park. This is one of the busiest areas in terms of recreational pressure.
- Access levels are linked to local housing, with much of the access involving frequent use by local residents.

- Bird disturbance study - dog walking accounted for 55% of all major flight observations, with a further 15% attributed to walkers without dogs along the shore.
- All activities (i.e. the volume of people) are potentially likely to contribute to additional pressure on the SPA sites. Dog walking, and in particular dog walking with dogs off leads, is currently the main cause of disturbance.
- Development within 6km of the SPAs is particularly likely to lead to increase in recreational use.

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

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

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

### **Associated information**

The applicant's ecological appraisal dated October 2014 contains some information to assist the HRA. These matters have been considered, particularly those contained in Section 4. However, the appraisal does not include sufficient information to enable the HRA to be undertaken in its own right. As an example, it does not appear to contain a full assessment of the evidence collected by NKEPG and although it does commit the applicant to a per dwelling payment for off-site mitigation it is not clear as to whether this is the full commitment as recommended by The Thames, Medway and Swale Estuaries – Strategic Access Management and Monitoring Strategy (Footprint Ecology 2014). This would need to be clarified before the granting of any planning permission.

Natural England's letter to SBC dated 2 March 2015 has also been considered; in particular that they have raised no objections to the proposals in terms of their impact on designated nature conservation sites.

In advising SBC on the requirements relating to the Habitats Regulations Assessment, and to assist it in screening for the likelihood of significant effects, based upon the information provided, Natural England offered the following advice:

- The proposal are not necessary for the management of the European sites.
- That subject to an appropriate contribution being made to strategic mitigation, the proposal is unlikely to have a significant effect on any of the European sites mentioned above, and can therefore be screened out from any requirement for further assessment

Natural England considered that the following information should be referred to justify any conclusions regarding the likelihood of significant effects:

- The applicant has confirmed in section 4.12 of the Ecological Appraisal dated October

2014 submitted in support of the application that they will make a financial contribution to the Thames, Medway and Swale Estuaries Strategic Access Management and Monitoring Strategy in accordance with the recommendations of the North Kent Environmental Planning Group. This strategic mitigation will need to be in place before the first dwelling is occupied.

As detailed in their letter of the 6 January 2015, Natural England has confirmed that a suite of strategic measures similar to those set out in the Thames, Medway and Swale Estuaries Strategic Access Management and Monitoring Strategy will provide appropriate mitigation. However, they consider it is up to the local authorities to ensure that appropriate measures are in place to allow the strategic mitigation to be delivered. This would include consideration of the appropriate tariff.

### **The Assessment of Pond Farm**

The application site is located within some 2-2.5 km of a popular access point Medway SPA at Lower Halstow. The statement in para. 4.7 of the applicant's Ecological Appraisal is not accepted. Whilst there is not a direct point to point footpath between the application site and the SPA, a mixture of footpaths and rural lanes make the SPA readily assessable on foot at Lower Halstow. In any event, recreational impacts are equally likely to occur as a result of visitors arriving by car.

This assessment has taken into account proposals for on-site mitigation, such as dog-walking areas and the availability of other inland public footpaths close to the site. Whilst these would no doubt supplement many day-to-day recreational activities, the coastal SPA is nevertheless considered likely to be a likely draw of activity for residents and as such these factors will not be sufficient to prevent off site recreation taking place on the SPA.

### **Conclusions**

Taking a precautionary approach leads to the conclusion that the proposals would give rise to likely significant effects on the SPA. Although the applicant has indicated a willingness to address the off-site tariff, there is no commitment to the actual proposed tariff contained in the Thames, Medway and Swale Estuaries – Strategic Access Management and Monitoring Strategy (Footprint Ecology 2014).

At this stage it therefore cannot be concluded that the proposals can be screened out for purposes of Appropriate Assessment as without payment of the full off-site mitigation tariff the suite of mitigation measures across the SPA could not be guaranteed. These would lead to likely significant effects on the SPA. On this basis the proposals cannot be screened out for purposes of the HRA and the development should not be allowed to proceed without a full Appropriate Assessment. In the absence of the evidence required to justify this approach, planning permission should be refused.

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.

**PLANNING COMMITTEE – 13 AUGUST 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 – Swanton Croft, Swanton Street, Bredgar**

**APPEAL ALLOWED**

**Observations**

A most disappointing decision that permits a substantial extension to a replacement dwelling where the Council withdrew permitted rights for further extensions in order to restrain development in the AONB, and which will result in cumulative harm to the countryside. Strangely the Inspector appears to blame the Council for allowing the replacement dwelling, and then compounds the harm he alleges by allowing a further extension. He also refers to relaxation of permitted development rights that do not apply in AONBs, no doubt for a good reason.

- **Item 5.2 – Little Norwood Farm, Parsonage Lane, Bobbing**

**APPEAL ALLOWED**

**Observations**

The Council’s decision on the application the subject of this appeal predates recent changes in legislation and national planning guidance, which fundamentally undermined the Council’s case here. As such, it is unsurprising that the appeal has been allowed.

- **Item 5.3 – Parklands Village, The Broadway, Minster**

**APPEAL DISMISSED**

**Observations**

A good decision that supports all of the reasons for refusal given by the Council.

- **Item 5.4 – Land Adj 71 South Road, Faversham**

**APPEAL ALLOWED**

**Observations**

Another very poor decision from the same Inspector who decided item 5.1 above, taking a very narrow view on matters of conservation and on circumstances pertaining on the day he visited. This development has long been resisted and refusals of other schemes nearby involving loss of open spaces within the conservation area have been upheld.






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## Appeal Decision

Site visit made on 2 July 2015

by **Martin Andrews MA(Planning) BSc(Econ) DipTP & DipTP(Dist) MRTPI**  
 an Inspector appointed by the Secretary of State for Communities and Local Government  
 Decision date: 16 July 2015

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**Appeal Ref: APP/V2255/D/15/3015013**

**Swanton Croft, Swanton Street, Bredgar, Sittingbourne, Kent ME9 8AS**

- 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 Clark Boulwood against the decision of Swale Borough Council.
  - The application, Ref. 14/504520/FULL, dated 26 September 2014, was refused by notice dated 22 January 2015.
  - The development proposed is a two storey rear extension to a residential dwelling to accommodate a new bedroom and bathroom and kitchen and dining room and the replacement of the existing timber fenestration with UPVC.
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### Decision

1. The appeal is allowed and planning permission is granted for a two storey rear extension to a residential dwelling to accommodate a new bedroom and bathroom and kitchen and dining room and the replacement of the existing timber fenestration with UPVC at Swanton Croft, Swanton Street, Bredgar, Sittingbourne in accordance with the terms of the application, Ref. 14/504520/FULL, dated 26 September 2014 subject to the following conditions:
  - 1) The development hereby permitted shall begin before the expiration of three years from the date of this Decision;
  - 2) The development hereby permitted shall be carried out in accordance with the following approved plans SCB 1411.00; SCB 1411.01; SCB 1411.02; SCB 1411.03; SCB 1411.04; SCB 1411.05; SCB 1411.06; SCB 1411.07; SCB 1411.08;
  - 3) Other than the windows and doors, the materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.

### Main Issue

2. The main issue is the effect of the proposed extension on the character and appearance of the existing dwelling and surrounding countryside, with particular reference to the property's location within the designated area of the Kent Downs Area of Outstanding Natural Beauty (AONB).
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[www.planningportal.gov.uk/planninginspectorate](http://www.planningportal.gov.uk/planninginspectorate)

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### Reasons

3. Under reference SW/14/504592 a single storey rear extension was granted permission in January of this year. The appeal application has the same footprint (5.9m depth and 4.9m width) but now includes a first floor element. This would have the same width as that approved but a reduced depth of 3.8m. In the light of this I agree with the appellant's view that it is either the scale and design of the first floor addition or the extra floorspace compared to that already approved that should be the determining factors in assessing whether the Council's objection to the appeal scheme is justified.
4. The extension would be set well down from the existing ridge, would have a width of about two thirds of the existing house and at first floor level a depth of slightly more than a third of the building (excluding the front porch). I do not consider this scale to be disproportionate, especially as the hipped roofs, overall design and external materials would be in keeping with the host dwelling. However in the Council's view the appeal scheme would be an example of the statement in its Supplementary Planning Guidance: 'Designing an Extension – A Guide for Householders' ('the SPG') that '*Over-large extensions can destroy the appearance of the house and have a serious effect upon the area as a whole*'.
5. Although I acknowledge that the house at present has '*a simple rectangular form*', it seems to me that this judgement is not one that can be reasonably concluded in relation to a 15 year old family dwelling which with the adjoining 'Pear Tree Cottage' was the development that marked a step change in the original built form and the overall character and appearance of the site.
6. Furthermore as regards visual impact, the extension would be confined to the rear and only limited views of it would be available from Swanton Street. The Council attaches significant weight to the view of the extension from the public footpath some 70m to the south west and asserts that the extension would be 'eye catching' and 'seriously harmful' to the character and appearance of the AONB. However, I walked along this footpath (unaccompanied) on my visit and formed the view that the proposal would be unlikely to draw the eye and even if it did it would be read as an integral part of the pair of buildings that include a conservatory and the garages. The backdrop of the mature tree and hedge forming the north east boundary of Swanton Croft's garden would effectively mitigate any remaining impact. There would therefore be no adverse effect on the surrounding countryside and the landscape of the AONB.
7. As regards floorspace, Policies E6 and RC4 of the Swale Borough Local Plan 2008 ('the Local Plan') require extensions to be 'modest'. I am minded to agree with the Council that in relation to the existing property the extension would be a borderline case in terms of this requirement, albeit for the reasons explained I do regard it as being subservient to the host building. I acknowledge though that the addition would not be 'modest' when compared with the semi-detached demolished cottage originally on the site.
8. However, Policy RC4 does not set out a direct link between the size of an original building on a site and the amount that its replacement can be extended. To the extent that the Council argues that there would be harm to the objectives of Policy RC4, I have explained why I consider the proposal to be acceptable in terms of its effect on the host dwelling and the AONB landscape

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and adjoining countryside. I consider that I should also give weight to the direction of travel of Government policy towards a positive approach as regards housing proposals and extensions, as illustrated by the National Planning Policy Framework 2012 ('the Framework'), the Planning Practice Guidance 2014 and recent relaxations in permitted development for domestic extensions.

9. Overall, I conclude that the proposed extension would not have an adverse effect on the character and appearance of the countryside and the AONB and would not therefore be in harmful conflict with Policies E1, E6, E9, E19, E24 & RC4 of the Swale Borough Local Plan 2008; the Council's SPG, and Government policy in the Framework.
10. In allowing the appeal I shall impose a condition requiring the development to be carried out in accordance with the proposed plans for the avoidance of doubt and in the interests of proper planning. I shall also impose a condition requiring matching external materials to ensure that the extension is in harmony with the host dwelling. Given the description of the application I shall exclude windows and doors from this requirement.

*Martin Andrews*

INSPECTOR

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## Appeal Decision

Site visit made on 7 July 2015

by Louise Phillips MA (Cantab) MSc MRTPI

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

Decision date: 21 July 2015

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**Appeal Ref: APP/V2255/W/15/3005182**

**Little Norwood Farm, Parsonage Lane, Bobbing, Sittingbourne, Kent ME9 8QA**

- 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 of the Town and Country Planning (General Permitted Development) (England) Order, 2015.
  - The appeal is made by Hoo Developments Limited against the decision of Swale Borough Council.
  - The application Ref 14503331/PNBCM, dated 7 October 2014, was refused by notice dated 4 December 2014.
  - The development proposed is the change of use of an agricultural building to a dwelling house.
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### Decision

1. The appeal is allowed and approval is granted under the provisions of Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order, 2015 for the location and siting of a change of use of an agricultural building to a dwelling house at Little Norwood Farm, Parsonage Lane, Bobbing, Sittingbourne, Kent ME9 8QA in accordance with the terms of the application Ref 14503331/PNBCM, dated 7 October 2014, subject to the following conditions:
  - 1) The development hereby permitted shall be completed not later than three years from the date of this decision.
  - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Drawing Nos 1323/1A; 1323/2; and 1323/3.

### Preliminary Matters

2. Schedule 2, Part 3, paragraph W(11)(c) of the GPDO<sup>1</sup> provides that development which is the subject of a prior approval application can begin if the local planning authority has not given notification of its decision within 56 days of receiving the proposal. The appellant contends that the Council's decision was made "out of time" but, as an appeal has been lodged nonetheless, I have determined it on its planning merits. In any case, given that my decision is to allow the appeal, this procedural matter has no practical bearing on the end result for either party. For the avoidance of doubt, I have made my decision on the basis of the plans listed in Condition No 2 above.

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<sup>1</sup> Town and Country Planning (General Permitted Development) (England) Order, 2015.

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3. On 15 April 2015, since the appeal was made, an updated and consolidated version of the GPDO was brought into force to replace the 1995 edition. The application was made with reference to the 1995 version, by which the permitted development rights sought were conferred by Class MB. Under the present version, the rights concerning the change of use of an agricultural building to a dwelling house are instead available under Class Q and my decision is made on this basis.
4. Whereas the relevant changes to the GPDO are essentially of nomenclature, certain alterations made to the Planning Practice Guidance (PPG) in March 2015 do bear upon the substance of the Council's decision. The decision refers to the unsustainable location of the building being unacceptable in principle and a number of development plan policies are cited in support of this position. However, paragraph 108 of the PPG is clear that the permitted development right provided by Class Q does not apply a test in relation to sustainability of location. This is to recognise that many agricultural buildings will not be in village settlements and that occupants may not be able to rely on public transport for their daily needs.
5. The Council has considered the effect of the PPG alterations in its Statement and does not seek to defend the locational sustainability issue (paragraph 17). Nor does it seek to rely upon its development plan policies and, since the principle of the development is already established through the GPDO, I agree that they are not determinative of the appeal. I have therefore considered the Council's remaining points of opposition in light of current legislation and national policy & guidance.

#### **Main Issue**

6. The main issue is whether the location or siting of the building makes it otherwise impractical or undesirable for it to change from an agricultural use to a dwelling.

#### **Reasons**

7. Class Q provides that a change of use of an agricultural building and any land within its curtilage to a dwelling house; and building operations reasonably necessary to convert the building to a dwelling house, is permitted development. Paragraph Q.1 sets out the circumstances in which this would not be the case, but on the basis of the amended plans, there is no suggestion that the scheme would fall within the basic terms of the Class.
8. Paragraph Q.2 requires that before development commences, the developer shall apply to the local planning authority for a determination as to whether its prior approval will be required in relation to a number of specific matters. In this case, prior approval was refused on the basis that the proposal would conflict with the condition at paragraph Q.2(1)(e), which is whether the location or siting of the building makes it otherwise impractical or undesirable for the building to change from agricultural use to a dwelling house. Having clarified at paragraph 108 that no sustainability of location test should apply, paragraph 109 of the PPG advises that "*impractical*" should be taken to mean "*not sensible or realistic*"; and that "*undesirable*" should mean "*harmful or objectionable*".

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9. Notwithstanding its concession referred to in preliminary matters, the Council continues to contend that the proposed dwelling would represent an isolated home in the countryside, contrary to paragraph 55 of the National Planning Policy Framework. However, paragraph 55 begins *"To promote sustainable development in rural areas, housing should be **located** (my emphasis) where it will enhance or maintain the vitality of rural communities..."* Thus it is my view that this policy imposes a sustainability of location test and so, having regard to the PPG, it should not apply. It is open to me to consider whether the location of the site would be "impractical" or "undesirable" for residential use but, while access to services might well be very inconvenient for people without a car, the road network is sufficiently good that anyone with one could go about their business with relative ease.
10. Notwithstanding that they are raised with reference to paragraph 55 of the Framework, the Council's concerns in respect of the effect of the development on the countryside remain valid. The site occupies a picturesque spot on a narrow lane surrounded by cornfields and the character of the area is undeniably rural. However, it lies immediately adjacent to a pair of cottages and there is another house nearby to the east. The neighbouring cottage has a large side garden, which includes several "domestic" trees and plants and, while these are in no way unattractive, they do contrast with the more agricultural appearance of the wider area.
11. The potential for domestic paraphernalia to accumulate within the curtilage of the appeal property would clearly add to this effect, but the area over which it could spread would be limited. No objection has been raised in relation to the appearance of the proposed dwelling itself and its essentially barn-like appearance would be in keeping with its setting. Therefore, I do not consider that that the proposed development would have a harmful or objectionable impact upon the character and appearance of the area.
12. For the reasons above, I conclude that it would neither be impractical nor undesirable for the appeal building to change from an agricultural use to a dwelling by virtue of its location or siting.
13. In reaching this conclusion, I have had regard to the appeal decisions referred to by the Council concerning developments in North Yorkshire and Sittingbourne<sup>2</sup>. The first relates to a proposal under the GPDO, but it predates the changes to the PPG set out above. It is therefore to be expected that its treatment of locational sustainability would be different to my own. Like the Inspector in that case, I have considered the effect of the proposed development upon the character and appearance of the area, but in contrast to him, I have found that no harm would result. The second appeal concerns an application for planning permission (to remove a condition) rather than an application under the GPDO. Consequently, paragraph 108 of the PPG, which relates to applications for prior approval, would not apply.

#### **Conclusion and Conditions**

14. For the reasons given above I conclude that the appeal should be allowed. Paragraph Q.2(3) of the GPDO requires that development under Class Q is subject to the condition that both the change of use and the building operations associated with it must be completed within three years of the prior approval

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<sup>2</sup> Appeals Ref APP/E2734/A/14/2220495; and APP/V2255/A/13/2195986.

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date. I have imposed this condition accordingly. For the avoidance of doubt, I have also imposed a condition requiring the development to be carried out in accordance with the approved plans.

*Louise Phillips*

INSPECTOR





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## Appeal Decision

Hearing held on 9 June 2015

Site visit made on 9 June 2015

by **L Gibbons BA (Hons) MRTPI**

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

Decision date: 28 July 2015

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**Appeal Ref: APP/V2255/A/14/2223765**

**Parklands Village Residents Association, Parklands Village, The Broadway, Minster on Sea, Sheerness ME12 2DH**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land carried out without complying with conditions subject to which a previous planning permission was granted.
  - The appeal is made by Mrs M Mace (Parklands Village Residents Association) against the decision of Swale Borough Council.
  - The application Ref SW/13/1546, dated 16 December 2013, was refused by notice dated 14 February 2014.
  - The application sought planning permission for proposed construction of 160 holiday cottages without complying with a condition attached to planning permission Ref SW/87/1191, dated 17 February 1988.
  - The condition in dispute is No 2 which states that: *The chalet hereby permitted shall not be occupied between 2<sup>nd</sup> January and March 1 in any year.*
  - The reason given for the condition is: *As the area is considered unsuitable for permanent residential development.*
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### Decision

1. The appeal is dismissed.

### Procedural Matters

2. The Council refer to Policies CP1 and DM5 of the Swale Emerging Local Plan (Bearing Fruits) 2013. The Bearing Fruits document has been the subject of consultation and the Examination will begin in September 2015. The Council requested that significant weight should be given to these policies and I note that there was a very limited number of objections to Policy DM5 in particular. Given the stage that it has reached and noting that there were potentially significant objections to the rest of the document, I have given this only moderate weight.
3. The grounds of Appeal refer to a 'fall-back position' being open to the occupiers of Parklands Village to locate caravans on a temporary basis on the appeal site during the months of January and February. At the Hearing, the appellant confirmed that they were no longer intending to pursue this fall-back position. I have dealt with the appeal on this basis.

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### Background and Main Issues

4. Parklands Village consists of 76 terraced and semi-detached single storey properties and they were built on the basis of planning permission for 160 holiday cottages which was granted for a larger site in 1988. Part of the land relating to the planning permission remains undeveloped. The properties were occupied from 2003.
5. The appeal site has a planning history which includes enforcement appeals relating to 58 of the properties and a planning appeal which were dismissed in 2010. The Council explain that the development was always intended for holiday accommodation to help improve the quality and quantity of that type of accommodation on the Isle of Sheppey. There is no limit on a maximum stay, so the accommodation could be occupied for the full 10 months. The planning permission and legal agreement requires the gates to be locked and services to be switched off during January and February, although I understand that services remain switched on.
6. The appellant is seeking to remove the disputed condition to allow 12 months occupancy. The Parklands Village Residents Association (PVRA) argues that Parklands Village has never been occupied as holiday accommodation, and that the standard of construction of the properties which are brick built suggests that the accommodation was only ever intended to be for permanent use. Whilst I accept that the occupants may have bought the properties on the basis that they could live there permanently, it remains the case that this is not what the planning permission or condition allows. Taking the above historical background into account, the main issues are:
  - a) Whether permitting the properties to be used as permanent residential accommodation would represent an unacceptable flood risk to the occupiers;
  - b) The effect of removing the condition on the stock of holiday accommodation and the tourist economy of the Borough; and,
  - c) Whether there are any other material considerations which mean that the appeal should be determined other than in accordance with the development plan.

### Reasons

#### *Flood risk*

7. Paragraph 100 of the National Planning Policy Framework (the Framework) states that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk. The appeal site is located within Flood Zone 3a; these areas have a high probability of flooding. The site is at risk from flooding from tidal and fluvial flooding. At the Hearing, the Environment Agency (EA) confirmed that the sea defences have been improved significantly and that the new shingle embankment is much higher than the original embankment. The Scrapsgate Drain flows to the south-east of the appeal site out to the sea and although the drain is cleared and managed on a regular basis, should this overflow, the appeal properties would not be defended from this.
8. The Flood Risk Assessment (FRA) submitted with the planning application classifies the properties as 'vulnerable' on the basis of their brick construction

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and that they were already in use as permanent residential accommodation. The EA do not agree with the conclusions in the FRA. Table 2 of the Framework's Technical Guidance states that 'Caravans, mobile homes and park homes intended for permanent residential use' can only be considered as highly vulnerable. The EA acknowledges the method of construction of the properties which were built to the relevant building regulations at that time, would be more robust than caravans located on sites adjacent. However, at the Hearing the EA confirmed that it would be unable to consider them as anything other than holiday accommodation in line with the 1988 planning. Based on the evidence before me, I therefore agree that there is no basis on which to apply the Exception Test as set out in the FRA.

9. The FRA indicates that as the primary source of flooding is tidal with improved sea defences the properties are therefore well protected and in addition that the highest tides are in March and September when the properties are already occupied. At the Hearing, the EA disagreed with this assessment and argued that the greatest risk is in the winter months, where low pressure can result in storm surges that may result in sea levels significantly higher than usual. The EA also indicated that due to recent modelling undertaken by them, spending on defences would be needed in future years, although I note nothing is planned immediately.
10. I note that the appellant refers to 1 in 6 homes being subject to flood risk. I acknowledge that the current occupiers of Parklands Village, who spoke at the Hearing, accept the risk associated with flooding and that their houses and lives are insured against flood risk. However, this may not be applicable to future occupiers either in terms of acceptance of risk or future levels of insurance.
11. I understand that there is now no Island flood siren warning system in place. The appellant refers to the occupiers of Parklands Village having signed up to the EA's Floodline Service, and although I was not provided with a copy, I understand that Minster Parish Council has produced an Evacuation Plan. In addition, the PVRA have developed a Flood Evacuation Plan and this is managed by the local occupiers themselves. The plan includes amongst other things, the provision of information on flooding to occupiers, sandbags to each property and vehicles to help move people off the site in case of flooding. The residents are also aware of who within Parklands Village would need some help to move out. I also accept that the Abbey Motel which some of the occupiers stay at during the winter months is also in the same Flood Zone, although I note this is slightly closer to higher ground and Flood Zone 1, than the appeal site.
12. The FRA states that the site could be affected by a breach in the Island's sea defences to a level which could result in approximately 2 metres of internal flooding within the properties. Despite their brick built construction, the buildings are single storey with eaves heights of around 2 metres and are not specifically designed to be flood resilient. Access to the loft of the properties via a pull down ladder is possible. However, there is no means of escape from the roof or proper ventilation within the roofspace and the EA confirmed that this would not be suitable as a safe refuge in the event of flooding. Notwithstanding the mitigation measures and plans in place, human failings and errors can and do occur, including failures in technology, illness, accidents,

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delayed departure and an understandable natural personal reluctance to move out rapidly.

13. I accept that the site did not flood in January 1953 when there was an example of severe flooding in the East of England, nor did it flood in recent winter months. Nevertheless, the risk of the tidal defences being overtopped or breach during an extreme tidal event remains. Having regard to the comments of the EA and the vulnerability of the occupiers, some of whom I was advised have health and mobility difficulties, I consider that to remove the condition would cause unacceptable risk from flooding to the occupiers of Parklands Village and it would be contrary to the provisions of the Framework in relation to flood risk.

*Holiday accommodation and the tourist economy*

14. The supporting text at paragraph 5.1.20 of the Bearing Fruits document refers to tourism being an important part of the local economy of Swale Borough. The Borough's principle tourism assets are referred to and this includes holiday parks and the Isle of Sheppey. Policy CP1 of Bearing Fruits amongst other things seeks to safeguard the Borough's tourism assets and Policy DM5 seeks to resist the permanent occupancy of caravans and chalets. Policy B5 of the LP seeks to retain existing tourist facilities, including holiday accommodation. Policy B7 of the LP relates to seasonal occupancy periods for holiday parks.
15. I accept that the properties have never been marketed as holiday homes and were purchased as freehold residences, although the majority of the occupiers at the Hearing were aware of the condition restricting the occupancy period when they purchased the property. The appellant also refers to the closure of the ferry link from Sheerness to Holland (the Olau Line) and that the properties were built after this and would have never have supported the tourism industry as a result. However, there is no doubt that the properties were only permitted as holiday homes and not permanent dwellings, nor is there any evidence before me to suggest that they could not be used as holiday accommodation.
16. I note that the number of bed spaces within the Borough which could be provided would be more than other tourist resorts such as Blackpool. At the Hearing I was referred to recent meetings between the local Member of Parliament for Sittingbourne and Sheppey and local caravan park owners. Although I have not been provided with details of the meetings, I understand that matters under discussion included occupancy rates, users of the properties not being holiday makers and the lack of entertainment facilities at some holiday parks making them a poor offer to tourists.
17. The brick built method of construction and appearance of the properties does differ from the neighbouring holiday accommodation at Meadow View for example, which are more akin to caravans and which are more common on the island. I understand that there are over 50 operational holiday parks on the Isle of Sheppey and the appellant indicates that the appeal site would only make a small contribution in terms of bed spaces. Nevertheless, whilst the layout also appears to be more akin to that within a residential development, the appearance and construction of the properties also makes a high quality contribution to the tourism offer on the Isle of Sheppey.

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18. I have been referred to park home developments at Leysdown, Pilgrims Retreat, Maidstone and Four Horseshoes Park, Graveney which are now occupied during 12 months of the year and which I understand are not built to the same type of construction as the appeal site. There was some discussion at the Hearing about what factors led to the change in the occupancy condition, some of the examples were clearly affected by the failure of the Council to take enforcement action, which is not the case here. I have not been provided with any further details in relation to the other examples in order to be able to make a comparison between them and the appeal proposal. As such, I am unable to give this weight in considering the proposal before me.
19. I was referred to a lack of any recent assessment of the tourism need within the Borough and that the Council's policy towards tourism has been in a similar form for a number of years. Nevertheless, the Council's strategy and policies in respect of tourism, including holiday parks remains in place and I have not been provided with detailed evidence to suggest that these are no longer appropriate.
20. The Council refer to the potential effect of removing the condition to allow 12 month occupation on other places which provide holiday accommodation. Taking into account the numbers of holiday parks within the area even if they are not constructed in the same manner as those within the appeal site, I agree with the Council that this would be likely to lead to further pressure for the removal of occupancy conditions at other holiday parks, which the Council would find very difficult to resist. This would undermine the Council's well established tourism strategy and the contribution that holiday parks on the Island make to the local economy.
21. For the reasons given above, I conclude that the removal of the condition would have an unacceptable effect of the stock of holiday accommodation and tourist economy within the Borough. It would be in conflict with Policies B5 and B7 of the LP and would be contrary to emerging policies CP1 and DM5 of the LP.

*Other material considerations*

22. Paragraph 47 of the Framework indicates that in order to boost significantly the supply of housing, local planning authorities should ensure that they meet their full and objectively assessed needs for market and affordable homes. At the Hearing the Council confirmed that it was not able to demonstrate a five year supply of housing land, with a shortfall of 831 dwellings amounting to approximately 3.5 years supply. This would be a substantial and significant shortfall. The appellant argues that the Local Plan is out of date and that the accommodation in use as permanent residences is sustainable development.
23. The Framework identifies three dimensions to sustainable development – economic, social and environmental. The appellant refers to the lack of accommodation for the elderly and retired people within the Borough, including a waiting list for people for bungalow type accommodation. The proposal would bring a benefit in terms of meeting the social role by assisting in the supply of housing, including for smaller homes. I also accept that the occupiers of Parklands Village use the local facilities and spend money locally. The properties are also subject to Council Tax. The appeal site is within walking distance of shops and services and bus stops.

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24. In social terms, the appellant also refers to the properties being vulnerable to crime if the appeal site was closed during the months of January and February, and I accept that this would be of a serious concern to the occupiers. However, I have not been provided with any evidence to indicate that this would be a significant risk.
25. Whilst I note that the occupiers may be spending money over a longer period of time, it is not clear that the contribution would be more to the local economy than that gained through the use of the properties as holiday accommodation for 10 months. In addition, the proposal would be contrary to the Council's tourism strategy and would have a negative impact on the tourism economy. In respect of the environmental role, there is a significant risk in terms of flooding. I conclude that the adverse impacts of the proposal would significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework as a whole.

### **Conclusion**

26. I have taken account of the effect on occupiers of the need to move from their homes during the winter months. I accept that some occupiers find it very difficult to move off the site during January and February for reasons of ill health for example and that others may choose to stay on the site. I also note that other occupiers of the appeal site do move away at this time. At the Hearing, there was discussion that if the appeal were to be dismissed, this would interfere with the occupiers right to a home, which comes within Article 8 of the European Convention on Human Rights. The right to a home is a qualified right where interference is permissible including in respect of public safety or the economic well-being of the country. Having regard to my significant concerns for public safety relating to flood risk and the effects on the tourism economy, I conclude that the interference that arises from the occupancy condition is limited and proportionate and does not amount to a violation of the human rights of the occupiers.
27. For above reasons and having regard to all matters raised, I conclude that the appeal should be dismissed.

*L Gibbons*

INSPECTOR

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APPEARANCES

FOR THE APPELLANT

Mrs M Mace	Parklands Village Residents Association
Mrs J Roullier	Parklands Village Residents Association
Mr J Burke	Constituency Manager for Gordon Henderson, Member of Parliament, Sittingbourne and Sheppey
Mr M Wood	Parklands Village Residents Association (Flood Committee)
Mrs P Abela	Parklands Village Residents Association (Chair)

FOR THE LOCAL PLANNING AUTHORITY

Mr M Goddard	Planning Consultant acting on behalf of Swale Borough Council
Mr J Byne	Flood Risk Officer, Environment Agency
Ms G Mitri	Planning Adviser, Environment Agency

INTERESTED PERSONS

Mrs M Brett  
 Mr C McMahon  
 Mr R Wickwar  
 Mrs S Sage  
 Mr A Wisdon  
 Mr Hubbard  
 Mrs M Crain  
 Mrs M Hooper  
 Mrs Baker  
 Mr R Salt  
 Mr V Guyver  
 Mr J Pieri

DOCUMENTS AND PLANS SUBMITTED AT THE HEARING

- 1 Statement to the Hearing by Gordon Henderson, Member of Parliament  
supplied by Mr J Burke

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- 2 Statement to the Hearing by Mrs M Mace and Mrs J Roullier supplied by the appellant
- 3 Parklands Village Flood Evacuation Plan supplied by Mr Wood on behalf of the Parklands Village Residents Association
- 4 Flood Map – Defences (Minster) supplied by the Environment Agency





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## Appeal Decision

Site visit made on 2 July 2015

by **Martin Andrews MA(Planning) BSc(Econ) DipTP & DipTP(Dist) MRTPI**  
an Inspector appointed by the Secretary of State for Communities and Local Government  
Decision date: 29 July 2015

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**Appeal Ref: APP/V2255/W/15/3004664**  
**Land adjoining 71 South Road, Faversham, Kent ME13 7LX**

- 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 Billy McQuoid against the decision of Swale Borough Council.
  - The application, Ref. 14/503662/FULL, dated 3 September 2014, was refused by notice dated 3 February 2015.
  - The development proposed is the construction of a new four bedroomed dwelling.
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### Decision

1. The appeal is allowed and planning permission is granted for the construction of a new four bedroomed dwelling on Land adjoining 71 South Road, Faversham, Kent in accordance with the terms of the application, Ref. 14/503662/FULL, dated 3 September 2014, subject to the conditions in the attached schedule.

### Main Issues

2. The main issues are (i) whether the loss of the existing gap and the construction of the proposed dwelling would preserve or enhance the character or appearance of the Faversham Conservation Area, and (ii) the effect of the development on the setting of the adjoining grade II listed building, No. 71 South Road. Although these are technically two separate matters I consider it expedient to deal with them together in the reasons for my decision.

### Reasons

3. The Council's objection to the appeal scheme is less to the design of the new building and more to the principle of the loss of the existing gap between Nos. 71 and 73. One of the most contentious issues in relation to both the effect on the conservation area and the setting of the listed building (but more so the latter because of the relevance of the historical perspective) is whether this land was originally part of the garden of No. 71. Whilst I consider that a plausible case has been made on both sides, on balance the evidence, and in particular the cartographic evidence, favours the appellant's argument that it was not. This has informed my decision in this appeal but on its own it is not the determining factor.
  4. Turning to the site's current circumstances, I do not agree with the appellant's description that it is an 'ugly gap'. On the other hand I can offer little support to
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the views expressed in the Council's appraisal as to the site's value to the street scene in particular and the conservation area as a whole. The site does not offer any visual relief of importance to the built up form of this side of South Road; indeed the period buildings are sufficiently varied and interesting not to need such relief. The front boundary wall of the site also severely limits any perception of a pleasing green space.

5. Nor does the site provide any vistas that enhance South Road. There are a couple of trees to the rear but these form a backdrop with the more modern buildings in Plantation Road and there are no views beyond this point. The main consequence of the land's openness is to open up to public view the featureless and uninteresting flank walls of Nos. 71 and 73, especially the latter. The prominence of these walls, even allowing for the fact that one of them forms part of the listed building, is in my judgement a negative feature in the South Road street scene.
6. I have seen the photographs of the land when it was overgrown and with this vegetation it did appear to confer some element of visual amenity. However, given the removal of that growth, in particular the trees, and the apparent absence of any realistic prospects for their replacement, I must assume that the site's contribution to the character and appearance of the conservation area is the essentially neutral one that I saw on my visit.
7. From this visit and all that I have seen and read, I consider that the attractive and distinctive character and appearance of this part of South Road and the conservation area is formed by the contrast between on the one hand the attractive period buildings on the same side as the appeal site, and on the other hand the almshouses and the open greenery of their lawned gardens opposite. I am in no doubt that it is primarily this to which the conservation area character appraisal is referring in its statement that *'near to the almshouses the layout is rather less rigid and a little greener in appearance'*. In my view, within this townscape the appeal site is not visually significant.
8. Turning to the proposed dwelling, I am minded to agree with the Council's reservations about some elements of its design, in particular the pyramidal roof. However overall it would be a well designed and handsome building that would be in keeping with its neighbours, including the listed building, and make a positive contribution to the street scene. Because the site has at best a neutral impact and because I am unconvinced as to any functional historic relationship with the listed building, I consider that the latter's setting will be enhanced by the eye being drawn to its attractive front elevation and walled front garden rather than the weatherboarded flank wall, which will become far less prominent as a result of the development.
9. In addition to assessing the appeal scheme's compliance with Policies E1, E14, E15 and E19 of the Swale Borough Local Plan 2008, I have had regard to Section 12: 'Conserving and enhancing the historic environment' of the National Planning Policy Framework 2012. Both the conservation area and the listed building are designated heritage assets and the Council has referred to paragraphs 132 and 134 of the Framework in its Notice of Refusal.
10. However, my overall conclusion is that the appeal proposal would enhance both the character and appearance of the Faversham Conservation Area and the

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setting of the adjoining grade II listed building. In these circumstances the development would not conflict with either the Council's policies or with national policy in the Framework. I have fully taken into account the views of the Council and local residents who object to the scheme and all the other matters raised, but have found nothing to alter my conclusion that I should allow the appeal.

**Conditions**

11. The Council has suggested some conditions if the appeal is allowed and subject to some minor amendments I consider that these are reasonable and necessary. A condition requiring the development to be carried out in accordance with the approved plans and additional detailed plans is needed for the avoidance of doubt and in the interests of proper planning.
12. Conditions relating to external materials, landscaping and the withdrawal of permitted development rights will ensure that the proposed dwelling enhances the character and appearance of the conservation area. A condition to agree measures to preclude the deposit of earth and other materials on the road will maintain highway safety.
13. A condition requiring sustainable building construction will assist with mitigating the effects of climate change, whilst a condition is also reasonable to safeguard any archaeological interest of the site. Conditions in respect of hours of construction, including pile driving, and measures to mitigate dust will protect the living conditions of nearby occupiers.

**Conclusion**

14. For the reasons explained above the appeal is allowed subject to the conditions specified in the attached schedule.

*Martin Andrews*

INSPECTOR

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#### **Schedule of Conditions**

- 1) The development hereby permitted shall begin before the expiration of three years from the date of this Decision;
- 2) Other than required in condition nos. 5) and 6) below, the development hereby permitted shall be carried out in accordance with the following approved plans: Drawing Nos. 13/38/01 Rev. A; 13/38/02 Rev. A; 13/38/03 Rev. A;
- 3) Before the development hereby permitted is commenced, samples of all facing materials to be used in the development shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details;
- 4) Before the development hereby permitted is commenced, a 1 metre square panel of brickwork and mortar, to be laid in Flemish bond, shall be constructed on site; inspected on site and approved in writing by the Local Planning Authority. The development shall be carried out in complete accordance with the approved details;
- 5) Notwithstanding the drawings and details submitted, before the development hereby permitted is commenced detailed drawings of all external joinery and finishes thereto at two scales - 1:20 and 1:2 or 1:1, and showing the relationship of the windows to the brickwork at head, cill and jamb, shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in complete accordance with these approved details;
- 6) Before the development hereby permitted is commenced, detailed constructional drawings of the eaves and verges at a scale of 1:5, shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in complete accordance with these approved details;
- 7) No development shall take place until details have been submitted to and approved in writing by the Local Planning Authority, which set out the measures taken to ensure that the development incorporates sustainable construction techniques relating to water conservation, recycling and renewable energy production including solar thermal or photo voltaic installations, and energy efficiency. The details shall be incorporated into the development as approved;
- 8) 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;
- 9) 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 hours: 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;

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- 10) 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 hours: 0900 – 1700 hours, unless in association with an emergency or with the prior written approval of the Local Planning Authority;
- 11) The commencement of the development shall not take place until a programme for the suppression of dust during the 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 construction unless any variation has been approved by the Local Planning Authority;
- 12) Before the commencement of development measures to prevent the deposit of mud or any other material on the public highway shall be agreed in writing with the Local Planning Authority. The development shall be carried out in accordance with the agreed measures for the duration of construction;
- 13) All rainwater goods shall be of cast iron;
- 14) 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 planting schedules of plants, to include native species, noting species, plant sizes and numbers where appropriate, means of enclosure, hard surfacing materials, and an implementation programme.
- 15) 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 with the local planning authority.
- 16) Upon completion of the approved landscaping scheme, any trees or shrubs removed, dying, severely damaged or becoming seriously diseased within five years of planting shall be replaced within the next planting season by trees or shrubs of such size and species as may be agreed in writing with the Local Planning Authority;
- 17) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no enlargement of the building shall be carried out.

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

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