

## AGENDA

### PLANNING COMMITTEE MEETING

Date: Thursday, 28 April 2016

Time: 7.00 pm

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

Membership:

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

Quorum = 6

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|  | Pages |
|--|-------|
1. Fire Evacuation Procedure

The Chairman will advise the meeting of the evacuation procedures to follow in the event of an emergency. This is particularly important for visitors and members of the public who will be unfamiliar with the building and procedures.

The Chairman will inform the meeting whether there is a planned evacuation drill due to take place, what the alarm sounds like (i.e. ringing bells), where the closest emergency exit route is, and where the second closest emergency exit route is, in the event that the closest exit or route is blocked.

The Chairman will inform the meeting that:

    - (a) in the event of the alarm sounding, everybody must leave the building via the nearest safe available exit and gather at the Assembly points at the far side of the Car Park; and
    - (b) the lifts must not be used in the event of an evacuation.

Any officers present at the meeting will aid with the evacuation.

It is important that the Chairman is informed of any person attending who is disabled or unable to use the stairs, so that suitable arrangements may be made in the event of an emergency.
  2. Apologies for Absence and Confirmation of Substitutes

3. Minutes

To approve the Minutes of the Meeting held on 7 April 2016 (Minute Nos. 634 - 641) as a correct record.

4. 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**

5. Planning Working Group

To approve the Minutes of the Meeting held on 18 April 2016 (Minute Nos. 646 – 647).

15/507246/FULL 320 Minster Road, Minster, ME12 3NR

6. Report of the Head of Planning

1 – 135

To consider the attached report (Parts 2 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 27 April 2016.

7. 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 5 and 7.

5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.
7. Information relation to any action in connection with the prevention, investigation or prosecution of crime.

8. Report of the Head of Planning

136

To consider the attached report (Part 6).

**Issued on Tuesday, 19 April 2016**

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)

Director of Corporate Services, 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

**28 APRIL 2016**

#### Standard Index to Contents

**DEFERRED ITEMS** Items shown in previous Minutes as being deferred from that meeting may be considered at this meeting

**PART 1** Reports to be considered in public session not included elsewhere on this Agenda

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

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

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

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

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

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ABBREVIATIONS: commonly used in this Agenda

CDA Crime and Disorder Act 1998

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

HRA Human Rights Act 1998

K&MSP Kent and Medway Structure Plan 2006

SBLP Swale Borough Local Plan 2008

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**INDEX OF ITEMS FOR PLANNING COMMITTEE – 28 APRIL 2016**

- **Minutes of last Planning Committee Meeting**
- **Deferred Items**
- **Minutes of any Working Party Meetings**

**Part 2**

<b>2.1 Pg 1 – 7</b>	<b>15/510082/FULL</b>	<b>HARTLIP</b>	<b>46 Hartlip Hill</b>
<b>2.2 Pg 8 – 16</b>	<b>15/508144/FULL</b>	<b>IWADE</b>	<b>6 Sheerstone</b>
<b>2.3 Pg 17 – 35</b>	<b>15/508661/FULL</b>	<b>SITTINGBOURNE</b>	<b>Ceres Court, Eagles Close</b>
<b>2.4 Pg 36 – 87</b>	<b>15/510605/FULL</b>	<b>SITTINGBOURNE</b>	<b>Central Park Stadium Church Road</b>
<b>2.5 Pg 88 – 128</b>	<b>15/510595/OUT</b>	<b>NEWINGTON</b>	<b>Land off London Road</b>

**Part 5 - Index**  
**Pg 129**

<b>5.1 Pg 130 - 132</b>	<b>15/506335/FULL</b>	<b>MINSTER</b>	<b>226 Chequers Road</b>
<b>5.2 Pg 133 - 135</b>	<b>SW/12/0987</b>	<b>GRAVENEY</b>	<b>1 New House, Broom Street</b>

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**PLANNING COMMITTEE – 28 APRIL 2016**

**PART 2**

Report of the Head of Planning

**PART 2**

Applications for which **PERMISSION** is recommended

<b>2.1 REFERENCE NO - 15/510082/FULL</b>			
<b>APPLICATION PROPOSAL</b> Demolition of rear extension and outbuildings. Erection of rear and side extensions and loft conversion to include dormers and rooflights.			
<b>ADDRESS</b> 46 Hartlip Hill Hartlip Kent ME9 7NZ			
<b>RECOMMENDATION</b> Approve			
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b> The proposal is acceptable in principle and does not impact unacceptably upon residential or visual amenities.			
<b>REASON FOR REFERRAL TO COMMITTEE</b> Recommendation contrary to Parish Council view			
<b>WARD</b> Hartlip, Newington & Upchurch	<b>PARISH/TOWN</b> Hartlip	<b>COUNCIL</b>	<b>APPLICANT</b> Mr S Collins <b>AGENT</b> Mr Simon Edgington
<b>DECISION DUE DATE</b> 29/01/16	<b>PUBLICITY EXPIRY DATE</b> 11/01/16		
<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>
None			

**MAIN REPORT**

**1.0 DESCRIPTION OF SITE**

- 1.01 No.46 Hartlip Hill is a detached bungalow located in a row of similarly sized properties, with a varied mixture of property types located on the opposite side of the highway.
- 1.02 The property is located within a fairly substantially sized plot. The frontage of the property extends to some 13m in depth and includes a landscaped garden and a driveway which extends to the side of the property.
- 1.03 There are outbuildings located to the rear of the property and along the common boundary with No.44 Hartlip Hill.
- 1.04 The rear garden is large, measuring approximately 50m in depth and 15m in width.

## **2.0 PROPOSAL**

- 2.01 This application seeks planning permission for the demolition of the existing rear extension and outbuildings, an increase to the height and width of the bungalow, a rear extension, and formation of rooms in the roofspace.
- 2.02 The property as existing measures 8.3m in width and would be widened to a width of 9.6m. The rear extension would measure a maximum 10.4m in depth and match the width at the front of the dwelling.
- 2.03 The roof of the bungalow would be raised from its existing height of 5.5m to 6.1m. The pitched roof design of the existing bungalow will be retained. To the rear, the proposed extension will have a hipped roof with the ridgeline turned at 90 degrees to that at the front of the dwelling.
- 2.04 The loft space of the dwelling would also be utilised, and as a result of this two pitched-roof dormer windows and a rooflight are proposed on the rear elevation. On the east facing side elevation four rooflights are proposed and on the west facing rooflight two rooflights are proposed.

## **3.0 PLANNING CONSTRAINTS**

- 3.01 Potential Archaeological Importance.

## **4.0 POLICY AND OTHER CONSIDERATIONS**

- 4.01 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.
- 4.02 The adopted Swale Borough Local Plan 2008 echoes a similar sentiment, and policies E1, E19, E24 in particular encourage the provision of high-quality development and minimising potential amenity impacts for local residents. Policy E6 and RC4 aims to restrict development within the countryside and the adopted SPG (referred to below) recommends that extensions to rural properties do not increase the floor space of the original property by more than 60% in total.
- 4.03 The publication draft of the emerging Local Plan, entitled Bearing Fruits 2031, was agreed by Members at Full Council late last year and was agreed in principle by the Local Plan Inspector last year, and, as such, carries some weight in the determination of planning applications. Policies DM14, DM16, DM19 are relevant in this instance.
- 4.04 The Council's adopted Supplementary Planning Guidance 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.

## **5.0 LOCAL REPRESENTATIONS**

- 5.01 Surrounding properties were sent a consultation letter. Five responses were received to the proposal, raising the following summarised objections:

- The proposal is disproportionate and not in keeping with the surrounding bungalows;
- Would adversely impact upon the streetscene as the existing roof heights are all identical;
- The proposal will significantly reduce natural light received to neighbouring dwellings;
- The proposal will give rise to overlooking of surrounding gardens and properties;
- The existing roof tiles are asbestos;
- Construction noise will take place at unsociable hours over a long period of time;

## 6.0 CONSULTATIONS

6.01 **Hartlip Parish Council** objects to this application with the following observations:

*“HPC is very concerned about the size of the proposed conversion which would appear to increase the size of the footprint by 60% giving a much larger footprint than for numbers 44 and 48 Hartlip Hill and is too large for rural constraint policies. It is noted that in the letter from Edgington Architectural Services, reference is made to using members of the family in the building trade to carry out some of the works and the work will be undertaken in two phases. The proposed new roof is one metre higher than the existing and will impact on neighbours and affect their amenity. To buy a house with 2 bedrooms when you require 5 seems odd.*

*HPC have endeavoured to consult the neighbours. Mr. Crawford at 48 Hartlip Hill has just sold his house and will be moving out shortly and it is not known whether the new purchasers are aware of the proposals. It may well come as a very unpleasant surprise to them. Mr Munn at 44 Hartlip Hill is very concerned about the effect on his amenity. He will almost certainly be lodging a letter of objection. He is also concerned about the fact that as the work is to be carried out by family members, it may be undertaken in anti-social hours.*

*For the above reasons HPC objects to this application. No doubt you will consider very carefully any comments made by neighbours and efforts should be made to consult the new owners of No.48.*

*If this, or a revised application is granted a condition should be added limiting the number of hours worked to 8.00am to 5.00pm. on Monday to Friday.”*

6.02 **Upchurch Parish Council** (the rear site boundary abuts the boundary of Upchurch Parish) responded stating that they *“can see no reason to object to this application provided that neighbours comments are taken into consideration.”*

6.03 **Network Rail** has no objection or further observations to make.

6.04 **KCC Archaeology** are satisfied that *“no archaeological measures are needed.”*

## 7.0 BACKGROUND PAPERS AND PLANS

7.01 Application papers and correspondence relating to planning reference 15/510082/FULL.

## 8.0 APPRAISAL

### Principle of Development

- 8.01 The site lies within the designated countryside where 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 In this instance, the application proposes an increase on the original floorspace of approximately 267%. However, the Council has for some time now considered the Hartlip Hill area to amount to an exception to the normal policies of restraint for development in the countryside. The area is suburban in character, comprising of a substantial length of ribbon development, giving an entirely developed frontage to the road on both sides of the A2. As such, whilst for the purposes of the Swale Borough Local Plan 2008 the site is located in the countryside, in reality there is little harm to the character of the countryside resulting from development to these dwellings. The policies of rural restraint have accordingly been applied less rigorously here on a number of separate occasions, as large extensions to these dwellings would not be likely to cause material harm to the countryside.
- 8.03 I am therefore of the opinion that whilst the proposed extension would be well in excess of what I would normally consider acceptable, it is acceptable in principle in this location.

### Visual Impact and impact upon the streetscene

- 8.04 Concern has been raised locally regarding the change of design and the impact that this would have upon the character of the streetscene. When viewed from the front elevation the host property is of a similar scale and design to the adjoining properties, moving eastwards a further 4 properties are also of a similar in appearance. However, the application as proposed would limit the increase in the ridge height to 0.6m. In addition the application has been amended so that the roof of the rear extension is symmetrical when viewed from the front, this in my view retains the sense of balance of the property.
- 8.05 I also take into consideration that due to the gap between the properties, an increase in roof height of 0.6m and the retention of the pitched roof with front facing gable would result in a design which was not significantly out of keeping with the adjacent dwellings. Furthermore, I note that properties on the opposite side of the highway are a mixture of heights, types and designs. As such, in my view, the proposal would not be considerably out of keeping with surrounding properties. In my view the scheme would therefore not impact unacceptably on either visual amenities or the streetscene.

### Residential Amenity

- 8.06 The existing rear elevations of both adjacent properties (Nos. 44 and 48) project beyond the rear elevation of the host property. As proposed, the rear extension would project beyond the rear elevation of No.44 by 5m at a height of 6.1m. However, the flank wall of the extension closest to No.44 would be separated by a distance of 6.5m. I also note that the application will include the demolition of existing outbuildings, a number of which are located either on, or within 1m of the boundary with No.44. As such, the built form will be moved further away from the common boundary. I also pay regard to the SPG which in the case of well spaced

detached properties allows for degree of flexibility in terms of the acceptability of rear projections. Overall I take the view that due to the separation distance between the two properties, the hip of the roof sloping away from the side boundary and the removal of the existing outbuildings that the proposed extension would not have an unacceptably overbearing impact upon the occupiers of No.44 or cause a significant loss of light.

- 8.07 On the opposite side, No.48 has a rear projection abutting the boundary with the host property which projects approximately 1m past the rear elevation of the proposed extension. As such I also take the view that the proposal would not have an unacceptably overbearing impact upon the occupiers of No.48 or cause a significant loss of light to this property.
- 8.08 Local concern has also been raised regarding overlooking of neighbouring properties and gardens. The application proposes rooflights in the side facing roof slopes and two dormer windows and a rooflight in the rear facing roof slope. The rear facing dormer windows and rooflight would provide rearward views in a conventional manner. As such I consider that this element of the proposal would not give rise to unacceptable levels of overlooking.
- 8.09 The rooflights on the side elevation serve the stairway and the loft space / storage area. Although I appreciate that there would be the opportunity in future to convert this space into a habitable room I note that the rooflights would be located towards the middle and the front of the roofspace. As such the main views available would be of the roofs of the neighbouring dwelling. As such, in my view the proposal would not give rise to unacceptable levels of overlooking or loss of privacy.

### **Parking**

- 8.10 The application site as existing has a driveway which runs from the frontage of the property and along the side of the dwelling. The proposal will retain this driveway but due to the increase in the width of the dwelling it will be reduced to 2.8m in the area between the flank wall and the side boundary. As contained in Supplementary Planning Guidance 4 – Kent Vehicle Parking Standards, July 2006, a width of 2.9m is required when bounded on both sides. However, the driveway would continue in front of the property. As such, there would still be room to park vehicles and due to the size of the frontage, within which a landscaped garden would be retained, I do not consider that parking would therefore be a significantly dominant feature to the front of the dwelling. I also note the existing planting which runs along the boundary with No.48 which would also have the impact of screening vehicles. As such I consider that the parking arrangements are acceptable and would not significantly harm the street scene.

### **Other Matters**

- 8.11 I also note that comments have been made regarding possible asbestos at the site and that construction may cause harm to neighbouring amenities. I will deal with these issues in turn. Firstly, the issue of asbestos is not covered by the planning process but via separate legislation, and would be considered at the Building Regulations stage. Secondly, although not normally imposed on a domestic extension, in this case, due to the relatively large addition to the dwelling I have recommended an hours of construction condition. I therefore believe that neighbouring amenities will be protected in this regard.

## 9.0 CONCLUSION

9.00 Overall I consider that the principle of development is accepted in this location, the proposal would not be significantly out of keeping with the existing street scene and it would not have an unacceptable impact upon residential amenities. I recommend that planning permission be granted.

## 10.0 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.

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 used in the construction of the external surfaces of the development hereby approved shall match those as stated on the application form.

Reason: In the interest of visual amenities.

- (3) The development hereby approved shall be carried out in accordance with the following approved plans: EAS/15/07/04A; EAS/15/07/05A; EAS/15/07/06A; EAS/15/07/07A; EAS/15/07/08A, received 10<sup>th</sup> March 2016.

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

- (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.

Reason: In the interests of residential 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 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>2.2 REFERENCE NO - 15/508144/FULL</b>			
<b>APPLICATION PROPOSAL</b> Erection of attached dwelling, creation of garden and associated landscaping.			
<b>ADDRESS</b> 6 Sheerstone Iwade Kent ME9 8RN			
<b>RECOMMENDATION</b> Approve			
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b> The proposed dwelling is within the built up area boundary and would not unacceptably harm residential or visual amenities or the streetscene.			
<b>REASON FOR REFERRAL TO COMMITTEE</b> Called in by Cllr Stokes			
<b>WARD</b> Bobbing, Iwade & Lower Halstow	<b>PARISH/TOWN</b> Iwade	<b>COUNCIL</b>	<b>APPLICANT</b> Whitby Building Solutions Ltd. <b>AGENT</b> Robinson Escott Planning
<b>DECISION DUE DATE</b> 02/12/15	<b>PUBLICITY EXPIRY DATE</b> 31/3/2016		
<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>
None			

**MAIN REPORT**

**1.0 DESCRIPTION OF SITE**

- 1.01 No.6 Sheerstone is comprised of a two storey semi detached property with a landscaped garden to the front and side and private amenity space extending to 27m to the rear.
- 1.02 In front of the property lies an area of amenity space which separates Sheerstone from Ferry Road.
- 1.03 On the western side of the highway, in this part of Sheerstone, the properties are predominately semi detached. On the opposite side of Ferry Road the style of property is predominately 2 storey and terraced in nature. As such, there is a mixture of property type and design within close proximity of the application site.

**2.0 PROPOSAL**

- 2.01 This application seeks planning permission for a two storey dwelling. The dwelling would be attached to the existing property at No.6 Sheerstone. The property would be orientated away from No.6 and address the highway at a similar angle as No. 2 and 4.

- 2.02 Due to the orientation of the property it would measure 7.8m in width along the stepped front elevation and 3.6m in width at the very rear of the property. The dwelling would be 8.8m in depth, 5m to the eaves and 7.8m in overall height with a pitched roof.
- 2.03 Internally the dwelling would be comprised of a hallway, lounge, kitchen, dining room and w.c. whilst at first floor level would be two bedrooms and a bathroom.
- 2.04 A portion of the proposed property's frontage would be comprised of hardstanding with the remainder being a landscaped garden. The hardstanding would continue for 12.6m in depth adjacent to the property. There would be provision to park 3 cars within the curtilage of the proposed property.
- 2.05 The existing rear amenity space of No.6 would be approximately halved to give the existing property at No.6 and the proposed adjacent property a similar amount of private amenity space. This would be approximately 27m in length and 6.6m in width immediately to the rear of the properties before tapering inwards towards the rear.

### **3.0 PLANNING CONSTRAINTS**

- 3.01 Potential Archaeological Importance

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

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

- 4.01 The NPPF and the National Planning Policy Guidance (NPPG) both advocate provision of new residential development within sustainable urban locations close to local shops and services, subject to good design and no serious amenity issues being raised.

#### Development Plan

- 4.02 Policy E1 sets out standards applicable to all development, saying that it should be well sited and 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;
- 4.03 Policy E19 states that the Borough Council expects development to be of high quality design and should amongst other requirements provide development that is appropriate to its context in respect of scale, height and massing, both in relation to its surroundings, and its individual details;
- 4.04 Policy H2 states that planning permission for new residential development will be granted for sites within the defined built up areas, in accordance with the other policies of the Local Plan.
- 4.05 Policy T3 states that the Borough Council will only permit development if appropriate vehicle parking is provided in accordance with Kent County Council parking standards.

## 5.0 LOCAL REPRESENTATIONS

5.01 Surrounding properties were sent a consultation letter and a site notice was displayed close to the site. Three responses were received which raised the following summarised objections:

- Will exacerbate existing parking problems in the area;
- Water / sewer pipes are within the boundary of No.6 causing complications if the get damaged / blocked;
- No need for this dwelling;
- Where would construction vehicles park?
- Lower value of existing properties;

## 6.0 CONSULTATIONS

6.01 **Iwade Parish Council** *“has concerns about parking as regards this application. Parking in Sheerstone is problematic, often both sides of the road outside of this property are blocked with parked cars. As these are three bedroomed homes the Parish Council requests that provision is made on site for two cars per property - no. 6 and the new build.”*

6.02 **KCC Archaeology** *“confirm that no archaeological measures are required in connection with the proposal.”*

6.03 I have consulted verbally with the Council’s **Environmental Protection Manager** who has requested an hours of construction condition.

6.04 **Southern Water** requests that if consent is granted then a condition is imposed relating to diversion of public sewers and an informative relating connection to the public foul sewerage system.

6.05 As three objections to the scheme have been received, I contacted the Ward Members, summarising the reasons why I believed the application to be acceptable and also giving them the opportunity to call the application into Planning Committee if they wished. Their responses were as follows:

- Cllr Stokes: *“As there are some objections I will like to call in this application to committee.”*
- No response was received from Cllr Dewar-Whalley.

## 7.0 BACKGROUND PAPERS AND PLANS

7.01 Application papers and correspondence relating to planning reference 15/508144/FULL.

## 8.0 APPRAISAL

8.01 It is important to note at the outset that during the course of this application amendments have been made to the scheme which have reduced the scale of the property resulting in a two bedroomed property rather than 3 bedrooms as originally applied for. Further to this, provision for three parking space within the curtilage of the dwelling has now also been provided.

8.02 In light of the above, in my view the key considerations in the determination of this application are as follows:

- Principle of development;
- Impact upon residential amenities;
- Impact upon visual amenities and the streetscene;
- Parking provision

### **Principle of Development**

8.03 The application site lies within the built up area boundary where the erection of new dwellings is acceptable in principle in accordance with both locally and nationally adopted policies. As such the development of this site is acceptable as a matter of principle.

### **Residential Amenities**

8.04 The flank elevation of the property, facing towards No.4 Sheerstone is L shaped. At its closest point it is separated from the flank wall of this adjacent property by a distance of 4.7m and by 5.4m at its furthest point. The proposed property is set approximately 1.8m forward of the building line of No.2 and 4 Sheerstone and approximately in line with the rear elevation of these properties. As such I take the view that the proposal would not impact unacceptably on the neighbouring amenities of No.4 Sheerstone.

8.05 On the opposite side, the proposed dwelling projects at two storey level past the rear elevation of No.6 by 1.8m. This is in compliance with the depth of projections usually allowed, as set out in the Council's adopted SPG. However, as the property proposed projects beyond No.6 close to the common boundary I have recommended a condition removing permitted development rights under Class A to protect neighbouring amenities in the future.

### **Visual Amenities and the Streetscene**

8.06 When originally submitted, the application proposed a larger dwelling which was only 1.5m away from the common boundary with No.4. The result of this was that the width of the frontage, extending to 9m would have had a dominant impact upon the streetscene. As such, after discussions with the agent / applicant an amended plan was received, reducing the scale of the dwelling.

8.07 The result of the above amendment is that the dwelling proposed in this application is of a similar scale to the property that it is attached to and the existing dwellings within Sheerstone. Although it is noted that the property would turn the existing semi detached dwellings (No.6 and 8) into a terrace of three I do not consider this to be significantly out of keeping with the existing streetscene. The reason for this is because although this part of Sheerstone itself is comprised of semi detached properties, on the opposite side of Ferry Road there are terraced properties present within close proximity of the application site. As such I do not consider that there is a dominant property type within the area.

8.08 I note that the application form states that the proposed external finishing materials will match the existing materials used in the construction of No.6 Sheerstone. I believe that this is an appropriate approach to take and this will result in the appearance of the development being in keeping with the existing dwelling. To ensure this I have included a relevant condition to this effect.

### **Parking**

- 8.09 Local concern has been raised regarding the parking pressures that exist within the vicinity of the application site. When originally submitted the application proposed no parking within the curtilage. I considered this to be unacceptable and as such after discussions with the agent parking space has now been provided within the site boundary. Further to this, due to the reduction in the scale of the dwelling, an element of the parking provision is located to the side of the property, the result of this is that some of the parking space would be partially screened from public vantage points. Overall I note that the site has the ability to support three parking spaces, this is over and above KCC Highways and Transportation standard for a property of this size in this location. Members should note that currently no6 has no on site parking facilities and this position would remain the same as a result of this development. As such, I do not consider that this proposal would worsen the parking situation in the surrounding area.

### **Other Matters**

- 8.10 Concern has also been raised locally regarding the public water supply and sewerage system which runs beneath the application site. As a result of this I considered it prudent to consult with Southern Water. They have responded, raising no objection but requesting a condition relating to diversion of public sewers and an informative relating connection to the public foul sewerage system. I note details that have been submitted from the applicant which indicates discussions with Southern Water regarding this site. However, the actual measures which will be undertaken to divert the public sewers have not been submitted. I have therefore included this condition requiring the details along with the informative and in light of this I consider that this matter has been adequately dealt with.
- 8.11 Further objections have been received which have been summarised above and to which I respond as follows. Firstly, there is a clear and established need for additional housing in the Borough and this scheme would make a modest contribution to this. Secondly, as this application is for a single dwelling I consider that the period of construction will be limited. As such, I do not consider that parking of construction vehicles will cause unacceptable harm to highway or residential amenities. Thirdly, the lowering of property values is not a material planning consideration and therefore no further comment will be made regarding this.
- 8.12 I have for completeness set out a Habitat Regulations Assessment below. This confirms that whilst mitigation could be provided by way of developer contributions, this is not considered appropriate for developments fewer than 10 dwellings. The cost of mitigation will be met by developer contributions on developments over 10 dwellings. In view of this it is not considered that the development will have a harmful impact on the special interests of the SPA and Ramsar sites.

## **9.0 CONCLUSION**

- 9.01 Overall I consider that the proposal would provide an additional dwelling, within the built up area boundary without causing unacceptable harm to residential or visual amenities or the streetscene. Concern has been raised regarding parking but the application has been amended to now include adequate parking provision within the curtilage of the proposed dwelling. I believe the proposal to be acceptable and recommend that planning permission be granted.

**10.0 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.

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 take place in accordance with the following drawings: 2516-15-PL001 Rev P8 and 2516-15-PL002 Rev P7, received 22<sup>nd</sup> February 2016.

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

- 3) No development shall take place until details have been submitted to the Local Planning Authority and approved in writing, which set out what measures have been taken to ensure that the development incorporates sustainable construction techniques such as water conservation and recycling, renewable energy production including the inclusion of solar thermal or solar photo voltaic installations, and energy efficiency. Upon approval, the details shall be incorporated into the development as approved.

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

- 4) The materials to be used in the construction of the external surfaces of the dwelling hereby permitted shall match those on the existing building (No.6 Sheerstone) in terms of type, colour and texture.

Reason: In the interests of visual amenity

- 5) 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, and to ensure that such matters are agreed before work is commenced.

- 6) 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.

- 7) 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

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

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

- 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 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.

- 10) Upon completion, no further development permitted by Class A or Class E of Part 1 of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking and re-enacting that Order) shall be carried out without the prior permission in writing of the Local Planning Authority.

Reason: In the interests of neighbouring amenities.

- 11) The access details shown on the approved plans shall be completed prior to the first occupation of any dwellings hereby approved, and the access shall thereafter be maintained in perpetuity.

Reason: In the interests of highway safety and amenity.

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

Reason: In the interests of highway safety and convenience.

- 13) The developer must advise the local authority (in consultation with Southern Water) of the measures which will be undertaken to divert the public sewers, prior to the commencement of the development.

Reason: To ensure that foul water and sewerage can be adequately disposed of.

### **Informative**

A formal application for connection to the public sewerage system is required in order to service this development. To initiate a sewer capacity check to identify the appropriate connection point for the development, please contact Southern Water, Sparrowgrove House, Sparrowgrove, Otterbourne, Hampshire S021 2SW (Tel: 0330 3030119) or [www.southernwater.co.uk](http://www.southernwater.co.uk).

## Habitats Regulations Assessment

This HRA has been undertaken without information provided by the applicant. The application site is located approximately 2.1km south of The Swale Special Protection Area (SPA) and Ramsar site and 1.5km south of Medway Estuary and Marshes Special Protection Area 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.

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 that subject to a financial contribution to strategic mitigation, the proposal is unlikely to have significant effects on these sites and can therefore be screened out from any requirement for further assessment. It goes on to state that when recording the HRA the Council should refer to the following information to justify its conclusions regarding the likelihood of significant effects; financial contributions should be made to the Thames, Medway and Swale Estuaries Strategic Access Management and Monitoring (SAMM) Strategy in accordance with the recommendations of the North Kent Environmental Planning Group (NKEPG); the strategic mitigation will need to be in place before the dwellings are occupied.

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

- Due to the scale of development there is no scope to provide on site mitigation such as an on site dog walking area or signage to prevent the primary causes of bird disturbance which are recreational disturbance including walking, dog walking (particularly off the lead), and predation birds by cats.
- Based on the correspondence with Natural England, I conclude that off site mitigation is required. However, the Council has taken the stance that financial contributions will not be sought on developments of this scale because of the practicalities of securing payment. In particular, the legal agreement may cost more to prepare than the contribution itself. This is an illogical approach to adopt; would overburden small scale developers; and would be a poor use of Council resources. This would normally mean that the development should not be allowed to proceed, however, NE have acknowledged that the North Kent Councils have yet to put in place the full measures necessary to achieve mitigation across the area and that questions relating to the cumulated impacts on schemes of 10 or less will need to be addressed in on-going discussions. This will lead to these matters being addressed at a later date to be agreed between NE and the Councils concerned.
- Developer contributions towards strategic mitigation of impacts on the features of interest of the SPA- I understand there are informal thresholds



being set by other North Kent Councils of 10 dwellings or more above which developer contributions would be sought. Swale Council is of the opinion that Natural England's suggested approach of seeking developer contributions on minor developments will not be taken forward and that a threshold of 10 or more will be adopted in due course. In the interim, I need to consider the best way forward that complies with legislation, the views of Natural England, and is acceptable to officers as a common route forward. Swale Borough Council intends to adopt a formal policy of seeking developer contributions for larger schemes in the fullness of time and that the tariff amount will take account of and compensate for the cumulative impacts of the smaller residential schemes such as this application, on the features of interest of the SPA in order to secure the long term strategic mitigation required. Swale Council is of the opinion that when the tariff is formulated it will encapsulate the time period when this application was determined in order that the individual and cumulative impacts of this scheme will be mitigated for.

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

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

### **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.

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<b>2.3 Reference No – 15/508661/FULL</b>		
<b>APPLICATION PROPOSAL</b>		<b>Ref No 15/508661/FULL</b>
Demolition of existing 3 x four storey block of flats and erection of 40 affordable dwellinghouses with associated parking and landscaping		
<b>ADDRESS</b> Ceres Court, Eagles Close, Sittingbourne, Kent ME10 3RJ		
<b>RECOMMENDATION</b> – Application Permitted		
<b>SUMMARY FOR REFERRAL TO COMMITTEE</b>		
The application is in conformity with the Local Plan and contrary representations sufficient to necessitate reporting to the Planning Committee have not been received but Member authority is required to enter into the S106 agreement		
<b>WARD</b> Murston	<b>PARISH/TOWN COUNCIL</b>	<b>APPLICANT</b> Amicus Horizon Limited <b>AGENT</b> Fullerlong
<b>DECISION DUE DATE</b> 8/4/16	<b>PUBLICITY EXPIRY DATE</b> 18/12/16	<b>OFFICER SITE VISIT DATE</b> 22/01/2016
<b>RELEVANT PLANNING HISTORY</b>		
<b>App No</b>	<b>Summary -</b>	
SW/05/1369	Change of use of existing car park to a fenced court area for ball games, including landscaping works – Approved 19 <sup>th</sup> December 2005	
SW/04/0375	Communal garden – Approved 11 <sup>th</sup> May 2004	

**1.0 DESCRIPTION OF SITE**

- 1.1 Ceres Court is a post war development and appears to date from the 1960s and comprises 3 No. four storey flat blocks providing 78 flats. The flats are a mix of 30 No. bedsits, 30 No. one bed flats and 18 No. three bedroom maisonettes units.
- 1.2 The flat blocks are served by a communal open space which includes a more recent multi-use games area and outdoor gym equipment for use by residents.
- 1.3 The site is located on level ground but is elevated from the neighbouring housing development to the north. The site is enclosed on the northern boundary by a 1.5 metre high brick wall and a grassed bank which falls away from the northern boundary to Gorse Road. Gorse Road a cul-de-sac provides access to Murston Junior School, which shares the western boundary of the site. A footpath connects the site to a footpath on the south of Gorse Road, which is used regularly to access the school.
- 1.4 The flat blocks are accessed from Eagles Close, a two branched cul-de-sac, which is accessed from Portland Avenue.
- 1.5 The flat blocks have now been vacated and are boarded up and empty. The surrounding area is residential and is characterized by mainly two storey houses to the north, south and east. To the west of the site is Murston Junior School and playfield.

## 2.0 PROPOSAL

- 2.1 The proposal is for the demolition of the existing 3 No. four-storey blocks of flats and erection of 40 No. two storey dwellinghouses with associated parking and landscaping. The houses will comprise a mix of one two and three bedroom houses each with their own private amenity space.
- 2.2 The applicant, Amicus Horizon, stat that the dwellings will be 100% affordable based on 75% affordable rent and 25% shared ownership. The proposed accommodation schedule is summarised as follows:

### Affordable Rent Shared Ownership

6 x 3 bedroom units providing 87 sq. m  
 2 x 3 bedroom units providing 93 sq. m (wheelchair accessible units)  
 14 x 2 bedroom units providing 84 sq. m  
 6 x 3 bedroom units providing 96 sq. m  
 2 x 3 bedroom units providing 100.8 sq. m

**Total: 30 units**

### Shared Ownership

4 x 1 bedroom units providing 65.9 sq. m; and  
 6 x 2 bedroom units providing 84 sq. m

**Total: 10 units**

- 2.3 The design of the scheme is based on a contemporary design of terraced and semi-detached houses with a combination of facing brickwork and weatherboarding to the elevations and dual pitched roofs over covered in roof tiles.
- 2.4 The units are arranged around a central communal amenity area. A one way vehicle 'loop' is proposed through the site to reduce traffic speeds and to provide a safe pedestrian route through the site.
- 2.5 The houses are arranged symmetrically either side of the entrance into Ceres Court, continuing the layout/pattern of the existing houses in Eagles Close but bringing forward the building line to signify the entrance and create opportunity for variation in architectural treatment. The creation of this 'gateway' is assisted by the orientation of the entrance to these properties, which face the site entrance.
- 2.6 One parking space will be provided for each 1 and 2 bed dwelling while the 3 bedroom dwellings will benefit from two spaces. 9 visitor spaces will also be provided throughout the site. A total of 64 car parking spaces are proposed. Members will note that the existing development has 20 car parking spaces. Cycle parking will be provided within the curtilage of each dwelling.
- 2.7 Amenity space is provided in the form of individual front and rear gardens to the houses, whilst a communal area of open space will be provided centrally. Further incidental landscaping and open space pockets are included, and trees within the site will also offer visual relief and improved visual amenity.

- 2.8 The existing multi use games area is to be retained and refurbished and existing outdoor gym equipment is to be relocated. The scheme also includes new play provision for younger children.
- 2.9 The applicant has confirmed that the amenity/games areas and open space area will be managed and maintained by Amicus Horizon Limited.

The applicant has advised that they are not intending that the road within the site to be adoption by the Highway Authority.

### **3.0 PLANNING CONSTRAINTS**

- 3.1 The application site is located within the built up area of Sittingbourne and within an established residential area.

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

#### **4.1 Adopted Swale Borough Local Plan 2008**

The following policies are relevant to the determination of the application:

- Policy E1 - General development Criteria
- Policy E9 - Protecting the Quality and Character of the Borough's landscape
- Policy E19 - Achieving High Quality Design and Distinctiveness
- Policy H2 - Providing for New Housing
- Policy H3 – Providing for Affordable Housing
- Policy T3 - Vehicle Parking for New Development

#### **4.2 Bearing Fruits 2013**

The emerging Local Plan Bearing Fruits 2013 is at an advanced stage and accordingly it is considered to be a material consideration and weight can be given to the relevant policies.

The following policies are considered to be relevant to proposal:

- ST1 - Delivering sustainable development in Swale
- CP3 – delivering a wide choice of quality homes
- CP4 – requiring Good Design
- DM7 – Vehicle parking
- DM8 – Affordable Housing
- DM14 – General development Criteria
- DM 19 – Sustainable Design and Construction
- DM20 – Renewable and low carbon energy

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

The National Planning Policy Framework (NPPF) and National Planning Practice Guidance (NPPG) make clear that the overarching principle of the NPPF is a clear presumption in favour of sustainable development. In terms of determining applications this means approving development proposals that accord with the development plan without delay and granting permission in cases where the development plan is absent or out of date providing the development is in accordance with the policies contained within the NPPF (paragraph 14).

The NPPF also seeks to build a strong and competitive economy, supporting a prosperous rural economy and conserving and enhancing the natural and historic environment. Sustainable development is made up of a combination of economic, social and environmental factors and that the role of the planning system is to contribute to the achievement of sustainable development.

Local Authorities are advised to respond positively to opportunities for growth and should contribute to building a strong, responsive and competitive economy.

In promoting a healthy economy, the government states its commitment to ensuring that the planning system does everything it can to support sustainable economic growth. Planning should operate to encourage and not act as an impediment to sustainable growth. Therefore significant weight should be placed on the need to support economic growth through the planning system.

Importantly planning authorities are encouraged to consider 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.

Delivering a Wide Choice of High Quality Homes, the NPPF requires that new residential development should be considered within the context of the presumption in favour of sustainable development. New developments should provide an adequate mix, size, type, tenure and range of housing, as well as seek to meet local affordable housing requirements.

Promoting Sustainable Transport: Transport Assessments/ Statements should seek to reduce the reliance on the use of private cars, and instead promote the use of more sustainable modes of travel such as walking and cycling.

The NPPF seeks to promote good design and states that the Government attaches great importance to the design of the built environment, a key aspect of sustainable development that is indivisible from good planning, which should contribute positively to making places better for people.

In March 2015, the NPPF incorporated nationally described space standards, which deals with internal space within new dwellings and is suitable for application across all tenures. It sets out requirements for the Gross Internal floor area of new dwellings at a defined level of occupancy as well as floor areas and dimensions for key parts of the home, notably bedrooms, storage and floor to ceiling heights.

The challenge of climate change is considered in Chapter 10 of The NPPF, which contains a set of broad-based policies to seek to address this in new development. The move to a low carbon future is supported and local planning authorities should plan for new development in locations and ways that reduce greenhouse gas emissions.

The NPPF also places significant emphasis on the issue of development viability. Its fundamental premise is that plans should take into account market signals such as land prices and housing affordability (para. 17). The NPPF goes on to make clear that "Pursuing sustainable development requires careful attention to viability and costs in plan-making and decision-taking". Furthermore, "to ensure viability, the costs of any requirements likely to be applied to development, such as requirements for affordable housing, standards, infrastructure contributions or other requirements should, when taking account of the normal cost of development and mitigation, provide competitive returns to a willing land owner and willing developer to enable the development to be deliverable" (para.173).

**5.0 LOCAL REPRESENTATIONS**

5.1 197 neighbouring properties have been consulted but no representations have been received.

**6.0 CONSULTATION RESPONSES**

6.1 **Strategic Housing and Health Manager:** Fully supports the scheme to re-develop the site to provide 40 dwellings and advises that the accommodation schedule proposed accurately reflects what has previously been agreed.

6.2 **Environmental Protection Team Leader:** No objection subject to a condition to require the submission of a contaminated land assessment prior to the commencement of the development; a condition to control the hours of construction work and a condition to require the submission of a programme for the suppression of dust during demolition and construction works.

6.3 **Greenspace Manager:** Confirm that we would not seek any additional play contribution in relation to this scheme, just the relocation of the ball court and existing fitness equipment as part of the construction.

6.4 **Contract and Procurement Team:** The requirements for waste receptacles for the above planning application are as follows:

- 1 x 180ltr Green wheeled bin for refuse per dwelling at a cost of £39.50 per bin
- 1 x 240ltr Blue wheeled bin for recycling per dwelling at a cost of £39.50 per bin
- 1 x 23ltr Food bin per dwelling at a cost of £5 per bin
- 1 x 5 ltr Kitchen Caddy per dwelling at a cost of £1 per bin

Total for 40 dwellings = £3400

6.5 **Environment Agency:** We have assessed the application as having low environmental risk. Therefore we have no comments to make.

6.6 **Kent Police:** Kent Police were consulted and advise that the scheme is broadly acceptable but suggest that a meeting with the applicant to ensure that the opportunity to design out crime is not missed.

The applicant has met with Kent Police and it would appear that in light of the discussions it seems that the drawings do not need to be amended as such, but key points were identified and the applicant has confirmed that most of the measures which Kent Police Crime Prevention Design Advisor was seeking as good and endorsed design practice, had already been absorbed into the applicant’s employer’s requirements and are included in the Contractors scope and pricing for the tender of the construction of the development.

Appropriate measures to minimise the risk of crime can be secured by condition.

6.7 **Kent County Council Highways and Transportation:** Raise no objection subject to minor amendments and an extract from their response reads as follows:

*“The application has been submitted with the benefit of pre-application advice being given early on in the design process, and I am pleased that the submitted layout reflects the guidance that was provided at the time. The parking provision is in*

*accordance with the Kent County Council standards adopted by Swale Borough Council, and is generally located appropriately for the associated dwellings to avoid on-street parking that would otherwise be more convenient to the residents.*

*I concur with the Transport Assessment that has been prepared for this application, in respect to the impact on the highway network, as I do also consider that the traffic generation of the development proposals would not be materially different than the extant residential use of this site. Consequently, the proposals would not give rise to any concerns regarding the capacity of the local roads and access through Eagles Close to accommodate the level of traffic from these 40 new dwellings.*

*The only concern relates to the layout. Vehicular access to some of the parking spaces may be difficult to manoeuvre in or out of and would request that the following amendments be made to address this:*

- (i) The parking courtyard in the far north eastern corner of the site, in front of plots 26 to 29, does not have sufficient turning space for the end spaces outside plots 27 and 28. It is normally expected that an additional 1m length of access aisle is provided so that vehicles can manoeuvre in or out of these difficult spaces, as shown on page 87 of The Kent Design Guide.*
- (ii) Similarly, the far south eastern parking area also suffers from the same manoeuvring difficulty for the end space opposite the side of plot 33. Furthermore, access to all the three spaces is restricted, as a 6m turning aisle is normally required in front of the parking spaces. Here, the width of the aisle is less than 4.5m.*
- (iii). As with (i) and (ii) above, the end parking space opposite plot 7 does not have the additional 1m aisle length to cater for manoeuvring in or out of the space.*

*The above issues appear to be easily resolvable with some minor adjustments. Consequently, provided these amendments are made, I would have no objections to the proposals in respect of highway matters subject to conditions being attached to any permission granted as specified”.*

The above matter has been discussed with the applicant and it is considered these matters can be addressed through minor alterations to the parking layout and without the need for any changes to the layout of the houses. Accordingly a condition is proposed to require details of the parking layout to be submitted and approved before the development commences.

**6.8 UK Power Networks:** No objection

**6.9 Natural England:** *“Natural England has assessed this application using the Impact Risk Zones data (IRZs). Natural England advises your authority that the proposal, if undertaken in strict accordance with the details submitted, is not likely to have a significant effect on the interest features for which The Swale SPA and Ramsar has been classified. Natural England therefore advises that your Authority is not required to undertake an Appropriate Assessment to assess the implications of this proposal on the site’s conservation objectives.1*

*In addition, Natural England is satisfied that the proposed development being carried out in strict accordance with the details of the application, as submitted, will not damage or destroy the interest features for which The Swale SSSI has been notified.*



*We therefore advise your authority that this SSSI does not represent a constraint in determining this application”.*

#### 6.10 **Kent County Council Drainage:**

*“No objection to this application subject to confirmation that the proposed re-use of the existing soakaways can be demonstrated to be viable.*

*We would therefore recommend that the following conditions are attached to the grant of any planning permission:*

*(i) Development shall not begin until a detailed sustainable surface water drainage scheme for the site has been submitted to (and approved in writing by) the local planning authority. The detailed drainage scheme shall demonstrate that the surface water generated by this development (for all rainfall duration and intensities up to and including the climate change adjusted critical 100year storm) can be accommodated and disposed of within the curtilage of the site.*

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

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

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

*(iii) No infiltration of surface water drainage into the ground is permitted other than with the express written consent of the local planning authority (in consultation with the Environment Agency); this may be given where it has been demonstrated that there is no resultant unacceptable risk to controlled waters. The development shall be carried out in accordance with the approval details.*

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

#### 6.11 **KCC Ecology** advise:

*“The Preliminary Ecological Appraisal has been submitted in support of this application. It is disappointing to note that the desktop data search was restricted to only reptiles and amphibians; it is good practice for all notable and protected species data to be sought to inform conclusions regarding the potential for ecological impacts to arise.*

*The potential for reptiles, breeding birds and hedgehogs to be present on the site and affected by the proposed development is identified in the Preliminary Ecological Appraisal. Mitigation recommendations in respect of potential impacts to hedgehogs and breeding birds are provided in the report; we advise that the implementation of these measures should be secured by condition, if planning permission is granted.*

*With regards to reptiles, a specific reptile survey is recommended in the report but does not appear to have been carried out. We advise that the reptile survey must be carried out, with the results and any necessary mitigation proposals submitted to inform the determination of the application, ensuring appropriate regard to Government guidance and planning policy.*

*The proposed development site is within the strategic mitigation zone for The Swale SPA. It is not entirely clear what the current level of residential use of the site is, as compared to that proposed and we advise that if the proposed development will result in an increase in properties then a contribution to the strategic mitigation will be necessary to avoid the need for a Habitats Regulations Assessment.*

*One of the principles of the National Planning Policy Framework is that “opportunities to incorporate biodiversity in and around developments should be encouraged”. In addition to ensuring that appropriate mitigation for identified ecological impacts is implemented, Swale BC should seek to secure ecological enhancement measures within the proposed development, if planning permission is granted.*

*Enhancement recommendations are provided in the Preliminary Ecological Appraisal and we advise that some or all of these could be appropriate; the detailed specifications should be secured by condition, if planning permission is granted”.*

The matter of the impact on ecology is discussed below in paragraph 7.6.

- 6.12 **KCC Community Services:** *“As the development seeks to reduce the number of households from 78 to 40, KCC will not be requiring any contributions towards: Community Learning, Youth service and Libraries.*

*However, as 78 flats (majority (60) being 1 bedroom and below the County Education ‘applicable’ threshold of 56sqm GIA) are being replaced by 40 houses above the County Education ‘applicable’ threshold, the proposed houses generate a higher number of school pupils in occupation, than the existing flatted development.*

*The calculated net increase in the number of Primary & Secondary pupils in occupation upon the site under the proposed development, based upon adopted Pupil Product ratios is as follows:*

*Primary Education: 40 Applicable houses 11.2 18 Applicable flats 1.26 9.94 pupils*

*Secondary Education: 40 Applicable houses 8 18 Applicable flats 0.9 7.1 pupils*

*Primary Education: (9.94 pupils) £8,432.00 £83,814.08 Towards Phase 1 expansion of Murston Primary School*

*Secondary Education (7.1 pupils) £11,799.00 £83,772.90 Towards Phase 2 extension of Sittingbourne Academy*

*Adult Social Care: Delivery of 1 Wheelchair accessible Home as part of the affordable housing”.*

Therefore a total developer contribution of £167,586.98 is required.

- 6.13 **Kent Wild Life Trust:** No response.
- 6.14 **Lower Medway Internal Drainage Board:** Confirm that *“this site is located outside of the Lower Medway IDB’s district and, provided that details of the proposed SuDS are agreed in direct consultation with KCC’s drainage and flood risk management team, IDB interests should not be affected by this proposal”*.
- 6.15 **Southern Water:** Advised *“that a public sewer and water distribution pipe are located on the site. Advise it might be possible to divert the public foul sewer, so long as it would result in no unacceptable loss of hydraulic capacity, and the work was carried out at the developers expense to the satisfaction of Southern Water. The developer must advise the local planning authority (in consultation with Southern Water) of the measures which will be undertaken to divert the public sewer, prior to the commencement of the development”*.
- 6.16 **UK Power Networks:** No objection.

## 7.0 APPRAISAL

- 7.1 I consider that the key material considerations in assessing this application are as follows:
- The Principle of the Proposed Development:
  - Design and Layout:
  - Impact on amenity:
  - Highways Impacts:
  - Ecological Impacts:
  - Trees:
  - Affordable Housing/Financial Contributions

### 7.2 Principle of Development

The application site lies within an established residential area of Sittingbourne. The redevelopment of this existing flatted housing site to provide an alternative mix of affordable housing is therefore acceptable as a matter of general principle.

The proposal has been the subject of detailed negotiation and discussion with the Borough Council including consultation with the Council’s Strategic Housing and Health Manager. It has been confirmed that the proposal to re-develop the site to provide 40 No. dwellings based on a mix of units accurately reflects what has been agreed with the applicant.

It is understood that the applicant organized and has carried out consultation events with the local school and residents, which culminated in two drop in events during August 2015.

I draw to Members’ attention that this application would normally fall to be determined under delegated powers but in this case authority from Members’ is required to enter into the S106 Agreement.

### 7.3 Design and Layout

The general design concept and the layout of the proposal has been the subject of pre-application consultation with Officers of the Council in June and July 2015 and are considered to be acceptable.

The application proposal seeks to redevelop the existing three residential blocks of social housing, which have inherent features that have served to increase a number of social problems within the area. There are a significant number of bedsits, which are no longer in demand and a number of 3 bed units with no private amenity space.

The current 4 storey flat blocks are not considered to contribute in a positive sense to the appearance of Ceres Court, Eagles Close or the character of the area in general. The development is visible from Gorse Road and the adjoining development to the north and to some extent it is out of keeping with the character of the area which is generally made up of two storey houses. Furthermore the close proximity of the neighbouring house in Eagles Close and Portland Road can be considered to be harmed by the height and the scale of the existing four storey flatted development.

The proposed redevelopment of the site will provide contemporary designed, good quality family housing with good quality landscaped public amenity space and private Amenity space for each dwelling. The introduction of two storey housing will assimilate well and make a positive contribution to the built character of the area and would accord more closely with the grain and pattern of the neighbouring development.

The proposal will result in a reduction in the overall site density and total number of units. This will greatly improve living conditions of the future occupiers of the new homes as well as bringing about a significant improvement of the character of the surrounding environment. Furthermore the proposed range and size of the units will importantly meet the identified need as confirmed by the Council's Strategic Housing and Health Manager.

The contemporary design is clearly different to the style and character of the existing, neighbouring residential development however it is considered that the introduction of a more modern design approach will bring an element of freshness to the area and would sit comfortably with the adjoining existing development.

The design/layout of the scheme arranges the units around a centralised amenity space, which will provide natural surveillance within the site. The existing footpath link to Gorse Road will maintained, but reconfiguration. This will provide a visual and physical connection to the surrounding area and a direct walking link to the nearby Primary School.

The northern view of the site is currently dominated by the four storey flatted development which creates an imposing and overpowering impression from the existing two storey housing to the north and is exacerbated by the elevated position of the site. The replacement of the flatted development with two storey housing will result in a marked reduction in scale and mass close to the northern and thus will be more in keeping with the scale of the neighbouring housing. The southern edge of the development will also provide for a much improved aspect to the adjoining two storey housing in Eagles Close.

The level nature of the site will provide the opportunity to create a pleasant central landscape amenity space giving the development a sense of place with an open space with hard and soft landscaping and public seating areas.

The Gorse Road perimeter is separated from opposite housing by the existing landscape amenity area and by significant special separation. It is important that the northern edge of the development is clearly defined. At present this is marked by brick wall approximately 1.2 metres high. It is considered that this should be replaced by a

similar wall rather than timber fencing to provide longevity and therefore a condition is suggested to secure details of the boundary treatment.

Details of the materials proposed for the development include red and buff bricks together with weatherboarding and concrete tiles which are common features in the locality. However, it is considered that precise details of the external finishes to the buildings should be secured by condition.

The overall design approach is considered to present an appropriate balance through introducing a contemporary design and optimising the development potential of this site whilst at the same time respecting the built character of the area and bringing forward new high quality houses to meet an identified need.

#### **7.4 Residential Amenity**

In general terms the design and the layout of the proposal is acceptable and accords with aims of Kent Design.

However, I am concerned that plots 3, 4 9 and 10 will result in overlooking and loss of privacy to the rear private amenity space of numbers 2 and 12 Eagles Close. This matter has been raised with the applicant and I can advise Members that the applicant has submitted amended drawings which adequately address the issue of overlooking to the neighbouring properties.

This has been achieved through a change to the design of the first floor windows at the rear of plots 3, 4, 9 and 10 by the introduction of box bay windows. The front face of the box bay would be fitted with obscure glazing and clear glazing to the returns. This would afford some view to either clear glazed side panels but importantly would prevent directed views to the rear private space of the neighbouring properties. This arrangement will at the same time provide good natural light levels to the bedroom spaces of the new dwellings.

In order to ensure that this arrangement is maintained in perpetuity an appropriate condition is recommended.

#### **7.5 Highway Impacts**

The application has been assessed by Kent County Council Highways and Transportation and it has been confirmed that no objection is raised to the proposal.

It is confirmed that in respect of the impact on the highway network, that the traffic generation of the development proposals would not be materially different than the extant residential use of this site. Consequently, the proposals would not give rise to any concerns regarding the capacity of the local roads and access through Eagles Close to accommodate the level of traffic from these 40 new dwellings.

Pedestrian connectivity to the surrounding areas is maintained, although the proposals do

involve the stopping up of some existing public highway to accommodate the new layout of this development. However, this is acceptable and was discussed during the early engagement between the Highway Authority and the applicant. The proposed layout has been designed to maintain access through the site for car and HGVs, including service vehicles such as the fire appliance and refuse freighter.

Minor changes to the parking layout will be required to ensure proper access to the parking spaces but this can be secured by the suggested condition (4) as set out below.

## 7.6 Ecological Impacts

Member will be aware that this is an urban and managed site with trees and boundary vegetation, areas of mown grass, hard surface roads and footpaths and hard surface play areas. The applicants' Preliminary Ecological Appraisal does, however, identify that the site has high potential to support breeding birds within the trees and the memorial garden and the vegetation offers some potential for slow worms (*Anguis fragilis*) and recommends that a reptile survey looking at presence/absence is carried.

The biodiversity value of the application site has been fully assessed by KB Ecology, on behalf of the applicants and included a desktop study, habitat survey and fauna survey. The assessment concentrated on the recording of the potential presence of any protected, rare or notable species, with specific consideration in respect of bats and badgers and birds.

The assessment concludes that, based on the evidence obtained from the ecological survey work undertaken and with the implementation of the recommendations set out in it, there is no reason to suggest that any ecological designations, habitats of nature conservation interest or any protected species would be significantly adversely affected by the proposals.

KCC Ecology advise that a reptile survey must be carried to inform the determination of the application.

This issue has been raised with the applicant and I will report further to Members on this matter and on the matter of breeding birds at the meeting.

As noted above Natural England have raised no objection to the proposal and further advise if the proposal is undertaken in strict accordance with the details submitted, is not likely to have a significant effect on the interest features for which the Swale SPA and Ramsar has been classified. Natural England therefore advises that the Council is not required to undertake an Appropriate Assessment to assess the implications of this proposal on the site's conservation objectives.<sup>1</sup>

In addition, Natural England are satisfied that the proposal, subject to it being carried out in strict accordance with submitted details will not damage or destroy the interest features for which The Swale SSSI has been notified and the SSSI does not represent a constraint in determining this application.

Members will be aware that the Statement of Common Ground which has been drawn up with Natural England in support of the Local Plan sets out an agreement between the Council and Natural England in respect of development proposals that impact on The Swale SPA and Ramsar site and in such cases a tariff of £223.00 per dwelling is set.

In this case, however ever, it is important to note that the site currently comprises 78 residential units. 30 No. studio units, 30 No. one bedroom units and 18 No. three bedroom units (total of 114 bed spaces). The proposed scheme as noted above is for 40 No. units comprising 4 No. one bedroom units, 20 No. two bedroom units and 16 No. three bedroom units (total of 92 bed spaces). In view of the reduction in the total number of units and bedroom spaces compared to the existing situation, it is

considered that in this case there will be no increased impact on the designated SPA and accordingly the developer tariff contribution for mitigation is not required in this case.

## 7.7 **Trees**

The site includes a number of established trees (46 No.) both within the site and on the boundary adjacent to the site. An Arboricultural Impact Assessment has been carried out (by DF Clark Bionomique Ltd) in support of the proposal and this assesses the importance of trees and the impact the development may have on trees and the effect that retained trees may have on the development.

The report highlights that the tree population within the site is largely confined to the existing central courtyard area, the eastern boundary of the site and adjacent to the existing sports facility. There are also a number of semi mature and mature broadleaf trees outside the footprint area to the north of the site on Gorse Road.

The trees on site comprise mixed broadleaves both within the site and on land to the north next to Gorse Road provide an enhancement to the visual amenity of the site and the immediate surrounding area.

The development proposal includes the removal 13 individual trees to facilitate the proposed development. These are located within central court yards area, on the eastern and northern boundary and next to the multi-use games area.

The removal of the trees will have some impact upon the visual amenity of the site and to a lesser extent on the surrounding area. However, it is considered that on balance, the loss of the trees is not such that would result in serious harm to the character of the area such to justify the refusal of this scheme on this ground alone bearing in mind that the majority of the trees on the site and immediately adjoining the site will be unaffected by the proposal.

The scheme includes new landscaping which will help mitigate the loss of the trees. Full details of the new landscaping, to require the submission of a detailed arboricultural method statement, tree protection measures and ground protection details before the development is commenced can all be secured by the imposition of appropriate conditions. The new trees and soft landscaping will be chosen with an emphasis not only on visual amenity, but also to encourage biodiversity and the use of indigenous species.

## 7.8 **Affordable Housing/Financial Contributions**

Member will note that this proposal is for 100% affordable housing based on 75% affordable rent and 25% shared ownership. Notwithstanding the terms of the application it is appropriate to require the applicant to enter into a S106 agreement to secure the provision of affordable housing in perpetuity.

With regard to other contributions, Members will note paragraphs 7.3, 7.4, and 7.12 above where requirements for financial contributions are set out. In addition a 5% monitoring charge is payable.

This matter is currently the subject of discussion with the applicant. An up-date on the progress of this will be provided to Members at the meeting.

**8.0 CONCLUSION**

- 8.1 The proposal will provide for the redevelopment of the existing flatted development and provide 40 No. small and family sized residential units within a sustainable location within the urban confines of Sittingbourne.
- 8.2 It is considered that the proposal will bring about a significant improvement to the built character and townscape of this part of Sittingbourne and importantly will bring about an improvement to the living conditions of the future occupiers compared with the existing flatted development. The proposed layout will provide for private amenity space for each unit together with a central landscaped amenity area combining hard and soft landscaping. Parking would be provided for each unit and adequate space would be provided for servicing and access for emergency vehicles.

**9.0 RECOMMENDATION**

- 9.1 Subject to the submission of a reptile survey and any further conditions recommended by KCC Ecology with regard to breeding birds that the Head of Planning be given DELEGATED POWERS TO APPROVE this application subject to the completion of a suitable S106 legal agreement that ensures the provision of the following:
  - (1) The provision of affordable housing;
  - (2) A contribution of £83,814.08 towards primary education.
  - (3) A contribution of £83,772.90 towards secondary education.
  - (4) A contribution of £3,400 towards refuse/recycling bins.
  - (5) A suitable contribution towards the monitoring of the S106 legal agreement.

and the following conditions:

- 1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission;

Reason: In accordance with the provisions of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

- 2. Prior to commencement of the development, written details and samples of the materials to be used in the construction of the external surfaces of any buildings and hard surfaces have been submitted to and approved in writing by the Local Planning Authority and the development shall be constructed in accordance with the approved materials.

Reason: To ensure a satisfactory appearance to the development.

- 3. Prior to commencement of the development, written details and samples of the materials to be used in the construction of the hard surface landscaping areas have been submitted to and approved in writing by the Local Planning Authority and the development shall be constructed in accordance with the approved materials.

Reason: To ensure a satisfactory appearance to the development.



4. The development shall not commence until there has been submitted to and approved in writing by the Local Planning Authority details of vehicle parking and turning spaces.

Reason: Development without provision of adequate accommodation for the loading, off-loading and turning of vehicles is likely to lead to such activities inconvenient to other road users and detrimental to highway safety and amenity.

5. The area shown on the plans approved under condition 4 as vehicle parking and turning space shall be paved and drained to the satisfaction of the Local Planning Authority before the use is commenced or the premises occupied and shall be retained for the use of the occupiers of, and visitors to, the premises, and no permanent development, whether or not permitted by 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 or in such a position as to preclude its use.

Reason: Development without provision of adequate accommodation for the loading, off-loading and turning of vehicles is likely to lead to such activities inconvenient to other road users and detrimental to highway safety and amenity.

6. 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.

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

Reason: In the interests of highway safety.

8. No development shall take place until details of all fencing; walling and other boundary treatments have been submitted to and approved in writing by the Local Planning Authority. This shall include the provision of brick wall on the northern boundary of the site and the enclosure of the parking areas of a The development shall be carried out in accordance with the approved details before the first occupation of the buildings or land and maintained thereafter.

Reason: To ensure a satisfactory appearance to the development and to safeguard the enjoyment of the properties by existing and prospective occupiers.

9. 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, where possible), 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 and to ensure that such matters are agreed prior to the commencement of development.

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

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

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

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

12. No development shall take place until a method statement detailing the materials and construction of the hard surfaces in accordance with the principles set out in the current edition of BS 5837 and other current best practice guidance, has been submitted to and approved in writing by the local planning authority.

Reason: To protect the RPA of retained trees on the site.

13. Development shall not begin until a detailed sustainable surface water drainage scheme for the site has been submitted to (and approved in writing by) the local planning authority. The detailed drainage scheme shall demonstrate that the surface water generated by this development (for all rainfall durations and intensities up to and including the climate change adjusted critical 100yr storm) can be accommodated and disposed of within the curtilage of the site.

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

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

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

14. No infiltration of surface water drainage into the ground is permitted other than with the express written consent of the local planning authority (in consultation with the Environment Agency); this may be given where it has been demonstrated that there is no resultant unacceptable risk to controlled waters. The development shall be carried out in accordance with the approval details.

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

15. During construction provision shall be made on the site, to the satisfaction of the Local Planning Authority, 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.

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

Reason: To ensure provision of adequate off-street parking for vehicles in the interests of highway safety and to protect the amenities of local residents.

17. Provision shall be made within the site for the disposal of surface water so as to prevent its discharge onto the highway details of which shall have been submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of highway safety and convenience.

18. 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.

19. No dwelling shall be occupied or the approved use commenced until space has been laid out within the site in accordance with details to be submitted to and approved in writing by the Local Planning Authority for cycles to be securely sheltered and stored.

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

20. 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 - 1800 hours, Saturdays 0830 - 1300 hours unless in association with an emergency or with the prior written approval of the District Planning Authority.

Reason: In the interests of residential amenity.

21. No development approved by this permission shall be commenced prior to a contaminated land assessment (and associated remediation strategy if relevant), being submitted to and approved in writing by the District 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.

Before any part or agreed phase of the development is occupied, all remediation works identified in the contaminated land assessment and approved by the District Planning Authority shall be carried out in full (or in phases as agreed in writing by the District 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 District Planning Authority.

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, in pursuance of policies E1-E3 of the Swale Borough Local Plan 2008.

22. No asbestos associated with the demolition of the existing buildings shall remain on the site.

Reason: In the interests of appropriate contamination control and in pursuance of policy E1 of the Swale Borough Council Local Plan 2008

23. The commencement of the development shall not take place until 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 District Planning Authority. The measures approved shall be employed throughout the period of demolition and construction unless any variation has been approved by the District Planning Authority.

Reason: In the interests of residential amenity.

24. No development shall commence until details of foul and surface water drainage have been submitted to and proved by the Local Planning Authority (in consultation with Southern Water) including details to divert the public sewer and the development shall be carried out in accordance with the approved details.

Reason: in the interests of public health

25. The development hereby permitted shall incorporate measures to minimise the risk of crime. No development shall take place until details of such measures, according to the principles and physical security requirements of Crime Prevention through Environmental Design (CPTED) have been submitted to and approved in writing by the Local Planning Authority. The approved measures shall be implemented before the development is occupied and thereafter retained.

Reason: for the condition: In the interest of Security, Crime Prevention and Community Safety and in accordance with the guidance within The Kent Design Initiative (KDI) and protocol dated April 2013.

26. The window details shown for the first floor windows at the rear of plots 3, 4, 9 and 10 on drawings (PA) 010 P3, (PA) 011 P2, (PA) 012 P2, (PA) 019 P4 and (PA) 020 P2 shall be installed in accordance with the approved details before the first occupation of the dwellings and be retained and maintained all times thereafter.

Reason: In the interests of the amenity and the privacy of the occupiers of the neighbouring properties.

#### INFORMATIVE

1. 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.
2. A formal application for connection to the public sewerage system and water supply system is required in order to service this development. Please contact Southern Water, Sparrowgrove House, Sparrowgrove, Otterbourne, Hampshire SO21 2 SW (Tel: 0330 303 0119) or [www.southernwater.co.uk](http://www.southernwater.co.uk)

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 the subject of Pre-Application consultation and advice was provided by the Council's Planning Officer.

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<b>2.4 REFERENCE NO - 15/510605/FULL</b>			
<b>APPLICATION PROPOSAL</b> Removal of condition 2 to allow permanent use of the stadium for speedway of planning permission SW/09/0314.			
<b>ADDRESS</b> Central Park Stadium Church Road Sittingbourne Kent ME10 3SB			
<b>RECOMMENDATION: APPROVAL</b>			
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b> On balance, the use of the site for speedway racing does not cause such significant harm as to warrant refusal of planning permission.			
<b>REASON FOR REFERRAL TO COMMITTEE</b> As the Head of Planning considers the application raises difficult questions of policy interpretation and further difficult, major issues which warrant Member determination.			
<b>WARD</b> Murston	<b>PARISH/TOWN COUNCIL</b> N/A	<b>APPLICANT</b> Cearnspport Ltd <b>AGENT</b> Ms Mary Power	
<b>DECISION DUE DATE</b> 30/03/16	<b>PUBLICITY EXPIRY DATE</b> 12/02/16		
<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/08/0962	This application sought permanent planning permission for the use of the site for the holding of speedway racing. Members though resolved to grant temporary planning permission, to allow the use of the site on a trial basis only, for a period of a single season. The permission granted required the erection of an acoustic fence (Members may recall that the fence which has been constructed does not comply with the approved details), and also sets a limit on the number of races and the start and finish times for meetings, in accordance with the details and specific times submitted with the application. 17 races are permitted per meeting, meetings can take place once per week, and start and finish times are: on weekdays between 1700 & 2030 hours only, with warming up of bikes permitted from 1630, and from 1500 to 1800 hours on Bank Holiday Mondays, with warming up of bikes from 1430 hours.	GRANT	16/1/09
SW/09/0274	This application sought to amend the design of the acoustic fence approved under SW/08/0962. This application was approved. The fence as constructed does not comply with these approved	GRANT	11/09/09

	<b>details either.</b>		
<b>SW/09/0275</b>	<b>This application sought to vary condition (2) of SW/08/0962, in order to allow a minimum of 7 seasons speedway use. The application made clear that a permanent planning permission was being sought and that 7 years would be the minimum the applicant considered would enable the use to be viable. The application was not originally accompanied by any viability information. Some information in this regard was submitted at a late stage during the consideration of the application. However – it was not considered sufficient to justify the grant of a 7 year temporary planning permission, nor the grant of a permanent planning permission.</b>	<b>REFUSED</b>	<b>17/08/09</b>
<b>SW/09/0313</b>	<b>This application sought to vary condition (7) of SW/08/0962, in order to allow the warming up of speedway bikes at 2pm rather than at 2:30pm as specified in the original permission.</b>	<b>REFUSED</b>	<b>28/08/09</b>
<b>SW/09/0314</b>	<b>The application sought to vary condition (5) of SW/08/0962, in order to allow meetings to be held once per week only on any weekday, rather than on either a Monday, Tuesday or a Wednesday. The applicant submitted appeals against the refusal of SW/09/0275 and the approval (including the disputed condition restricting use to one season only) of SW/09/0314. At the appeal, the applicant produced detailed viability information, which the Inspector considered in coming to his decision to allow both appeals and grant temporary planning permission for four years use of the stadium. A copy of the appeal decision is attached as Appendix A to this report. The use commenced in 2013, and may therefore continue, under the terms of the temporary planning permission granted on appeal, until the end of the 2016 season.</b>	<b>GRANT</b>	<b>13/10/09</b>
<b>SW/14/0088</b>	<b>Variation of condition (7) of SW/09/0314, to allow speedway racing between 15:00 &amp; 22:00 hours on weekdays and bank holidays.</b>	<b>REFUSED</b>	<b>23/9/14</b>



15/500862/FULL	Variation of condition 7 of SW/09/0314 to allow speedway racing between 1800 and 2130hrs on Fridays	APPROVED	12/5/15
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**MAIN REPORT**

**1.0 DESCRIPTION OF SITE**

1.01 Central Park Stadium lies within the built up area of Sittingbourne, on the fringes of the Eurolink industrial estate, and adjacent to the East Hall Farm industrial and residential development. Murston lies to the south of the site. An established sport venue, Central Park Stadium is used successfully for greyhound racing and, currently, for league speedway racing. A large parking area is located to the front of the building. Pit areas for the speedway bikes and riders etc are located to the north east of the site. A substantial acoustic fence has been erected along the southern boundary of the site, in order to try and prevent substantial noise and disturbance to the dwellings in the vicinity, the closest of which lies approximately 150 metres to the south.

**2.0 PROPOSAL**

2.01 This application seeks the deletion of condition 2 of the planning permission granted for speedway racing at Central Park Stadium on appeal, under reference SW/09/0314.

2.02 Condition 2 of SW/09/0314 requires the use for speedway racing to cease after four years (i.e. at the end of the current season). The deletion of this condition would make the planning for the use of speedway racing permanent,

2.03 The application as submitted also sought consent for a later finish time for racing on Fridays (in a similar manner to that approved under 15/500862/FULL). That element of the application has now been deleted.

2.04 The application is accompanied by a noise assessment, dated Jun 2013, attached at Appendix B, and a supporting statement, an extract from which is attached at Appendix C to this report.

2.05 The conclusion of the supporting statement reads as follows:

*“The use of Central Park Stadium as a permanent speedway venue is an existing and appropriate use. The location is ideal for a popular sporting event that attracts many visitors to Sittingbourne. It appropriately adds to the other mix of uses permitted at the Stadium including football, greyhound racing and concerts. To maximise the economic use of the stadium for sporting uses, accords with the principles of the Council’s policies for economic and viable activity, in line with its objectives for boosting job creation and economic activity. Permanent speedway use of the Stadium will add to its economic viability particularly where greyhound racing is now declining as a spectator sport.*

*The evidence submitted with the application demonstrates that...a permanent speedway use would [not] give rise to demonstrable or substantial harm to nearby*

*residents. This application should be considered in light of the potential benefits to be derived from approving this application, given that the use already exists and is appropriately sited and that the existing planning conditions provide appropriate residential amenity protection. Noise complaints received by the Council represent significantly less than 10% of the local residents that live close to the Stadium.*

*Speedway racing is important to the community of Sittingbourne which is demonstrated by the significant levels of support.*

*The approval of this application would help to offset the downturn in revenue from greyhound racing and would help to secure the continued use of the Stadium. There would be significant benefits to the local economy and to the community within Sittingbourne, helping to promote speedway racing at this location and to encourage young people to participate in the sport.*

*Speedway race meetings will remain at the same length and would not generally exceed 2 hours. Given the short duration of the races, the noise impacts of the speedway, whilst being noticeable to adjacent residential properties, are predictable and will not reach harmful or disruptive levels due to existing mitigation measures. The existing planning conditions will remain in place to ensure only one speedway race takes place per week between Mondays and Fridays and only 17 races per event in accordance with the principles established to balance the economic needs of the Stadium for speedway use and protection of residential amenity*

*We therefore conclude that the speedway use is an appropriate use in this location, it is an existing use and should continue on a permanent basis in compliance with local and national planning policies.*

*For all of the reasons set out above, it is considered that the application proposals should be permitted given the conformity with national and local planning policies.”*

- 2.06 Notwithstanding the content of the supporting statement, the agent has confirmed that the application does make the case that permanent permission is vital for the viability of the wider use of the stadium but no financial information has been provided in this respect, and the applicant and agent do not intend to provide any further information regarding this.

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

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

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

Paragraph 120 - To prevent unacceptable risks from pollution and land instability, planning policies and decisions should ensure that new development is appropriate for its location. The effects (including cumulative effects) of pollution on health, the natural environment or general amenity, and the potential sensitivity of the area or proposed development to adverse effects from pollution, should be taken into account. Where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner.

Paragraph 121 - Planning policies and decisions should aim to:

- avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development;
- mitigate and reduce to a minimum other adverse impacts on health and quality of life arising from noise from new development, including through the use of conditions;
- recognise that development will often create some noise and existing businesses wanting to develop in continuance of their business should not have unreasonable restrictions put on them because of changes in nearby land uses since they were established;

Paragraph 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.

#### National Planning Practice Guidance (NPPG)

The following are extracts from the NPPG on Noise:

*“Can noise override other planning concerns?”*

*It can, but neither the Noise Policy Statement for England nor the National Planning Policy Framework (which reflects the Noise Policy Statement) expects noise to be considered in isolation, separately from the economic, social and other environmental dimensions of proposed development.*

*Local planning authorities' plan-making and decision taking should take account of the acoustic environment and in doing so consider:*

- *whether or not a significant adverse effect is occurring or likely to occur;*
- *whether or not an adverse effect is occurring or likely to occur; and*
- *whether or not a good standard of amenity can be achieved.*

*At the lowest extreme, when noise is not noticeable, there is by definition no effect. As the noise exposure increases, it will cross the no observed effect level as it becomes noticeable. However, the noise has no adverse effect so long as the exposure is such that it does not cause any change in behaviour or attitude. The noise can slightly affect the acoustic character of an area but not to the extent there is a perceived change in quality of life. If the noise exposure is at this level no specific measures are required to manage the acoustic environment.*

*As the exposure increases further, it crosses the lowest observed adverse effect level boundary above which the noise starts to cause small changes in behaviour and attitude, for example, having to turn up the volume on the television or needing to speak more loudly to be heard. The noise therefore starts to have an adverse effect and consideration needs to be given to mitigating and minimising those effects (taking account of the economic and social benefits being derived from the activity causing the noise).*

*Increasing noise exposure will at some point cause the significant observed adverse effect level boundary to be crossed. Above this level the noise causes a material change in behaviour such as keeping windows closed for most of the time or avoiding certain activities during periods when the noise is present. If the exposure is above this level the planning process should be used to avoid this effect occurring, by use of appropriate mitigation such as by altering the design and layout. Such decisions must be made taking account of the economic and social benefit of the activity causing the noise, but it is undesirable for such exposure to be caused.*

*The following table summarises the noise exposure hierarchy, based on the likely average response*

<i>Perception Examples of Outcome</i>		<i>Increasing Effect Level</i>	<i>Action</i>
<i>Not noticeable</i>	<i>No Effect</i>	<i>No Observed Effect</i>	<i>No specific measures required</i>
<i>Noticeable &amp; not intrusive</i>	<i>Noise can be heard, but does not cause any change in behaviour or attitude. Can slightly affect the acoustic character of the area but no such that there is a perceived change in the quality of life.</i>	<i>No Observed Adverse Effect</i>  <i>Lowest Observed Adverse Effect Level</i>	<i>No specific measures required</i>
<i>Noticeable &amp; intrusive</i>	<i>Noise can be heard and causes small changes in behaviour and/or attitude, e.g. turning up volume of television; speaking more loudly; where there is no alternative ventilation, having to close windows for some of the time because of the noise. Potential for some reported sleep disturbance. Affects the acoustic character of the area such that there is a perceived change in the quality of life.</i>	<i>Observed Adverse Effect</i>  <i>Significant Observed Adverse Effect Level</i>	<i>Mitigate and reduce to a minimum</i>
<i>Noticeable and disruptive</i>	<i>The noise causes a material change in behaviour and/or attitude, e.g. avoiding certain activities during periods of intrusion; where there is no alternative ventilation, having to keep windows closed most of the time because of the noise. Potential for sleep disturbance resulting in difficulty in getting to sleep, premature awakening and difficulty in getting back to sleep. Quality of life diminished due to change in acoustic character of the area.</i>	<i>Significant Observed Adverse Effect</i>	<i>Avoid</i>
<i>Noticeable and very disruptive</i>	<i>Extensive and regular changes in behaviour and/or an inability to mitigate effect of noise leading to psychological stress or physiological effects, e.g. regular sleep deprivation/awakening; loss of appetite, significant, medically definable harm, e.g. auditory and non-auditory</i>	<i>Unacceptable Adverse Effect</i>	<i>Prevent</i>

*The subjective nature of noise means that there is not a simple relationship between noise levels and the impact on those affected. This will depend on how various factors combine in any particular situation.*

*These factors include:*

- *the source and absolute level of the noise together with the time of day it occurs. Some types and level of noise will cause a greater adverse effect at night than if they occurred during the day – this is because people tend to be more sensitive to noise at night as they are trying to sleep. The adverse effect can also be greater simply because there is less background noise at night;*
- *for non-continuous sources of noise, the number of noise events, and the frequency and pattern of occurrence of the noise;*
- *the spectral content of the noise (ie whether or not the noise contains particular high or low frequency content) and the general character of the noise (ie whether or not the noise contains particular tonal characteristics or other particular features). The local topology and topography should also be taken into account along with the existing and, where appropriate, the planned character of the area.*

*How can the adverse effects of noise be mitigated?*

*This will depend on the type of development being considered and the character of the proposed location. In general, for noise making developments, there are four broad types of mitigation:*

- *engineering: reducing the noise generated at source and/or containing the noise generated;*
- *layout: where possible, optimising the distance between the source and noise-sensitive receptors and/or incorporating good design to minimise noise transmission through the use of screening by natural or purpose built barriers, or other buildings;*
- *using planning conditions/obligations to restrict activities allowed on the site at certain times and/or specifying permissible noise levels differentiating as appropriate between different times of day, such as evenings and late at night, and;*
- *mitigating the impact on areas likely to be affected by noise including through noise insulation when the impact is on a building.*

*Are there further considerations relating to mitigating the impact of noise on residential developments?*

*Yes – the noise impact may be partially off-set if the residents of those dwellings have access to:*

- *a relatively quiet facade (containing windows to habitable rooms) as part of their dwelling, and/or;*
- *a relatively quiet external amenity space for their sole use, (e.g. a garden or balcony). Although the existence of a garden or balcony is generally desirable, the intended benefits will be reduced with increasing noise exposure and could be such that significant adverse effects occur, and/or;*
- *a relatively quiet, protected, nearby external amenity space for sole use by a limited group of residents as part of the amenity of their dwellings, and/or;*
- *a relatively quiet, protected, external publically accessible amenity space (e.g. a public park or a local green space designated because of its tranquillity) that is nearby (e.g. within a 5 minutes walking distance).*

Saved Policies of the Swale Borough Local Plan 2008:

Policy E1 requires, amongst other things, for development proposals to cause no demonstrable harm to residential amenity.

Policy C1 seeks to support existing community facilities, (including sporting facilities) and states that:

*“The Borough Council will grant planning permission for new or improved community services and facilities. Additionally, where proposals would meet an identified local need in an accessible location, it will permit development proposals that will help maximise the use of existing public and private community services and facilities, including those that would make them available for wider public use, in locations where shortfalls in local public provision could be met.”*

Bearing Fruits 2031 – The Swale Borough Local Plan part 1

Policy DM14 requires, amongst other things, development to cause no significant harm to amenity and other sensitive uses or areas;

**4.0 LOCAL REPRESENTATIONS**

4.01 12 letters of objection have been received. These include response submitted by Councillor Hall, who advises that he has canvassed local residents, almost all of whom objected to the application. The objections are summarised as follows:

- Inadequate noise mitigation;
- Repeat applications;
- Significant noise and disturbance;
- If wind is from the north it is impossible to sit in garden during races;
- One writer normally goes out on a bank holiday Monday to avoid the noise;
- Further mitigation measures are required;
- Speedway should not be allowed in close proximity to a residential area;
- Infringes the human rights of nearby residents to enjoy peace and tranquillity;
- This will make sitting in our gardens in the summer even worse ;
- The noise fences constructed at the site make no difference if the wind is in the right direction -it sounds like we have the motor bikes in the garden with us;
- We also hear the Dog racing noises - but that is more acceptable - listening to more of the revving engines is not;
- It needs to be moved somewhere or relocated to a place where there's no houses nearby;
- One writer has lived in Oak Road for over 30 years and considers that noise has increased – there is greyhounds racing, go-karts all weekend over the summer months, and speedway;
- A noise report was done a few years ago, but the readings were taken in Hugh Price close that is surrounded with trees. This noise report should be carried out in Oak Road as this is in direct line of the stadium;
- This is a residential area with many children and the noise level is quite unacceptable especially in the summer when windows etc are open, these children cannot sleep with so much noise going on;
- As for sitting out in the garden on a lovely summer evening and all you can hear is the roaring of these bikes, it really is not fair;

- Most residents can no longer be bothered to report the noise of the speedway meetings to the Council, but still complain about it;
- Over fourteen households still regularly do report the excessive noise (and occasionally the smell);
- Sometimes, if the wind is blowing in the right direction, the noise is not so bad. Surely this shows the acoustic fence is not working to prevent the sound escaping;
- Please do not grant permanent use or we will be stuck with the noise every season;
- The trial period has proved that the acoustic barrier does not work. Particularly when the wind has been blowing towards our properties, and in some other atmospheric conditions, there have been a number of occasions when the noise has been very loud and intrusive;
- Local residents like ourselves should not be inconvenienced by the intrusive noise from the Speedway for the benefit of Cearnsport, Sky TV and people who live outside the Borough of Swale.

4.02 66 letters of support, together with petitions bearing a total of 93 signatures have been submitted. The key points are summarised as follows:

- Speedway is enjoyed by many families, and the small shift in race times will benefit families and the local economy;
- Only runs one evening per week for a couple of hours;
- With the anticipated modernisation of the town centre, there needs to be more diverse activities and entertainment encouraged and made available;
- The nearby go kart track can be much louder and runs 16-20 hours per week;
- If approved, the site could become one of the top venues in the country, hosting top national and international events. The only one in Kent – an opportunity to put Swale on the map;
- Spectators travel from all over the country to watch the racing;
- Although there is a noise problem, hopefully the benefits of people coming to the area and spending money will off set this issue;;
- Will put Sittingbourne on the map with visiting fans from Kent and all around the country;
- The proposal will not increase noise pollution;
- Noise for a short period of time, once per week, should be overlooked;
- For the sport to thrive there needs to be enough strong and active clubs in viable operation;
- Noise from speedway is less than the noise generated by football;
- Meetings are well attended;
- It is the only such facility in Kent;
- There is more noise from passing traffic;
- We have little or no other creditable sports within Sittingbourne;
- Speedway brings a lot of enjoyment to many the races are very short and thus the actual noise is for a small time;
- With an indefinite consent, the likelihood is that a higher standard of racing will be able to be presented at Central Park in the future and that can only benefit the area.

## 5.0 CONSULTATIONS

5.01 The Council's Environmental Health Manager raises significant concerns, and comments as follows:



*During the 3 year period to date that speedway has been operating at Central Park Stadium the number of complaints about noise received by the Council's Environmental Protection Team has been relatively small given the size of the community south of the site that are potentially affected.*

*The timber board fence constructed to act as a noise barrier and safeguard the nearby community has provided from the outset what the applicant's noise consultant predicted it would in terms of noise attenuation. Unfortunately however, as officers have previously reported, an acoustic fence was never likely to provide a satisfactory level of attenuation and therefore harm to amenity was likely to occur at times. This was substantiated by officers during the 2013 and 2014 racing seasons when visits to homes in Oak Rd resulted in witnessing levels of noise that was audible and intrusive both in gardens and at times inside homes even with the windows closed.*

*It is however important to realise that the noise experienced by these households is not always at an intrusive level. The actual noise arriving at homes is to a large extent influenced by weather conditions and specifically temperature, humidity, wind speed and direction.*

*In effect with a north, north easterly or easterly light breeze i.e. blowing from the track towards Oak Rd and Hugh Price Close, the level of noise perceived by occupiers of homes in those roads could sound twice as loud as when the wind is in the opposite direction. The same will be the case in zero wind conditions. This would explain the reason why some occupiers find the levels acceptable on one occasion but not another.*

*Unquestionably noise from speedway bikes is audible and sometimes very intrusive depending on and dictated by the weather conditions prevailing at any one time. If permanent permission is granted...there are nearby households that during the racing season will undoubtedly suffer a loss in amenity as a result of the noise of speedway bikes.*

- 5.02 Part of the purpose for the grant of a temporary permission only was for the Council to monitor the site. As set out in the Environmental Health Manager's comments above, monitoring has demonstrated that the noise from the use gives rise to harm to residential amenity. In addition to this monitoring, a log of complaints received by the Council's Environmental Protection Team has been kept since the use commenced. This log includes details of wind speed and direction when the race meetings took place. In summary, the following complaints were received relating to noise from the site:

Total complaints received from 2013-2015 (3 full seasons use, events taking place on Monday evenings, Bank Holiday Monday afternoons): **108 complaints from 18 separate households.**

2013 season – **50 complaints from 18 households**

2014 season – **36 complaints from 7 households**

2015 season – **22 complaints from 5 households**

5.03 This information was passed to the agent, who commented as follows:

*“We have analysed the additional information provided by the Council’s Environmental Health department who have monitored and registered noise complaints regarding the stadium and speedway events. Wind direction is measured from where the wind originates, so winds affecting the properties between the closest house of Meeres Court Lane and the end of Hugh Price Close would be between 340° and 50°. The ‘adverse’ wind days (where wind is directed towards those properties) were days when the winds were really light, ranging between 1.5--3knots, which is Force 1 i.e. no real wind at all. From a lay perspective it seems unlikely that these levels of wind would have any significant impact on noise, regardless of the direction.*

*What is significant, however, is that on average 16% of the complaints received were when no races were taking place at the stadium. This raises questions about the validity of the complaints, particularly since between June and October 2015 there was no difference in the number of complaints on days with or without races.*

*Furthermore, the data shows that the number of households which have complained about the noise has decreased by over 70% in the past three years, demonstrating that the acoustic fence is effective and that the use has become accepted by the majority of residents. To deem the permanent use unacceptable on amenity grounds in this context would be highly unreasonable.*

*Therefore, as requested, we confirm that we are content for a recommendation to be made on the basis of the information, as submitted, that there are good planning policy and amenity reasons why the speedway use should be made permanent with the protection of the conditions imposed to address residential amenity....”*

5.04 In response to this, the Environmental Health Manager commented as follows:

*“Commenting on the subject of effect of wind speed and direction on the impact of noise; making any sort of definitive assumption from the wind conditions prevailing at the time of speedway events complained about has proved difficult. There appear to have been several occasions when complaints were received when the wind is recorded as blowing away from those properties concerned.*

*It is however true to say that on days when there is little wind at all, noise will have as much of an adverse impact as when a light breeze is directed towards those nearest affected properties.*

*Whilst I am unable to comment on the complaints apparently received following no races taking place, it would be helpful to know what those dates were as it does raise concerns over the validity of the complaints.*

*On the subject of the decreased number of noise complaints over the past three years, I think this is more likely to be a demonstration of acceptance and resignation to the situation by residents rather than any confirmation that the timber boarding around the southern part of the stadium is an effective noise barrier.”*

## **6.0 BACKGROUND PAPERS AND PLANS**

Application papers, plans, correspondence, and appeal papers and correspondence (where relevant) for SW/08/0962, SW/09/0274, SW/09/0313, SW/09/0314, SW/14/0088 and 15/500862/FULL

## 7.0 APPRAISAL

- 7.01 The use is acceptable in highway terms, and the only visual impacts are the limited impact relating to the permanent retention of the perimeter fence and the pit buildings. These are, in my view, unobjectionable.
- 7.02 The key issue for Members to consider here is whether the continued use of the site on a permanent basis is acceptable in terms of impact on residential amenity. If Members conclude that this is not acceptable, Members will then have to balance the benefits of the proposal against the harm caused and decide whether the benefits outweigh the harm.
- 7.03 The Environmental Health Manager is clear, as set out above, that the level of noise experienced by nearby residents can be “intrusive”. Representations from some local residents support this. This is of course disputed by the noise consultant for the applicant, and by their agent. It is important to note that Officers have been clear from the outset here that the acoustic fence (either as approved, or as constructed) would be insufficient to make a meaningful difference in terms of the noise levels experienced by local residents.
- 7.04 I have no doubt that the holding of speedway meetings at the site does have a detrimental impact on the residential amenities of the occupiers of nearby dwellings. This is mitigated to an extent given the controls in place and given the frequency and duration of such meetings. They can only take place once per week, last around two hours in duration, the races themselves (there are normally a maximum of 17 per meeting) are short in duration, and (leaving the issue of later finishing on Friday’s aside)
- 7.05 That said, the stop-start nature of the noise, and its tonal characteristics potentially increase the harm to residential amenity suffered by local residents.
- 7.06 Against this, Members will note that the numbers of complaints and the numbers of separate households submitting complaints has fallen year on year since the first season (2013). I am mindful though of placing too much weight on this as an indication of an acceptance of the speedway use by local residents. As the Environmental Health Manager points out, it could reflect a level of resignation amongst local residents. I do not consider it useful to speculate on the motivation of those submitting complaints (or indeed not submitting complaints), and the information is basic and not capable of sufficient interrogation to come to a firm, reliable conclusion. It is sufficient to say that the figures set out a reduction in complaints regarding noise. This must be of some weight in the decision making process, although to my mind it should be limited.
- 7.07 On the other hand, the data does set out, as referred to by the Environmental Health Manager that complaints are less during race meetings with a southerly wind. It is clear that weather conditions will have an impact on the level of disturbance local residents’ experience. If the wind is southerly, the noise is effectively blown away from the dwellings to the south and south east. If the temperature is low, residents are unlikely to have windows open or to look to make use of their gardens. Conversely, if the temperature is warm, residents are likely to want their windows open, and to make use of their gardens in the early evening. The speedway season runs from March to October, and this will be a problem during late Spring, throughout the Summer and in early Autumn – the majority of the season.

- 7.08 It is clear to me that, dependent on the weather conditions (in particular the wind strength and direction, but also the temperature) during a meeting, there will be an impact on residential amenity. The noise levels are, in my view, potentially “noticeable and intrusive”. The effects of this are set out in the table above, but for the sake of clarity, I repeat it below:

*“Noise can be heard and causes small changes in behaviour and/or attitude, e.g. turning up volume of television; speaking more loudly; where there is no alternative ventilation, having to close windows for some of the time because of the noise. Potential for some reported sleep disturbance. Affects the acoustic character of the area such that there is a perceived change in the quality of life.”*

- 7.09 In my view, it is clear that the noise generated from the speedway falls into this category. rather than “noticeable and disruptive”. The advice of the NPPG is to “mitigate and reduce the noise to a minimum”. Arguably this has been done by the restrictions on hours of use, the number of meetings per week, and the fact that no practice can take place at the site.

- 7.10 In the supporting statement, the case is made that permanent permission for use for speedway is necessary to support the overall viability of the use of the stadium, in particular due to the downturn in greyhound racing popularity. I requested detailed information to substantiate the claim being made, but have been advised by the agent that none will be forthcoming. As such, I give this very little weight in the decision making process.

- 7.11 I am though mindful that having such a facility and provision for a reasonably popular spectator sport in the Borough is to be welcomed. The response to public consultation on the application could be said to be indicative of the wider support the use benefits from, although that said, many of the letters of support are identical copies and petitions in my view should be given limited weight.

- 7.12 It is clear that there are benefits to be derived from having a local speedway team, although these are difficult to quantify. The provision of jobs for example – the supporting statement sets out that race meetings rely heavily on volunteers. In terms of a trickle down positive impact on the town centre, or local shops and services, this may also be limited – the site is well removed from the town centre, and it seems likely to me that spectators would travel direct to and from the stadium rather than spending time in the town centre either before or after race meetings. Nonetheless, there will be some benefit locally from attracting visitors from outside the Borough, and the provision of such a facility and local spectator sport is to be welcomed.

- 7.13 To sum up, Members should have regard to the following:

- The proposed use generates noise which is intrusive;
- The use though only takes place once per week and for two hours each meeting, even then the noise events are interspersed with periods of relative quiet;
- This though can exacerbate the impacts of noise on local residents;
- The tonal characteristics of the noise can exacerbate its impact;
- The impact of noise from the site is dependent on the weather – temperature and wind direction;

- The number of noise complaints from local residents has dropped both in terms of the overall number and the number of households complaining, since the use commenced in 2013;
- The provision of a popular spectator sport within the Borough is a benefit;
- Other benefits are more difficult to quantify and should not be given substantial weight in the decision making process;

7.14 Members should be in no doubt that I consider this to be a very finely balanced decision. I am mindful that the noise levels can be intrusive and harmful to residential amenity. The race meetings take place once per week, that they are limited in duration and that their impact can be both positively and negatively affected by weather conditions. Whilst I give it limited weight, I am also mindful that the number of noise complaints over the years has reduced.

7.15 In my opinion, on balance, the harm caused to residential amenity is not sufficient to warrant the refusal of the application. I am very mindful of the impact of the speedway use on residential amenity, but I do consider that it is comparatively short lived, and takes place only once per week, that it is unlikely to be harmful on every occasion a meeting takes place (due to the weather) and that there is some benefit, even if it is not significant, to having such a facility in the Borough.

7.16 Given the above, I recommend on balance, that condition (2) of SW/09/0314 is deleted, making the planning permission permanent.

## 8.0 CONCLUSION

8.01 I conclude that, on balance, the deletion of condition (2) of SW/09/0314 is acceptable, and the planning permission should be made permanent. I therefore recommend that the application is approved.

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

### CONDITIONS to include

- (1) The means and details of sound amplification approved pursuant to condition (3) of SW/09/0314 shall continue to be used at the site.

Reason: In the interests of residential amenity

- (2) The acoustic fencing approved under application SW/09/0274 shall be constructed in full prior to the first use of the site for speedway, and shall be retained throughout the duration of this permission.

Reason: In the interests of residential amenity

- (3) Speedway motorcycle racing shall take place only once per week between Mondays and Fridays inclusive, between 1st March and 31st October plus four Bank Holiday Monday afternoon meetings, and written details of the dates and times of races shall be provided to the District Planning Authority at least two weeks prior to their taking place.

Reason: In the interests of residential amenity

- (4) No speedway practice shall take place on the site at any time.

Reason: In the interests of residential amenity

- (5) Racing shall take place between 1700 and 2030 hours only and there shall be no warming up of speedway bikes prior to 1630 or after 2030 hours.

Bank Holiday Monday races shall take place between 1500 and 1800 hours only and there shall be no warming up of speedway bikes prior to 1430 or after 1800 hours.

Reason: In the interests of residential amenity

- (6) There shall be no more than a total of 17 races (league and/or other) per meeting, excepting re-runs of individual races which may take place additionally where necessary in the interests of safety, but wholly within the time limits imposed by condition (5) above.

Reason: In the interests of residential amenity

- (7) No other form of motorised sport shall be undertaken on the site at any time.

Reason: In the interests of residential amenity

- (8) There shall be no use of air horns or claxons at any time during race meetings.

Reason: In the interests of residential amenity

- (9) There shall be no use of fireworks or pyrotechnic devices at any time during race meetings.

Reason: In the interests of residential amenity

- (10) Warming up of bikes shall take place only within the pit area as shown on the approved plans, and shall not take place anywhere else on the site.

Reason: In the interests of residential amenity

- (11) Any facilities for the storage of oils or fuels shall be sited on impervious bases and surrounded by impervious bund walls. The volume of the bunded compound shall be at least equivalent to the capacity of the largest tank, vessel or the combined capacity of interconnected tanks or vessels plus 10%. All filling points, associated pipe work, vents, gauges and sight glasses must be located within the bund or have separate secondary containment. The drainage system of the bund shall be sealed with no discharge to any watercourse, land or underground strata. Associated pipe work shall be located above ground and protected from accidental damage. All filling points and tank/vessels overflow pipe outlets shall be detailed to discharge downwards into the bund.

Reason: In order to prevent contamination/pollution of the land

- (12) Prior to being discharged into any watercourse, surface water sewer or soakaway system, all surface water drainage from the speedway track shall be passed through trapped gullies with an overall capacity compatible with the site being drained.

Reason: In order to prevent contamination/pollution of the land

**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.

APPENDIX I



## Appeal Decisions

Inquiry held on 16 February 2010 and 27-29 April 2010

Site visits made on 16 February 2010 and 29 April 2010

by **L Rodgers** BEng CEng MICE MBA

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

Decision date:  
25 May 2010

### Appeal A Ref: APP/V2255/A/09/2114712

**Central Park Stadium, Church Road, Eurolink, Sittingbourne, Kent ME10 3SB**

- 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 without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Cearnsport Ltd against the decision of Swale Borough Council.
- The application Ref SW/09/0275, dated 3 April 2009, was refused by notice dated 17 August 2009.
- The application sought planning permission for a part change of use of the existing sports stadium to permit the holding of speedway meetings, including the installation of a clinker track surface, provision of a covered 'warm up' area and pits and erection of an acoustic fence around part of the perimeter without complying with a condition attached to planning permission Ref SW/08/0962, dated 16 January 2009.
- The condition in dispute is No 2 which states that: The use of the site for speedway shall cease on or before 31<sup>st</sup> October in the calendar year of races first taking place.
- The reason given for the condition is: In order to allow the District Planning Authority to reassess the impact of the use, having regard to the residential amenities of the occupiers of nearby dwellings, and in pursuance of Policies E1 and E2 of the Swale Borough Local Plan 2008.

### Appeal B Ref: APP/V2255/A/09/2115416

**Central Park Stadium, Church Road, Eurolink, Sittingbourne, Kent ME10 3SB**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
- The appeal is made by Cearnsport Ltd against the decision of Swale Borough Council.
- The application dated 9 April 2009, was approved on 13 October 2009 and planning permission was granted subject to conditions.
- The development permitted is a variation of condition (5) of SW/08/0962 to allow speedway motorcycle racing to take place once per week between Mondays and Fridays, as opposed to between Mondays and Wednesdays.
- The condition in dispute is No 2 which states that: The use of the site for speedway shall cease on or before 31<sup>st</sup> October in the calendar year of races first taking place.
- The reason given for the condition is: In order to allow the District Planning Authority to reassess the impact of the use, having regard to the residential amenities of the occupiers of nearby dwellings, and in pursuance of Policies E1 and E2 of the Swale Borough Local Plan 2008.

SWALE BOROUGH COUNCIL

26 MAY 2010



**APPENDIX I**

Appeal Decisions APP/V2255/A/09/2114712, APP/V2255/A/09/2115416

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**Application for costs**

1. At the Inquiry an application for costs was made in respect of both appeals by Cearnsport Ltd against Swale Borough Council. This application is the subject of a separate Decision letter.

**Decisions**

2. I allow Appeal A and grant planning permission for a part change of use of the existing sports stadium to permit the holding of speedway meetings including the installation of a clinker track surface, provision of a covered 'warm up' area and pits and erection of an acoustic fence around part of the perimeter at Central Park Stadium, Church Road, Eurolink, Sittingbourne, Kent ME10 3SB in accordance with the application Ref SW/09/0275, dated 3 April 2009, without compliance with condition numbers 2, 4 and 5 previously imposed on planning permission Ref SW/08/0962, dated 16 January 2009 but subject to the other conditions imposed therein, so far as the same are still subsisting and capable of taking effect and subject to the following new conditions:
  - (2) The use of the site for speedway shall cease within four years of the date of the first race taking place. The local planning authority shall be notified of the date of the first race in accordance with the arrangements laid out in condition (5).
  - (4) The acoustic fencing approved under Ref SW/09/0274 shall be constructed in full prior to the first use of the site for speedway and shall thereafter be retained until use of the site for speedway has ceased.
  - (5) Speedway motorcycle racing shall take place only once per week between Mondays and Fridays inclusive between 1<sup>st</sup> March and 31<sup>st</sup> October plus four Bank Holiday Monday afternoon meetings and the dates and times of races shall be provided on the stadium website, published in the local press, made available at the application site and provided in writing to the local planning authority, all at least six weeks prior to their taking place.
3. I allow Appeal B, and vary the planning permission Ref SW/09/0314 for a part change of use of the existing sports stadium to permit the holding of speedway meetings including the installation of a clinker track surface, provision of a covered 'warm up' area and pits and erection of an acoustic fence around part of the perimeter at Central Park Stadium, Church Road, Eurolink, Sittingbourne, Kent ME10 3SB granted on 13 October 2009 by Swale Borough Council, deleting conditions 2 & 4 and substituting for them the following conditions:
  - (2) The use of the site for speedway shall cease within four years of the date of the first race taking place. The local planning authority shall be notified of the date of the first race in accordance with the arrangements laid out in condition (5).
  - (4) The acoustic fencing approved under Ref SW/09/0274 shall be constructed in full prior to the first use of the site for speedway and shall thereafter be retained until use of the site for speedway has ceased.

**APPENDIX I**

Appeal Decisions APP/V2255/A/09/2114712, APP/V2255/A/09/2115416

**Main issue**

4. Although there are two appeals, both are in respect of a common condition. I therefore consider there to be only one main issue; whether the condition in dispute is necessary in the interests of the living conditions of local residents and meets the other tests of Circular 11/95.

**Reasons**

*The necessity of the condition*

5. The Appellant accepted at the Inquiry that speedway is an inherently noisy sport. It was also accepted that the residential development near to the stadium is noise sensitive and that the noise climate at the nearest properties is likely to change as a result of the proposed use.
6. According to the Statement of Common Ground (SOCG) on noise, the nearest noise sensitive residential properties are those to the south of the stadium at Hugh Price Close and Oak Road and the currently uninhabited and dilapidated property at Mere Court to the east. With the acoustic barrier in place, the Appellant predicts a speedway noise level of some 57dB  $L_{Aeq,1h}$  at Mere Court and around 52dB  $L_{Aeq,1h}$  at Hugh Price Close with maximum noise levels no greater than 75dB  $L_{Amax,10min}$ . The Appellant suggests that, having reference to the British Speedway Promoters' Association (BSPA) adopted criterion, these noise levels are unlikely to give rise to justifiable complaints from local residents.
7. In predicting the likely noise levels above, the calculations not only assumed that the noise barrier would be in place but that the noise source would be in the centre of the stadium. Initially, the Council queried the validity of assuming that the noise source would be in the centre of the stadium, pointing out that as the bikes moved further away from the barrier, it would become less effective. However, following further work during the course of the Inquiry (Document 18), the Council accepted that the increased attenuation over distance would compensate for any reduction in the effectiveness of the barrier. The reverse would be true in that the barrier would be more effective when the bikes were at their closest. Consequently, it was agreed by the Council that there would be similar noise levels at Hugh Price Close and Oak Road irrespective of the bike's position on the track. Nevertheless, the Council remains concerned that the submitted evidence is insufficient to demonstrate that the predicted noise and disturbance would be at an acceptable level.
8. I shall turn first to the effect on the properties at Hugh Price Close and Oak Road which, based on the submitted evidence, would be similar. The ambient evening noise levels at Hugh Price Close were measured at around 42-45dB  $L_{A90}$ , not untypical for a suburban area. I found on my visits that the area was generally quiet. The predicted speedway noise level would be some 7-10 dB above the ambient noise levels and, if one were to apply a BS 4142: 1997 (Method for rating industrial noise affecting mixed residential and industrial areas) type methodology, would be likely to lead to some complaints. This would be particularly so if a 5 dB correction was to be applied to account for the intermittent nature of the noise.

SWALE BOROUGH COUNCIL
26 MAY 2013

## APPENDIX I

Appeal Decisions APP/V2255/A/09/2114712, APP/V2255/A/09/2115416

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9. However, the Appellant argues that experience elsewhere, reflected in the 2003 report commissioned by the BSPA, '*Preliminary Assessment of Environmental Noise from Speedway in the UK*', suggests that an energy equivalent noise level of between 15 and 18 dB(A) above the background noise level would be an appropriate criteria for determining whether the noise from speedway would be acceptable. The Appellant also claims further support from the *Code of Practice on Environmental Noise Control at Concerts* (The Noise Council 1995). This, it is pointed out, includes guidance stating that the Music Noise Level should not exceed the background noise level by more than 15dB(A) over a 15 minute period. Whilst the Appellant acknowledges that it would be strictly incorrect to apply criteria for music noise to speedway noise, it is nevertheless suggested that an excess of greater than 10 dB(A) would be acceptable for a short-term, occasional, noisy event.
10. I find none of these arguments conclusive. The Council's view is that BS 4142 does not sit comfortably with the analysis of speedway noise and I agree that looking at an  $L_{Aeq,1h}$  figure would not be representative of the characteristics of speedway where parcels of high activity are followed by relative lulls. A BS4142 type analysis may therefore underestimate the potential for annoyance and it is possible that justified complaints could arise at lower excess noise levels than envisaged by BS 4142. However, and conversely, BS 4142 is an accepted method of assessing the noise from fixed plant where any potential annoyance may extend over a much longer period than would be the case with speedway. I therefore consider it highly questionable as to whether BS 4142 can be directly applied to speedway and using a BS 4142 type of analysis has the potential to underestimate, or indeed overestimate, any harm.
11. Turning to the BSPA report, this has the advantage that it relates directly to speedway. However, it has never been turned into a code of practice and has therefore not undergone the scrutiny normally associated with that process. It remains a private report commissioned by the Promoters' Association and for these reasons can, in my view, attract no more than moderate weight. In any event, whilst the report shows that, at certain stadia, levels of speedway noise greater than 17 dB(A) over the background noise have not attracted complaints specific to bike noise, it also shows that at other stadia, lower levels of excess noise have resulted in a range of complaints. The conclusion of the report that an "energy equivalent noise level of between 15 and 18 dB(A) above the background noise level would be an appropriate criteria for determining whether the noise from speedway would be acceptable" seems, on this basis, open to question.
12. In respect of the guidelines in the *Code of Practice on Environmental Noise Control at Concerts*, these are concerned with far fewer events than would be likely here. Although there is some ambiguity about the number of speedway events likely to take place at Central Park Stadium in any one season, the Council's analysis of the potential number of race meetings shows that, within the framework prescribed by other conditions on the existing permissions, up to 39 meetings could be held during 2010. This far exceeds the 4-12 concert days per calendar year per venue referred to in the guidelines. However, compared to the noise from speedway, the noise associated with concerts is likely to be more sustained throughout the course of the event. It would in any

**APPENDIX I**

Appeal Decisions APP/V2255/A/09/2114712, APP/V2255/A/09/2115416

case have different characteristics which in my view would render direct comparisons inappropriate.

13. I have also been referred to other guidance on noise matters including Minerals Planning Guidance 11: The control of noise at surface mineral workings (MPG 11). This says that, other than in certain specified circumstances (which may result in lower, or higher, limits) the daytime nominal limit at noise-sensitive properties used as dwellings should normally be 55 dB L<sub>Aeq,1h</sub> (free field) where 1 h means any of the one hour periods during the defined working day. However, whilst the noise levels at Hugh Price Close and Oak Road would come within the limit, the permitted hours of speedway operation would in part fall outside the normal definition of 'daytime' and again the noise characteristics in terms of duration and pitch are likely to be significantly different between a speedway and mineral workings.
14. Although my attention was also drawn to the World Health Organisation (WHO) guidelines, the Council and Appellant agreed that whilst the noise from speedway would not increase the existing 16 hour daytime noise level by more than 1 dB(A), neither party were content with the inclusion of intermittent noise within a WHO type assessment.
15. Notwithstanding the difficulties in applying existing guidance, the Appellant argues that, based on the L<sub>Aeq,1h</sub> and L<sub>Amax,fast</sub> analysis, the noise levels would be consistent with the existing levels in the area and would be less than in other places where speedway has been successfully introduced. However, in comparing the predicted and existing noise levels, the analysis does not specifically account for the nature of the noise, and particularly the fact that the higher levels of noise would be sustained over the duration of a race and would not simply be very short, discrete events.
16. For these reasons I consider that it is not possible to establish with any reasonable degree of certainty whether or not there would be material harm to the living conditions of local residents in Hugh Price Close and Oak Road. The fact that the BSPA report shows that complaints have arisen at a variety of noise levels suggests that much is dependent on the particular local circumstances. As was pointed out at the inquiry, it is, for instance, difficult to accurately model the effect of the range of reflective surfaces around the stadium.
17. In respect of the property at Mere Court, if one were to assume the background noise levels were similar to those at Hugh Price Close, the predicted speedway noise level of some 57dB L<sub>Aeq,1h</sub> would, even adopting the conclusion of the BSPA report, be approaching the upper limit of acceptability and would be more likely to result in material harm. However, I am conscious that the property is in a dilapidated state and whilst I accept the Council's point that it could potentially be made available for occupation, I was given no substantive evidence to show that it would be restored to residential use. In these circumstances I consider that the possibility of harm to any potential future residents of Mere Court should carry only limited weight.
18. Although I accept that the proposed use could be detrimental to local residents, the Appellant points out that the speedway noise levels arising at Hugh Price Close would be significantly quieter than if a neighbour, even a few houses

SWALE BOROUGH COUNCIL
26 MAY 2010
PLANNING SERVICES

## APPENDIX I

Appeal Decisions APP/V2255/A/09/2114712, APP/V2255/A/09/2115416

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distant, were mowing a lawn with a powered lawnmower. The introduction of new silencers is likely to further reduce the predicted noise levels and, despite the Council's concerns as to whether use of the new silencers could be controlled, I note that a licensed speedway promoter is not given permission to stage speedway racing until he has signed a contract to abide by the Speedway Control Bureau (SCB) rules and regulations. Amongst other matters, these regulate the use of silencers. In these circumstances, and despite the limited testing to date, I consider it reasonable to have some regard to the benefits of the new silencers. It is also the case that each race would be short in duration, that there would be only a limited number of meetings during the year and that the timing of the meetings, particularly the finish times for the evening meetings, would be such as to minimise disturbance at what are generally accepted as the most sensitive times of the day.

19. According to the Appellant, the introduction of speedway would also help to offset the downturn in revenue from greyhound racing and would help to secure the future of the stadium. It was also said that the development would result in a contribution to the local economy. Whilst these assertions were not supported by substantive evidence, it nevertheless seems to me likely that there would be some benefits to the community.
20. However, notwithstanding any possible benefits, given that I have found that the proposed racing could be detrimental to local residents there may also be conflict with the Swale Borough Local Plan, particularly Policies E1 and E2. In these circumstances an unrestricted permission would not be appropriate. However, it is not certain that residents would suffer material harm. Circular 11/95 says that "where an application is made for a permanent permission for a use which may be "potentially detrimental" to existing uses nearby, but there is insufficient evidence to enable the authority to be sure of its character or effect, it might be appropriate to grant a temporary permission in order to give the development a trial run".
21. In this case, the number of years of racing could be controlled by condition. However, Circular 11/95 makes it clear that any such temporary permission should be reasonable having regard to the capital expenditure necessary to carry out the development and a trial period should be set that is sufficiently long for it to be clear by the end of the first permission whether permanent permission or refusal is the right answer. I deal with these matters below.

*Whether or not the disputed condition is reasonable and meets the other tests of Circular 11/95*

22. According to the Appellant, the capital expenditure required to prepare the stadium for speedway racing would be of the order of £250,000. Although the Council questioned the make up of the figure, the Council also noted that the capital costs of recent similar projects at other stadia were comparable or slightly higher. Notwithstanding the Council's concerns it therefore seems reasonable to take a figure of £250,000 as the likely capital expenditure.
23. The forecast profit and loss account submitted by the Appellant suggests that payback would occur early in the fifth year of operation. This payback period was also questioned by the Council and in particular the inclusion of a non-cash item of £25,000 per annum for depreciation. The Council also queried other

**APPENDIX I**

Appeal Decisions APP/V2255/A/09/2114712, APP/V2255/A/09/2115416

matters in the projection such as the assumed number of meetings (25), the lack of other income opportunities and the lack of any sponsorship income. However, even if all the Council's suggested adjustments were to be adopted, payback is shown as occurring in year two.

24. Circular 11/95 says at Paragraph 111 that a temporary permission should be reasonable having regard to the capital expenditure necessary to carry out the development and Paragraph 35 says that a condition should not be imposed if the restriction effectively nullifies the benefit of the permission. Although the Circular does not require any permission to be long enough to pay back the investment, and any financial projections are likely to be subject to variation and uncertainty, it seems to me that the payback period is one indicator of what may be an appropriate length for any temporary permission.
25. In this case, I consider that a condition which limits racing to one season, when even a highly optimistic scenario shows payback would not occur until year two, effectively nullifies the benefit of the permission. I am also conscious that, because of its forward planning cycles, the BSPA view is that permission being granted for a single season means in reality that the stadium would never operate. Although I find no conflicts with the other tests of Circular 11/95, I therefore find the disputed conditions unreasonable.
26. Although the Appellant's figures show that payback would occur in year five I note that over 90% of the capital investment would be paid back in the first four seasons. However, whilst I agree with the Council that it would not be reasonable to include depreciation when considering the length of a temporary permission, it would nevertheless be very marginal to suggest that payback would occur in year three. Although the Council's view was that there were other income opportunities that would help in boosting profitability, the Appellant considered that it would be unreasonable to include these in the projections. As some would affect the intended offer and some would be subject to considerable uncertainty, I accept the Appellant's view.
27. Although the Appellant has made it clear that he is seeking unlimited permissions, or minima of seven years in order to justify the investment, it is my opinion that permissions allowing racing for four years would be reasonable having regard to the capital expenditure involved. The Appellant and Council both accepted that, if I determined that temporary permissions were appropriate, their duration would be a matter for my judgement based on the facts before me.
28. Notwithstanding that a four year permission would be reasonable having regard to the capital expenditure involved, there remains the question of whether a four year permission would be reasonable having regard to the potentially detrimental effect on local residents. Planning Policy Guidance: Planning and Noise (PPG24) says that, in considering noise from recreational and sporting activities, the local planning authority will have to take account of how frequently the noise will be generated and how disturbing it will be, and balance the enjoyment of the participants against nuisance to other people.
29. Despite the opposition of many local residents, a significant number of letters have been received in support of the proposal and there appears to be considerable enthusiasm for the introduction of speedway at Central Park

SWALE BOROUGH COUNCIL  26 MAY 2016
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**APPENDIX I**

Appeal Decisions APP/V2255/A/09/2114712, APP/V2255/A/09/2115416

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Stadium. I have already established that the frequency and duration of noisy events would be controlled by other conditions and that the projected noise levels would be further limited by the new silencers. Taking account of all these factors it is my opinion that limiting racing to four years would be reasonable having regard to the potentially detrimental effect on local residents and the enjoyment of the participants. Four years would also be long enough to determine whether a permanent permission or refusal is the right answer.

**Other matters**

30. A number of local residents have raised other concerns including the use of the proposed track for practice and junior meetings, the commercial viability of the operation and the sensitivity of the financial information. However, other conditions would restrict the number of times that motor cycle racing can take place and prevent use of the track for speedway practice and whilst I have had regard to the sensitivities inherent in the financial projections, the commercial viability of the proposal is largely a matter for the Appellant.
31. In respect of the unease expressed by third parties over the potential for congestion and additional parking on local roads, the Council has not objected on these grounds and as greyhound racing already attracts similar size crowds to the stadium, I see no reason to take a different stance.

**Conditions**

32. I have established that, if I were to allow the appeals, conditions limiting the number of years over which racing may take place would be necessary. In respect of Appeal A, I would also need to refer back to the conditions imposed on planning permission Ref SW/08/0962 but, for consistency with other permissions subsequently granted by the Council, I would also need to impose new conditions 4 and 5. Similarly, in respect of Appeal B, a new condition 4 would be required. This approach was agreed by the main parties.

**Conclusion**

33. I have found that the disputed conditions are unreasonable. However, I have also found that the effect of the proposed racing on the living conditions of local residents is uncertain and potentially detrimental. Taking account of these matters I have determined that conditions limiting the racing to four years would be reasonable in all respects. Therefore, and having considered all other matters before me, including the sustainability of the development, I conclude that both Appeal A and Appeal B should succeed but that the resultant permissions should be subject to new conditions limiting racing to no more than four years.

*Lloyd Rodgers*

Inspector

**APPENDIX I**

Appeal Decisions APP/V2255/A/09/2114712, APP/V2255/A/09/2115416

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**APPEARANCES**

**FOR THE LOCAL PLANNING AUTHORITY:**

<p>Mr G Stoker of Counsel</p> <p>He called</p> <p>Mr D N Ledger FCIEH, MRSPH</p> <p>Mr K Godden MISPAL</p> <p>Mr R T Bailey MRTPI</p>	<p>Instructed by Ms Blades-Chase, Head of Legal, Swale/Tonbridge/Maidstone Borough Councils</p> <p>Environmental Protection Manager, Swale Borough Council</p> <p>Director, pmp genesis Ltd</p> <p>Area Planning Officer, Swale Borough Council</p>
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**FOR THE APPELLANT:**

<p>Mr S Randle of Counsel</p> <p>He called</p> <p>Mr RJC Cearns</p> <p>Mr A E Mole</p> <p>Mr N Hill C Eng, MIOA, MIMechE</p> <p>Mr F Robinson FRTPI, CMILT</p>	<p>Instructed by Robinson Escott Planning</p> <p>Cearnsport Ltd</p> <p>President, British Speedway Promoters Association</p> <p>Hill Engineering Consultants Ltd</p> <p>Robinson Escott Planning</p>
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**INTERESTED PERSONS:**

<p>Cllr M Henderson</p> <p>Ms. E Walker</p> <p>Cllr E Lowe</p> <p>Mr B Bibby</p> <p>Mr G Marriott</p> <p>Mr RA Swade</p> <p>Cllr D Banks</p>	<p>Swale Borough Councillor, Member of the Planning Committee. Appearing on behalf of local residents.</p> <p>Local resident</p> <p>Swale Borough Councillor, Member of the Planning Committee. Appearing on behalf of local residents.</p> <p>On behalf of a local resident</p> <p>Local resident</p> <p>Local resident</p> <p>Ward councillor and local resident</p>
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<p>SWALE BOROUGH COUNCIL</p> <p>28 MAR 2016</p>
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## APPENDIX I

Appeal Decisions APP/V2255/A/09/2114712, APP/V2255/A/09/2115416

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## DOCUMENTS HANDED IN AT THE INQUIRY

- 1 List of persons attending the inquiry on behalf of the Appellant. Submitted by Mr Robinson.
- 2 Bundle of letters. Submitted by Mr Robinson.
- 3 Letter from JP Crook and Co. dated 9.2.10. Submitted by Mr Robinson.
- 4 BPSA letter plus attachments. Submitted by Mr Robinson.
- 5 Supplementary noise proof of Nicholas Hill. Submitted by Mr Robinson.
- 6 Bundle of letters. Submitted by Mr Stoker.
- 7 Response to Appellant's evidence from Pmpgenesis Ltd. Submitted by Mr Stoker.
- 8 The 2009 Speedway Regulations (SCB). Submitted by Mr Stoker.
- 9 BS 4142: 1997. Submitted by Mr Stoker
- 10 Statement of Common Ground (Noise).
- 11 Acoustic evidence of Mr Bibby
- 12 Letter from Cllr Manuella Torres
- 13 Appellant's opening statement. Submitted by Mr Randle.
- 14 Environmental Noise Assessment June 2000. Submitted by Mr Stoker.
- 15 The 2010 Speedway Regulations (SCB). Submitted by Mr Randle.
- 16 Copy of Decision Notice from Birmingham City Council in respect of Application Number N/04323/08/FUL (Perry Barr Stadium). Submitted by Mr Stoker.
- 17 Letters in respect of the introduction of new homologated silencers (R&D Aggregates/ACU). Submitted by Mr Randle.
- 18 Calculation sheet of N Hill in respect of attenuation effect of barrier with bikes at different track points. Submitted by Mr Randle.
- 19 2010 Calendar showing potential number of meetings under existing permissions. Submitted by Mr Stoker.
- 20 Table 4.1 of WHO guidelines. Submitted by Mr Stoker.
- 21 Council's closing statement. Submitted by Mr Stoker.
- 22 Appellant's closing statement. Submitted by Mr Randle.
- 23 Joint statement on the applicability of the WHO guidelines to properties at Hugh Price Close and Oak Road.
- 24 Costs application on behalf of the Appellant. Submitted by Mr Randle.

**APPENDIX II**

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 Sittingbourne  
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Your reference: 15/510605  
 Our reference: ENV/73/001/NH/jh/pL  
 Date: 4<sup>th</sup> July 2013

By e-mail only - [rogercearns@aol.com](mailto:rogercearns@aol.com)

Dear Roger,

**RE: Speedway, Central Park Stadium**

Further to my visit to site on Monday 3<sup>rd</sup> June 2013 to inspect the acoustic barrier and to monitor noise from Speedway, I comment as follows.

**Barrier**

You will recall that in my report E15073/05 of 29<sup>th</sup> July 2008 supporting the application for Planning Permission I recommended a '6m high acoustic barrier is erected to replace the existing 'concrete slatted wall 2.25m high' to the southern aspect of the Stadium shown on Figure 1. The barrier should start close from the eastern straight and continue clockwise, unbroken, for a circumferential distance of approximately 200m'. I note that in Swale Borough Council's letter of 16<sup>th</sup> January 2009 the acoustic fence proposed in your drawing of 1<sup>st</sup> December 2008 showing an acoustic barrier to run a distance of approximately 185m at a height of 6m, to be located slightly behind the existing 2.25m high existing concrete slatted fence was approved.

At the site inspection I noted that the acoustic barrier has been constructed to a height of 6m, built above the existing concrete slatted fence on 4" by 4" square section steel columns using 9-ply (1" thick), oil treated plywood sheets, photos as follows:



**APPENDIX II**

Sittingbourne Speedway  
Environmental Noise Impact Assessment

2 of 4

ENV/73/001/NH/jh/pL  
4<sup>th</sup> July 2013



There are no substantial breaks or gaps in the barrier. Given that the current height meets the recommended height of 6m total and is in the correct geographical position then there are no measures that could be undertaken to improve the noise barrier, other than increasing its height. It is therefore fit for purpose and meets the requirements of my original specification.

The 1" thick plywood will provide a substantially increased noise insertions loss of at least 20 dB(A) (i.e. through the plywood) compared to the predicted 11 dB(A) shielding provided by the noise diffracting over the height of the barrier. Consequently, increasing the thickness of the current 1" plywood sheet will show no additional benefit.

**APPENDIX II**

Sittingbourne Speedway  
Environmental Noise Impact Assessment

3 of 4

ENV/73/001/NH/jh/pL  
4<sup>th</sup> July 2013

In my reporting I predict a Speedway noise level of 52 dB  $L_{Aeq,1h}$  at property on Hugh Price Close and surrounding area, 5 dB(A) below the adopted criterion of 57 dB  $L_{Aeq,1h}$  based on the early evening ambient background noise level of 42 dB  $L_{A90,1h}$ , using the criterion adopted from the 2003 report prepared by Scott Wilson for the BSPA.



At the site inspection the following noise levels were measured at Hugh Price close:

Time	$L_{Aeq}$	$L_{A90}$	$L_{Amax,fast}$	comments
17.00-17.15	51.8	41.5	76.4	local road traffic, birdsong, pedestrians
17.15-17.30	53.9	42.5	76.8	
17.30-17.45	54.6	43.0	77.2	
17.45-18.00	55.0	44.5	71.0	
18.00-18.15	52.8	44.0	66.8	bikes warm up from 18.06
18.15-18.30	53.1	43.0	69.6	warm up until 18.23
18.30-18.45	58.2	45.0	80.8	first heat at 18.35
18.45-19.00	56.5	42.0	82.0	
19.00-19.15	52.6	41.5	73.9	
19.15-19.30	54.6	43.0	73.0	
19.30-19.45	53.8	41.5	74.8	
19.45-20.00	58.2	43.5	79.5	
20.00-20.15	57.6	43.0	77.9	
20.15-20.30	55.3	38.5	73.4	last heat at 20.20
20.30-20.45	51.5	37.0	69.2	local road traffic, local keep fit club, pedestrians, birdsong etc. Twilight at around 21.30.
20.45-21.00	50.6	36.5	68.2	
21.00-21.15	49.4	35.0	67.4	
21.15-21.30	45.5	36.0	63.5	
21.30-21.45	44.6	34.5	64.9	
21.45-22.00	42.2	35.0	60.4	

## APPENDIX II

Sittingbourne Speedway  
Environmental Noise Impact Assessment

4 of 4

ENV/73/001/NH/jh/pL  
4<sup>th</sup> July 2013

At the time of the measurements there was a noticeable north-easterly wind, blowing towards the measurement location, with gusts at up to 5 m/s.

It can be seen that the bikes warm-up commenced at 18.06 and continued until 18.23. The first heat commenced at 18.35 and the final heat at 20.20.

The average ambient noise at the measurement point in the 90 minutes prior to commencement of the heats is calculated from the data tabulated above to be 53.7 dB(A)  $L_{eq}$ , predominantly due to local road traffic.

The average noise level throughout the course of the 2½ hour meeting is calculated from the data tabulated above to be 56.3 dB(A)  $L_{eq}$ .

The specific noise from the Speedway is therefore 56.3 dB(A)  $L_{eq}$  minus 53.7 dB(A)  $L_{eq}$ . This is calculated to be 52.8 dB(A)  $L_{eq}$ .

In layman's terms, the noise from the Speedway over the course of the 2½ hour meeting at Hugh Price Close is 52.8 dB(A)  $L_{eq}$ . This slightly exceeds the predicted noise level of 52 dB(A)  $L_{eq}$  I report in my report E15073/05 of 29th July 2008. The reason for the actual noise level exceeding the predicted noise level is almost certainly due to the prevailing north-easterly wind at the time of the measurement; it is most difficult to calculate accurately the effect of wind direction and speed upon the prediction of environmental noise and any such effect is still not included in any relevant British and International noise prediction Standards. It is quite likely, however, that with the predominant south-westerly wind expected at the site that Speedway noise levels will, in general, be reduced by as much as 5-7 dB(A) compared to those measured at the site inspection reported above with the north-easterly wind experienced.

The Speedway specific noise level, 52.8 dB(A)  $L_{eq}$  (with the north-easterly wind experienced) is below the WHO evening guidelines of 55 dB  $L_{Aeq}$  and will be further reduced with a prevailing south-easterly wind.

On this basis then I conclude that the noise barrier erected satisfies my original specification and does not require any modification. Noise levels from Speedway at Hugh Price Close are slightly higher than expected but due to the north-easterly wind experienced at the time of the measurements; with a prevailing south-easterly wind I expect Speedway noise levels to be reduced by as much as a further 5-7 dB(A). The Speedway specific noise level measured at the site inspection is below the WHO evening guidelines of 55 dB  $L_{Aeq}$ .

Yours sincerely,



Nicholas Hill BSc(Hons) CEng MIOA MIMechE  
Noise and Vibration Consultant

**APPENDIX III**

PLANNING AND DEVELOPMENT CONSULTANCY

**PowerHaus**  
Consultancy

15/510605



**CENTRAL PARK STADIUM,  
SITTINGBOURNE, KENT ME10 3SB**

**PLANNING STATEMENT FOR  
REMOVAL OF  
CONDITION 2 AND VARIATION OF  
CONDITION 7 OF PERMISSION  
SW/09/0314**

Date: 23<sup>rd</sup> December 2015

Ref: 018

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Planning Statement

**APPENDIX III**



**CONTENTS**

**1.0 INTRODUCTION AND DESCRIPTION OF DEVELOPMENT ..... 1**  
**2.0 SITE AND LOCATION ..... 3**  
**3.0 SPEEDWAY BACKGROUND AND PLANNING HISTORY ..... 4**  
**4.0 NEED ..... 7**  
**5.0 PLANNING POLICES AND JUSTIFICATION ..... 9**  
**6.0 CONCLUSIONS ..... 14**

**TABLES**

**Table 1. Relevant Planning History at Central Park Stadium ..... 4**  
**Table 2. UK Speedway Stadia Finish Times ..... 5**

**Appendix 1 – Information From Swale Borough Council EHO December 2015**  
**Appendix 2 – Email From Swale Borough Council EHO 5<sup>th</sup> December 2015**

## APPENDIX III

PLANNING AND DEVELOPMENT CONSULTANCY

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- 1.1 An application has been submitted on behalf of Cearnsport Ltd concerning Central Park Stadium Sittingbourne Kent, for permission to remove Condition 2 and to vary Condition 7 of planning permission ref. SW/09/0314, under Section 73 of the Town and Country Planning Act. This would continue the speedway use at the Stadium as already permitted and allow a later finishing time on Fridays. All other controls would remain as set down in the various permissions. Part change of use of the Stadium was permitted for speedway meetings on 13 October 2009 subject to the use coming into effect before 15<sup>th</sup> January 2012. The use was implemented the first week of January 2012.
- 1.2 Speedway racing commenced in the 2012 season and is therefore due to cease at the end of the end of the Speedway season in October 2016 in line with the four-year time limit of the planning consent (condition 2 of planning permission SW/09/0314 amended by Appeal decision APP/V2255/A/09/2115416). The removal of Condition 2 would therefore allow permanent use of the Stadium for Speedway, which will secure an economic boost to the Stadium and Borough, with the decline in Greyhound racing experienced at Central Park Stadium and nationally as a spectator sport. The use has already been approved and is an appropriate use in this location.
- 1.3 This application also seeks to continue the extended later finishing time on Fridays from 17.00 to 21.10, with an additional 20 minutes for overruns, to attract a higher league speedway club to the race track, and to ensure racers, workers and spectators can reach the grounds in good time for the speedway races. There is no other speedway track in the country that operates with such restricted hours and this significantly hampers the ability of Cearnsport to attract a higher league team to compete from Central Park Stadium. A higher league team competitor would positively alter the economic benefits of the speedway operation, contributing to the local economy. Given that the Speedway use can currently continue for a further year, Cearnsports has not been able to attract a higher league team due to the uncertainty over the continued use of Central Park Stadium for Speedway and the necessary investment required for the higher league team riders.
- 1.4 Planning permission has already been granted by the Council on 12 May 2015 reference 15/500862/FULL, to allow the later Speedway finishing time on Friday nights.
- 1.5 This application is therefore seeking to ensure that both conditions are varied for the original change of use consent reference SW/09/0314, to ensure that Speedway use can be a permanent use and that the later finishing time on Friday's can continue at Central Park Stadium.
- 1.6 The proposed revised Condition 7 is to say:

*"On Fridays speedway racing shall take place between 1700 and 2110 hours only (with a further 20 minutes to be used only in the event of re-runs of individual races which may take place additionally where necessary in the interests of safety).*



## APPENDIX III

PLANNING AND DEVELOPMENT CONSULTANCY

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*In all other circumstances, weekday races shall take place between 1700 and 2030 hours only and there shall be no warming up of speedway bikes prior to 1630 or after 2030 hours.*

*Bank Holiday Monday races shall take place between 1500 and 1800 hours only and there shall be no warming up of speedway bikes prior to 1430 or after 1800 hours\*.*

- 1.7 This application will regularise speedway use at the Stadium subject to the existing constraints as follows:
- i) Speedway season confined to 1<sup>st</sup> March to 31<sup>st</sup> October each year;
  - ii) Only one speedway meeting per week Monday to Friday, plus four Bank Holiday afternoon meetings;
  - iii) Only 17 heats per meeting;
  - iv) Mondays to Thursdays no racing after 20.30;
  - v) Fridays no racing after 21.10 except for re-runs up to 21.30 only; and
  - vi) Race meetings will finish at 18.00 on Bank Holidays.
- 1.8 Information has been requested from the Council's Environmental Health Department regarding the number of noise complaints associated with the Stadium uses. The information received is referred to in further detail in Section 5 below.
- 1.9 The structure of this Planning Statement will now examine the circumstances and planning policies to support this application and is set out as follows:
- **Section 2 Site and Location** – describes the site and surroundings.
  - **Section 3 Background and Planning History** – sets out the relevant background with regard to speedway racing at Central Park Stadium and the recent and relevant planning history of the speedway use at Central Park Stadium and other at other stadia in the UK.
  - **Section 4 Need** – demonstrates the need for the permanent use of the Stadium for speedway and the associated later Friday night finishing time already permitted.
  - **Section 5 Planning Justification** – assesses the proposals against the relevant planning policy framework.
  - **Section 6 Conclusions** – summarises the conclusions in favour of the application.

## APPENDIX III

PLANNING AND DEVELOPMENT CONSULTANCY

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**2.0 SITE AND LOCATION**

- 2.1 Central Park stadium is used successfully for league speedway racing. A large parking area is located to the north and east sides of the stadium, which are the main entry points to the Stadium. Pit areas for speedway bikes and riders are located to the north east of the site. A substantial acoustic fence has been erected along the southern boundary of the site, which is the smallest part of the stadium, which lies some 175 metres from the nearest residential properties to the south.
- 2.2 Central Park Stadium also hosts greyhound racing and football activities which have been permitted since 1996 to take place 7 nights a week until 11pm. During busy times, the stadium accommodates crowds in excess of 5,000 spectators associated with these events. The applicant also has a drinks licence until 2am and is permitted to hold five outdoor concerts a year. Speedway race meetings as proposed on Fridays would still finish earlier than other activities within the same Stadium and would also take place comparatively infrequently. Current planning restrictions ensure that no more than 17 heats take place per meeting, that there is only one meeting per week and that Speedway events can only take place between March and October each year.
- 2.3 Central Park Stadium is appropriately situated on the outskirts of Sittingbourne, on the fringes of the Eurolink industrial estate and the East Hall Farm industrial estate. Light, general and storage and distribution employment uses surround the Stadium on the west, north and east sides. To the south the Stadium is bordered by two playing fields, which sit between the Stadium and the residential properties to the south, The nearest residential streets to the stadium are at Murston to the south of the site, the closest of which lies approximately 175m to the south at Hugh Price Close and Oak Road.
- 2.4 The overriding character of the site is therefore industrial and employment focused, with a Local Plan allocation (2008) for additional employment generating uses to the east of the stadium which is mostly complete. The emerging draft Local Plan currently the subject of examination also continues to surround the Stadium area with a mixed use allocation to the south/east of the Stadium site. A Stadium use with Speedway events in this location is therefore highly appropriate as a land use.

**APPENDIX III**



**3.0 SPEEDWAY BACKGROUND AND PLANNING HISTORY**

**i) Background**

- 3.1 Speedway racing is a popular event at Central Park Stadium and receives considerable support from the local community. Speedway race meetings consist of 17 one-minute races which take place for approximately two hours at a time on one weekday in the season (1<sup>st</sup> March to 31<sup>st</sup> October). Typically, meetings take 1hr 30 minutes however this occasionally increases to 1hr 55 minutes if there has been a delay, such as a crash or a heat recall. The total length of each meeting would remain the same, never normally exceeding two hours.
- 3.2 The approved later Friday night finishing time of 21.10, with an additional 20 minutes if a delay occurs is essential for the permanent speedway use at Central Park Stadium. The Council accepted that the races taking place during the additional hour (i.e. 20.30 to 21.30) would typically be limited to 5 to 8 sixty second races, amounting to a maximum of 8 minutes of racing during this hour.
- 3.3 The speedway use is in full compliance with the terms of the relevant planning permissions (refs. SW/08/0962 and SW/09/0314) first granted by the Borough Council but as subsequently varied by the Inspector on appeal decisions dated 25 May 2010 (APP/V2255/A/09/2114712 and APP/V2255/A/09/2115416 respectively). Speedway racing may continue as permitted by these consents until the end of the 2016 season.

**ii) Planning History**

- 3.4 The relevant planning history for Central Park Stadium is summarised in Table 1 below:

**Table 1. Relevant Planning History at Central Park Stadium**

Reference	Description	Decision
SW/08/0962	The part change of use of existing sports stadium to permit the holding of speedway meetings, including the installation of clinker track surface, provision of covered 'warm up' area and pits and erection of acoustic fence around part of the perimeter.	Approved on 15/01/09  Planning Officer recommended refusal, but Members resolved to grant a temporary planning permission to allow the use of the site on a trial basis only.
SW/09/0274	Erection of acoustic fence around southern perimeter of stadium terraces maximum height 6.1m	Approved on 11/09/09
SW/09/0275	Variation of condition (2) of SW/08/0962 to allow a minimum of 7 seasons use for the holding of speedway meetings.	Refused on 17/08/09  Allowed on appeal 25/05/10
SW/09/0313	Variation of condition 7 of SW/08/0962 to allow warming up of speedway bikes from 1400 hours on bank holidays, rather than from 1430 hours.	Refused on 28/08/09
SW/09/0314	Variation of condition 5 of SW/08/0962 to allow 1 speedway race per week between Mondays and Fridays, as opposed to between Mondays and Wednesdays.	Approved 13/10/09  Appeal allowed on 25/05/10 and temporary permission

**APPENDIX III**



	Applicant sought to vary Condition 2 attached to permission SW/09/0314 which restricted the use to one season only at appeal.	extended to four years (until the end of the 2016 season).
SW/14/0088	Variation of condition (7) of SW/09/0314, to allow speedway racing between 15:00 & 22:00 hours on weekdays and bank holidays.	Refused on 24/09/14
15/500862/FULL	Variation of condition 7 of SW/09/0314 to allow speedway racing between 1800 and 2130hrs on Fridays.	Permitted 12 May 2015

**iii) Operational Hours of Other UK Speedway Stadia**

3.5 All other speedway stadiums in the UK have later operational hours than Central Park Stadium. Of the 29 UK stadia that host speedway races as set out in Table 2 below, all finish much later. The majority finish around 10pm on weekdays, whereas Central Park Stadium is restricted to finish as early as 20.30 during weekdays, between half an hour to two hours earlier.

**Table 2. UK Speedway Stadia Finish Times**

Speedway track and location	Latest finish time (approx) and main race day
Birmingham Brummies, Perry Barr Stadium	22.00 (Wednesday/Thursday), 21.00 (Sunday)
Glasgow Tigers, Ashfield Stadium	18.00 (Sunday)
Edinburgh Monarchs, Armadale Stadium	22.30 (Friday)
Berwick Bandits, Shielfield Park	22.00 (one weekday), 21.30 (Saturday)
Workington Comets, Derwent Park Stadium	22.00 (Friday / Saturday / Sunday / Bank Holidays)
Newcastle Diamonds, Brough Park	*21.30 (Sunday)
Redcar Bears, South Tees Motorsports Park	22.00 (Thursday)
Scunthorpe Scorpions, Eddie Wright Raceway	*21.30 (Friday)
Sheffield Tigers, Sheffield Speedway, Owlerton Stadium	22.00 (Thursday)
Belle Vue Aces, Bell Vue Stadium, Manchester	21.30 (Monday) – Once new stadium is built and operational, will be 22.30 (Wednesday, Friday, Saturday)
Buxton Hitmen, Buxton Speedway Stadium, Derbyshire	17.00 (Sundays)
Stoke Potters, Chesterton Stadium, Chesterton	*21.30 (Saturday)
Kings Lynn Stars, The Stadium, King's Lynn	22.30 (Thursday)
Peterborough Panthers, East of England Showground	22.00 (Thursday)
Wolverhampton Wolves, Monmore Green Stadium	22.00 (Monday)
Coventry Bees, Coventry Stadium, Coventry	22.00 (Friday)
Mildenhall Fen Tigers, Mildenhall Stadium	18.30 (Sunday)
Ipswich Witches, Foxhall Stadium	22.30 (Weekday) 18.30 (Sunday/Bank Holiday)
Rye House Rockets, Rye House Stadium, Hoddeson	*21.30 (Saturday)
Lakeside Hammers, Arena-Essex Raceway, Thurrock	22.00 (Friday)
<b>Kent Kings, Central Park Stadium, Stittingbourne</b>	<b>Existing time 20.30 (Monday) Proposed time 21.30 (Friday)</b>
Eastbourne Eagles, Arlington Stadium, Hailsham	*21.30 (Saturday)
Isle of White Islanders, Smallbrook Stadium	21.00 (Tuesday) – except when meeting is delayed, then may operate until

**APPENDIX III**



	21.30
Poole Pirates, The Stadium, Poole	22.00 (Wednesday)
Plymouth Devils, St Boniface Arena, Plymouth	21.45 (Thursday to Saturday), 20.30 (Bank Holidays)
Somerset Rebels, Oak Tree Arena	22.00 (Friday)
Swindon Robins, Abbey Stadium, Swindon	22.00 (Thursday)
Dudley Heathens, Ladbroke Stadium	*21.30 (Tuesday)
Leicester Lions, Beaumont Leys Stadium, Leicester	22.30 (Saturday)

**Source:** Speedway GB (The Official British Speedway Website) and individual speedway race operator websites, accessed December 2014. Link: <http://www.speedwaygb.co/wherearethecubs.html>

**Note:** \*A search of the individual speedway race operator websites and the relevant planning histories (where available) on the respective local authority websites has identified all the start times and main race days of the speedway race meetings, and in most cases, the permitted finish times. However, when finish times were not available, it has been assumed that the meetings will finish two hours from the start time, based on the average length of speedway race meetings lasting approximately two hours. Therefore in some cases (\*) the stadia may actually have a later curfew than indicated in this table.

3.6 The most recent permissions granted at St Boniface’s College Sports Ground, Plymouth, at Belle Vue Leisure Centre, Kirkmanshulme Lane, Manchester and Perry Bar Stadium, Birmingham, have residential homes 200m away, at 30m and 20m from the stadium site boundaries respectively.

## APPENDIX III

PLANNING AND DEVELOPMENT CONSULTANCY

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- 4.1 It has already been demonstrated to the Council and the Council has accepted the economic case for speedway use at the Stadium, to add to the appropriate mix of uses and events at this sporting venue. This resulted in a four year permission to allow the use and test the impact.
- 4.2 It is also clear that the imposed planning conditions create the appropriate planning balance to allow the economic use whilst protecting residential amenity through the conditions. This economic need remains as prevalent today as it did in 2012. The use has not attracted adverse reaction from large numbers of the community. There are significantly greater numbers in support of the use (see section 5 below).
- 4.3 The case for the later Friday night finishing time has also already been demonstrated and accepted by the Council in the recent May 2015 permission (see Table 1 above). This being that the later Friday night finish allows spectators, competitors and volunteers to reach the stadium. It is important to note that condition 8 of the permission restricts the number of races per event to 17 races per meeting, which generally confines speedway events to a two hour window.
- 4.4 The later Friday night finishing time benefits the speedway use as follows:
- It enables local spectators who commute to and from London by public transport, to arrive at the stadium before the start time.
  - It is a family orientated sport and it enables parents to get home and collect their children before reaching the stadium which is difficult to achieve, given the start time is during the peak evening rush hour.
  - Race meetings are very reliant upon volunteer assistance and adverse traffic conditions can present difficulties. Race meetings cannot commence without an ambulance present.
  - Competitors also encounter difficulty particularly when travelling from far away. The inability of the stadium to recruit skilled and experienced speedway riders to their team is evidence of the present difficulties. Speedway is not comparable to a football team in salaries and benefits, and most competitors have a day job.
  - Potential to attract more visitors to attract a higher league team or promotion of the local team. On average, approximately 550 people attend the speedway racing meetings, however, a minimum of 750 visitors are required in order to be promoted from the bottom league. The applicant has recently received an approach from a higher league team to transfer to Central Park Stadium, which would be a significant coup for Sittingbourne. A later finish on Friday is therefore required to maximise the number of people able to attend each event and so that the races can be broadcast on Sky TV. Sky TV also adds financial benefits for the speedway team and stadium sponsors. An increase in the number of people able to attend the event is required to cover the higher rider costs.
  - Financial viability. In order to make the stadium an attractive venue and to ensure its future financial viability, it is necessary to facilitate and attract more spectators and to ensure that spectators are not deterred by inconvenient operating hours. There is also an aspiration to attract more prestigious and international events which would be unable to take place at the stadium given the existing operating restrictions. Riders for such events may travel from all over Europe. Such events, if they were held, would enhance the reputation and image of the stadium as they are of immense interest and tend to attract many new supporters.

**APPENDIX III**



- Community support is expected to be demonstrated from the speedway supporters, which include local residents who live in the closest roads to the Stadium at Hugh Price Close and Oak Road, via further petitions and letters of support for the application as with previous applications.

## APPENDIX III

PLANNING AND DEVELOPMENT CONSULTANCY


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## 5.0 PLANNING POLICES AND JUSTIFICATION

5.1 The key planning issues identified for consideration of the permanent speedway use with the associated later Friday night finishing time as already permitted include:

- i) The appropriateness of permanent speedway use at the Stadium,
- ii) The established principle of a later Friday night finishing time, and
- iii) The impact on the living conditions of nearby residents by virtue of noise and disturbance

i) **The Appropriateness of Permanent Speedway Use**

5.2 The principle of speedway use at Central Park Stadium has already been accepted by the Council as an appropriate economic use in this location on the outskirts of Sittingbourne's urban boundary, in a primarily industrial location served by significant numbers of HGVs. The four year time limit imposed by the Planning Inspectorate on appeal has allowed for a period of operation and an assessment of impact. It is the applicant's view demonstrated by evidence, that the use has proven to be an acceptable neighbour, controlled by the imposition of planning conditions limiting the season, the numbers of races per week, per event and by the hours of operation.

5.3 The applicant has also made significant investment to enable speedway racing including track facilities, safety measures and an acoustic fence. It would be a significant wasted investment to require speedway to cease and would not be a sustainable economic outcome.

5.4 The Swale Borough Local Plan (SBLP) (February 2008), recognises the importance of supporting and retaining businesses and ensuring that the needs of local businesses can be met to the full (section 3.2, para. 3.72). Core Strategy Policy SP3 (1) states that supporting local companies to grow and develop and providing opportunities for new innovative industries to flourish can help to satisfy economic need and bring about the required step-change in economic performance, particularly in its principal town centre, Sittingbourne.

5.5 SBLP Core Strategy Policy SP7 states that to satisfy the social needs of the Borough's communities, development proposals will promote safe environments and a sense of community by *"increasing social networks by providing new community services and facilities, increased use of local facilities or innovative ways of providing or continuing existing services"*.

5.6 SBLP Development Control Policy C1 (2) states that the Council *"will grant planning permission for new or improved community services and facilities. Additionally, where proposals would meet an identified local need in an accessible location, it will permit proposals that will help maximise the use of existing public and private community services and facilities, including those that would make them available for wider public use in locations where shortfalls in local public provision could be met"*.

5.7 Through the National Planning Policy Framework (2012) (NPPF), the Government is committed to ensuring that the planning system proactively supports sustainable economic growth and accounts for and reacts to market signals. To help achieve this, paragraph 20 states that local



**APPENDIX III**



planning authorities should plan to meet the development needs of business and support an economy fit for the 21<sup>st</sup> Century. Furthermore, the document recognises the importance of supporting existing business sectors when they are expanding, and implementing planning to allow rapid response to change in economic circumstances.

5.8 Paragraph 70 of the NPPF states that in order 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”*

5.9 It is therefore considered that the Council’s policies (SP3(1) and SP7 and C1) support and encourage economic development, tourism and sporting activities in appropriate locations and in terms of speedway there can only be one appropriate location in Sittingbourne, which is the Central Park Stadium. Permanent use of the stadium for speedway is a highly sustainable use of this important community facility and is appropriate and in accord with the Boroughs policies.

**ii. The Established Principle of Later Friday Night Finishing Time**

5.10 The Council has already permitted the later Friday night finishing time for speedway in May 2015. On the basis that speedway is an appropriate use of the stadium and its location, the later finishing time must also support this economic activity.

5.11 All modern businesses require an element of flexibility in their operating hours, a fact that becomes more pronounced for medium sized enterprises, which are critical to the sustained development of the UK economy. There is a need and community support for the permanent use of the Stadium for speedway, particularly given the reduced attraction of Greyhound racing affecting Central Park. The later Friday night finishing time associated with this permanent use, allows spectators, competitors and workers sufficient time to arrive before meetings commence, and to attract new visitors to the venue. The success and necessary expansion of the speedway business depends on an increase in visitor numbers which would enable it to move out of the speedway bottom league and to accommodate a higher league speedway team. This would ensure the financial viability of the business and would contribute to the local economy of Sittingbourne. It also complies with Core Strategy Policy SP7 and Development Control Policy C1(2), which also seek to increase the improve the use of community facilities.

**APPENDIX III**



- 5.12 In continuing to apply the variation of Condition 7 to extend the operating hours of the speedway race meetings on Friday, the proposal complies with both national and local policy and contributes towards the strengthening of the Borough's economic and employment provision, particularly for this now well established sports enterprise. The proposed wording to allow a later finish time is to attract a higher league speedway team and enhance the viability of the Stadium uses. As the proposed later finishing time is a Friday, this would not affect parents with school children, either attending the track or residents in the area. The principle of this later finish time has already been permitted and should therefore be approved again.
- 5.13 The principle of a finishing time of 2130 on Fridays only has already been established and is entirely reasonable with the permanent use of the Stadium for speedway. There would be no demonstrable harm to residential amenity.

**iii Impact On Residential Amenity**

- 5.14 Swale Borough Local Plan 2008 (SBLP) Development Control Policy E1 sets out the general development criteria by which the Borough Council expects all developments proposals to comply with to protect residential amenity. Criterion 8, relevant to this application, states that proposals should *"cause no demonstrable harm to residential amenity and other sensitive uses or areas"*.
- 5.15 Development Control Policy E2 states that *"all development proposals will minimise and mitigate pollution impacts and that proposals will not be permitted that would, individually or cumulatively, give rise to pollution significantly adversely affecting the following: [inter alia] residential amenity"*
- 5.16 Para. 3.6 of the SBLP states that the Council seeks to *"minimise the impact of noise between new and existing uses...The Council requires adequate details to be submitted with planning applications to identify noise intrusive uses, noise sensitive sites as well as the measures needed to reduce noise. By considering noise exposure at the time of the application, and any increases that may be reasonable expected, a judgement will then be made on the potential noise impact in accordance with Government Planning Policy"*.
- 5.17 The National Planning Policy Framework 2012 (NPPF) states the following noise requirements associated with new and existing development:
  - Paragraph 109 states that the planning system should contribute to and enhance the natural and local environment by inter alia *"preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of soil, air, water or noise pollution or land instability"*.
  - Paragraph 120 explains that *"to prevent unacceptable risks from pollution and land instability, planning policies and decisions should ensure that new development is appropriate for its location. The effects (including cumulative effects) of pollution on health, the natural environment or general amenity, and the potential sensitivity of the area or proposed development to adverse effects from pollution, should be taken into account"*.

## APPENDIX III

PLANNING AND DEVELOPMENT CONSULTANCY

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- Paragraph 123 stipulates that planning policies and decisions should aim to:
    - *'avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development;*
    - *mitigate and reduce to a minimum other adverse impacts on health and quality of life arising from noise from new development, including through the use of conditions;*
    - *recognise that development will often create some noise and existing businesses wanting to develop in continuance of their business should not have unreasonable restrictions put on them because of changes in nearby land uses since they were established...'*
- 5.18 The Hill Engineering Consultants Ltd noise assessment (July 2013), demonstrates that the acoustic barrier required to support the speedway use is operating effectively so as to safeguard the residents from the adverse effect of noise emissions. It can be soundly concluded that there is no demonstrable harm to residential amenity associated with permanent use of the Stadium for speedway.
- 5.19 The Council has already supported (permission 15/500862/FULL) a later Friday night finish time for the remainder of the permitted use of the Stadium for speedway (October 2016 speedway season). There are no material reasons to suggest that both a permanent use of the Stadium for speedway and a later Friday night finish for a top league speedway team would materially harm adjacent residents.
- 5.20 The applicant requested information from the Council's Environmental Health Department regarding the number of noise complaints made to the Council since the use of the Stadium for speedway in 2012. This information is attached in **Appendix 1**. Further questions were posed to ascertain how many of the complainants were from the same households. The response is also attached in **Appendix 2**.
- 5.21 The Information confirms that complaints received were from the same six residents in Hugh Price Close and seven in Oak Road and one in Meeres Court Lane. A total of 13 residents in the closest residential streets to the stadium have raised noise complaints, which is not an unremarkable fact. There are approximately 125 houses in these three nearest streets only counting the properties located in the first row of houses along these streets and therefore the complaints represent approximately 10 % of the immediate residents closest to the stadium
- 5.22 It is also important to note that outside of these three closest streets no other complaints have been received, which confirms that the acoustic fence is effective.
- 5.23 The Stadium operators have not received any complaints from the Council's environmental health department about noise, there has been no follow up and no action taken in respect of the Speedway use.

**APPENDIX III**



- 5.24 Speedway is traditionally a working class sport and like many other sports not all people enjoy all forms of sports such as football. Speedway however, must be allowed to take place somewhere and Central Park Stadium is the most appropriate location for this use.
- 5.25 The policy tests within local planning policies and national policy guidance stipulate that planning decisions should aim to avoid noise from generating a significant adverse impact on quality of life.
- 5.26 Condition 7 was originally imposed (and supported at appeal) to offer protection against an unknown noise environment or potential impact, given the lack of supporting technical information available to the Inspector at the time. The supporting technical information is now available and unequivocally demonstrates that there is no demonstrable harm to residential amenity and that the existing conditions for speedway use represent a balanced consideration to protect residential amenity whilst enabling an economic and appropriate use of the Stadium.

## APPENDIX III

PLANNING AND DEVELOPMENT CONSULTANCY

POWERHAUS

CONSULTANCY

**6.0 CONCLUSIONS**

- 6.1 The use of Central Park Stadium as a permanent speedway venue is an existing and appropriate use. The location is ideal for a popular sporting event that attracts many visitors to Sittingbourne. It appropriately adds to the other mix of uses permitted at the Stadium including football, greyhound racing and concerts. To maximise the economic use of the stadium for sporting uses, accords with the principles of the Council's policies for economic and viable activity, in line with its objectives for boosting job creation and economic activity. Permanent speedway use of the Stadium will add to its economic viability particularly where greyhound racing is now declining as a spectator sport.
- 6.2 An extension to the operating hours by one hour on Fridays up to 21.30, has already been permitted by the Council in line with the Stadium's current use for speedway. This application seeks for this condition to continue to apply to the permanent use of the Stadium for speedway, to enable Ceamsport to attract a higher league team to Sittingbourne. A higher league speedway team has not yet been persuaded to move to the Stadium given the current expiry of the speedway use at the end of the 2016 season. The investment required could not be committed for such a short timeframe.
- 6.3 The evidence submitted with the application demonstrates that neither a permanent speedway use and continuation of the later finish time on a Friday, would give rise to demonstrable or substantial harm to nearby residents. This application should be considered in light of the potential benefits to be derived from approving this application, given that the use already exists and is appropriately sited and that the existing planning conditions provide appropriate residential amenity protection. Noise complaints received by the Council represent significantly less than 10% of the local residents that live close to the Stadium.
- 6.4 Speedway racing is important to the community of Sittingbourne which is demonstrated by the significant levels of support. There is however, no other speedway track in the country that operates with such restricted hours and this significantly hampers the ability of Ceamsport Ltd to attract the Top League teams to compete from Central Park Stadium. On the basis that permanent use of the Stadium for speedway is permitted, the extension of the Friday night speedway times is essential to encourage the viability of the Stadium as a mixed sporting and cultural venue. Any reduced hours of use imposed on a Friday night would be detrimental to the viability of the use of the site.
- 6.5 The approval of this application would help to offset the downturn in revenue from greyhound racing and would help to secure the continued use of the Stadium. There would be significant benefits to the local economy and to the community within Sittingbourne, helping to promote speedway racing at this location and to encourage young people to participate in the sport.
- 6.6 Speedway race meetings will remain at the same length and would not generally exceed 2 hours. Given the short duration of the races, the noise impacts of the speedway, whilst being noticeable to adjacent residential properties, are predictable and will not reach harmful or

**APPENDIX III**



disruptive levels due to existing mitigation measures. The existing planning conditions will remain in place to ensure only one speedway race takes place per week between Mondays and Fridays and only 17 races per event in accordance with the principles established to balance the economic needs of the Stadium for speedway use and protection of residential amenity.

- 6.7 We therefore conclude that the speedway use is an appropriate use in this location, it is an existing use and should continue on a permanent basis in compliance with local and national planning policies. The existing conditions satisfactorily protect residential amenity and the later Friday night finish has already been permitted by the Council.
- 6.8 For all of the reasons set out above, it is considered that the application proposals should be permitted given the conformity with national and local planning policies.

Signed: .....  
**On behalf Powerhaus Consultancy**  
Date: ...23<sup>rd</sup> December 2015.....

**APPENDIX III**

**APPENDIX 1: INFORMATION FROM SWALE BOROUGH COUNCIL EHO**

Date of Complaint	Location of Complaint	Nature of Complaint	Time of Complaint	Conclusion / Action
	(All Sittingbourne)			
7th Sept 2011	Roman Square	Speedway Noise	10:15	Informal Action
4th Oct	Oak Road	Speedway Noise	12:50	"
7th May 2013	Hugh Price Close	Speedway Noise	09:40	Noted/No action
"	Oak Road	Speedway Noise	16:00	"
14th May	Hugh Price Close	Speedway Noise	14:30	"
21st May	Hugh Price Close	Speedway Noise	15:00	"
4th June	Oak Road	Speedway Noise	10:00	"
"	Hugh Price Close	Speedway Noise	15:00	"
"	Meeres Court Lane	Speedway Noise	15:40	"
18th June	Thorn Walk	Speedway Noise	13:00	"
"	Hugh Price Close	Speedway Noise	13:25	"
"	Oak Road	Speedway Noise	17:00	"
19th June	Hugh Price Close	Speedway Noise	11:20	"
25th June	Oak Road	Speedway Noise	13:30	"
"	Meeres Court Lane	Speedway Noise	15:00	"
2nd July	Meeres Court Lane	Speedway Noise	08:00	"
9th July	Hugh Price Close	Speedway Noise	12:45	"
"	Hugh Price Close	Speedway Noise	13:00	"
"	Thorn Walk	Speedway Noise	13:45	"
"	Oak Road	Speedway Noise	15:45	"
"	Oak Road	Speedway Noise	16:00	"
10th July	Oak Road	Speedway Noise	10:50	"
"	Hugh Price Close	Speedway Noise	15:15	"
11th July	Thorn Walk	Speedway Noise	09:00	"
17th July	Oak Road	Speedway Noise	09:40	"
"	Oak Road	Speedway Noise	09:45	"
24th July	Hugh Price Close	Speedway Noise	08:20	"
30th July	Oak Road	Speedway Noise	16:10	"
13th August	Meeres Court Lane	Speedway Noise	11:00	"
"	Oak Road	Speedway Noise	15:20	"
15th August	Oak Road	Speedway Noise	12:40	"
"	Hugh Price Close	Speedway Noise	15:55	"
20th August	Oak Road	Speedway Noise	15:40	"
21st August	Hugh Price Close	Speedway Noise	16:05	"
27th August	Blythe Close	Speedway Noise	10:10	"
"	Hugh Price Close	Speedway Noise	10:45	"
"	Oak Road	Speedway Noise	16:15	"
28th August	Oak Road	Speedway Noise	09:30	"
"	Hugh Price Close	Speedway Noise	16:40	"
3rd Sept	Oak Road	Speedway Noise	16:15	"

**APPENDIX III**

"	Meeres Court Lane	Speedway Noise	11:00	"
"	Oak Road	Speedway Noise	11:00	"
"	Hugh Price Close	Speedway Noise	12:30	"
4th Sept	Hugh Price Close	Speedway Noise	10:30	"
"	Oak Road	Speedway Noise	11:40	"
"	Oak Road	Speedway Noise	16:10	"
6th Sept	Salisbury Close	Speedway Noise	10:05	"
24th Sept	Oak Road	Speedway Noise	11:55	"
"	Oak Road	Speedway Noise	12:20	"
"	Oak Road	Speedway Noise	12:45	"
25th Sept	Hugh Price Close	Speedway Noise	11:20	"
26th Sept	Oak Road	Speedway Noise	09:25	"
1st Oct	Oak Road	Speedway Noise	11:00	"
18th Oct	Oak Road	Speedway Noise	10:55	"
15th April 2014	Meeres Court Lane	Speedway Noise	13:30	"
"	Oak Road	Speedway Noise	16:25	"
16th Apr	Hugh Price Close	Speedway Noise	12:10	"
17th Apr	Oak Road	Speedway Noise	15:15	"
22nd Apr	Hugh Price Close	Speedway Noise	16:25	"
6th May	Oak Road	Speedway Noise	16:30	"
8th May	Hugh Price Close	Speedway Noise	14:10	"
13th May	Meeres Court Lane	Speedway Noise	11:40	"
16th May	Oak Road	Speedway Noise	09:30	"
20th May	Hugh Price Close	Speedway Noise	14:30	"
22nd May	Oak Road	Speedway Noise	12:45	"
17th June	Hugh Price Close	Speedway Noise	09:40	"
"	Meeres Court Lane	Speedway Noise	12:30	"
"	Oak Road	Speedway Noise	16:25	"
24th June	Oak Road	Speedway Noise	11:55	"
"	Oak Road	Speedway Noise	12:20	"
"	Oak Road	Speedway Noise	12:45	"
1st July	Hugh Price Close	Speedway Noise	15:45	"
2nd July	Hugh Price Close	Speedway Noise	16:00	"
19th Aug	Oak Road	Speedway Noise	16:20	"
9th Sept	Meeres Court Lane	Speedway Noise	09:10	"
10th Sept	Hugh Price Close	Speedway Noise	14:10	"
16th Sept	Meeres Court Lane	Speedway Noise	09:35	Noise monitoring on 15th September for planning committee
"	Oak Road	Speedway Noise	11:10	Noted/No action
"	Oak Road	Speedway Noise	09:35	"
24th Sept	Meeres Court Lane	Speedway Noise	14:30	"
20th Oct	Meeres Court Lane	Speedway Noise	14:30	"
31st Oct	Out of Area	Speedway Noise	09:15	"
7th April 2015	Hugh Price Close	Speedway Noise	10:50	"



**APPENDIX III**

15th Apr	Oak Road	Speedway Noise	16:15	
24th Apr	Oak Road	Speedway Noise	15:25	*
30th Apr	Hugh Price Close	Speedway Noise	14:30	*
7th May	Oak Road	Speedway Noise	12:10	*
13th May	Meeres Court Lane	Speedway Noise	10:25	*
26th May	Oak Road	Speedway Noise	15:25	*
"	Oak Road	Speedway Noise	15:40	*
9th June	Hugh Price Close	Speedway Noise	12:05	*
"	Oak Road	Speedway Noise	16:05	*
9th July	Hugh Price Close	Speedway Noise	12:05	*
14th July	Hugh Price Close	Speedway Noise	11:25	*
14th July	Oak Road	Speedway Noise	15:55	*
21st July	Oak Road	Speedway Noise	16:45	*
1st Aug	Oak Road	Speedway Noise	15:35	*
8th Sept	Hugh Price Close	Speedway Noise	15:25	*
11th Sept	Meeres Court Lane	Speedway Noise	14:10	*
17th Sept	Oak Road	Speedway Noise	16:10	*
25th Sept	Oak Road	Speedway Noise	16:10	*

**APPENDIX III**

**APPENDIX 2: EMAIL FROM SWALE BOROUGH COUNCIL EHO RECEIVED 5<sup>TH</sup> DECEMBER 2015**

From: **Steve Wilcock** <[Steve.Wilcock@midkent.gov.uk](mailto:Steve.Wilcock@midkent.gov.uk)>  
Date: 2 December 2015 at 14:43  
Subject: RE: FW: Central Park Stadium - Speedway Noise Complaints - FOI NO: 536  
To: Mary Power <[mp@powerhausconsultancy.co.uk](mailto:mp@powerhausconsultancy.co.uk)>  
Cc: Sharon Dormedy <[SharonDormedy@swale.gov.uk](mailto:SharonDormedy@swale.gov.uk)>

Mary,

Thank you for your email.

I can tell you that all the complaints from Meeres Court Lane are from the same household.

There have been six households complaining from Hugh Price Close and seven households from Oak Road.

Hope this helps

Regards

**Steve Wilcock**  
Environmental Protection Team Leader  
Mid Kent Environmental Health  
Maidstone Borough Council, Maidstone House, King Street, Maidstone ME15 6JQ  
Swale Borough Council, Swale House, East Street, Sittingbourne, Kent ME10 3HT  
t 01795 417137 f 01622 602184 w [www.maidstone.gov.uk](http://www.maidstone.gov.uk)  
w [www.swale.gov.uk](http://www.swale.gov.uk)



**REPORT SUMMARY**

<b>REFERENCE NO – 15/510595/OUT</b>			
<b>APPLICATION PROPOSAL</b>			
Outline application with all matters reserved (except for the details of a vehicular access point from London Road, including the widening and realignment of the A2) for residential development of up to 126 dwellings (including 30% Affordable), plus 60 units of Extra Care (Use Class C2), an allocated 1/4 acre of serviced land for potential doctors surgery, planting and landscaping, informal open space, children's play area, surface water attenuation, and associated ancillary works (Resubmission of 15/500671/OUT).			
<b>ADDRESS</b> Land Off London Road Newington Kent			
<b>RECOMMENDATION</b> This application is the subject of an appeal against non-determination. As such this application will not be determined by Swale Borough Council, however, the decision of the committee will indicate to the Secretary of State the Council's intended decision. (The consultation period expires on 25 <sup>th</sup> April therefore I will provide Members with an update at the meeting). If the application had not been subject to an appeal and subject to additional information in respect of brickearth, the recommendation would have been to grant permission subject to a suitably worded Section 106 Agreement and appropriate planning conditions.			
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b>			
Whilst the proposal is contrary to the adopted and emerging Local Plans, the Council's policies regarding the provision of housing are considered out-of-date because the Council cannot demonstrate a 5 year supply of housing land as set out in paragraph 49 of the NPPF. Therefore, the application must be considered in the context of the presumption in favour of sustainable development as required by paragraph 14 of the NPPF, and whilst finely balanced, the benefits of the proposal outweigh the costs to a degree that the proposal constitutes sustainable development and in the absence of material considerations that indicate otherwise, planning permission should be granted in my opinion.			
<b>REASON FOR REFERRAL TO COMMITTEE</b>			
The significant amount of objection including from residents, Parish Councils, Ward Member and MP, and so that Planning Committee can determine this significant controversial application.			
<b>WARD</b> Hartlip, Newington & Upchurch	<b>PARISH/TOWN COUNCIL</b> Newington	<b>APPLICANT</b> Mr Gladman Developments	
<b>DECISION DUE DATE</b> 8/4/16	<b>PUBLICITY EXPIRY DATE</b> 25/4/16	<b>OFFICER SITE VISIT DATE</b> 28/1/16	
<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>
15/500671/OUT	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 outbuilding, 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)	Appeal against non-determination with Public Inquiry scheduled for June 2016.	

15/500694/LBC	Listed Building Consent for the demolition of redundant farm outbuildings to the listed Pond Farm, in association with outline application for residential development covered under 15/500671/OUT	Refused	8/5/15
SW/95/0714	Conversion of agricultural buildings into 3 residential units	Withdrawn	

## MAIN REPORT

### BACKGROUND

An appeal against non-determination of the application has been lodged by the applicants. As a result it is important for Members of the Committee to pass a resolution as to whether they would have approved or refused the application if the application was within the jurisdiction of the Council to determine.

#### 1.0 DESCRIPTION OF SITE

- 1.01 The site consists of 8 hectares of gently undulating land currently used for agricultural purposes in the form of fruit orchards. The eastern parcel of land is used for blackcurrant production with the western used for apple production. There are no buildings within the application site. The site is directly to the south of the A2 London Road and to the south west of Newington, immediately adjoining the built up area boundary.
- 1.02 To the east of the site are the residential dwellings fronting Playstool Close. To the south are a playground, sports pitches, allotments and community woodland. To the west is a further agricultural field and beyond this are an area of open land, Newington Industrial Estate and a small collection of dwellings fronting the A2 London Road. To the north of the site are the former outbuildings of Pond Farmhouse which have been excluded from the application site. It had previously been considered that these outbuildings were listed buildings by virtue of the fact they were within the curtilage of the grade II listed Pond Farmhouse which fronts the A2 London Road. Following legal advice which included a thorough assessment of relevant case law, it is now considered that the cluster of agricultural buildings to the north of the application site are in fact not listed buildings. A vehicle access from the A2 London Road serves these outbuildings.
- 1.03 A number of fruit farms and orchards dominate the landscape to the south of the site, particularly beyond the cluster of community uses immediately to the south of the site. There are further significant agricultural areas to the north of the railway. Immediately to the north and east are residential areas and to the west there is an industrial estate. This context is considered to reflect the edge of village location of the site.
- 1.04 A public right of way crosses the north west corner of the site, linking land to the west of the site with London Road. The site consists of grades 1 and 2 agricultural land which constitutes best and most versatile for planning purposes. There is a strong network of mature field boundaries within and surrounding the site.
- 1.05 The site is located within the countryside and a strategic gap as defined by the Proposals Map of the Swale Borough Local Plan 2008. Under the emerging local plan

‘Bearing Fruits 2031’, the site is located within the countryside and the cluster of community uses to the south are designated as a proposed local green space.

## 2.0 PROPOSAL

- 2.01 This is an outline application with all matters reserved except for the main site access from the A2 London Road. It is proposed to develop the site for up to 126 dwellings (30 dwellings per hectare on approximately four hectares of the site) including 30% affordable dwellings (38 dwellings). An extra care facility of 60 units is proposed and would fall within use class C2. ¼ of an acre of serviced land would be provided so that a doctors’ surgery could be built on the land at some point in the future (no building is proposed under this application). Indicative planting and landscaping are shown on the development framework plan (Revision I), as are an informal open space, children’s play area and surface water attenuation. The open space includes a community orchard to the east of the dilapidated farm outbuilding with the children’s play area and further open space to the west. The serviced land for a potential doctors’ surgery is near the A2 with the extra care facility set further south. The indicative plan shows the dwellings to the south of the open space around a circular main street. It is also proposed to retain existing field boundaries and existing hedgerows as far as possible and plant new ones around the periphery of the site. Indicative footpaths are shown around the periphery of the site with a further footpath running up the centre of the site. Footpath links to the wider area are proposed near the community woodland and Orchard Drive to provide permeability.
- 2.02 A vehicular access point from London Road to the site is proposed in detail and would entail the widening and realignment of the A2 London Road to the south. The footway to the northern side of the A2 between 60 to 74 London Road would be widened to aid pedestrian movement. The widening of the A2 would allow the inclusion of a right turn lane for the east bound traffic. A new footway would be provided to the south side of the A2 roughly between 52 and 72 London Road with a puffin crossing (traffic signal controlled pedestrian crossing) to the front of 52 and pedestrian refuge to the front of 70. Two bus stops with shelters would be provided on the A2 heading in both directions, the first to the front of No. 74 and the second on the opposite side from No. 60. The public right of way would be upgraded to 2m wide with a tarmac surface and would cross the proposed vehicle access via a raised table. The existing hedge fronting the A2 would be removed almost in its entirety to allow the access works and appropriate visibility splays proposed.
- 2.03 The design and access statement sets out that the buildings within the site would not exceed 2.5 storeys reaching a maximum of 10.5m in height, with the vast majority of buildings being no more than 2 storeys in height, between 7.5 to 8.5m. It is anticipated that the extra care facility would be no more than 2.5 storeys in height.

## 3.0 SUMMARY INFORMATION

	Existing	Proposed	Change (+/-)
Site Area (ha)	8 hectares (approximately 20 acres)	8 hectares	0
Approximate Ridge Height (m)	0	Max 10.5m and 7.5/8.5m	+ 10.5m and 7.5/8.5m
No. of Storeys	0	2/2.5	+2-2.5
No. of Residential Units	0	126 and 60	+186

No. of Affordable Units	0	38	+38
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#### 4.0 PLANNING CONSTRAINTS

- 4.01 The site is within the setting of the grade II listed Pond Farmhouse. The site has archaeological potential, consists of best and most versatile agricultural land, and is in a mineral safeguarding area for brick earth. Newington High Street is subject to a designated Air Quality Management Area. There is a public right of way in the north west corner of the site.

#### 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. It further states – at bullet point (5) ‘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 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.
- 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 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.”*
- 5.11 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.”*
- 5.12 When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. As heritage assets are irreplaceable, any harm or loss should require clear and convincing justification (paragraph 132).
- 5.13 Paragraph 135 advises that the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that affect directly or indirectly non designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.
- 5.14 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”.*
- 5.15 In preparing Local Plans, local planning authorities should:..... define Minerals Safeguarding Areas and adopt appropriate policies in order that known locations of

specific minerals resources of local and national importance are not needlessly sterilised by non-mineral development, whilst not creating a presumption that resources defined will be worked; and define Minerals Consultation Areas based on these Minerals Safeguarding Areas; set out policies to encourage the prior extraction of minerals, where practicable and environmentally feasible, if it is necessary for non-mineral development to take place (Paragraph 143).

- 5.16 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*”.
- 5.17 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.
- 5.18 The key policies from the adopted Local Plan are:
- SP1 (Sustainable Development)
  - SP2 (Environment)
  - SP3 (Economy)
  - SP4 (Housing)
  - SP5 (Rural Communities)
  - SP6 (Transport and Utilities)
  - SP7 (Community Services and Facilities)
  - TG1 (Thames Gateway Area)
  - SH1 (Settlement Hierarchy)
  - E1 (General Development Criteria)
  - E6 (Countryside)
  - E7 (Strategic Gap)
  - E9 (Protecting the Character and Quality of the Borough’s Landscape)
  - E10 (Trees and Hedges)
  - E11 (Protecting and enhancing the Borough’s Biodiversity and Geological Interests)
  - E12 (Sites designated for their importance to biodiversity or geological conservation)
  - E14 (Development Involving Listed Buildings)
  - E16 (Scheduled Ancient Monuments and Archaeological Sites)
  - E19 (Good Quality Design)
  - H2 (Providing for New Housing)
  - H3 (Providing Affordable Housing)
  - RC1 (Helping to Revitalise the Rural Economy)
  - T1 (Providing Safe Access to New Development)
  - T2 (Essential Improvements to the Highway Network)
  - T3 (Vehicle Parking for New Development)
  - T4 (Cyclists and Pedestrians)
  - C2 (Housing Developments and the Provision of Community Services and Facilities)
  - C3 (Open Space within Residential Development)
- 5.19 Relevant policies of the emerging Local Plan are;
- ST1 (Delivering Sustainable Development in Swale)
  - ST2 (Development targets for jobs and homes 2011-2031)
  - ST3 (Swale Settlement Strategy)
  - ST5 (Sittingbourne Area Strategy)
  - CP1 (Building a Strong Competitive Economy)
  - CP2 (Promoting Sustainable Transport)
  - CP3 (Delivering a wide choice of high quality homes)
  - CP4 (Requiring Good Design)
  - CP5 (Health and Wellbeing)



CP6 (Community facilities and services to meet local needs)  
 CP7 (Conserving & Enhancing the Natural Environment – Providing for Green Infrastructure)  
 CP8 (Conserving and enhancing the historic environment)  
 DM3 (The rural economy)  
 DM6 (Managing transport demand and impact)  
 DM7 (Vehicle Parking)  
 DM8 (Affordable Housing)  
 DM14 (General development criteria)  
 DM17 (Open space, sports and recreation provision)  
 DM19 (Sustainable design and construction)  
 DM21 (Water, flooding and drainage)  
 DM24 (Conserving and Enhancing Valued Landscapes)  
 DM28 (Biodiversity and Geological Conservation)  
 DM29 (Woodlands, trees and hedges)  
 DM31 (Agricultural Land)  
 DM32 (Development involving listed buildings)  
 DM34 (Scheduled Monuments and archaeological sites)

5.20 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, though the SPD states that its sensitivity is ‘low’ and its condition ‘moderate’.

## 6.0 LOCAL REPRESENTATIONS

6.01 122 letters of objection have been received from residents, some of which are from the same address, which are summarised as follows;

- London Road pedestrian crossing will cause queuing traffic within the AQMA which would harm air quality and human health.
- The A2 cannot cope with existing traffic levels. The proposal will make this worse. Temporary traffic lights already cause delays. Proposal will exacerbate existing parking problems. Parked cars make it harder to drive down already narrow lanes including Church Lane. Bull Lane will become a rat run. Traffic noise, vibration, loss of privacy, odours, fumes and pollution will increase. Harm to pedestrian safety. Train station car park very congested. Inadequate road links. Negative impact on highway safety and convenience.
- The existing general infrastructure cannot cope with the existing population. Hospitals (Medway Hospital is in special measures), police, ambulance and fire service are overstretched. There is no local police station, dentist, doctor or health centre in the village. The play group, local school and nurse has no room for the amount of extra pupils that would be generated. Pressure on recreational facilities.
- The site is not allocated for housing in emerging or local plans.
- A significant amount of best and most versatile agricultural land would be lost which is needed for food production.

- Loss of wildlife including bats, habitat including trees, hedges and orchards.
- The proposal would increase the size of Newington by approx. 20% and increase the population significantly.
- There are no plans to improve transport infrastructure. Trains are overcrowded/downgraded, and bus service is very limited.
- Would change the character of a low density quiet village to that of a town. Proposals of this sort should be on the outskirts of towns or cities not small villages.
- Previous applications have been refused because there is no bypass.
- Safety is a concern when walking near groups of youths. There is concern about existing increases in crime. There are many elderly people in Newington and the influx of people won't help them feel safer.
- Newington cannot offer employment opportunities for new residents.
- Would rather have a green field to look at than a housing estate.
- Impact on social cohesion of Newington.
- Merging of settlements into ribbon development would be exacerbated by the proposal.
- The reduction in the size of the proposal compared to the previous application does not address any of previous objections.
- There are alternative brownfield sites available.
- The land for a doctors surgery is a red herring because the days of single GPs surgeries are coming to an end because of reductions in the Minimum Practice Income Guarantee and the aim/Government Policy for large GP practices offering a range of services.
- Public transport is insufficient to allow residents of extra care facility to access medical care, putting health at risk.
- The access road onto London Road (A2) would cause noise and disturbance to existing houses opposite the junction.
- Proposal is for wealth creation for applicant.
- People enjoy walking on the application site.
- Lack of water, drainage, accessibility, electrical services, parking for shopping, turning points for delivery vehicles, police presence and public transport.
- Council Tax will increase to fund the shortfalls in service provision created by the development.
- Cumulative impact with other applications in the area.
- Overshadowing, overlooking, loss of light, loss of outlook and loss of privacy to neighbours. Loss of property value. Hours of operation. Headlights will shine into houses opposite proposed junction.
- Contributions should be sought towards a Newington bypass.
- The proposed junction with the A2 should be a roundabout.
- Will set a precedence eventually leading to settlement coalescence akin to Medway Towns.
- Pre-application advice lacks public consultation.
- Previous appeal decisions and planning inquiry reports- previous similar applications on orchards rejected.
- Impact on listed building and conservation area.
- Layout and density of building design, visual appearance and finishing materials. Area at risk of subsidence with several sink holes appearing over the last year.
- Who will compensate residents for negative impacts?
- This application should be refused as per the previous application. If approved the applicant will apply for the additional properties.
- There are not enough shops in the village.

- Newington should expand in a manner to unite the school and church to the rest of the village, and not away from the core. Expansion would ensure retention of the train station and local amenities.
- There are two other developments in the area. We should not be forced to accept a third.
- Affordable housing would have to be incredibly cheap because there are few local jobs.
- We chose to live in the countryside, not a town.
- Lack of sewerage capacity.
- Harm to the public footpaths on the site.
- Houses would be ugly and not in keeping with the village.
- Object to commercial doctor's surgery due to parking/traffic problems and on a greenfield site. Lack of information re doctors surgery and would need detailed application.
- Wickham Close should have had a doctors surgery but the developer did not deliver.
- Loss of local employment at the farm land to be developed.
- Newington is not in need of housing.
- Ancient hedgerows will be destroyed.
- Are there plans for an archaeological survey?

6.02 Gordon Henderson MP objects to the application for the following summarised reasons;

- Site not included in Adopted or Emerging Local Plans.
- Significant pressure on already stretched local services such as health and education.
- Adverse impact on air quality through Newington.
- Disruption of flow of traffic along the A2, and would exacerbate already intolerable effect on the A2 of closures, of Detling Hill, the M2 or M20 for Operation Stack. The effect would be worsened still should the Lower Thames Crossing traffic be routed along the M2 and A249 as proposed.
- Pedestrians will have to cross the A2 thereby disrupting the traffic flow and causing traffic to queue to the detriment of air quality.
- Sterilisation of brickearth mineral deposits.

6.03 Ward Councillor John Wright commented twice as follows;

“This application is not sustainable proposing to add a very large number of properties to a small village, putting pressure on already minimal services that would require out commuting through AQM's in Rainham in one direction or through AQM in Newington in the other. This proposed estate would not integrate well with the village meaning the new population would have to cross the A2 to the church /village hall / primary school / etc. If the permission was granted access to a known safeguarded brickearth reserve could be sterilised at paradise farm as the new and existing properties would be within 100metres of the proposed development. This site does not feature in the local plan or emerging local plan or very low in list of sites when compared for sustainability, etc. I would wish to reserve my right to comment further or appear at appeal to point out the practical constraints.”

“This proposal may sterilise a brickearth reserve by placing highway infrastructure or houses within the exclusion zone of a haul road. The cumulative effect of this development increases the pollution within the Newington High Street. The current AQMA figures do not quantify the cumulative effect of development already granted

such as the working mens club and other increases in traffic from Medway and Sittingbourne developments .there are no mitigation measures or plans put in place to protect public health in the high street when pollutant levels go over the safe levels especially with the increased use of the zebra crossing and stationary vehicles. This is not the best site and performs badly within the local assessment and is not sustainable with all people moving here travelling away to work not in Newington.

Train services have already been reduced to Newington station.

Bus services are also not good.

Loss of most versatile agricultural land.

Would wish to speak at any planning committee or inquiry.”

6.04 Newington Parish Council objects for the following summarised reasons;

- Loss of best and most versatile agricultural land.
- There are alternative ‘brownfield’ sites available in the Borough.
- The site is outside both the current and the emerging Local Plans.
- Pond Farm has never been considered suitable for development. The proposal is contrary to policies E1 and H2. Under the terms of the NPPF site is not sustainable and the application is contrary to the Development Plan.
- Application destroys the setting of listed buildings.
- Children could not walk from the development to the schools/bus stops in the area safely.
- Increased car traffic on to a B quality London Road which struggles and fails to meet it’s A designation. Newington was designated by KCC as a priority for a by-pass but this was dropped 20 years ago due to costs at a time of budget cuts.
- The A2 has long traffic queues, two miles west at Rainham and two miles east at the Key Street A249 junction, each morning and evening. The designation of the A249 as part of ‘operation stack’ will result in greater gridlock whenever the scheme is in operation.
- Newington village is 400 yards to the east, well-known as the narrowest part of the whole A2, where it is not possible for lorries to pass at the same time as vehicles from the opposite direction (a frequent problem due to a large cold store two miles to the west). Traffic collisions at this point have necessitated the replacement of the pedestrian-safety railings on three occasions in the past year.
- Newington centre is an AQMA where levels of NO2 pollutant consistently exceed EEC safety limits. The factors the applicant describes as causing this (canyon effect and congestion) are constant factors due to narrowness of the road and proximity of unbroken buildings; the Pond Farm development could only increase congestion and so cause greater harmful air pollution to pedestrians and village-centre residents.
- The Air Quality Assessment submitted by Gladman Developments Limited is dated October 2014, using 2013 data; presumably this was commissioned for their previous planning application.
- Local infrastructure cannot support a development of this scale. Newington Primary School is close to capacity, local bus and rail services are poor and Medway Hospital is in special measures. Whilst we note that the outline plans include land allocated for a doctor’s surgery, this is for future provision by a third party and not part of the building proposed by Gladman.
- Newington Parish Council formally request that, should officers recommend the acceptance of this application, it should be called-in for full discussion and a decision by Swale Borough Council Planning Committee.

6.05 Hartlip Parish Council objects for the following summarised reasons;

- Site falls outside adopted and emerging local plans and is a premature application. The site has never been considered a suitable site for housing development, is contrary to Policy H2 and is outside the built up area boundary. The site has been looked at by the LDF Committee and judged unsuitable in the emerging Local Plan.
- Not sustainable development as defined by the NPPF.
- Local schools are full and Medway Hospital is in special measures. There are waiting lists at the nearest doctors and dentists surgeries (none in Newington).
- The proposal would swamp local services.
- Contrary to Policy E1 of adopted local plan as it would harm residential amenity and fail to protect and enhance the natural and built environments; detrimental to visual amenity.
- Would exacerbate existing traffic, congestion and air quality problems. Residents of the proposal would have to use their car to get anywhere. Bus and train services are very poor.
- Lack of employment opportunities within Newington or nearby, and none are likely to arise.
- Loss of best and most versatile agricultural land.
- There is an appeal for 250 houses on land north of Moor Street, Rainham, and a further application for 200 houses in Otterham Quay Lane, Rainham. Both site are less than 2 miles away. These three applications by the same applicant are for about 650 houses to be built in an area where traffic is already at a standstill for much of the day.
- There is an application for brickearth extraction only a few hundred yards from the site which is on hold which, if granted, would bring dozens of extra lorry movements a day along the same stretch of road.
- This agricultural land generates creates employment and local fruit. Loss of business to the farmer on the site.
- The listed farm buildings must be preserved.

6.06 Upchurch Parish Council objects for the following summarised reasons;

- The impact on the local infrastructure and services. The developers cannot possibly guarantee any increase in services offered by other organisations such as the NHS.
- Air pollution levels will increase in Newington Village Centre which currently regularly exceed EEC safety limits.
- Proposal would exacerbate existing traffic problems and tailbacks throughout the village, hampered further by the narrow A2 in Newington where two large vehicles cannot pass each other.
- The site is outside both the current and emerging local plan and would obliterate working agricultural land.
- With regards to Newington the draft local plan states: 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. The local school and Doctors surgery could not facilitate the families from a development of this size and the local hospital remains in special measures.

## 7.0 CONSULTATIONS

- 7.01 **The Council's Strategic Housing and Health Manager** confirm the requirement for 30% affordable housing. This does not include the extra care element because this falls within C2 use class not C3. Of the 30%, 70% of this should be affordable rent

tenure and the remaining 30% should be shared ownership tenure. Despite the affordable housing statement, without a full accommodation schedule it is not possible to confirm whether the spread of affordable units is acceptable and proportionate to the open market housing. Concern is raised with regard to securing the affordable housing via condition rather than as part of the S106 agreement as suggested by the applicant. It was confirmed that there is a requirement for affordable housing in the Newington and Sittingbourne areas for all types and sizes of accommodation. In line with the Swale SPD on developer contributions it is expected that the units to be offered be evenly distributed across the site and in appropriately sized clusters (the stated intention to form clusters of between 6 and 10 units) is acceptable. Fully adapted affordable wheelchair homes would be sought, the number of which would be agreed with the preferred registered provider. Evidence to support the requirement of an extra care scheme should be sought.

**7.02 The Council's Environmental Protection Manager** comments;

**"Air Quality**

Further to my memo dated 26th January, I have now been made aware of an updated AQ assessment, dated January 2016. This is an updated assessment and whilst the core part of it is the same, there is recognition of the importance of mitigation measures, as I suggested in my previous memo. The measures suggested in paragraph 8.2.13 on pages 41, and concluded on 44 in 9.2.8 (which are discussed at paragraph 9.20 below) are acceptable and should make a difference to reducing numbers of vehicle movements and hence a contribution to existing air pollution levels.

I remain concerned about cumulative impacts of several developments on air quality, not just at Pond Farm affecting Newington, but elsewhere in the Borough. However, I am comforted by the leeway that exists between actual Nitrogen Dioxide continuous monitoring results at Newington and the exceedance value, and the effect of Pond Farm and other recent proposals in and around Newington.

I accept the report and its conclusions and remove my objections from an air quality standpoint.

Similarly, I have no noise objections provided the mitigation measures suggested in the report are carried out as described. As before, I do not see a contaminated land assessment included with the documentation – this will be necessary for complete reassurance about this site and any potentially previous contaminative uses and practices." A contaminated land assessment condition is recommended accordingly.

**7.03 The Council's Greenspaces Manager** welcomes the amount of green space proposed and questions the need for such a large landscaped area between the proposal and the listed building to the north when there is the chance to increase the size of the recreation ground to the south. The same applies to the proposed play area. If the applicant is to provide and manage the proposed greenspace and play area themselves the Council only requires details of the play equipment. If the Council is to adopt and subsequently maintain the greenspace and play area, a contribution of £861 per dwelling is required. There would need to be details of facilities such as litter and dog bins. If the land is to be transferred to the Council a 10 year commuted sum maintenance contribution is required. The scheme has now been amended so that less than 200 dwellings are proposed therefore no sports pitch contribution is required.

**7.04 The Council's Climate Change Officer** has highlighted some inconsistencies and lack of detail regarding sustainability measures proposed.

7.05 **The Council's Landscape and Visual Impact Consultant** comments;

“The landscape condition/quality of the site and the surrounding countryside is considered to be good. The site is not within any national or local landscape designations, and there are some urban influences. However it is considered to derive some landscape value from its attractive orchard farmland and the immediate context of a listed building and a community woodland.

The proposed development would represent a substantial, approximately 20% increase in the existing built up area of the village of Newington, and the scale of the proposals are not considered to be appropriate to the established landscape character of the area, or to take appropriate account of the existing townscape of the village.

From a review of the development proposals there are considered to be some serious concerns about whether the proposed western boundary would represent a logical, defensible, long term boundary for the village and there are a number of other uncertainties relating to the height of the proposed development, setbacks and the landscape strategy in the absence of clear parameters being set.

It is further considered that the proposed development would be likely to give rise to a number of significant, localised adverse landscape and visual amenity effects ie result in harm to the site and its immediate contest and to users of some of the local PROWs. This harm would be likely to arise from the proposed access, from the loss of characteristic orchard farmland to residential development and from the implicit extent, scale and height of the development.

Overall it is considered that the development would be in conflict with relevant National Planning Framework policies in respect of landscape and design, in particular paragraph 17 bullet point 5 (set out in full at paragraph 5.03 above), paragraph 64, together with local plan policies E7 and E9, and the adopted Supplementary Document Swale Borough Council Landscape Character and Biodiversity Appraisal Guidelines.

Taking account of the above conclusions, it is considered there would be a strong justification for Swale Borough Council to refuse the planning application on landscape and visual grounds.”

7.06 **The Council's Rural Planning Consultant** sets out the scale of development, and notes that the site now consists of 8.2 hectares and is a mix of grade 1 and grade 2 (the larger proportion) land, which is best and most versatile for planning purposes, and states;

“To summarise, the NPPF states that necessary development that impacts on agricultural land should take place on poorer land in preference to land of higher quality. Firstly, therefore, it must be decided whether this development is "necessary"; that would be a Planning matter outside my own advisory remit. If "necessary", the next stage is to decide whether sufficient arguments have been presented for overriding the NPPF guidance, such that, in this case, poorer land should not be sought in preference to this higher quality land. Again, balancing those arguments would be a Planning decision, outside my remit.”

7.07 **KCC Ecology** advises that bat activity surveys have been carried out and detail that bats are foraging in low numbers within the site along the hedgerows. The ecological survey details that the majority of the hedgerows are to be retained and therefore retaining the connectivity for foraging/commuting bats within the proposal. Lighting can be detrimental to bats and so should be designed with the input of an ecologist and it is advised in accordance with the Bat Conservation Trust's Bats and Lighting in the UK

guidance. Bat emergence surveys were carried out on the agricultural buildings north of the application site which are not being demolished as part of this proposal. There is a contradiction in the report because it states that a common pipistrelle appeared to emerge from the building but goes on to state that a roost had not been identified as a statutory constraint to the proposal. KCC Ecology advises additional information is not required because the buildings are not being demolished, open space will be created adjacent to the buildings, and existing hedgerows will be retained within the development.

The site is within 3km of the Medway Estuary and Marshes Special Protection Area and Ramsar site and 7km of the Swale Special Protection Area and Ramsar site. Mitigation measures will be required to prevent an adverse effect on the integrity of these sites. The amount of greenspace proposed is not sufficient to rule out any likely significant effects on the designated site therefore contributions are required towards a Strategic Access Management and Monitoring Plan (SAMMP). Ecological enhancements should also be conditioned if the application is approved.

- 7.08 **Natural England** notes the site is 2.7km south of the Medway Estuary and Marshes Special Protection Area (SPA) and Ramsar site and therefore has the potential to affect their interest features. These sites are also a SSSI. European sites are afforded protection under the Conservation of Habitats and Species Regulations 2010, as amended (the 'Habitats Regulations'). Regard should be had to the potential impacts on these European sites. The Conservation objectives for each European site explain how the site should be restored and/or maintained and may be helpful in assessing what, if any, potential impacts a plan or project may have.

The consultation documents do not include information to demonstrate the requirements of Regulations 61 and 62 of the Habitats Regulations have been considered by your authority, i.e. the consultation does not include a Habitats Regulations Assessment (HRA). In advising your authority on the requirements relating to the HRA, and to assist you in screening for the likelihood of significant effects, based upon the information provided, Natural England offers the following advice:

- The proposal is not necessary for the management of the European sites.
- Subject to appropriate financial contributions being made to strategic mitigation, ie the Thames, Medway and Swale Estuaries Strategic Access Management and Monitoring (SAMM) Strategy in accordance with the recommendations of the North Kent Environmental Planning Group (NKEPG), and that the strategic mitigation is in place before the dwellings are occupied, the proposal is unlikely to have a significant effect on these sites, and can therefore be screened out from any requirement for further assessment.
- This should also include proportionate contributions made for the proposed care home accommodation, if they include permanent staff accommodation and/ or the residents are likely to have some ability to recreate on the SPA.

The applicant has agreed to pay the full SAMM tariff (of £223 per dwelling) therefore the proposal is unlikely to have a significant effect on the designated sites, and can be screened out from any requirement for further assessment.

It is advised that the SSSI does not represent a constraint to the proposal.

- 7.09 **KCC Highways and Transportation** confirms the revised junction layout has addressed previous concerns, as the footway on the northern side of the A2 has now been widened as requested, and the pedestrian crossing facilities proposed have been



upgraded from a simple refuge island to a traffic signal controlled crossing. This is a more appropriate arrangement of crossing at this location, given the volume of traffic on the A2 and the level of pedestrian activity anticipated. The type of junction to serve this development, a ghost island junction with right turn filter lane, is appropriate. Should the development obtain planning approval, I would request that the provision of these off-site works are secured by condition, to be completed prior to the occupation of any residential element on the site. The applicant should be made aware that a Section 278 Agreement will be required between them and Kent County Council Highways & Transportation to carry out these works, and this will require a separate technical submission and approval process at that time for the detailed design.

The traffic modelling undertaken for the Key Street/A249 junction shows a need for contributions towards an improvement scheme at this roundabout, as was the approach taken for the recent Spirit of Sittingbourne town centre regeneration scheme (see 14/505440/FULL). On that basis, Highways England have requested that £88,935 be sought through a Section 106 Agreement to secure that amount, and I agree that this should be obtained in accordance with their wishes. Lastly, and as highlighted in my previous response, I had asked that the applicant consider providing contributions towards bus services, as this would assist with the goals of the Travel Plan. Details are still being explored in this respect, to see whether it would be possible to enhance services or even assist with the retention of existing provision, and this may be a matter that could take some time to report back. However, at this stage I would suggest that specific details can be negotiated as part of the drafting of the S106 Agreement, and an agreeable conclusion to those discussions reached. Consequently, I have no objections to the proposals in respect of highway matters subject to conditions.”

7.10 **Highways England** raises no objection and its comments are summarised below;

- Its key interest is the impact on A249 trunk Road.
- Application indicates the development will generate 55 trips in the AM peak and 60 in the PM peak that will access the A249 Key Street Junction which will operate over capacity in the peak hours in 2025. As a result of the trips generated, the performance of the A249 Key Street Junction will be adversely affected.
- Mitigation at A249 Key Street Junction will be necessary.
- Whilst we have some concerns about the modelling approach undertaken in which revised entry widths, flare lengths and half widths have been utilised to better represent existing queue lengths without provision of the supporting evidence to verify this, the Transport Assessment states a willingness to make contributions towards junction improvement.
- The Spirit of Sittingbourne development is to provide a contribution of £50,000 towards improvements at A249 Key Street Junction, the Transport Assessment related to the development highlights an impact of 59 trips within the AM and PM peak. The contribution per trip can be calculated as £50,000 / 59 = £847. Applying the above value to this application would result in a contribution of £88,935. (£847 x 105 trips )
- Highways England has no objection to this subject to a financial contribution of £88,935 to provide appropriate mitigation at A249 Key Street.

7.11 **KCC Developer Contributions** has requested the following;

	<b>Per Applicable House (x 126)</b>	<b>Per applicable flat</b>	<b>Total</b>	<b>Project</b>
Primary Education	£2360.96	£590.24	£297,480.96	Towards Regis Manor Phase 2 expansion

Secondary Education	£2359.80	£589.95	£297,334.80	Towards Sittingbourne Academy Phase 2 expansion
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	Per Dwelling	Total	Project
Community Learning	£60.43	£7614.18	Towards new equipment at Sittingbourne Adult Education Centre
Youth Service	£37.58	£4735.08	Towards new equipment at New House Youth Centre, Sittingbourne
Libraries	£227.00	£28,602.00	Towards fitting out costs of new Library in Sittingbourne Hub and bookstock for mobile library service attending at Newington
Social Care	£63.33	£7979.58	Towards Changing Place Facility in Sittingbourne Hub
	<b>1 Wheelchair Adaptable Home</b> as part of the on site affordable homes delivery		
Broadband Condition	<p>Before development commences details shall be submitted (or as part of reserved matters) for the installation of fixed telecommunication infrastructure and High Speed Fibre Optic (minimal internal speed of 100mb) connections to multi point destinations and all buildings including residential, commercial and community. This shall provide sufficient capacity, including duct sizing to cater for all future phases of the development with sufficient flexibility to meet the needs of existing and future residents. The infrastructure shall be laid out in accordance with the approved details and at the same time as other services during the construction process.</p> <p>INFORMATIVE – The BT GPON system is currently being rolled out in Kent by BDUK. This is a laid fibre optical network offering a single optical fibre to multi point destinations i.e. fibre direct to premises.</p>		
Highways	<i>Kent Highway Services will respond separately</i>		

7.12 **KCC Waste and Minerals** considers the submitted minerals assessment inadequate as there is no trial trench data to corroborate just two 1950's dated bore hole logs that are not detailed as to where they are located within the planning application area. This does not result in an accurate or reliable data base on which to assess the volume of minerals. The 100m buffer zone is an arbitrary self-imposed limitation that may well be unnecessary without further justification. Economic minerals should be extracted prior to development to avoid sterilization, unless there are compelling grounds that they should be exempt from the safeguarding presumption that is in accordance with the conservation of minerals provisions of the NPPF. The information submitted makes it difficult to determine whether the minerals threatened with sterilization are of economic importance or not. It is considered by the County Council that this is a serious deficiency of the assessment. The applicant has submitted a thorough rebuttal of the comments of KCC, which in turn was rebutted by KCC. They argue that the applicant / appellant should provide more information in order to demonstrate that practicability and / or viability reasons prevent the extraction of the brickearth.

- 7.13 **KCC Public Rights of Way Officer** considers the proposed junction of public footpath ZR60 with the proposed main street is acceptable and would reiterate the need for a suitably safe crossing point over the A2. There would be no intention of adopting any of the proposed walking routes to the south of the proposed development. The express consent of the highway authority is required to disturb the surface of the right of way or erect anything on or across it. No planting should take place within 1m of the right of way. Six weeks' notice is required if the applicant needs to apply for a temporary traffic regulation order whilst works are undertaken.
- 7.14 **Swale Footpaths Group** states; "...the footpath clipping the N.W. corner of site seems to be unaffected. There is a recently created public footpath just outside the S.E. corner: please check. Although not strictly a p.r.o.w. issue crossing the A2 is already difficult at this point. A "pedestrian refuge" would be useful, but what about a light controlled crossing too?"
- 7.15 **KCC Archaeology** notes the rich archaeological potential of the site. It wishes to see evaluation of the site prior to development and should the Roman road lie within the northern part of the site then provision should be allowed to secure its preservation and recognise its alignment/presence as a historic feature in the development layout. *It is important therefore that the archaeological evaluation takes place in advance of a decision on a full application that includes development layout.* An archaeological field evaluation condition is recommended with preservation in situ of any important remains.
- 7.16 **KCC SUDS Team** acknowledge that a SUDS scheme is technically achievable on the site subject to relevant conditions listed below. It has requested an indicative masterplan with the drainage features shown.
- 7.17 **The Environment Agency** states "We have assessed this application as having a low environmental risk. We therefore have no comments to make."
- 7.18 **Southern Water** advises; the exact position of foul sewers on site must be determined before the layout is finalised; no development or tree planting within 3m of foul sewer; no soakaway, swales, ponds, watercourses or any other surface water retaining or conveyancing features within 5m of a public sewer; existing infrastructure to be protected during construction. Due to changes in legislation, sewers now deemed to be public could be crossing the property so if one is found during construction it should be assessed. The applicant is advised to contact Southern Water for discussions. Initial investigations show southern water cannot accommodate the needs of this application without the development providing additional local infrastructure. The proposal would increase flows into the wastewater sewerage system and as a result increase the risk of flooding in and around the area contrary to Para 109 (bullet point 4) of the NPPF. Section 98 of the Water Industry Act 1991 provides a legal mechanism through which the appropriate infrastructure can be requested by the developer to accommodate the proposal.

A prior to commencement foul and surface water condition with implementation timetable is requested. An informative directing the developer to enter into a formal agreement for sewerage infrastructure is advised. Advice regarding the design of an on site pumping station is provided. There are no surface water sewers in the area to serve the development so alternatives, not involving disposal to a public sewer, should be sought. If SUDS are to be used they should be appropriately designed and a perpetual maintenance programme secured. There is inadequate capacity to provide a water supply to the proposal. Additional off-site mains, or improvements to existing

mains will be required to provide sufficient capacity to serve the development. A condition requiring details of water infrastructure prior to commencement of development is requested.

I sought clarification from Southern Water regarding the content of the utility law document submitted as part of the application. In response it clarified that if the developer intends to use their statutory rights to connect to the public sewer, the capacity upgrades of the system may not necessarily keep pace with the intended development timescales because of regulatory investment system used. Therefore, the previously suggested conditions are required.

- 7.19 **Southern Gas Networks** provides general guidance in relation to construction near its apparatus. It neither objects to nor supports the application.
- 7.20 **UK Power Networks** raises no objection to the proposal.
- 7.21 **The Lower Medway Internal Drainage Board** confirms the site is outside of the IDB's district and provided that off-site surface water runoff is not increased the proposed development is unlikely to affect the Board's interests. The SUDS should be designed to accommodate runoff from the 1 in 100 year storm event (+30% to allow for the predicted effects of Climate Change). Any permission should be conditioned to this effect, and for details of drainage to be designed and agreed in direct consultation with KCC's drainage and flood risk team. This should include the details of future maintenance of the drainage system.
- 7.22 **Medway Council** raises objections due to the impact on secondary schools in Medway which can be overcome through financial contributions towards the expansion of secondary schools; and the Rainham AQMA which can be overcome by the provision of an up to date Air Quality Assessment and provision of appropriate mitigation measures. Medway Council subsequently provided a details contribution request for school contributions demonstrating CIL regulation compliance. I have asked Medway Council and KCC for a combined response to ensure the applicant is not charged twice for secondary school provision. The applicant has provided an Air Quality Assessment for the Rainham AQMA and I am currently awaiting Medway Council's comments on it with the hope that its objection in this regard will be removed.
- 7.23 **The NHS Swale and NHS Dartford, Gravesham and Swanley Clinical Commissioning Groups** considers the proposal does not warrant a new GP facility but as existing GP practices in the area are at capacity a S106 contribution of £164,160 is required towards expansion of existing practices. No project was identified nor whether 5 or more contributions had been sought for a single project so I have requested these details from the Clinical Commissioning Groups.
- 7.24 **The Campaign to Protect Rural England Kent Branch** has submitted a 14 page objection recommending refusal which is summarised as follows;
- Application inconsistent with plan-led approach the NPPF advocates. Site has not been considered at any stage of the emerging local plan.
  - Only the applicant considers this a sustainable site. The emerging local plan description of Newington is quoted as evidence of the villages unsuitability for development of this sort.
  - Saved Local Plan policies are up to date and consistent with NPPF.

- The site is not deliverable for housing because it is not suitably located for development as confirmed by the SHLAA. The SHLAA shows the site is not required to achieve the increased housing target required by the Inspector in her Interim Findings.
- The lack of a 5 year supply of housing land does not mean automatic approval given our view that the adverse impacts outweigh the benefits.
- The proposal pre-empts and undermines the emerging local plan, and it is considered that there are grounds for refusing permission based on prematurity (NPPG quoted).
- Proposal would undermine Council efforts to secure town-centre regeneration and brownfield redevelopment first, as per adopted and emerging local plan.
- The benefits of addressing housing land shortfall should be weighed against the advanced stage of the local plan.
- Loss of countryside and impact on landscape character. Proposal contrary to adopted and emerging local plan policies as it is located within the countryside, as supported by NPPF core principles regarding the countryside.
- Encroachment in a countryside gap. The site is not in a gap in the emerging local plan but Policy DM25 of the emerging local plan should apply anyway because of the stated desire to prevent settlement coalescence.
- Loss of best and most versatile agricultural land should be robustly justified. NPPF steers development away from such land and to lower quality land and is echoed in policies ST1 and DM31 of the emerging local plan.
- The proposal is not sustainable development therefore the presumption in favour in para 14 NPPF does not apply.
- The results of the submitted air quality assessment are dubious. Our analysis of their results shows that the verification procedure, when conducted on a sounder statistical basis, indicates little or no relationship between the modelled and therefore forecast pollution levels and actually recorded ones (technical appendix provided).
- There is no submitted Habitat Regulations Assessment. An appropriate contribution towards the Strategic Access Management and Monitoring programme for the Special Protection Area to the north should be agreed with Natural England before the Council can conclude 'no likely significant effect' on the SPA.

7.25 **Kent Police** note reference to crime prevention in the design and access statement. Whilst the submission is largely indicative, there has been no communication with the applicant. It is recommended that if approved a condition securing measures to minimise the risk of crime is attached, or alternatively a letter or informative.

## 8.0 BACKGROUND PAPERS AND PLANS

- 8.01 The applicant has provided;
- Application form
  - Location plan, as amended
  - Development framework plan, as amended
  - Planning Statement and draft heads of terms
  - Design and Access Statement
  - Arboricultural Assessment
  - Heritage statement
  - Addendum heritage note
  - Archaeology desk based assessment
  - Energy Statement
  - Socio-Economic Sustainability Statement
  - Affordable Housing Statement
  - An assessment of current and future sustainability
  - Noise and vibration assessment

- Travel plan
- Transport assessment as amended
- Air quality assessment for Newington and Rainham
- Soils and agricultural land use and quality
- Foul drainage analysis
- Utilities appraisal
- Flood risk assessment
- Ecological appraisal
- Landscape and visual appraisal
- Mineral safeguarding report
- Statistics demonstrating the requirement for extra care housing
- Statement of community involvement

## 9.0 APPRAISAL

### Principle of Development

- 9.01 It is considered that it would not be appropriate to pursue a reason for refusal based on prematurity because the proposals seem neither of a scale or location likely to prejudice the emerging plan-making process. The proposal is contrary to policies E6 and E7 of the adopted Local Plan because it entails primarily residential development in the countryside that would erode the strategic gap. Similarly, the site is outside the built up area boundary set out by policy ST3 of the emerging Local Plan and is therefore contrary to it (noting there is no strategic gap applied to this site under the emerging Local Plan). The level of objection relating to the fact this site is not allocated for such purposes under either the adopted or emerging local plans is noted. However, it is important to draw a distinction between sites allocated for such development under adopted and emerging local plans, a process which allows the very best of the available sites to be so allocated, and the possibility that, at the point a planning application such as this is determined, if the Council cannot demonstrate a five year supply of housing land as required by paragraph 49 of the NPPF the Council's policies regarding housing are considered out of date and therefore the application should be considered in the context of the presumption in favour of sustainable development set out in paragraph 14 of the NPPF.
- 9.02 Based on the Objectively Assessed Need of 776 dwellings per annum now established under the emerging local plan examination process, the Council's housing land supply is 3.8 years. This is because the Council is yet to make the allocations sufficient to achieve the full 5 years required by the NPPF. The prospect of the Council having a 5 year supply is at best approximately a year away (when the new Local Plan is adopted) at the time of writing. Therefore, both adopted and emerging local plan policies regarding housing are out of date, paragraphs 49 and in turn 14 of the NPPF apply, and there is no timely prospect of the Council achieving a 5 year supply through the emerging local plan process such that the Council could reasonably resist this proposal because of a short term prospect of achieving a 5 year supply.
- 9.03 Within this context it would be extremely difficult to argue that the principle of development is unacceptable and the lack of a 5 year supply should weigh in favour of the development in my opinion. The positive provision the proposal would make to housing land within the Borough should be afforded significant weight because of the contribution this would make to the social strand of sustainable development.

### Visual and Landscape Impact

- 9.04 The applicant's landscape and visual appraisal considers that the impact of the proposal will be acceptable. The Council's landscape and visual impact consultant's comments in relation to this assessment are provided above (at paragraph 7.05) and consider the impact in this regard unacceptable. In my opinion, the site is well contained within its immediate context because the site is reasonably flat as opposed to being on an exposed hillside for example. The existing dwellings to the east provide strong containment for the site and it will be possible to secure a sufficient separation distance at reserved matters stage from these dwellings to prevent visual harm arising for residents. The site is very well contained in views from the south, particularly by the mature community woodland and the hedgerows within the southern boundary of the site which are indicated to be retained. The western boundary hedge would be retained as far as possible which would provide containment for the site when viewed from the west and the public right of way. Immediate views from the north would, over time, become relatively well contained given the applicants stated intention of replacing the mature hedgerow fronting the A2, as necessitated by the required highway works, with a similar hedge set to the south of the realigned/widened A2 and the required visibility splays for the new vehicle access. The significant public open space to the north of the site surrounding the Pond Farmhouse outbuildings, along with the community orchard would again soften the visual and landscape impacts of the proposal.
- 9.05 The broad development scale parameters provided in the design and access statement indicate that the vast majority of the dwellings on the site are likely to be between 7.5/8.5m tall which is fairly standard. However, the potential for some of the buildings to be up to 10.5m in height and 2.5 storeys would not have an unacceptable impact in my opinion. The most significant visual and landscape impact would arise from the extra care facility given the potential for this to be a significant block of building, in the form of a 2.5 storey building up to 10.5m tall. The dwellings and extra care facility would be visible within the surrounding wider landscape, perhaps most significantly from the public right of way to the north of the railway line to the north of the application site, the public right of way to the west of the site and the public right of way to the south of the site that provides access to the cluster of community uses. I have walked the length of the public right of way to the north of the railway line (which is elevated relative to the application site) and I do not consider that there would be any significant landscape or visual harm arising from the proposal and the potential scale of development sufficient to warrant refusal of permission in my opinion. By retaining or replanting hedges and field boundaries the proposal complies with the Landscape Character and Biodiversity Appraisal 2011 guidelines.
- 9.06 In coming to this conclusion it is important to draw a distinction between this and the earlier scheme. In my view it is possible to conclude that the previous scheme was harmful in this regard and the current scheme is not because of the very significant difference in the scale of the proposals with 204 fewer dwellings now proposed and a significant reduction in the size of the application site with the western field now excluded. The lack of identifiable visual and landscape harm is a positive factor that weighs in favour of the application because of the contribution this makes to the environmental strand of sustainable development.

### **Residential Amenity**

- 9.07 The main impact in this regard would be to residents of dwellings along Playstool Road which back onto the application site, and the limited number of dwellings along London Road which do the same. As previously stated, the site is sufficiently large to secure at reserved matters stage an appropriate separation distances between existing and

proposed dwellings to prevent harm to residential amenity via overshadowing, overbearing, overlooking, loss of light etc. Dwellings along Orchard Drive benefit from the enhanced separation distance provided by the green wedge indicatively running along the southern edge of the application site to the extent that the impact would be minimal and acceptable. The dwellings fronting London Road would benefit from the significant depth of the public open space and community orchard such that the impact on residential amenity would be minimal and acceptable. The dwellings on the northern side of London Road would not be harmed by the development including the proposed works to the London Road. The proposed vehicle access would not cause undue noise and disturbance to residents of these dwellings, nor would the pedestrian crossings and bus stops, over and above the level of disturbance currently experienced along this part of the A2. There are no dwellings immediately to the west of the main body of the application site to effect. Subject to standard conditions to control the hours of construction, construction vehicle parking etc the impact on residential amenity would be acceptable in my opinion. The lack of identifiable harm to residential amenity is a positive factor that weighs in favour of the application because of the contribution this makes to the environmental strand of sustainable development.

### Highways

- 9.08 Highways England raises no objection to the impact on the strategic highway network including the A249 and M2, and KCC Highways and Transportation raises no objection to the impact on the local highway network including the A2 and Newington High Street pinch point which has raised considerable concern in the representations received. Within the area immediately surrounding the site, the vehicle access point is acceptably designed and the widened and new pedestrian footways to the north and south of the A2 are appropriate. The pedestrian crossing facilities proposed have been upgraded from a simple refuge island to a traffic signal controlled crossing which is appropriate given the busy nature of the A2 and would help to secure pedestrian safety. The widening and realignment of the A2, along with the new junction design is appropriate. The traffic modelling submitted is deemed acceptable by both Kent Highways and Highways England in relation to the Key Street/A249 junction. It is appropriate for the development to contribute towards an improvement scheme at this roundabout, as was the approach taken for the recent Spirit of Sittingbourne town centre regeneration scheme that gained approval last year. On that basis, Highways England has requested that £88,935 be sought through a Section 106 Agreement to secure that amount, an amount Kent Highways also agrees to. Contributions towards enhanced bus services and retaining existing services to assist the goals of the travel plan are still being explored and will take some time to conclude therefore it is appropriate to deal with this during the negotiation of the S106 agreement.
- 9.09 The impacts of the construction phase are considered acceptable as are the longer term traffic levels generated by the development. It is possible to consider the highway impacts of the proposal acceptable, in contrast to the original application, because of the reduced size of the proposal with commensurate highway impacts, the improved transport modelling information provided, and the ability to secure contributions towards highway improvements.
- 9.10 The submitted travel plan states a series of underlying objectives and specific outcomes which include traffic reduction, achieving the minimum number of car traffic movements to and from the development, supporting walking, cycling and public transport, and reducing the need to travel to and from the site. To assist walking the applicant proposes to;
- Install a footway to the south side of London Road, widen the footway to the north side and provide pedestrian crossings.



- The applicant will fund tactile paving at the existing Wykham Close junction via S106.
- The applicant will fund 10 additional lighting columns along Church Lane via S106 which will need to be discussed with Newington Parish Council as it controls the lighting in this area.
- The applicant will fund carriageway narrowing on Church Lane at its junction with High Oak Hill to assist pedestrian crossing movement and to help control vehicle speeds. The above 4 bullet points will encourage walking to school from the development and into Newington village centre.
- Travel plan coordinator (TPC) to hold promotional events and distribute literature to encourage walking, and prepare and arrange for distribution of maps showing safe local walking routes as part of the Residential Travel Induction Pack.
- TPC to establish cycling action plan that could include promotion of national bike week; buddy scheme for those not confident about cycling; promotional events and literature about cycling and health benefits to be arranged by TPC.
- The Residential Travel Induction Pack will encourage public transport. Two new bus stops and shelters with low floor kerb access to be provided on London Road, plus the two aforementioned pedestrian crossings to aid access to bus services.
- The applicant will fund 3 additional cycle stands at Newington Rail Station via S106 contributions.
- TPC to identify car share scheme to promote to residents.
- Each dwelling will have 32amp single phase electrical supply to allow for the future inclusion of an individual electric car charging point for each property.

9.11 These measures will be secured, if considered appropriate by KCC Highways and Transportation, by a mixture of the S106 agreement and conditions as required. The lack of identifiable highways harm is a positive factor that weighs in favour of the application because of the contribution this makes to the environmental strand of sustainable development.

### **Affordable Housing**

9.12 30% Affordable housing has been offered by the applicant which equates to 38 affordable dwellings on site. The affordable housing statement gives an indicative mix as a starting point for negotiations. The extra care facility does not require affordable housing to be provided because it has been demonstrated that it falls within use class C2. The indicative mix provides the 70%/30% tenure split required by the Council's SPD on developer contributions. The affordable dwellings would be evenly spread across the site in small clusters of 6-10 units with external appearances similar to the private dwellings. The submitted statement suggests affordable housing is secured by condition rather than S106 which is not the Council's policy. However, the offer accords with adopted and emerging local plan policy and is acceptable in my view. The social benefits of this element of the proposal are significant and should be afforded significant weight in the decision making process because of their contribution towards the social strand of sustainable development. The precise mix would have been subject to detailed negotiations had the Council been determining the application. This mix will need to include fully adapted wheelchair homes in accordance with Council policy and KCC has also requested one wheelchair adapted dwelling.

### **Need for Extra Care**

- 9.13 The applicant has provided data to demonstrate that within Swale there is a significant existing shortage of extra care accommodation and that this is predicted to grow by 25% by 2020 and 79% by 2030. Given the widely known aging population in the country and the Swale specific data provided by the applicant, and no evidence to the contrary, I consider there to be a compelling need for the extra care facility. The social benefits of this are significant because it has the potential to allow older local people to stay in the area they know. This could potentially result in dwellings that have single occupants or low levels of occupancy being vacated and sold on for more efficient family occupation which represents the rationalisation of housing stock. The social benefits of this element of the proposal are significant and should be afforded significant weight in the planning balance. The economic benefits include the short term construction employment and the longer term employment within the facility which should be afforded significant weight in my view.

### **Serviced Land for Potential Doctors' Surgery**

- 9.14 The applicant has included serviced land for a potential future doctors' surgery. The response from the NHS Swale and NHS Dartford, Gravesham and Swanley Clinical Commissioning Groups makes clear that a development of this size would not generate a need for a new GP surgery and instead seeks a contribution towards expansion of existing GP surgeries in the area which it states are at capacity. The views of the NHS diminish the weight to be afforded to this element of the proposal in terms of its social benefits and it is clear that the offer of the land does not actually provide a solution to the problem of a lack of GP capacity in the area by providing a building but it does provide the potential that it may one day be addressed. The serviced land could potentially one day be used to provide a GP surgery if further development within Newington comes forward to generate the demand. This element of the proposal certainly attracts some small weight in the decision making process because of the positive contribution it makes to the social strand of sustainable development.

### **Heritage**

- 9.15 As detailed above, the former farm outbuildings of Pond Farmhouse are not listed buildings as previously thought. However, Pond Farmhouse, to the north, is grade II listed, now considered to be a historic operational/working link between the two sets of buildings and a clear visual link/connection that still exists between them and which plays an important role in providing a beneficial and appropriately contextual setting for the grade II listed building. The outbuildings are considered to be non-designated heritage assets and para 135 of the NPPF applies in this regard. I have sought to clarify the applicant intentions for these outbuildings be clarified but such information has not been provided. In my opinion whilst this information has not been provided it does not and should not prevent the determination of this application. The buildings in question do not fall within the application site and there is no harm done to them by the proposal, subject to the considerations below and to the imposition of a condition requiring that a management plan for the farm buildings be submitted to and approved in writing by the Local Planning Authority.
- 9.16 The indicative framework plan shows an open space separating the proposed dwellings from the listed building and the former farm outbuildings which is considered would be sufficient to prevent harm to the setting of the listed building and the non-designated heritage asset former farm outbuildings. Furthermore, a tree belt is suggested along the northern boundary of the dwellings to soften views around the listed building which can be secured under the landscaping reserved matter. I consider that the statutory test in section 66 of the Planning (Listed Buildings and

Conservation Areas) Act 1990, and the associated policies of the NPPF and adopted and emerging local plans are passed. It is possible to draw such a different conclusion compared to the previous application because the outbuildings are now considered not to be listed buildings and the intervening green space between the buildings and grade II listed building would now be sufficient to prevent harm to its setting. The impact on designated and non-designated heritage assets would therefore be acceptable in my opinion. The lack of harm to heritage interests would be positive in terms of the environmental strand of sustainable development that should be afforded weight in the decision making process.

## Ecology

- 9.17 The submitted ecological appraisal assesses the application site for protected species and the wider impact on surrounding designated nature conservation sites. As set out at paragraph 7.09, KCC Ecology do not raise objection to the findings of the survey and suggests that lighting be designed to protect bats. A contradiction within the report is highlighted but no additional information is required on the basis that the former farm buildings are not proposed to be demolished, open space will be created adjacent to the former farm buildings, and hedgerows would be retained. The submitted ecological appraisal agrees to provide a contribution per household towards the Strategic Access Management and Monitoring Strategy on the SPA and enhancement of local green infrastructure. Furthermore, the applicant has expressly agreed to pay the full SAMM tariff for each dwelling and a proportion tariff for the extra care facility. This would deal with the issue of increased recreational pressure on the SPA highlighted by Natural England and KCC Ecology. The proposed mitigation would not be in place before occupation of the proposal as requested by Natural England but it is unrealistic to expect this. Natural England considers the proposal can be screened out of the need for further assessment because it is unlikely to have significant effects on the sites. Natural England does not consider the SSSI to represent a constraint in determining this application. Subject to a condition requiring ecological enhancements within the development, and in light of the comments of both consultees, the on-site and off-site ecological impacts of the proposal are acceptable in my opinion. A habitat regulations screening assessment has been carried out – and is appended - and concludes that the proposal is unlikely to have significant effects which means the application benefits from the presumption in favour of sustainable development set out on paragraph 14 of the NPPF and its associated footnotes.
- 9.18 The most significant trees on the site, namely those directly to the south of the former farm outbuildings, can be retained within the development. The remaining trees around the periphery of the site may also be retained within the final development, as would the field boundary hedges as far as possible. The loss of the hedgerow fronting London Road is regrettable but necessary to achieve appropriate highway improvements and would be replaced with a hedge to the south. This is acceptable from an arboricultural perspective in my opinion. The provision of 2.95ha of open space/ green infrastructure is considered to be a positive associated with the development that would benefit residents of the proposal and existing local residents that could also use this area. The lack of ecological and arboricultural harm, and the amount of proposed open space represent environmental positives that weigh in favour of the proposal.

## Sustainable Drainage (SUDS)

- 9.19 KCC Sustainable Drainage Team considers that a SUDS scheme is technically achievable on site given the underlying ground conditions and requested additional detail of where appropriately sized drainage features might be incorporated within the

development that ensures sufficient capacity is included for the proposed number of units. I would ordinarily have sought delegation to resolve this matter but in this instance I do not believe the lack of agreed SUDS is a reason for refusal as it appears to be technically achievable. This is an environmental positive that weighs in favour of the proposal.

### **Air quality, and noise and vibration**

- 9.20 As set out at paragraph 7.02 above, the Council's Environmental Protection Manager raises no objection to the impact of the development on the AQMA in Newington. The level of third party objection in this regard is noted, but I am not in a position to dispute his findings given his expertise in the area, nor do I have any reason to doubt his conclusion that the impact is acceptable subject to the mitigation measures detailed in the submitted air quality assessment. The mitigation offered includes; contributions to highway improvements in order to reduce local traffic congestion; support for and promotion of car clubs; contributions to low emission vehicle refuelling infrastructure; provision of incentives for the uptake of low emission vehicles; financial support to low emission public transport options; and improvements to cycling and walking infrastructure. The applicant has offered each of these measures as part of the travel plan with the exception of incentives for the uptake of low emissions vehicles which is not considered necessary. KCC Highways and Transportation has indicated that it asked the applicant to explore providing contributions towards bus services to meet the goals of the travel plan and that this is still being explored and could take some time to report back on but that this specific detail can be negotiated as part of the S106. The travel plan objectives and air quality mitigation measures are broadly identical and would have been secured through the S106 therefore no condition is required.
- 9.21 The applicant has provided an air quality assessment for the Rainham AQMA within Medway. Whilst I am still currently awaiting the removal of Medway Council's objection on air quality grounds, it is anticipated that this is possible given that the applicant has stated they are willing to mitigate any identifiable harm caused.
- 9.22 The applicants noise and vibration assessment highlights that noise mitigation measures may be required for the proposal, and that no vibration mitigation is required. The development framework plan has been amended since this report was produced but the Council's Environmental Health Manager has clarified that no vibration issues are considered to arise, nor are any measures required for the potential doctors surgery at this stage because this can be dealt with under subsequent application when the design is clarified, and there would not be any dwellings close enough to London Road under the revised development framework plan to warrant noise mitigation measures.
- 9.23 For these reasons, air quality, noise and vibration issues are considered acceptable in my opinion. The lack of harm in this regard is positive and contributes towards the environmental strand of sustainable development which weighs in favour of the proposal.

### **Loss of agricultural land**

- 9.24 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 – which is set out in full at paragraph 5.10 above - 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. Emerging Local Plan policy DM31 also looks for the loss of BMV land to be avoided if possible.

- 9.25 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.
- 9.26 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 potentially be the case for additional housing sites being sought to meet the Council's objectively assessed need under the emerging local plan.
- 9.27 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. It is important to point out that para 112 of the NPPF does not rule out the principle of development on BMV land. The recent Court of Appeal Decision in Suffolk Coastal District Council and Richborough Estates Partnerships LLP [2016] EWCA Civ 168 is a critical consideration in this regard because it provides clarity on the meaning and effect of para 49 of the NPPF regarding the definition of 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 Courts decision states;
- “33. Our interpretation of the policy does not confine the concept of “policies for the supply of housing” merely to policies in the development plan that provide positively for the delivery of new housing in terms of numbers and distribution or the allocation of sites. It recognizes that the concept extends to plan policies whose effect is to influence the supply of housing land by restricting the locations where new housing may be developed – including, for example, policies for the Green Belt, policies for the general protection of the countryside, policies for conserving the landscape of Areas of Outstanding Natural Beauty and National Parks, policies for the conservation of wildlife or cultural heritage, and various policies whose purpose is to protect the local environment in one way or another by preventing or limiting development. It reflects the reality that policies may serve to form the supply of housing land either by creating it or by constraining it– that policies of both kinds make the supply what it is.”
- 9.28 In my opinion, this Decision means that the Council's emerging local plan policy DM31 would be considered out of date because it seeks to influence the supply of housing land by restricting the locations where new housing may be developed, to areas of low quality agricultural land. When reverting back to para 112 of the NPPF, the economic and other benefits of the land have been taken into account, but the loss of such a large area of BMV agricultural land certainly represents an environmental negative that is a cost of the development that weighs against it.

### **Minerals Sterilisation**

- 9.29 The site is located within the Swale Borough Mineral Safeguarding Area map for brickearth, as defined by policy CSM5 of the emerging Minerals and Waste local plan for Kent. The submitted application seeks to demonstrate that the brickearth on site is not of economic value and that the extraction would not be viable or practicable in accordance with policy DM7 of the Minerals and Waste Local Plan. The applicant considers the deposits across the site to be thin and that a significant proportion of the site is indirectly sterilised by the surrounding residential area. Consequently, the brickearth deposits on the site are not considered to be of sufficient size to be viable nor do they have the ability to be made viable, in the applicant's opinion. They also

consider that alternatively, it is possible they may have been removed under a pre-existing planning permission. KCC Minerals objects to the applicant's assertions and this has led to various responses from both the applicant and KCC Minerals with no conclusion reached.

- 9.30 The foreword to policy DM7 states that when proposals for non-minerals development within a mineral safeguarding area come forward, the need for such development will be weighed against the need to avoid sterilisation of the underlying minerals and the objectives and policies of the development plans as a whole will need to be considered when determining proposals. Policy DM7 itself states that permission will only be granted for non-mineral development that is incompatible with minerals safeguarding where it is demonstrated that, amongst others, material considerations indicate that the need for the development overrides the presumption for mineral safeguarding such that sterilisation of the mineral can be permitted following the exploration of opportunities for prior extraction.
- 9.31 In my opinion, this mineral safeguarding policy is to be afforded diminished weight because of the aforementioned Court of Appeal Decision as the policy seeks to prevent housing development on the land. Notwithstanding the above, DM7 acknowledges there is a balance to be struck here and given that there are in my opinion material considerations that indicate the need for such development overrides the presumption for mineral safeguarding, I consider that the loss of potential brickearth deposits (noting that it is not known what the site actually contains) may be acceptable. In my opinion, the Council will be in a much stronger position to resist potential mineral sterilisation proposals once it has a demonstrable 5 year supply of housing land. The loss of potential minerals certainly represents an environmental cost of the development that weighs against the proposal but as set out above it is possible that the Council may reach the view that this harm is not sufficient to justify the application being turned down on this ground. In order to inform Members' assessment of this issue, the applicant has been asked to provide further information with particular regard to the practicability and viability of extracting the brickearth from this site. I will update Members at the meeting.

### **Public rights of way**

- 9.32 KCC Public Rights of Way considers the impact on the public right of way within the application site to be acceptable including its junction with the proposed main street. KCC requests a safe crossing point over the A2 which is provided.

### **Archaeology**

- 9.33 KCC Archaeology notes the rich archaeological potential in the area as the A2 is a known Roman Road corridor. A condition is requested and attached below to satisfactorily deal with the issue.

### **Developer contributions**

- 9.34 The required developer contributions have not been finalised at this point and the appeal against non-determination means that these matters will be dealt with at the appeal. The following contributions were requested at the time of writing and could be subject to change;

#### **Kent County Council**

**Primary Education** £2360.96 per dwelling x 126 = £297,480.96 Towards Regis Manor Phase 2 expansion.

**Secondary Education** £2359.80 per dwelling x 126 = £297,334.80 Towards Sittingbourne Academy Phase 2 expansion.

**Community Learning** £60.43 per dwelling x 126 = £7614.18 Towards new equipment at Sittingbourne Adult Education Centre

**Youth Service** £37.58 per dwelling x 126 = £4735.08 Towards new equipment at New House Youth Centre, Sittingbourne

**Libraries** £227 per dwelling x 126 = £28,602.00 Towards fitting out costs of new Library in Sittingbourne Hub and bookstock for mobile library service attending at Newington.

**Social Care** £63.33 per dwelling x 126 = £7979.58 Towards Changing Place Facility in Sittingbourne Hub

**Kent Highways-** has requested that the developer explore making contributions towards local bus services in order to retain and possibly expand services to meet the aims of their travel plan. This matter was to be left to the negotiation stage of S106.

#### **Swale Borough Council;**

**Greenspaces-** If the applicant is to provide and manage the proposed greenspace and play area themselves the Council only requires details of the play equipment. If the Council is to provide the greenspace and play area, a contribution of £861 per dwelling is required. There would need to be details of facilities such as litter and dog bins. If the land is to be transferred to the Council a 10 year commuted sum maintenance contribution is required.

**SPA Mitigation-** £223.58 per dwelling with a proportional contribution for the Extra Care facility based on residents ability to recreate on the SPA which was unresolved.

**Wheelie Bins-** 2 per dwelling = £75 per dwelling, with potential for larger more expensive Euro bins to be provided for the extra care facility.

**Highway Improvements -** £88,935.

Swale Borough Council would charge a 5% monitoring fee of the total amount of all contributions.

In addition, and further to Paragraphs 7.01 and 9.12 above, the Section 106 agreement will also need to make appropriate provision for **affordable housing**.

#### **Medway Council;**

**Secondary Pupils-** £286,322.40

**Sixth Form Pupils-** £83,720

I have contacted both Medway and KCC to ask whether they have coordinated their responses so that the applicant does not get charged twice for the same school places but a combined response has not yet been received.

**The NHS Swale and NHS Dartford, Gravesham and Swanley Clinical Commissioning Groups-** requests a contribution of £151,920 (reduced to reflect amended 126 dwellings proposed) towards GP facilities in the area but did not demonstrate CIL Regulation compliance in the request, which I have sought. This amount is based on its assumption that each dwelling would contain 2.4 people and each extra care unit would contain 2 people and it charges £360 per person.

- 9.35 It is not sensible to try and provide a total amount of developer contributions requested because this will inevitably change, potentially quite significantly. This issue would have been resolved through normal negotiations of the S106 if the appeal had not been submitted, and should not form a reason for refusal.

#### **Utilities**

- 9.36 UK Power Networks raises no objection with regard to electricity supply. Southern Gas Networks raises no objection with regard to gas supply but provides general guidance for the applicant. Southern Water initially provided comments that made no reference to the Utility Law document submitted with the application. I sought clarification from Southern Water as to whether this document had been considered by them. Further comments have been received essentially reiterating its initial request for drinking water, surface water drainage and foul sewerage provision at the site to be dealt with by pre-commencement condition. Surface water is being dealt with under the SUDS but drinking water and foul sewage are dealt with by condition below. It is considered that this condition is justified because Southern Water has clarified that if the developer utilises their statutory right to connect to public sewer the necessary capacity upgrades may not keep pace with the development and lead to flooding problems which should clearly be avoided. Relevant utility companies raise no objection to the proposal and this is not considered to be an impediment to development.

### **Sustainability measures**

- 9.37 The Council's Climate Change officer has raised concerns about contradictions within the submission about what sustainability measures would be included within the development. However, it is clear from the NPPF - Planning Update: Written statement - HCWS488 that the code for sustainable homes has been abolished and the Council has no basis to attach conditions requiring the achievement of a particular level under the Code. However, it is appropriate to require the development to incorporate sustainable design and construction measures in respect of the proposed dwellings and, in respect of the care home, a level under the BREEAM system. Such conditions are set out below.

### **Whether sustainable development?**

- 9.38 In terms of the three strands of sustainable development - economic, social and environmental- paragraphs 7 to 9 of the NPPF expects developments to seek improvements across all three.
- 9.39 The additional dwellings including affordable dwellings and the extra care facility represent social gains. Some limited weight is to be given to the serviced land for a doctors' surgery. The construction phase and longer term employment generation from the extra care facility are economic gains but these are partially offset by the loss of agricultural land and potential mineral reserves (subject to clarification) and their attendant economic benefits. The highways impacts are now acceptable. As a result, the proposal would result in some economic gains.
- 9.40 In terms of environmental considerations, the visual and landscape impacts are considered acceptable, but there would be a loss of BMV agricultural land and potential mineral deposits (subject to clarification). Heritage, transport, air quality and ecological impacts have been demonstrated to be acceptable. Therefore, the proposal goes provide environmental gains overall.
- 9.41 Overall, the proposal manages to secure gains across all three strands and as such represents sustainable development. It is concluded that they comply with policy SP1 of the adopted local plan and policies ST1 and ST5 of the emerging local plan. In my opinion and subject to clarification of the implications for brickearth extraction, the adverse impacts of the development would be significantly and demonstrably outweighed by the benefits given that the two significant costs associated with it,



namely loss of agricultural land and potential minerals, do not amount to reasons for refusal in their own right.

## 10.0 CONCLUSION

10.01 For the reasons stated above, the proposed development would represent sustainable development and is acceptable.

**11.0 RECOMMENDATION** – This application is, as explained above, the subject of a planning appeal. As such the application will not be determined by Swale Borough Council, however, the decision of the committee will indicate to the Secretary of State the Council's intended decision.

Had the appeal not be submitted, and subject to further information in respect of brickearth, the recommendation would have been to grant planning permission subject to a Section 106 Agreement and conditions as set out below.

The following conditions are recommended;

### CONDITIONS to include

- 1) Details relating to the layout, scale and appearance of the proposed buildings, the access thereto (excluding the access details for the vehicle access from London Road which have already been provided) 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 landscaping details submitted pursuant to condition 1 above shall include a tree belt along the north boundary of the extent the dwellings to be constructed and a replacement hedge to the south of the visibility splays of the new vehicle access on to London Road. The agreed measures shall be incorporated into the development in accordance with a development phasing schedule to be agreed in writing.

Reason: In order to soften the impact on the setting of the grade II listed building and the former farm outbuildings to the north and to mitigate for the necessary removal of the existing hedge along London Road.

- 5) The details submitted pursuant to condition 1 shall include a lighting design for the site and shall be designed to minimise the impact on bats. An ecologist shall be involved in the design and it shall accord with the Bat Conservation Trusts Bat and Lighting in the UK guidelines. The agreed measures shall be incorporated into the development in accordance with a development phasing schedule to be agreed in writing.

Reason: In order to protect roosting, foraging and commuting bats.

- 6) The details submitted pursuant to condition 1 shall include details of on site ecological enhancements. The agreed measures shall be incorporated into the development in accordance with a development phasing schedule to be agreed in writing.

Reason: To secure ecological enhancements.

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

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

- 8) 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.

- 9) No construction work and associated deliveries 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.

- 10) No development approved by this permission shall be commenced prior to a contaminated land assessment (and associated remediation strategy if relevant), being submitted to and approved in writing by the Local Planning Authority, comprising:
- a) A desk study and conceptual model, based on the historical uses of the site and proposed end-uses, and professional opinion as to whether further investigative works are required. A site investigation strategy, based on the results of the desk

study, shall be approved by the Local Planning Authority prior to any intrusive investigations commencing on site.

- b) An investigation, including relevant soil, soil gas, surface and groundwater sampling, carried out by a suitably qualified and accredited consultant/contractor in accordance with a Quality Assured sampling and analysis methodology.
- c) A site investigation report detailing all investigative works and sampling on site, together with the results of analyses, risk assessment to any receptors and a proposed remediation strategy which shall be of such a nature as to render harmless the identified contamination given the proposed end-use of the site and surrounding environment, including any controlled waters.

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

- 11) Prior to the commencement of development details shall be submitted (or as part of reserved matters) for the installation of electrical services and fixed telecommunication infrastructure and High Speed Fibre Optic (minimal internal speed of 100mb) connections to multi point destinations and all buildings including residential, commercial and community. This shall provide sufficient capacity, including duct sizing to cater for all future phases of the development with sufficient flexibility to meet the needs of existing and future residents. The infrastructure shall be laid out in accordance with the approved details and at the same time as other services during the construction process. The development shall not resort to the erection of distribution poles and overhead lines, and notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 no distribution pole or overhead line shall be erected other than with the express consent of the Local Planning Authority.

Reason: In order to secure appropriate high quality communications infrastructure.

- 12) Development shall not begin until a detailed sustainable surface water drainage scheme for the site has been submitted to and approved in writing by the local planning authority. The detailed drainage scheme shall demonstrate that the surface water generated by this development (for all rainfall durations and intensities up to and including the climate change adjusted critical 100yr storm) can be accommodated and disposed of through infiltration features designed and constructed with due regard to ground and groundwater risks.

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

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

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

- 14) No infiltration of surface water drainage into the ground is permitted other than with the express written consent of the local planning authority (in consultation with the Environment Agency); this shall only be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to controlled waters. The development shall be carried out in accordance with the approval details.

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

- 15) No work shall commence on the development site until the off-site highway works shown on the approved drawings have been carried out in accordance with a design and specification to be approved in writing with the Local Planning Authority and to be fully implemented.

Reason: In the interests of highway safety and amenity.

- 16) Before any work is commenced on site, a Construction Management Plan, including details of delivery routes and the timing of these, shall be submitted to and approved in writing by the Local Planning Authority and the development shall not proceed other than in accordance with the approved programme.

Reason: In the interests highway safety and amenity.

- 17) 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.

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

Reason: To ensure provision of adequate off-street parking for vehicles in the interests of highway safety and to protect the amenities of local residents.

- 19) Provision shall be made within the site for the disposal of surface water so as to prevent its discharge onto the highway details of which shall have been submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of highway safety and convenience.

- 20) 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.

- 21) The access details shown on the approved plans shall be completed prior to the commencement of any other works authorised by this permission, the occupation of

any buildings hereby approved, the use of the site being commenced, and the access shall thereafter be maintained.

Reason: In the interests of highway safety.

- 22) The details submitted in pursuance of reserved matters 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 premises. 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.

- 23) 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.

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

Reason: In the interests of highway safety.

- 25) Prior to the commencement of development details of the proposed means of water supply and foul water disposal and an implementation timetable shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved scheme and timetable.

Reason: To ensure sufficient sewerage capacity to serve the development.

- 26) The areas shown on the approved drawings as proposed open space including proposed equipped area of play and community orchard shall be reserved for the general amenity of the area. Play spaces shall 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 last 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.

- 27) Prior to the commencement of development a scheme outlining the phasing of development, including site layout plan identifying land uses such as formal and informal open space and infrastructure, shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved phasing scheme.

Reason: In order to secure the appropriate phasing of the development.

- 28) The extra care facility hereby permitted shall be used solely for this purpose and for no other purpose, including any other purposes in Class C2 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended).

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

- 29) The development shall proceed in accordance with the following approved plans; site location plan 6363-L-01 rev C, development framework plan 6363-L-03 rev I, Ashley helme associates 1466/01 rev A.

Reason: For the sake of clarity and in the interests of proper planning.

- 30) None of the dwellings hereby approved shall be occupied until a Management Plan for the Pond Farm outbuildings has been submitted to and approved in writing by the Local Planning Authority. The buildings shall then be managed in accordance with the plan in perpetuity.

Reason: In the interests of safeguarding these heritage assets.

- 31) The care home building hereby approved shall be constructed to BREEAM 'Very Good' Standard or an equivalent standard and prior to the use of the building the relevant certification shall be submitted to the Local Planning Authority confirming that the required standard has been achieved unless otherwise agreed in writing by the Local Planning Authority.

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

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

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

33) The details submitted in pursuance of condition (1) above shall be in accordance with a Development Brief that shall first have been agreed in writing by the Local Planning Authority and which shall include the following:

- (a) Details of the road layout for the site;
- (b) A comprehensive network of segregated pedestrian and cycle routes;
- (c) An overall landscape strategy for the application site;
- (d) A strategy for the architectural treatment of the buildings on the site, including elevational treatment, roof design and the palette of colours;
- (e) A lighting plan for the site, to include details of the lighting columns, the type and luminance of the lighting units with glare shields and details of lux levels, both inside and outside the site;
- (f) A strategy for dwelling storey heights;
- (g) A strategy for cycle parking.

Reasons: In the interests of promoting a consistent quality of development, sustainable development, ecological protection and enhancement, and of visual and landscape amenity.

## INFORMATIVES

1. The clearance of vegetation from the site should take place outside the breeding bird season (March to August inclusive) or following a check by an experienced ecologist.
2. The applicant is advised to contact KCC Public Rights of Way to discuss its requirements for works to the Right of Way on site by telephoning 03000 418142.
3. It is the responsibility of the applicant to ensure, before the development hereby approved is commenced, that all necessary highway approvals and consents where required are obtained and that the limits of highway boundary are clearly established in order to avoid any enforcement action being taken by the Highway Authority. The applicant must also ensure that the details shown on the approved plans agree in every aspect with those approved under such legislation and common law. It is therefore important for the applicant to contact KCC Highways and Transportation to progress this aspect of the works prior to commencement on site.

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

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

Offering pre-application advice.

Where possible, suggesting solutions to secure a successful outcome.

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

In this instance:

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

Amendments were sought from the application in order to overcome identified problems.

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



## APPENDIX

### HABITATS REGULATIONS ASSESSMENT SCREENING

#### 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 but it does commit the applicant to a per dwelling payment for off-site mitigation as recommended by The Thames, Medway and Swale Estuaries – Strategic Access Management and Monitoring Strategy (Footprint Ecology 2014). Natural England's letter to SBC 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.
- Proportionate contributions for the extra care facility if they include permanent staff accommodation and or the residents are able to recreate on the SPA.

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, given the applicants commitment to provide on site mitigation in the form of greenspace and financial contributions towards the SAMM it leads to the conclusion that the proposals would not give rise to likely significant effects on the SPA. It is concluded that the proposals can be screened out for purposes of Appropriate Assessment. These would not lead to likely significant effects on the SPA.

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**PLANNING COMMITTEE – 28 APRIL 2016**

**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 – 226 Chequers Road, Minster**

**APPEAL ALLOWED**

**Observations**

COMMITTEE REFUSAL:

The Inspector concluded that given the special circumstances of this case, the proposal would meet the policy requirements of achieving high standards of design and consistency with context ,as it would provide a much more coherent and balanced front elevation than existing ,albeit at the expense of further increasing the size of the original bungalow.

- **Item 5.2 – 1 New House, Broom Street, Graveney**

**APPEAL DISMISSED AND THE ENFORCEMENT NOTICE UPHeld WITH AMENDMENTS**

**Observations**

APPEAL AGAINST ENFORCEMENT NOTICE:

The Inspector has fully supported the Council's actions on legal grounds and supported our concern on amenity issues. He has however, suggested a simpler way of addressing the concern, one which I had felt might be open to a criticism of ambiguity, and which we will now have to interpret to ensure full effect to the Inspector's decision.

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## Appeal Decision

Site visit made on 8 March 2016

by **Mrs A Wood DipArch MRTPI**

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

Decision date: 24 March 2016

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**Appeal Ref: APP/V2255/D/15/3139729**  
**226 Chequers Road, Minster on Sea, Kent ME12 3SJ**

- 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 and Mrs P Sumner against the decision of Swale Borough Council.
  - The application Ref:15/506335/FULL, dated 4 August 2015, was refused by notice dated 20 October 2015.
  - The development proposed is first floor side extension to dwelling and balcony, amend elevations of conservatory permitted under application SW/15/502989/FULL.
- 

### Decision

1. The appeal is allowed and planning permission is granted for first floor side extension to dwelling and balcony, amend elevations of conservatory permitted under application SW/15/502989/FULL at 226 Chequers Road, Minster on Sea, Kent ME12 3SJ, in accordance with the terms of the application, Ref: 15/506335/FULL, dated 4 August 2015, subject to the following conditions:
  - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
  - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 539/PL/02, 539/PL/05, 539/PL/06, 539/PL/07, 539B/P/03, and 539B/P/03A.
  - 3) 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.
  - 4) The development hereby permitted shall not be brought into use until a 1.8m high obscure glazed panel is installed on the side boundary on the eastern side of the first floor balcony. The panel shall thereafter be permanently retained as installed.

### Main Issue

2. The main issue is the effect that the proposal would have on the appearance of the existing building and on the character and appearance of the surrounding area.

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

Appeal Decision APP/V2255/D/15/3139729

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### Reasons

3. The appeal property lies in a countryside location and is subject to the restrictive Policy E6 of the Swale Borough Local Plan 2008. The policy aims to protect and, where possible, enhance the quality, character and amenity value of the Borough's wider countryside. To those ends, development in the countryside would only be permitted in the limited circumstances listed in the policy. Modest extensions to buildings already in residential use features in the list. Policy RC4 reiterates that only modest extensions to dwellings in the rural area will be permitted, and such extensions are expected to be of an appropriate scale, mass and appearance to the location.
4. Alterations and extensions to existing buildings are subject to the criteria listed in Policy E24. The list is short but addresses considerations of high quality design, scale, compatibility with surroundings and residential amenity.
5. The Council's Supplementary Planning Guidance (SPG) seeks to restrict extension to a property in the rural area to 60% of its original floorspace. The SPG dates back to 1993, so its relevance in the context of current planning policies is questionable.
6. The National Planning Policy Framework (NPPF) is also concerned with achieving high quality design responding to local character and reflective of the identity of local surroundings and materials. It is in those terms that I am applying the policies mentioned earlier, and Policies E1 (general development criteria) and E19 (achieving high quality design and distinctiveness), rather than the prescriptive approach recommended in an outdated guidance. Though, it must be said that even the SPG allows for flexibility to suit particular circumstances. The emerging Local Plan is currently under consideration and so carries limited weight. In any case, the relevant policies referred to in the evidence are similar to those in the adopted Plan.
7. The proposal would extend the property at first floor level by approximately 4.5m. It would also provide accommodation at ground floor level in place of the conservatory granted permission under application ref: SW/15/502989/FULL. As with the permitted scheme, the appeal proposal would entail demolition of a garage at the front and a single storey extension on the eastern side of the property.
8. The dwelling was originally a small bungalow with a floor area of approximately 75 sqm. It has been the subject of a number of applications since 1985 and now has a floorspace of some 153.5 sqm. The scale of increase of 105% could not by any means be described as modest. With the appeal scheme in place, the dwelling would have grown in size by some 180% over the original. But in itself that should not be held against the scheme, given the circumstances of the building's current appearance and the site context, as I explain below.
9. As it currently stands, the building is a mismatch of flat-roofed extensions to the rear and side, with what appears to be the original bungalow discernible only at the front. Even then, the front is poorly proportioned with a top-heavy roof in which the two existing dormer windows appear out of scale with the remainder of the roof.
10. The appeal scheme would transform the appearance of the building by drawing together disparate forms under a single roof extending over an elongated first



Appeal Decision APP/V2255/D/15/3139729

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floor. In my view, the result would be a much more coherent and balanced front elevation, albeit at the expense of further increasing the size of the original bungalow. Consistency of window and door styles and a glass fronted balcony extending across the rear would further unify and upgrade the building's appearance, particularly when viewed from the rear. The scheme would result in a design of high quality but without markedly altering the overall scale of the building or the amount of accommodation to be provided.

11. Looking at impact on the surrounding area. Improvements to the appearance of the existing dwelling would be apparent when viewed from the street. That would have a beneficial visual impact far outweighing the effects of seeing the additional accommodation at first floor level. The extended first floor would not look out of place, given the size of neighbouring buildings either side of the appeal property and others in the near vicinity. Furthermore, without any significant changes to the scale of the existing building, the proposal would no more intrude on the character of the countryside or views from it than is presently the case.
12. In the light of my observations, it follows that the proposal would meet the policy requirements of achieving high standards of design and consistency with context. For the reasons given, which are very specific to the circumstances of this case, I do not believe that allowing the appeal would undermine the Council's countryside policies.
13. To sum up, the proposal for extending and altering the existing property would have a beneficial impact on its appearance and would not harm or impose upon the streetscene or the countryside in which it is situated. The fact that a less attractive or bulkier scheme might be achieved by using permitted development rights has no bearing on the consideration of the merits of the scheme before me.
14. The Council's written evidence confirms that the neighbours' living conditions would not be adversely affected by the development. Provided that measures are secured to obscure views from the side of the balcony, I agree with the Council on that point. None of the other matters raised is sufficient to alter the balance of my considerations or the conclusion that the proposal would be acceptable in terms of the main issues identified. The breach with the 'modest' element of Policies E6 and RC4 is justified on the basis of the wider improvements that the proposal would bring to the appearance of the property. In all other respects it would accord with the development plan and should be allowed.
15. Turning to conditions, the time limit imposed is standard. The development is to be undertaken in accordance with the approved plans, in the interest of certainty. External materials to match the existing are necessary to ensure that the works of alteration and extension fit in with the existing building. To protect neighbours' privacy, a 1.8m high obscured side panel to the eastern part of the balcony should be installed and permanently retained. Conditions are imposed accordingly to secure these items.

*Ava Wood*  
Inspector

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## Appeal Decisions

Site visit made on 14 March 2016

by Mrs H M Higenbottam BA (Hons) MRTPI

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

Decision date: 13 April 2016

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**Appeal A: APP/V2255/C/15/3062068**

**Appeal B: APP/V2255/C/15/3062069**

**1 New Houses, Broom Street, Graveney, Faversham, Kent ME13 9DW**

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
  - Appeal A is made by Mrs Sarah Jefferys and Appeal B by Mr Brian Jefferys against an enforcement notice issued by Swale Borough Council.
  - The notice was issued on 6 May 2015.
  - The breach of planning control as alleged in the notice is 'Without planning permission, the insertion of a rooflight window in extension not shown on plans granted under application SW/12/0987.'
  - The requirements of the notice are:
    - (i) Remove the rooflight window from the extension;
    - (ii) Restore the roof as shown on the original plans on application SW/12/0987;
    - (iii) Remove any materials or debris caused by compliance with (i) above.
  - The period for compliance with the requirements is 3 months.
  - The appeal is proceeding on the grounds set out in section 174(2) (c) and (f) of the Town and Country Planning Act 1990 as amended.
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### Decisions

1. It is directed that the enforcement notice is corrected by
  - The deletion from paragraph 3 of the words 'in extension not shown on plans granted under application SW/12/0987' and the substitution therefore of the words 'on the western roof slope of the rear extension' in paragraph 3;

And varied by

- The deletion in paragraph 4 of the whole of the requirements (i), (ii) and (iii) and the substitution therefor of the following:
    1. The rooflight window shall be obscure glazed; and
    2. The rooflight window shall be non-opening.
2. Subject to these corrections and variations Appeals A and B are dismissed and the enforcement notice is upheld.

### Preliminary Matters

3. The Town and Country Planning (General Permitted Development) (England) Order 1995 as amended (1995 GPDO) has now been replaced by the Town and
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Appeal Decisions APP/V2255/C/15/3062068 & 3062069

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Country Planning (General Permitted Development) (England) Order 2015, which came into force on 15 April 2015. However, it was in force at the time the works in question are said to have taken place and is therefore the relevant Statutory Instrument for the purposes of my decision.

#### **The Notice**

4. The appeal property is an end of terrace two storey dwelling with accommodation in the roof space. The other two properties within the terrace are No 2 and Wayside. It is clear from the evidence submitted by both parties that the rooflight window attacked by the Notice is on the west roof slope of the rear extension granted under reference SW/12/0987, facing towards No 2 and Wayside. For the sake of clarity I will correct the allegation to 'Without planning permission, the insertion of a rooflight window on the western roof slope of the rear extension.'

#### **Appeal on ground (c)**

5. In appealing on ground (c), the burden of proof is firmly on the appellants to demonstrate on the balance of probabilities that the matters stated in the enforcement notice do not amount to a breach of planning control.
6. Planning permission was granted for a two storey side and rear extension at the appeal property under reference SW/12/0987. There is no rooflight window shown on the approved plans of that permission on the western roof slope of the rear extension. The appellants state that the extension was constructed between April and July 2013 and it was substantially complete in July 2013 pending the manufacture and installation of a bespoke heating system. In August 2013 re-plastering and decorating continued in the existing property. In September 2013 the appellants appointed Mr John Bush to do further work on the internal loft space including the installation of the window. A letter from BJH Bush Estate Management confirms these dates. Assent Building Control have confirmed that the two storey side and rear extensions were substantially complete in July 2013.
7. The Council record in their statement that information was received in the summer of 2014 that a 'velux' window had been inserted into the recently built two storey side and rear extension and the window was clear glazed and capable of opening.
8. The rooflight window the subject of the Notice when inserted into the western roof slope of the rear extension was clear glazed and capable of being opened. It was not shown on the plans granted planning permission under reference SW/12/0987. As such, it did not benefit from an express grant of planning permission.
9. Class C of Part 1 of Schedule 2 to the 1995 GPDO grants deemed planning permission for any other alterations to the roof of a dwellinghouse. The rooflight window is located on a roof slope forming a side elevation of the dwellinghouse and at the time it was inserted it was clear glazed and openable and less than 1.7m above the floor of the room in which the rooflight window was installed. As such, it failed to comply with Conditions C.2 (a) and (b) of Class C.
10. Therefore, whether or not the rooflight window was inserted as a separate building operation after the construction of the extension granted express

Appeal Decisions APP/V2255/C/15/3062068 & 3062069

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planning permission it failed to comply with the relevant conditions of Class C of Part 1 of Schedule 2 of the 1995 GPDO and thus required planning permission. As such, the appeals on ground (c) fail.

**Appeal on ground (f)**

11. This ground of appeal is that the requirements of the notice are excessive and lesser steps would overcome the objections. The appellants have undertaken works to the rooflight window to fix it shut and have applied a film to the glazing to obscure it. They consider that this addresses the overlooking issue with the adjacent occupiers and with these alterations to the rooflight it would be allowable 'under permitted development' and it is excessive to require its removal.
12. The Council state that if an application to retain the rooflight window had been made it would be likely to be supported subject to conditions being imposed to require obscure glazing and fixed nature of the window. In its view without such conditions the window could become unfixed and clear glazing installed with impunity thus causing demonstrable harm to residential amenity. Local residents have also stated that the rooflight window has resulted in loss of privacy.
13. The purpose of the notice is therefore to remedy any injury to amenity. I consider that a clear glazed and openable rooflight window on the western roof slope results in significant overlooking and loss of privacy to the occupiers of No 2 and Wayside. However, I am satisfied that this loss of privacy can be satisfactorily addressed by varying the requirements to achieve an obscure glazed and non-openable rooflight window.
14. Section 181 of the Act provides that compliance with an enforcement notice does not discharge it. This means that if an enforcement notice is complied with and the development is subsequently resumed there is a contravention of the notice.
15. I will therefore vary the terms of the Notice to require the rooflight window to be obscure glazed and non-opening. The appeals on ground (f) succeed to that extent.

*Hilda Higenbottam*

Inspector

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

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