

AGENDA

PLANNING COMMITTEE MEETING

Date: Thursday, 11 February 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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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 14 January 2016 (Minute Nos. 426 - 434) 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 1 February 2016 (Minute Nos. 465 - 467) as a correct record.

1. 15/508479/FULL 75 Cliff Gardens, Minster-on-Sea, ME12 3QZ
2. 15/506728/FULL 11 Leet Close, Eastchurch, ME12 4EE

6. Deferred Item

1 - 7

To consider the following application:

15/507706/FULL – 8 Colson Drive, Iwade

Members of the public are advised to confirm with Planning Services prior to the meeting that the application will be considered at this meeting.

Requests to speak on this item must be registered with Democratic Services (democraticservices@swale.gov.uk or call us on 01795 417328) by noon on Wednesday 10 February 2016.

7. Report of the Head of Planning

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

The Council operates a scheme of public speaking at meetings of the Planning Committee. All applications on which the public has registered to speak will be taken first. Requests to speak at the meeting must be registered with Democratic Services (democraticservices@swale.gov.uk or call 01795 417328) by noon on Wednesday 10 February 2016.

Issued on Wednesday, 3 February 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

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

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DEF ITEM REFERENCE NO - 15/507706/FULL		
APPLICATION PROPOSAL Single storey rear extension. Alterations to roof to facilitate loft conversion, including half-hipped roof conversion, raising of the ridge and chimney heights, and the insertion of dormers to the front and rear with small windows in between.		
ADDRESS 8 Colson Drive, Iwade, Kent, ME9 8TT		
RECOMMENDATION – Approve, subject to the additional comments of Iwade Parish Council, and to the receipt of any additional representations		
SUMMARY OF REASONS FOR RECOMMENDATION The proposal would not give rise to unacceptable harm to residential or visual amenity, and would not seriously change the character of the existing streetscene		
WARD Bobbing, Iwade & Lower Halstow	PARISH/TOWN COUNCIL Iwade	APPLICANT Mr Harry Smith AGENT Mr Stephen Pokora
DECISION DUE DATE 30/11/15	PUBLICITY EXPIRY DATE 10/2/2016	
FOR RELEVANT PLANNING HISTORY PLEASE SEE ORIGINAL REPORT (ATTACHED)		

1.0 BACKGROUND

- 1.01 Members will recall that consideration of this was deferred at the Meeting on 14 January 2016, in order for re-consultation with neighbours and the Parish Council, together with wider consultation of local residents to take place. My original report is attached as an Appendix.
- 1.02 The Parish Council and the originally consulted neighbours (numbers 1 & 2 Mansfield Drive and numbers 6, 7, 9 and 11 Colson Drive) have been re-consulted. Additionally, no. 3 Mansfield Drive and nos. 2, 3, 4, 5, 10, 12 and 13 Colson Drive have been consulted.
- 1.03 The consultation period ends on 10 February 2016. Accordingly I will update Members at the Meeting regarding any representations received.
- 1.04 At the time of writing, 2 additional responses have been received:
- Number 11 Colson Drive raised concerns about one of the front proposed dormers and its orientation facing and imposing into the bedroom here, potentially giving rise to overlooking issues.
 - The County Archaeological Officer has confirmed that no archaeological measures are required in connection with the proposal.

2.0 APPRAISAL

- 2.01 There is an approximate 14m gap between numbers 8 and 11 Colson Drive. Although relatively close to each other, the proposed dormers would sit higher than the windows at number 11, and would not project any further forwards than the existing dwelling. I therefore take the view that the proposal would not give rise to any significant additional overlooking issues further to those which already occur.

3.0 CONCLUSION

3.01 My recommendation therefore remains as per the attached report, subject to the receipt of any further representations, including the comments of Iwade Parish Council prior to the closing date of 10th February. Accordingly I recommend that planning permission should be granted.

4.0 RECOMMENDATION – GRANT Subject to the following conditions:

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

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

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

Reasons: In the interests of visual amenity.

(3) The development hereby approved shall be carried out in accordance with the amended drawing PEP-396-02.

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

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.

APPENDIX

Planning Committee Report – 14 January 2016

ITEM 2.2

2.2 REFERENCE NO - 15/507706/FULL		
APPLICATION PROPOSAL Single storey rear extension. Alterations to roof to facilitate loft conversion - hip to gable conversion, raising of ridge height, dormers to front and rear and chimney height increased.		
ADDRESS 8 Colson Drive, Iwade, Kent, ME9 8TT		
RECOMMENDATION - Approve		
SUMMARY OF REASONS FOR RECOMMENDATION The proposal would not give rise to unacceptable harm to residential or visual amenities, and would not seriously change the character of the existing street scene.		
REASON FOR REFERRAL TO COMMITTEE At the request of Councillor Ben Stokes.		
WARD Bobbing, Iwade & Lower Halstow	PARISH/TOWN COUNCIL Iwade	APPLICANT Mr Harry Smith AGENT Mr Stephen Pokora
DECISION DUE DATE 30/11/15	PUBLICITY EXPIRY DATE 25/11/15	

1.0 DESCRIPTION OF SITE

- 1.01 8 Colson Drive is a two storey detached dwelling situated on the corner of Colson Drive and Mansfield Drive.
- 1.02 The property has a small frontage with a narrow band of landscaping and a side gate leading to the rear.
- 1.03 There is a generous amount of private amenity space to the rear including a landscaped garden and a detached garage with hardstanding parking leading up to it. This can be accessed via double gates in Mansfield Drive.
- 1.04 The surrounding buildings are a mixture of detached, semi-detached and terraced properties, including flats and a business premises, of varying designs and sizes. Adjacent to the host property is a pair of semi-detached houses.

2.0 PROPOSAL

- 2.01 The proposal seeks planning permission for the erection of a single storey rear extension and a hip to gable roof conversion to facilitate a loft conversion.
- 2.02 The extension at ground floor level would have a rear projection of 2.8m and would be 5.7m in width with a flat roof measuring 3.1m in height. Materials would match the existing house.
- 2.03 The roof conversion would increase the ridge height from 7.55m to 9.1m with a chimney height of 9.9m. There would be 2 small pitched roof dormer windows on each of the front and rear elevations, measuring approximately 1.5m width x 2.2m maximum height, with a small window in between. Materials would match the existing house.
- 2.04 The drawings have been amended, and originally showed a poorly designed flat roof box-dormer window to the rear.

3.0 SUMMARY INFORMATION

	Existing	Proposed	Change (+/-)
Approximate Ridge Height (m)	7.55	9.1	+1.55
Approximate Eaves Height (m)	4.6	5.5	+0.9

4.0 PLANNING CONSTRAINTS

4.01 Potential Archaeological Importance

5.0 POLICY AND OTHER CONSIDERATIONS

5.01 The National Planning Policy Framework (NPPF) and The National Planning Practice Guidance (NPPG): The NPPF and NPPG are relevant in that they encourage good design and seek to minimise serious amenity concerns.

5.02 Development Plan: Saved policies E1, E19, E24 and T3 of the adopted Swale Borough Council Local Plan 2008 are relevant in that they relate to general development criteria and design, and parking consideration.

5.03 Supplementary Planning Documents: The Council's adopted Supplementary Planning Guidance entitled "Designing an Extension" is also relevant, and remains a material consideration having been through a formal review and adoption process. The Adopted SPG entitled "Designing an Extension - A Guide for Householders", was adopted by the Council in 1993 after a period of consultation with the public, local and national consultees, and is specifically referred to in the supporting text for saved Policy E24 of the Local Plan. It therefore remains a material consideration to be afforded substantial weight in the decision making process.

5.04 National Planning Policy Framework (NPPF)

5.05 The NPPF was released on 27th March 2012 with immediate effect, however, para 214 states "that for 12 months from this publication date, decision-makers may continue to give full weight to relevant policies adopted since 2004 even if there is a limited degree of conflict with this Framework."

5.06 The 12 month period noted above has now expired, as such, it is necessary for a review of the consistency between the policies contained within the Swale Borough Local Plan 2008 and the NPPF.

5.07 This has been carried out in the form of a report agreed by the Local Development Framework Panel on 12 December 2012. Saved policies E1, E19, E24 and T3 are considered to accord with the NPPF for the purposes of determining this application and as such, these policies can still be afforded significant weight in the decision-making process.

6.0 LOCAL REPRESENTATIONS

6.01 The surrounding neighbours were sent letters notifying them of the application. One letter of objection has been received from the occupier of 6 Colson Drive, raising the following summarised points:

- The single storey rear extension would look better with a shallow pitched roof.

Planning Committee Report – 14 January 2016

ITEM 2.2

- The parking situation is at a premium on the estate with cars frequently parking on the pavements. The objector feels that an approved application could lead to an increase in cars and car parking at the site.
- 16 and 18 Colson drive have loft conversions which the objector feels look out of character.

7.0 CONSULTATIONS

7.01 Iwade Parish Council initially made no objections to the proposal.

7.02 At the request of residents, Iwade Parish Council submitted additional comments raising the following concerns:

- There is insufficient parking on site, adding to an existing parking problem.
- The narrowness of the road surrounding the property means that members are concerned as to where contractors would park and store materials. The concerns include, for example, large vehicles making deliveries, and the potential placement of a skip.

7.03 The County Archaeological Officer has confirmed that no archaeological measures are required in connection with the proposal.

8.0 BACKGROUND PAPERS AND PLANS

8.01 The application reference to which this proposal refers to is 15/507706/FULL.

8.02 The originally submitted drawing included a large box dormer to the rear. At this point, all the proposed dormers were flat roofed.

9.0 APPRAISAL

9.01 The application site is located within the defined built up area boundary of Iwade in which the principle of development is acceptable subject to amenity and other relevant policy considerations. I believe that the main considerations here are the impact of the proposal upon the residential and visual amenities of the area, including the impact upon residential parking.

Residential Amenity

9.02 Paragraph 5.7 of the Council's SPG states that:

"For single storey rear extensions close to your neighbour's common boundary, the Borough Council considers that a maximum projection of 3.0m will be allowed."

In compliance with the above, the rear extension element of the proposal would have a rear projection of just 2.8m. To the west, the extension would be partly hidden by the boundary wall, and there would remain a gap of 10m to the next property on the other side of Mansfield Drive. To the east, there would remain a 4.9m gap to the boundary with 6 Colson Drive, with a further 0.6m to the property itself. I am firmly of the view that the proposed rear extension would not harm residential amenity.

Planning Committee Report – 14 January 2016

ITEM 2.2

- 9.03 The proposed dormer windows, two on the front elevation, and two on the rear elevation, would match the existing house in terms of their placement on the building. They would not give rise to an increase in overlooking.
- 9.04 The roof conversion would include the raising of the ridge and chimney height, and the height of the flank walls of the dwelling, due to the half-hipped design of the proposed roof. However – the ridge height of the dwelling is being raised by only 1.55m. The adjacent dwelling, no.6 Colson Drive, is set back substantially from no.8. Although the increased bulk would be visible when entering and existing the property, I do not consider that this would provide significant additional overshadowing further to that which already occurs, given the siting of the properties. No significant harm would occur to either the dwellings opposite or the dwelling to the rear, which is over 19m from the dwelling the subject of this application.

Visual Amenity

- 9.05 The single storey rear extension would be flat roofed and built in materials to match the existing house. Although a pitched roof would be preferable, I do not consider this to amount to a reason for refusal. The extension would not be prominent in views from public vantage points, and I do not consider that harm to the character and appearance of the dwelling or the wider area would result from this proposal..
- 9.06 The proposed dormer windows are now acceptably designed, featuring pitched roofs, and a vertical emphasis. They comply with the SPG and are in my view acceptable.
- 9.07 The alterations to the roof would result in a bulkier design for the dwelling, and I note that they would include a flat roofed element to the dwelling. However – this would not be readily discernible in views of the dwelling from public vantage points, and the dwelling would, in my view, retain its traditional appearance.
- 9.08 The increase in height would not in my opinion cause significant harm to the character of the area.

Parking

- 9.09 The parking requirement for the dwelling would remain the same – 2 off street spaces are required for 3 and 4+ bedroom dwellings. As such, there would be no harm to highway safety or convenience in this regard.
- 9.10 Concern has also been raised about the potential for large vehicles making deliveries in these narrow roads, and where the likes of materials and skips would be stored. This is not a material consideration here, and would amount to a short term inconvenience rather than an ongoing problem.

10.0 CONCLUSION

- 10.01 The proposal would not in my view give rise to harm to residential or visual amenity, or to highway safety and convenience. I therefore recommend that planning permission is granted.

11.0 RECOMMENDATION – GRANT Subject to the following conditions:

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

Planning Committee Report – 14 January 2016

ITEM 2.2

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

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

Reasons: In the interests of visual amenity.

- (3) The development hereby approved shall be carried out in accordance with the amended drawing PEP-396-02.

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

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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SWALE BOROUGH COUNCIL

PLANNING SERVICES

Planning Items to be submitted to the Planning Committee

11 February 2016

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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

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 – 11 FEBRUARY 2016

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- Deferred Items
- Minutes of any Working Party Meetings

Deferred Items

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<u>Part 2</u>			
2.1 Pg 8 - 15	15/509905/FULL	MINSTER	Parcel 4 Thistle Hill Dev Site
2.2 Pg 16 - 40	15/508025/REM	MINSTER	Former HBC Engineering Site
2.3 Pg 41 - 43	15/510316/LBC	IWADE	Iwade Barn 20 All Saints Close
2.4 & 2.5 Pg 44 – 49	15/509861/FULL & 15/509862/LBC	DUNKIRK	Radio Transmittor Courtenay Road
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5.5 Pg 230 - 231	FAVERSHAM	13 Briton Road

PLANNING COMMITTEE – 11 FEBRUARY 2016

PART 2

Report of the Head of Planning

PART 2

Applications for which **PERMISSION** is recommended

REFERENCE NO - 15/509905/FULL			
APPLICATION PROPOSAL			
Non compliance with condition (2) of planning permission SW/14/0109 (Variation of condition (2) of planning permission SW/12/1103 to allow a further 1 year to construct retail units (until 1st January 2016)) to permit further time.			
ADDRESS Parcel 4 Thistle Hill Development Site Thistle Hill Way Minster-on-sea Kent			
RECOMMENDATION - Approve			
SUMMARY OF REASONS FOR RECOMMENDATION			
Construction of the required retail units on this site has not progressed in accordance with conditions on previous planning permissions, and is unlikely to do so in the short-term due to uncertainty over neighbouring retail applications.			
REASON FOR REFERRAL TO COMMITTEE			
Parish Council objection and previous Member involvement.			
WARD Sheppey Central	PARISH/TOWN COUNCIL Minster On Sea	APPLICANT Bovis Homes Ltd AGENT Bovis Homes Limited	
DECISION DUE DATE 18/01/16	PUBLICITY EXPIRY DATE 15/01/16	OFFICER SITE VISIT DATE Various	
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):			
App No	Proposal	Decision	Date
15/504250/FULL	The erection of 1 No. Class A1 retail unit of 551 sqm (gross internal) and 1 No. unit of 95 sqm (gross internal) for use as A1/A2/A3/A4 or A5, 34 car parking spaces, associated landscaping, service area and plant compound.	Approved	25.08.2015
SW/14/0109	Variation of condition (2) of SW/12/1103 to allow an additional year for completion of retail element, until 1 st January 2016.	Approved	11.04.2014
Condition (2) extended the period for completion of the retail units until 1 January 2016.			
SW/12/1103	Variation of condition (3) of planning permission SW/10/0240 to allow a further 2 years to construct retail units.	Approved	12.11.2012

Condition (2) extended the period for completion of the retail units until 1 January 2015. (The community hall was under construction by this stage, in accordance with SW/10/0240.)			
SW10/0240	Variation of conditions to permit further time to complete the community hall and retail elements of village centre (minor amendment to approval application SW/09/0812).	Approved	10.05.2010
Conditions (2) and (3) required the community hall and retail units to be provided by 1 July 2011 and 1 January 2013, respectively.			
SW/09/0812	Variation of conditions to permit further time to complete the community hall and retail element of village centre.	Approved	17.12.2009
Conditions (3) and (4) required the community hall and retail units to be provided prior to occupation of 1000 units, or 1 January 2013, whichever came sooner.			
SW/02/0646	Variation of condition (2) of SW/95/102 to extend the time for the submission of reserved matters.	Approved	22.07.2002
This approval extended the deadline for submission of reserved matters applications to 10 years from the date of the outline approval (i.e. until 12 September 2005).			
SW/95/0102	Outline permission for housing, retail, primary school, hotel and supporting development.	Approved	12.09.1997
Outline permission for the wider Thistle Hill, Kingsborough manor and Norwood Manor developments, including provision of a retail element on the current application site. Condition (viii) required reserved matters applications to bring forward <i>“a total retail provision not exceeding 1858 square metres nett retail floorspace to be provided in at least two units of varying size.”</i>			
Condition (ii) required submission of reserved matters within 6 years from the date of approval.			

MAIN REPORT

1.0 DESCRIPTION OF SITE

- 1.01 The application site is a parcel of vacant land situated in the centre of the Thistle Hill development, within the built up area of Minster. The land is irregularly shaped and measures approximately 55m x 50m. To the north is an area of open ground (football pitch); northwest is Minster village hall; and to the south west, south and east are residential properties on Dahlia Walk and Aspen Drive.
- 1.02 The land is currently surrounded by Heras fencing and part is being used for storage of materials in association with local construction works on land to the south (part of the general Thistle Hill development).
- 1.03 Dahlia Walk is currently open to traffic but is due to be pedestrianised as per the S52 highway works agreed under SW/95/0102, which granted outline permission for the Thistle Hill development.
- 1.04 There are numerous subsequent applications for reserved matters and compliance with conditions for Thistle Hill (as above), the most relevant of which is SW/07/0602 which granted permission for erection of dwellings, two separate retail units (on the current site), a community hall (recently completed) and health centre on the land forming the current application site and surrounding streets. The committee report for that application notes:

“Within the Design and Access Statement under Concept Design Principles it states:

“The centre will be focused around a strong pedestrian boulevard running east-west. The purpose of this axis is both to ensure good pedestrian connectivity between the east and west parts of the site and create a focal central area well fronted by the public buildings and facilities creating a distinct “sense of place”. The western entrance to the boulevard will be well defined by landmark buildings – creating a clear entrance to the village centre. To the east the opportunity exists for a focal space fronted by key shops and/or services – with landmark buildings/elements which again clearly distinguish the start of the village centre.

The proposed accommodation for the Village Centre is dispersed along the central boulevard with frontage features onto the boulevard. The Village Hall is located adjacent both to the boulevard and football pitch – its hall and associated activities therefore clearly part of the main village spine, its changing rooms servicing the football pitch. The Hall is accessed just off the boulevard whilst the changing facilities have a separate entrance to the north for direct access from the football pitch.

The retail outlets are proposed between the boulevard and the football pitch allowing the rear retail servicing area to be located away from the public pedestrian realm.”

- 1.05 In August last year application 15/504250/FULL granted permission for the erection of 1 No. Class A1 retail unit of 551 sqm (gross internal) and 1 No. unit of 95 sqm (gross internal) for use as A1/A2/A3/A4 or A5, 34 car parking spaces, associated landscaping, service area and plant compound.

2.0 PROPOSAL

- 2.01 This application seeks to vary condition (2) of planning permission SW/14/0109 to allow an additional two years in which to construct the required retail units.
- 2.02 The application is accompanied by a covering letter which notes that construction has not yet commenced due to previous market circumstances leading to a lack of interest from retailers, and the developer not wishing to construct the buildings only for them to remain empty. There was interest in the site from a national retailer last year however, leading to submission (and approval) of 15/504250, but the matter has been complicated by submission of the Asda application in respect of land at Plover Road (see 8.02 below) which has caused the interested retailer to hold-off from completing the sale.
- 2.03 The covering letter is attached as an appendix to this report, and further explains the background and reasons for this application.

3.0 SUMMARY INFORMATION

	Proposed
Site Area (ha)	0.28ha
Number of jobs	Approx. 20FTE (based on 15/504250)

4.0 PLANNING CONSTRAINTS

- 4.01 The site is within an area of potential archaeological importance, but it is noted that archaeological works have taken place under the subsequent discharge of conditions applications for SW/95/0102 and substantial groundworks have been carried out on the site and within the surrounding area as part of recent development.

- 4.02 The site is also subject to S106 and S52 legal agreements under SW/95/0102, but these do not impact the current application other than with regard to vehicle movements / access on Dahlia Walk.

5.0 POLICY AND OTHER CONSIDERATIONS

- 5.01 The National Planning Policy Framework (NPPF) and National Planning Practice Guidance (NPPG) both encourage sustainable economic development provided that it would not give rise to serious amenity concerns.
- 5.02 Policies E1 (development criteria), E19 (high-quality design), B2 (new employment), B4 (new retail development), T3 (vehicle parking) and T4 (cyclists and pedestrians) of the adopted Swale Borough Local Plan 2008 are relevant, and considered to be in accordance with the NPPF.
- 5.03 Policy A7 in the emerging Local Plan, Bearing Fruits 2031, allocates the undeveloped parts of Thistle Hill for further housing “bringing the total to around 1700” dwellings.

6.0 LOCAL REPRESENTATIONS

- 6.01 None.

7.0 CONSULTATIONS

- 7.01 Minster Parish council objects, commenting:

“In view of the discussion with the Developer about the complexity and uncertainty of the (retail) environment and current / ongoing application for a second retail site (the Asda proposal) supporting the latest extension of time by Bovis would serve no useful purpose with no clear benefit for the community other than further complicating the situation. On this basis, Minster-on-Sea Parish Council would like Swale Borough Council to consider recommending refusal of the variation of condition”. A Member described this as a 'Catch 22' (a dilemma / difficult circumstance from which there is no escape because of mutually conflicting / dependent conditions). Two councillors abstained from the vote being Cllr. Jayes and Cllr. Ingleton.”

8.0 BACKGROUND PAPERS AND PLANS

- 8.01 The application is supported by a covering letter (attached as appendix), and the above-noted historic applications are relevant.
- 8.02 Also of relevance is application reference 15/505670/FULL, which seeks permission for erection of a 1366 sq.m (GIA) foodstore (A1) and four small retail units within Class A1, A2, A3, A5, and D1 (186 sq.m GIA in total) together with associated access, car parking, service yard and plant, click and collect facility, trolley bays and landscaping on land at Plover Road, approximately 400m to the northwest of the current application site. (Known as the Asda application.) The application is currently being considered by officers.

9.0 APPRAISAL

- 9.01 This is a difficult application to judge, in my opinion. On one hand it is clear that the Council has been waiting many years for the retail element of the Thistle Hill development to come forward and further delays to its provision would not be in the

interest of local residents, who currently have to commute some distance (to Minster, Neatscourt or Sheerness) for their shopping. Furthermore the recent interest in the site from a national retailer, and the submission and approval of 15/504250/FULL, indicates that the market is improving and lends some weight to the argument for not extending the period for compliance.

- 9.02 On the other hand I can see the developer's logic in not pushing ahead with construction while there is no definite end-user in sight. While not a certainty, it could result in the building lying empty for an indeterminate period which would be a poor outcome for residents in terms of appearance and local amenity, and also the potential for anti-social behaviour.
- 9.03 Similarly: the submission of the Asda application (ref. 15/505670) will, it could be argued, impede the progress of development here for the moment. Somewhat understandably, in my opinion, the previously-interested retailer is concerned in regards to competition from a larger retail floorspace offering in very close proximity to this site. Whilst planning can't take competition into account it clearly has a tangible impact on the likelihood of this site coming forward in the short term (if the Asda scheme were to be refused it could realistically be over a year before any subsequent appeal was concluded). This lends further credibility to the notion that, if built, a unit might remain empty for some time – at least until a decision over the Asda application had been reached.
- 9.04 With this in mind, I consider that it would be appropriate to approve this application and allow a further two years for compliance with the conditions / erection of the retail unit. In a worst case scenario this would allow for determination of the Asda application and, if it was subsequently determined that the current site could no longer attract a retail occupant, enable officers to engage the developer in discussions as to alternative uses for this site.
- 9.05 This would, in my opinion, be preferable to taking enforcement action to force the developer to build the units (and it should be noted that the deadline for completion has already passed, being 1 January this year) and facing the – very real, in my opinion – likelihood of those units being empty for a prolonged period. In this regard I do not agree with the Parish Council's comments that the developer should be held to the current schedule.

10.0 CONCLUSION

- 10.01 Construction of the required retail units on this site has not progressed in accordance with conditions on previous planning permissions, and is unlikely to do so in the short-term due to uncertainty over neighbouring retail applications.
- 10.02 I consider that extending the deadline for provision of the units would allow some flexibility in terms of the site's future, and avoid the erection of units that may remain unoccupied for some considerable period of time.
- 10.03 Taking the above into account I recommend that planning permission should be granted, and the period for erecting the retail units extended until 1 January 2018.

11.0 RECOMMENDATION – GRANT Subject to the following conditions:

- (1) The development pursuant to this permission shall be in accordance with the approved development brief for the site, and shall include total retail provision not

exceeding 1858 square metres net retail floor space to be provided in at least two units of varying size.

Reasons: To ensure the development delivers appropriate retail facilities.

- (2) The retail development identified in condition (1) above and in condition (6) of planning permission SW/04/1058 shall be completed by 1 January 2018.

Reasons: To ensure the development delivers the retail facility within a reasonable timescale, and in accordance with outline application SW/04/1058 and the approved development brief of December 2009.

- (3) The development carried out pursuant to this permission and the details approved under reserved matters application SW/07/0602 shall include the submission of an Energy Performance Certificate which sets out the energy performance of the building(s) to be constructed. Development shall be carried out in accordance with the approved details and retained in such a form unless otherwise agreed in writing by the Local Planning Authority.

Reasons: In the interests of promoting energy efficiency and sustainable development.

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



Bovis Homes Limited
Eastern Region
The Manor House
North Ash Road
New Ash Green
Longfield, Kent DA3 8HQ
Telephone: 01474 876200
Facsimile: 01474 876201
DX: 41950 New Ash Green 2

Director of Development Services
Swale Borough Council
Swale House
East Street
Sittingbourne
ME10 3HT

19th November 2015



15/509905 -

15/509905

Dear Sir

Retail Site, Parcel 4, Thistle Hill, Minster, Sheppey, Kent.

Please find enclosed a planning application seeking to address non-compliance with a condition of the extant consent for the construction of the retail units within the Village Centre at Thistle Hill. The extant permission requires the retail development to be completed by 1st January 2016.

For clarification, this application is seeking to extend the time limit for the construction of the retail units permitted as reserved matters approval (SW/145/0109) as part of the original outline planning permission which was been subsequently renewed under reference SW/04/1059.

The retail site, which is owned by Bovis Homes (acquired in 2013), now has the benefit of a detailed planning permission granted earlier this year (15/504250/FULL). This scheme was designed specifically to meet the requirements of the proposed end user, a national supermarket and convenience store operator. This was a speculative application by the prospective developer and purchaser of the site, following an agreement for the sale, for which both parties had instructed solicitors. Unfortunately this sale agreement has not yet been concluded.

You will be aware that the extant reserved matters permission has been extended in the past and on each occasion, with the exception of the last extension, the application was supported by a report highlighting the lack of interest in retail floor space in this location. However, in 2014 the commercial climate had changed and a developer expressed interest in the site with the backing of a national retailer. Bovis Homes believed that this interest would lead to contracts being exchanged and a planning application for retail development being submitted during 2014. Whilst terms were agreed, solicitors were instructed and a detailed speculative application (to the end users specification) was approved, contracts have not yet been exchanged.



Registered Office: The Manor House, North Ash Road,
New Ash Green, Longfield, Kent DA3 8HQ
Registration Number: 397634 Registered in England

The reason why matters have not progressed beyond this point is the submission of a planning application for an alternative retail proposal, yet to be determined, on a site which is allocated for housing, in Plover Road only some 400 metres from the Village Centre. It is unlikely that the future of the Thistle Hill Village Centre Retail Site will be resolved until the competitor application is determined, the timescale within which an appeal can be lodged has lapsed and the time period for Judicial Review has expired. This being the case, it is unlikely that the Village Centre Retail Units will be constructed before the end of 2017. Consent is therefore being sought to extend the time period for the construction of the Village Centre Retail Units. This application is therefore seeking an extension of time of two years beyond the current date of 1st January 2016.

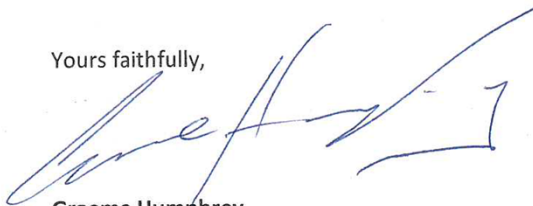
Whilst the planning system is unable take commercial matters fully into account, the present position is that the existence of an alternative retail proposal (the planning application on the Plover Road site), is affecting the full commitment of a national convenience store operator to the Village Centre.

The Village Centre retail building with the benefit of Bovis Homes Reserved Matters approval was obtained without the involvement of an end user due to the lack of commercial interest. Whilst it is far better for a retail building to be designed specifically with the end user in mind this was not an option at the time. This building could be progressed to the construction stage in order to satisfy the conditions of the planning permission, but without retail interest the building would be vacant and boarded up until an end user is found. This is clearly an illogical and counterproductive action to take. It is essential that an end user or users are known prior to the final details being progressed, submitted and a construction programme agreed.

With the submission of, the now approved detailed stand-alone retail planning permission, which was progressed speculatively, but with a specific end user in mind, it was hoped that construction of a convenience store in the Village Centre could have commenced and that there would be no need for this S.73 extension of time application. However, Bovis Homes finds itself in a position where an alternative proposal on an allocated housing site (Plover Road) is affecting the full commitment of a retailer to the Village Centre Retail Site.

I trust the submitted information is adequate to allow this application to be determined. Should you require any additional information please do not hesitate to contact me.

Yours faithfully,



Graeme Humphrey
Area Project Director

15/509905-

Encs;
Application Fee
4 No. copies of
 Planning Application Forms
 Ownership Certificate
 Site Plan SHEP VC RS
 Planning Permission SW/14/0109

REFERENCE NO - 15/508025/REM			
APPLICATION PROPOSAL Approval of Reserved Matters for residential redevelopment of 142 dwellings together with access roads, footpaths, drainage, associated car/bicycle parking provision, groundwork's, landscaping, open space and infrastructure (all matters being sought except access).			
ADDRESS Former HBC Engineering Site Power Station Road Minster-on-sea Kent ME12 3AB			
RECOMMENDATION – Approve subject to further negotiations to secure improvements to the design of the block of flats; receipt of additional drawings addressing blank flank elevations; and receipt of comments and any further conditions recommended by the County drainage officer.			
SUMMARY OF REASONS FOR RECOMMENDATION Proposed layout, design, scale and landscaping are considered acceptable.			
REASON FOR REFERRAL TO COMMITTEE Parish Council and local objections.			
WARD Minster Cliffs	PARISH/TOWN COUNCIL Minster On Sea	APPLICANT Persimmon Homes South East & TBH (Sheerness) Ltd AGENT Victoria Swift	
DECISION DUE DATE 04/01/16	PUBLICITY EXPIRY DATE 04/01/16	OFFICER SITE VISIT DATE Various	
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):			
App No	Proposal	Decision	Date
14/500561	Outline Planning permission (all matters except access reserved) - Residential redevelopment with provision of associated vehicular and pedestrian access, open space, drainage and services. The decision notice is appended.	Approved	10.03.2015
The development would amount to the provision of new residential dwellings within the defined built up area boundary, on a site identified by the SHLAA for residential development, and in a sustainable location, without giving rise to any serious amenity concerns. As such the proposal was considered to be in accordance with adopted local and national policies.			
SW/11/0915	Redevelopment of site to provide retail supermarket (Class A1) and petrol filling station.	Refused	2012
Planning permission was refused due to the cumulative negative impact of retail development on both this site and at Neats Court upon the viability, vitality and primary retail function of Sheerness town centre.			

MAIN REPORT

1.0 DESCRIPTION OF SITE

- 1.01 The application site comprises the former HBC Engineering site located on the north side of Power Station Road, at Halfway, approximately 2.5km south of Sheerness town centre and 3.5km west of Minster local centre. HBC Engineering closed approximately six years ago and the site has been vacant and derelict since. The site was cleared in 2014 further to the issuing of a demolition notice, and is now level and devoid of any structures.
- 1.02 The site extends to approximately 9.4 acres / 3.8 ha, and is enclosed by metal fencing and gates on all sides.
- 1.03 The site adjoins open countryside to the north ; to the east by Sheerness Golf Club; and equestrian stables to the north-east accessed via Drove Road.
- 1.04 To the south, across Power Station Road, lies a modern residential development accessed via William Rigby Drive (roughly opposite the proposed main central site entrance). This residential development includes a children's' play area and green open space enclosed by a low wooden fence on the western side of William Rigby Drive / south of Power Station Road, immediately opposite the application site.
- 1.05 To the west of the site there are a number of light industrial / retail warehouses, including a retail warehouse - the "Chainstore Discount Warehouse" building which is constructed from a mixture of metal cladding and brick. The units are accessed from a dedicated private access further to the west along Power Station Road. A planning application for residential development of this site was received by the Council in 2011 (reference SW/11/0366), but the application was withdrawn prior to determination.
- 1.06 The application site is accessed from Power Station Road which itself is accessed from the A250 Halfway Road, which provides direct access into Sheerness town centre . Several bus routes run along Halfway Road connecting the site with Leysdown, Eastchurch, Minster, Sheerness, Queenborough and Rushenden.
- 1.07 The site lies within the urban area and, as stated above, is a former industrial site. To the north lies an allocated regional and local site for biodiversity, known as Minster Marshes.

2.0 PROPOSAL

- 2.01 Outline planning permission (with all matters except access reserved) for the erection of up to 142 dwellings was granted in 2014 under reference 14/500561. This application seeks approval of the remaining reserved matters – appearance landscaping, layout and scale.
- 2.02 The development comprises 142 dwellings, with a mix of 2, 3, and 4 bed houses, and 2 bed flats:
- 4 bed: 35 units
3 bed: 80 units
2 bed: 16 units

2 bed flats: 11 units

Total: 142 dwellings, giving a density of approximately 37 dwellings per hectare.

- 2.03 Access to the site is via the existing main access roughly opposite William Rigby Drive. This will lead to an internal estate road which forms a roughly circular route through the site, with two cul-de-sac spurs running southwards towards Power Station Road. There will be a number of smaller cul-de-sacs leading off these main roads. None of the development is being offered for adoption by KCC Highways & Transportation. (No further access vehicle or pedestrian points can be formed onto Power Station Road due to land ownership issues – this has been discussed at length between officers and the developer.)
- 2.04 A landscaping strip will run along the majority of the southern (front) boundary of the site, and a larger area of open space / landscaping / wildlife corridor will run along the western boundary and the northern edge of the site. This will provide the required 10% open space provision for the development, and Members should note that the S106 attached to the outline permission requires financial contributions towards future maintenance and also maintenance / improvement of the existing play area on Power Station Road.
- 2.05 The proposed flats will be positioned on the site frontage, adjacent to the access. This has been specifically requested by officers (and also suggested by the Design Panel at outline stage) to create a landmark building at the entrance to the development. The building will stand a maximum of 11m high to the ridge (central section 10.5m to the ridge x 21.3m wide x 17m deep. The front elevation will be three stories in height and the rear steps down to two stories (6.7m to ridge). Resident's parking will be provided in a courtyard to the rear.
- 2.06 The proposed houses will be of a number of different designs from within the housebuilder's standard palette (Members may be aware of the Persimmon developments at Iwade, which have been done by the same developer), featuring a mix of 2 and 2.5 storey dwellings. These will make use of various external finishing materials including facing brick, render, and cladding.
- 2.07 The application has been substantially amended since it was originally received, as officers considered the layout to be unacceptable from a visual amenity standpoint. The previous layout proposed an inward-facing development, with the backs of properties facing onto Power Station Road, and the flats located centrally along the western boundary in a position that failed to contribute positively to the sense of place. The current amended drawings represent a full re-working of the scheme following meetings with the applicant and their architect.

3.0 SUMMARY INFORMATION

	Proposed
Site area	3.8ha (9.4 acres)
No. of residential units	142
No. of affordable units	11 (7.7% - as agreed under outline permission 14/500561/OUT)
No. of parking spaces	282 (inc. 25 visitor spaces)

4.0 PLANNING CONSTRAINTS

- 4.01 The entire site lies within the defined built up area, the boundary of which approximately follows the site edge. Also running along the site boundary is the line of the Important Local Countryside Gap, which encompasses all of the land to the north and east of the site, between Halfway / Minster and Sheerness.
- 4.02 The northern part of the site lies within Flood Zone 3 and the southern part of the site lies within Flood Zone 2.
- 4.03 To the north of the site (minimum 75m) is an area of designated biodiversity habitat.
- 4.04 The site lies within an area of Potential Archaeological Importance
- 4.05 These designations were considered under the outline planning permission (conditions were imposed to address them, and a concurrent application – 15/508147/SUB – seeks to discharge the details thereof) and as such they do not fall to be considered here.
- 4.02 As noted above the development is subject to a Section 106 Agreement attached to the outline permission, ref 14/500561/OUT, which secures financial contributions (£2000 per dwelling) towards local services and public open space.

5.0 POLICY AND OTHER CONSIDERATIONS

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

- 5.01 The NPPF and NPPG provide general guidance in relation to development, and encourage the provision of housing within sustainable areas, subject to consideration of issues such as local and residential amenity, highways, contamination, noise, and ecology, amongst others.
- 5.02 Furthermore: one of the key guiding principles throughout the NPPF is that of achieving sustainable development, noted at paragraphs 6 to 10, 14, 15 and 52, amongst others. One of the ways it encourages this to be achieved is through the use of previously-developed land (para. 111), such as the current application site.

Swale Borough Local Plan 2008

- 5.03 The Local Plan policies listed below are considered to be in compliance with the NPPF, except for H2 in as much as the Council does not have a five-year housing supply (although this is not a significant consideration as the site lies within the built up area and already has outline permission for residential development).
- 5.04 Policy E1 seeks to ensure that all development proposals respond to the characteristics of the site's location, protect and enhance the natural and built environments, and cause no demonstrable harm to residential amenity, amongst others. Further to this policy E19 seeks to achieve high quality design on all new developments. Policy E9 seeks to protect the "quality and character of the Borough's landscape" and is applicable to this scheme.
- 5.05 Policy H2 supports the provision of new residential development within the defined built up area boundaries and encourages providing a variety of house types and sizes to make efficient use of land, and deliver a range of housing options.
- 5.06 Policies E11 and E12 seek to protect biodiversity and ecology within the Borough.

- 5.07 Policy U1 seeks to ensure that all new developments are provided with the necessary service and utility connections, or that suitable financial contributions are paid towards their provision.
- 5.08 Policy U3 aims to ensure that all new development makes use of sustainable design, build and construction techniques in the interests of minimising and accounting for climate change.

6.0 LOCAL REPRESENTATIONS

- 6.01 Minster Parish Council initially objected to the application, commenting:

“This is over- intensive development of the site. The proposal combined with the development of the school site and the existing gridlock added to by drivers using this route to avoid congestion on the A250 Lower Road means that the impact on the already congested local highway network and public amenities will be detrimental. To resolve this, the Parish Council suggests a reduction in housing numbers to mitigate the problem of gridlock and existing traffic congestion. Further concerns include the location of the two emergency exits where accessibility control issues will lead to parking in Power Station Road. This highlights the need for parking restrictions to be installed in Power Station Road where the site of the ambulance station strengthens this argument. Members suggest these parking restrictions are applied for sooner rather than later due to the length of time it takes to process orders.”

Further to the amended plans they maintain their objection, commenting:

“Minster-on-Sea Parish Council believes the amendments are merely cosmetic with no solutions provided to mitigate the impact on the highway network or local infrastructure.

Its objection remains as before: - This is over- intensive development of the site. The proposal combined with the development of the school site and the existing gridlock added to by drivers using this route to avoid congestion on the A250 Lower Road means that the impact on the already congested local highway network and public amenities will be detrimental.

The Parish Council is disappointed that its suggestion to reduce housing numbers cannot be fulfilled as Members felt this would go some way to mitigate the problem of gridlock and existing traffic congestion.

Further concerns include the location of the two emergency exits where accessibility control issues will lead to parking in Power Station Road. This highlights the need for parking restrictions to be installed in Power Station Road where the site of the ambulance station strengthens this argument. Members suggest these parking restrictions are applied for sooner rather than later due to the length of time it takes to process orders.

If permission is granted, Minster-on-Sea Parish Council suggests a contribution should be made to improve local infrastructure including providing a footway and cycle way along the old railway line from Scrapsgate Road to Power Station Road.”

- 6.02 The Swale Footpaths Group notes that no Public Rights of Way cross the site, but that ownership and responsibility for upkeep of the public open spaces within the site will need to be clearly established.
- 6.03 19 letters of objection have been submitted by local residents, raising the following summarised concerns:
- Why is the Council consulting on an application that has already been approved [NB: the current application has not been approved – outline permission was granted in 2014 and there may be some confusion over this distinction];
 - The proposal was previously refused by Members [NB: the previous application for outline permission was approved by Members at the meeting on 11 December 2014, and the decision was issued on 10 March 2015];
 - The land should be used for alternative developments (cinema, sports / recreation facility, dentist, doctor, etc.);
 - The site should be restored to an orchard, as it was historically;
 - Any new dwellings should be positioned closer to Neatscourt and the new highway system;
 - There should be fewer dwellings;
 - Inadequate parking provision;
 - Local traffic problems – particularly congestion – will be worsened;
 - The need for improvements to local highway infrastructure;
 - The previous scheme for a Sainsbury's on the site was refused on traffic grounds [NB: that application was refused due to the retail impact on Sheerness, and not on any highway grounds];
 - Local drainage / sewage is inadequate and will be worsened;
 - No development should take place until the pumping station / sewage system has been upgraded;
 - Dwellings should be brick-built and designed to match the existing houses opposite;
 - There should be public open space along the site frontage;
 - The existing play area on Power Station Road should be upgraded to cope with additional use [NB: the S106 attached to the outline planning permission includes financial contributions towards public open space / play area maintenance]; and
 - Overshadowing and overlooking of existing properties.
- 6.05 It should be noted, however, that many of these issues relate to the principle of development – which was explored under application 14/500561. That application was approved in March 2015, granting outline permission for development of up to 142 dwellings (the decision notice is appended). Whilst all of the objections are noted, many issues can't be taken into account at this stage as the principle of development has been established, and it is now only matters of detail (layout, scale, design, etc.) that fall to be considered.

7.0 CONSULTATIONS

- 7.01 Natural England recommend that a Habitat Regulations Assessment (HRA) should be carried out, but that subject to financial contributions to the upkeep / maintenance of the SSSI "the proposal is unlikely to have a significant effect on these sites, and can therefore be screened out from any requirement for further assessment." However, planning permission – in outline form – was granted for this development in November 2014, and the current application relates to approval of reserved matters only. For this reason there is no requirement for the development to be undergo an HRA, and it would be unreasonable for contributions to be sought at this stage (the S106 agreement having been completed many months ago).

7.02 The Environment Agency has no objection, but recommends that the Lower Medway Internal Drainage Board and the Council's Environmental Health Department be involved as regards discharge of surface water and investigation of contamination on site. (Both have been consulted on the corresponding conditions application.)

7.03 The Kent County Council Flood Risk Officer comments:

"Whilst we are generally content with the outlined surface water management strategy, we are disappointed to note the incorporation of over 1000m³ of subterranean geocellular storage. We are also concerned by the reference to "a combined pumped and gravity fed piped system" in paragraph 6.24 of the applicant's Planning Statement. Pumped systems should be avoided wherever possible, and should only be exceptionally used where it can be proven that there is no alternative available that can discharge via gravity alone.

We would therefore recommend that clarification of the above is sought prior to determination. The applicant should outline why there is no alternative to geocellular tanking available, and why it may be necessary to pump the surface water generated by this development, when the land levels would suggest that it should be avoidable. It may be the case that a minor modification of the layout will permit a much more sustainable drainage scheme."

7.04 Southern Water (SW) initially commented that there was inadequate capacity in the local foul sewage network to service the development. However, the developer subsequently commissioned SW to carry out a full capacity check – this shows that the development will be connected to the sewer network to the north of the site, not to the network to the south, to which the existing housing is connected. This will ensure that the development does not seriously impact upon the foul drainage for the existing houses.

The developer has also provided additional information in regards to surface water drainage (which is by means of a SUDS pond and geocellular storage) and I await final comments from SW in this regard. I anticipate that their response will remove the necessity for condition (2), below.

7.05 Kent Police raised several concerns in regards to the original layout, further to which they met with the applicant to discuss the development with regards to including crime prevention measures in the final build. The Police have no comments in regards to amended drawings.

7.06 The Council's Environmental Health Manager raises no objection subject to appropriate investigation for potential on-site contamination, and subsequent remediation (if required). This is, however, being examined under a concurrent application (ref. 15/508147/SUB) which seeks to discharge the conditions attached to the outline planning permission, and therefore does not fall to be considered here.

8.0 BACKGROUND PAPERS AND PLANS

8.01 As noted above: outline planning permission was granted by decision notice dated 10 March 2015 for the erection of up to 142 dwellings and associated parking, open space, and landscaping under application reference 14/500561.

- 8.02 The current application is accompanied by a full suite of drawings, design & access statement, planning statement, a contamination assessment, and a phase II contamination survey.

9.0 APPRAISAL

Principle

- 9.01 The principle of development has been clearly and firmly established by the grant of outline planning permission under 14/500561. In that respect whilst I note the many letters received that object to the principle of the works on the grounds of traffic, etc. these unfortunately can't be given any significant weight as those matters were addressed at outline stage. It was clear at the outline stage that the development was "up to 142 dwellings."
- 9.02 This current application seeks to confirm the matters of detail for the way in which the development is carried out, including scale, design, layout and landscaping. It is only those matters that can be considered here.

Flats

- 9.03 The submitted layout drawing arises from substantial discussions between officers and the agent. Officers (and also the Design Panel at outline stage) considered it appropriate to position the proposed flats at the site frontage where the building will create a visual anchor and a cornerstone entrance building to the development. The flats had originally been positioned towards the centre of the site (see 2.07), but this would not have achieved as effective a streetscene, in my opinion.
- 9.04 The design of the flats is not as architecturally significant as officers were expecting, but it is not an unattractive building in itself and I do not consider that refusal of permission could be justified on design grounds. Subject to careful consideration of external materials and further exploration of potential alterations to the roof form (ideally it would step down to meet the junction, but this is not possible due to other site constraints so a change in form – perhaps to a hipped roof on the corner – may achieve a similar effect) I consider that it would be a striking landmark building that will create a distinctive and positive entrance to the development. Further improvements could also be negotiated to enliven the appearance by changes in materials, or colour and texture, or by subtle plan form changes to introduce slight setbacks on external wall planes, which would all add to visual interest.
- 9.05 In this regard I recommend that Members delegate to officers to negotiate amendments to the flat block prior to issuing a decision notice.
- 9.06 Due to the position of the flats adjacent to the access and the existing adjacent warehouse, and opposite the existing open space on Power Station Road, I do not consider that it would give rise to any serious issues of overlooking or overshadowing for existing residents. There will be a minimum of 45m between the flat block and the closest existing dwelling.

Houses

- 9.07 The proposed dwellings, as above, will be of a fairly standard design from the developer's palette. They will, however, be of a good design in themselves and sit comfortably in the streetscene, and make use of materials common to the local area

(red and yellow stock brick, red or black roof tiles, white render and dark grey composite weatherboard).

- 9.08 The southern application site boundary is located a minimum of 21m from the garden boundaries of existing dwellings on William Rigby Drive and Buddle Drive. The proposed houses, as shown on the layout, will be positioned in from the boundaries of the site (and in many cases on the far side of a new roadway) to allow room for frontage landscaping. This distance is sufficient in my opinion to ensure that development of the site would not give rise to any serious overlooking, overshadowing or loss of privacy for existing residents.
- 9.09 I consider that the proposed houses would provide a good standard of amenity for future occupants. Internal spaces are generous, and garden sizes accord with the Council's desired 10m depth (except for plots 38 and 89, but their width compensates for the short depth in my opinion) and are often very generous, particularly on the detached units.

Landscaping

- 9.10 A substantial landscaping scheme is proposed (and Members will note the detailed plans showing this that have been provided), which will help to soften views of the development from Power Station Road. The layout of the frontage buildings has been amended (again at officer's request) to have the majority of the properties facing towards Power Station Road to ensure that landscaping can be provided adjacent to the highway rather than rear garden walls / fences. A small area of fencing is required around an existing substation, but this will be bordered by planting and will not be a prominent or intrusive feature.
- 9.11 Open space is provided generally to the rear of the development, adjacent to the boundary with the countryside to the north. This was discussed at outline and pre-application stages and considered a good position as it offers a soft transition from the built form to the open countryside, and will provide a biodiversity buffer for local wildlife. A "wildlife corridor" runs up the western site boundary to provide linkages to the existing open space on Power Station Road, and biodiversity enhancements (meadow planting, hibernacula, semi wet area – see 9.13 below) are provided across the open space.
- 9.12 I have requested that the landscaping scheme be amended to provide a metal estate rail (or similar) and hedgerow along the eastern part of the site frontage (to the south of plots 104 to 112) to prevent vehicles / pedestrians having unrestricted access to the frontage properties and damaging the landscaping. I will update Members on this issue at the meeting.
- 9.13 The layout and landscaping taken as a whole are considered to be acceptable from an urban design and visual amenity point of view. The density of 37 dwellings per hectare is entirely appropriate in this location.

Drainage

- 9.14 Many local objectors refer to inadequate foul drainage within the area, and suggest that the development will exacerbate existing problems. This matter was considered at the outline stage is not a material consideration in this application for reserved matters approval. Furthermore sewer works are subject to separate legislation and can't be controlled through the planning process. However, Members may like to

know that the developer has been engaging with Southern Water in respect of upgrading local services, and have commented:

“We are to undertake another Level 2 capacity check for the development to replace the check completed in 2014 as this is now out of date. This check will be for the 142 units that are to be constructed on the former HBC factory site at Halfway, Sheppey.

From the original level 2 capacity check it was envisaged that 2 pumping stations would require upgrade works to deal with the foul water from the proposed development, these are Drove Road and Rushenden Road pumping stations. A section 98 application [for upgrading / providing new sewage infrastructure] has been put into process and we await response on both this and the level 2 capacity check.

With the adjacent Transit Works site having no planning permission currently for housing, the mains foul drainage system locally should have more capacity that was anticipated at the time the HBC outline permission was granted. Our development should only require small upgrade works as per the Feasibility Study undertaken by The Civil Engineering Practice in March 2015 (or 2014?). Any upgrade works to incorporate this other development would be at the expense of the developer of said site.

As at 7.04 above; the capacity check has now been carried out and Southern Water state there is capacity to serve the development by connecting it to the sewers to the north of the site, rather than those to the south which serve the existing housing estate. This means that there is no need to construct additional pumping stations, and the development will not seriously affect local foul drainage. I await final comments from Southern Water and anticipate that condition (2) below will no longer be required.

- 9.15 The applicant has also responded to comments from the KCC Drainage Officer in respect of surface drainage and the use of SUDS:

“As per the planning recommendations the use of a SuDS pond at the most north-easterly corner of the site has been incorporated into the design, however this pond is to be replaced by a dry basin that will allow the space to be used for amenity when rainfall is low.

Although it was intended to use open SuDS techniques such as swales and filter strips the requirement to have usable open space and the density of the development has therefore made it necessary to use sub-surface attenuation SuDS in the use of Geocellular attenuation tanks which will store the volume of surface water at extreme rainfall events. At the most extreme, this being 1 in 100 year rain event and above, the dry basin will also be used for attenuation before discharging into the existing watercourse to the north of the site.”

- 9.16 The use of a dry basin is a clever, dual-use solution, in my opinion. It will contribute towards sustainable site drainage during wet periods, whilst during dry periods it will empty and be available for use as part of the public open space within the development. Landscaping / planting will need careful consideration, however, and officers will continue to discuss this with the developer to ensure that the landscaping conditions on the outline application (see appendices) are adhered to.

- 9.17 With regards to the above I have no serious concerns in regards to drainage within the development, and also within the surrounding area. I have, however, requested further comment from the County drainage officer in respect to the above, and await their comments.

Highways

- 9.18 Many local objectors also refer to traffic problems both locally and on the Island as a whole. This was also considered and agreed at outline stage, and is referred to in the committee report for 14/500561/OUT, which is attached for reference. Whilst I do not wish to re-visit issues dealt with by that application, Members may find it useful to note that predicted vehicle movements for this development will be less than for the existing lawful industrial use of the site (including a reduction in HGVs), and considerably less than supermarket use (SW/11/0915 proposed redevelopment for a Sainsbury's supermarket, but was refused due to retail impact on Sheerness – there was no highways reason for refusal on that application).
- 9.19 The development provides parking in accordance with current Kent Vehicle Parking Standards (namely 282 spaces, of which 25 are for visitors), and I have no serious concerns in this regard. Parking would mainly be largely located in close relation to the proposed housing units, and a number of car ports are provided. Visitor parking is spotted throughout the development. Members will note the submitted Parking Plan which clearly indicates both allocated and visitor car parking.
- 9.20 I note the Parish Council's concerns in regards to the potential for parking to obstruct Power Station Road, and have discussed this with both KCC Highways & Transportation and the Council's engineers. Parking restrictions would need to be formally requested by local residents, and such an application would be unlikely to gain support unless there was an identified safety need to address. I have been informed that, at present, Power Station Road is very unlikely to qualify for any restrictions.

10.0 CONCLUSION

- 10.01 This application seeks approval of reserved matters relating to scale, design, layout and landscaping of outline planning permission 14/500561/OUT. I consider the submitted details to be acceptable.
- 10.02 I note local objections – primarily in regards to the principle of development – but they do not amount to a reason for refusal of this current application, and were addressed at outline stage.
- 10.03 Taking the above into account I recommend that Members delegate to officers to agree these reserved matters subject to further negotiation with the applicant to secure design enhancements to the block of flats, and subject to receipt of further comments and any conditions recommended by the County drainage officer.

11.0 RECOMMENDATION – GRANT Subject to the following conditions:

- (1) No development shall take place other than in accordance with the following approved plans and drawings:

RDL-PL01 B; RDL-PL02; ML-PL01 A; RDL-PL03 B; AN-PL01 A; AN-PL02 A; AN-PL03 A; HB-PL01 A; HB-PL02 A; CH-PL01 A; SU-PL01 A; SU-PL02 A; SU-PL03 A; HAT-PL01 A; CA-PL01 A; CA-PL02 A; CAC-PL01 A; CAC-PL02 A; LR-PL01 C; LR-

PL02 B; LR-PL03 C; LR-PL03 A; KL-PL01 A; LY-PL01 A; CD-PL01 A; CB-PL01 A; 456-SE-PL01 Rev A; AP-PL02 Rev B; AP-PL01 Rev; AP-ST-PL01 A; P1 125_62; P.1125_03; 5950/1061 A; 5950/1081 A.

Reasons: For the avoidance of doubt.

- (2) No development shall take place until details of the proposed means of foul and surface water sewerage disposal have been submitted to and approved in writing by the local Planning Authority in consultation with Southern Water.

Reasons: As there is inadequate sewerage capacity at present, and to avoid harm to local amenity.

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

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

- (4) Any further conditions recommended by the County drainage officer.

INFORMATIVES

- (1) The applicant / developer should enter into a formal agreement with Southern Water to provide the necessary sewerage infrastructure required to service this development. Please contact Southern Water, Sparrowgrove House, Sparrowgrove, Otterbourne, Hampshire, SO21 2SW (tel. 03303 030119) or 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 applicant/agent was advised of 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.

APPENDIX

Planning Committee Report
11 December 2014

REPORT SUMMARY

REFERENCE NO - 14/500561/OUT			
APPLICATION PROPOSAL Outline Planning permission (all matters except access reserved) - Residential redevelopment with provision of associated vehicular and pedestrian access, open space, drainage and services.			
ADDRESS Former HBC Engineering Site Power Station Road Halfway Minster-on-sea Kent ME12 3AB			
RECOMMENDATION APPROVAL			
SUMMARY OF REASONS FOR RECOMMENDATION The development would amount to the provision of new residential dwellings within the defined built up area boundary, on a site identified by the SHLAA for residential development, and in a sustainable location, without giving rise to any serious amenity concerns. As such the proposal is considered to be in accordance with adopted local and national policies.			
REASON FOR REFERRAL TO COMMITTEE Local objections.			
WARD Minster Cliffs	PARISH/TOWN COUNCIL Minster	APPLICANT TBH (Sheerness) Ltd AGENT	
DECISION DUE DATE 02/10/14	PUBLICITY EXPIRY DATE 02/10/14	OFFICER SITE VISIT DATE Various	
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):			
App No	Proposal	Decision	Date
SW/11/0915	Redevelopment of site to provide retail supermarket (Class A1) and petrol filling station.	Refused.	2012
Planning permission was refused due to the cumulative negative impact of retail development on both this site and at Neats Court upon the viability, vitality and primary retail function of Sheerness town centre. The application is explored in greater detail below.			

1.0 BACKGROUND

- 1.01 Members will recall this application from the last meeting (the report to that meeting is appended). It seeks outline planning permission, with all matters except access reserved, for the erection of up to 142 dwellings (a mixture of one-bed flats and two or three-bed houses) on 3.8ha of land, including provision of vehicular and pedestrian access, open space, site drainage and services. A singular vehicle access is proposed from Power Station Road along with a new section of pedestrian pavement and a crossing linking to the southern side of the road. All drawings, other than that showing the position of the access, are indicative at this stage.
- 1.02 The application was called in to enable officers to collate further information in regards to concerns Members raised in respect of the highway implications of the proposed development, and the likely consequences of a refusal on such grounds. The minute of the last committee is appended.

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1.03 The specific concerns raised by Members, as I understand them, relate to:

- The number of vehicle movements arising from development of the site for residential use;
- The impact of such vehicle movements on the mini-roundabout at the Power Station Road / Halfway Road junction and the Halfway Road / Minster Road traffic lights;
- The difference in number and timing of movements between the proposed residential use and the permitted B2 (industrial) use of the site; and
- The cumulative highways impact from development of this site and other nearby housing sites (either approved, or likely to be forthcoming in future due to Local Plan allocations).

2.0 DISCUSSION

Policy context

2.01 Members may initially care to note that 'Bearing Fruits 2031: The Swale Borough Council Local Plan Part 1: Publication Version' was agreed by Swale's Full Council on 26th November 2014. The resolution was that "Council agree the Swale Borough Local Plan; and supporting Sustainability Appraisal and Habitats Regulation Assessment be approved for publication and subsequently submission to the Planning Inspectorate."

2.02 The entire application site lies within the built up area boundary as defined by the adopted Swale Borough Local Plan 2008 (SBLP) and also emerging Local Plan entitled "Bearing Fruits 2031" (BF).

2.03 In this regard policy H2 of the adopted Local Plan states:

"Permission for new residential development will be granted for sites:

1. *shown as allocated for such on the Proposals Map, including the Area Action Plans;*
2. *within the defined built-up areas, as shown on the Proposals Map, in accordance with the other policies of the Local Plan.*

All proposals for new residential development, including renewals and reserved matters applications, will be expected to make the most efficient use of land and provide a range of house types and sizes appropriate to the location and nature of the site and reflecting the identified need in the locality."

2.04 The application site (as well as a number of other sites within the local area, which are discussed below) is also allocated for residential development under BF. Policy A13 allocates the land within the list of "smaller allocations as extensions to settlements," and states that "these sites have been identified as being suitable to provide additional residential development at the edge of existing settlements." The policy specifically identifies 2.5ha to the south of the current application site – not including the land on which the former factory building stood – for development of up to 87 dwellings (allocation ref. SW/169).

2.05 The allocation for 87 units arises from the fact that when the site was put forward by the (then) owner under the Council's Strategic Housing Land Allocation Assessment (SHLAA) call for sites the land was occupied by a number of buildings which constrained the area available for development. The inclusion of the remainder

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(northern part) of the site and demolition of the existing buildings has opened the site up to numbers over and above the allocated 87 (but this occurred after publication of the most recent draft of BF).

- 2.06 The principle of residential development upon the site is thus firmly established, and I would strongly recommend that Members do not seek to refuse residential development on this site in principle. Such a refusal would be very difficult to defend at appeal.

Other allocated sites and current applications

- 2.07 Members should also be very aware of other local housing allocations put forward in BF, and existing permissions:
- 1) **Plover Road / Thistle Hill / Scocles Road** – long-standing existing permissions for large-scale residential development and partly built-out;
 - 2) **Halfway Houses Primary School** – allocated for a minimum of 60 dwellings on 1.5 hectares under policy A13.13;
 - 3) **Preston Screens, Minster Road** – allocated for a minimum of 24 dwellings on 0.6 hectares under policy A13.12; and
 - 4) **Minster Academy, off Admiral's Walk** – allocated for a minimum of 20 dwellings on 1.2 hectares by policy A14.5.

There is also a current application, reference 14/502847, for the erection of 14 dwellings on the Old Dairy site, which lies close to the HBC site, with access proposed from Halfway Road.

- 2.08 Kent County Highways have raised no objections to the principle of developments being brought forward through the emerging Local Plan and related transport modelling involved.
- 2.09 Each of these allocations, if brought forward, will have an impact upon local roads insofar as they are likely to put additional vehicles onto local roads and this would be carefully considered by KHS in conjunction with this authority. Refusal of the current application on grounds relating to the capacity / functionality of local roads casts doubt over the ability of the other allocations as noted above to be delivered, as Members will need to adopt a consistent approach to determination of the corresponding planning applications in terms of assessing highways impacts or capacity / functionality of existing junctions. Such a decision would be taken without KCC Highways support and any evidence required to support such a decision at appeal.
- 2.10 Members will need to consider that this situation would have serious implications for the Council's five-year housing supply in years to come. If the sites allocated by the agreed draft of BF are blocked on highways grounds, the Council will have a further shortfall and be under considerable pressure to approve residential development in potentially unsuitable locations (such as greenfield sites, potentially).

Highways context

- 2.11 Members must ensure they take into account the previous application for the site, reference SW/11/0915, which proposed redevelopment of the site to provide a 9,700sqm Sainsburys store and a petrol filling station. 554 parking spaces were to be provided as part of that development. Local opposition to the current application refers to that scheme being refused on highways grounds – this is not the case.

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- 2.12 That application was presented to Members at Planning Committee on the 8th December 2011, where Members voted to approve it subject to the signing of a S106 agreement to secure financial contributions towards various local services. However, before the S106 was finalised there was a national policy change that required the submission of a Cumulative Retail Impact Assessment (CRIA) prior to determination. This was carried out by the Council and the application subsequently refused on the grounds of impact upon the primary retail function of Sheerness.
- 2.13 Traffic issues were not raised within the reason for refusal for that application – which proposed no works to the Power Station Road / Halfway Road junction other than widening to accommodate HGV movements. That development, according to the traffic data submitted with the application, would have been likely to generate approximately 1596 vehicle movements on average per weekday, and approximately 1097 on Saturdays.
- 2.14 The TRICS database (Trip Rate Information Computer System) shows that the existing authorised B2 (industrial) use of the site would be likely to generate an average of 323 movements per day on weekdays. If the use of the site was changed to B1 (light industrial or offices) under permitted development rights the traffic flows could be as high as 698 each weekday.
- 2.15 The application before Members, according to TRICS, is likely to generate an average of 155 movements each weekday. Members will be aware that the application included 255 vehicle parking spaces in accordance with current parking guidance, but it is unlikely that all of these spaces will be occupied by vehicles (not all households have more than one vehicle), and it is also highly improbable that all vehicles will enter and leave the development at the same time.
- 2.16 The agent for the scheme has submitted a letter in response to the concerns raised by Members, in which he states:
- “What we would like Planning Committee members to be aware of is that the Transport Assessment, and Kent Highways conclusions from that assessment, are based on a re-development for 160 dwellings not the 142 dwellings for which the outline planning permission is currently sought. The Transport Assessment is consequently a robust basis for assessing all traffic impacts of the proposed re-development that has no given rise to any objection from the highway authority.”*
- 2.17 Against the context of the existing lawful use of the site and the previous proposals for a Sainsburys supermarket – to which Members raised no objections on highways grounds – the current application will not have a significant impact upon the local highway network. This is reflected in the fact that Kent Highway Services raised no objection (subject to conditions) to the scheme. Member attention is drawn to 7.05 and 7.06 of the report to last committee and to 9.11 to 9.17 of the same, where highways issues are discussed.
- 2.18 Therefore, if Members choose to refuse this proposal on the grounds of highway impact, I do not believe there is any evidence to support such a position and extremely difficult to defend at appeal, and leave the Council potentially open to a significant costs claim.
- 2.19 I have asked Kent Highway Services colleagues to provide information on whether or not County has a long-term improvement plan for the local network, and will update Members on this at the meeting.

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Drainage issues

- 2.20 Members also discussed these issues at the last meeting, and although the officers present addressed the matters I would emphasise that neither Southern Water nor the Environment Agency object to this application (see paragraphs 7.03, 7.07 and the discussion at 9.33 and 9.34 of the original committee report). Members will also note condition (8) of that report, which deals with both foul and surface water drainage.
- 2.21 Southern Water Services advise, however, that *“additional off-site sewers, or improvements to existing sewers, will be required to provide sufficient capacity to service the development”* And therefore should not contribute to any current sewerage/flooding issues within the area. Members should also note that as well as providing details to comply with condition (8), the developer will need to provide additional sewerage infrastructure sufficient to satisfy Southern Water Services pursuant to Section 98 of the Water Industry Act 1991.

3.0 CONCLUSION

- 3.01 The application site represents a windfall housing site on an allocated site within the defined built up area and close to shops and services within both Minster and Sheerness, and also at the Neatscourt development. Development of the land for residential purposes is therefore acceptable as a matter of principle.
- 3.02 The submitted Transport Assessment and the comments of Kent Highway Services make it clear that there are no reasonable or justifiable highway grounds on which to object to this proposal. Furthermore the site history shows that not only is the existing historic lawful use likely to generate more vehicle movements (if reinstated) than the current proposal, but also that Members resolved to approve redevelopment of the site to provide a supermarket with significantly higher vehicle movements than the current proposal. This is likely to be challenged at any appeal – which I believe the applicant is likely to pursue – and I do not believe that the Council would be able to defend its position.
- 3.03 With this in mind I consider that the original recommendation to approve this application was correct and justified by the evidence presented in the submission and by comments from Kent Highway Services.
- 3.04 I therefore urge Members to approve this application.

Case Officer: Ross McCardle

- 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.

TBH (Sheerness) Ltd
C/o Court Lodge Park
Lower Road
West Farleigh
Kent
ME15 0PD



10 March 2015

PLANNING DECISION NOTICE

APPLICANT:	TBH (Sheerness) Ltd
DEVELOPMENT TYPE:	Small Major Dwellings
APPLICATION REFERENCE:	14/500561/OUT
PROPOSAL:	Outline Planning permission (all matters except access reserved) for residential redevelopment of up to 142 dwellings, including provision of associated vehicular and pedestrian access, open space, drainage and services.
ADDRESS:	Former HBC Engineering Site Power Station Road Halfway Minster-on-sea Kent

The Council hereby **GRANTS** OUTLINE planning permission subject to the following Condition(s):

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

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

MKPS – Working in Partnership with: Swale Borough Council
Please Note: All planning related correspondence for SBC should be sent to:
Mid Kent Planning Support, Maidstone House, King Street, Maidstone ME15 6JQ
Tel: 01622 602736 email: planningsupport@midkent.gov.uk
Access planning services online at: www.swale.gov.uk or submit an application via
www.planningportal.gov.uk

- (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.

Grounds: 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.

Grounds: 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 development hereby approved shall be carried out in accordance with the following approved drawings:

Indicative drawings: location Plan 3684 PL 001 received 16 June 2014, Alternative Site Layout Revision D September 2014 received 3 November 2014; and Planning Application Supporting Statement, Design and Access Statement, Transport Assessment and Travel Plan, Flood Risk Assessment, Sustainability and Energy Assessment, Statement of Community Involvement, Extended Phase 1 Habitat Survey, Landscape and visual Impact Assessment and Geo-environmental Ground Investigation Update Report received 16 June 2014, and Addendum to Planning Statement October 2014 received 3 November 2014.

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

Pursuant to Reserved Matters

- (5) Details pursuant to Condition (1) shall incorporate the Design Code set out in paragraphs 2.3 to 2.10 of the Addendum to Planning Statement October 2014 received on 3 November 2014.

Grounds: to ensure the implementation of the development accords with design principles established at this outline planning stage.

- (6) Details pursuant to Condition (1) shall show the external boundary treatments to be used on the boundaries of the site, which shall be approved in writing prior to the commencement of the development. Development shall be carried out in accordance with those approved details and thereafter retained.

Grounds: In the interests of visual amenity.

- (7) Details pursuant to Condition (1) shall demonstrate:

- i. how the proposal will incorporate measures to encourage and promote biodiversity and wildlife on the site; and

- ii. shall incorporate within the soft landscaping on the western boundary of the site habitat for reptiles, including a connecting corridor to the public open space to the north and hibernacula within that public open space.

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

Grounds: In the interests of promoting wildlife and biodiversity.

- (8) The areas shown on the approved drawings as open water shall be incorporated into a Sustainable Urban Drainage System (SUDS) pond and shall be reserved for that purpose only. Details pursuant to Condition (1) shall include details of how foul and surface water will be drained from the site and how it is to be installed including details of the location of the sewage pipe. Details shall also demonstrate that for the surface water run-off generated by the development during all rain falls will not exceed 7 litres per second per hectare. No permanent development whether permitted by the Town and Country Planning (General Permitted Development) Order 1995 or not shall be carried out in the areas so shown without the prior written approval of the Local Planning Authority.

Grounds: To ensure that these areas are made available in the interests of the residential amenities of the area in pursuance of Policies EI and C3 of the Swale Borough Local Plan 2008

- (9) Details pursuant to Condition (1) shall show the results of 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 remediation strategy which shall be of such a nature as to render harmless any identified contamination given the proposed end-use of the site and surrounding environment, including any controlled waters.

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

- (10) Details pursuant to Condition (1) shall show the public street-lighting columns within the development. The development shall be carried out in accordance with the approved details and thereafter retained unless otherwise agreed to in writing by the Local Planning Authority.

Grounds: In the interests of public amenity and safety, and to prevent serious disturbance to commuting or foraging bats.

- (11) Details pursuant to Condition (1) shall show adequate land reserved for parking or garaging in accordance with the adopted Kent Parking Standards and, upon approval of the details the parking 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) Order 1995 (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 those reserved vehicle parking areas.

Grounds: As development without adequate parking facilities would be likely to prejudice highway safety and amenity.

Pre-Commencement/Pre-construction /Pre Occupation

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

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

- (13) 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 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.

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

- (14) No development shall take place until a Great Crested Newt survey, has been carried out in relation to the site, and the survey results have been approved in writing by the Local Planning Authority. If Great Crested Newts are found to be using the site, or the site is found to have potential to be used as habitat, a strategy detailing measures for their protection from harm during site construction activities, including details of an off-site receptor site (if deemed necessary), shall be submitted to and approved in writing by the Local Planning Authority before development is commenced.

Grounds: To minimise harm to protected species or their habitat, in accordance with the Wildlife and Countryside Act 1981 (as amended) and the Conservation of Species and Habitats Regulations 2010.

- (15) No development shall take place until a programme for the suppression of dust during the demolition of existing building foundations and former site access roads and construction of the development has been submitted to and approved in writing by the Local Planning Authority. The measures approved shall be employed throughout the period of demolition and construction unless any variation has been approved by the Local Planning Authority.

Grounds: In the interests of residential amenity.

- (16) No development shall take place until details of on-site parking, during the construction phase, for site personnel / operatives / visitors, and construction vehicles loading, offloading or turning areas on the site, has been submitted to and approved by the Local Planning Authority and thereafter such facilities shall be provided prior to the commencement of the development and retained throughout the construction of the development.

Grounds: To ensure the construction of the development hereby approved does not prejudice conditions of highway safety and amenity.

- (17) During the construction phase of the development, 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.

Grounds: To ensure the construction of the development hereby approved does not prejudice conditions of highway safety and amenity.

- (18) 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.

Grounds: To ensure that the roads are constructed and laid out in an appropriate manner.

- (19) Before the first occupation of a dwelling the following works between that dwelling and the adopted highway shall be completed as follows:

- A. Footways and/or footpaths shall be completed, with the exception of the wearing course;
- B. Carriageways completed, with the exception of the wearing course, including the provision of a turning facility beyond the dwelling together with related:
 1. highway drainage, including off-site works,

2. junction visibility splays,
3. street lighting, street nameplates and highway structures if any.

Grounds: To ensure that the roads are constructed and laid out in an appropriate manner.

Other Conditions

- (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 Local Planning Authority.

Grounds: In the interests of residential amenity.

- (21) No development shall be carried out other than in complete accordance with the submitted Flood Risk Assessment, received 17 June 2014.

Grounds: To ensure the development is designed to reduce the risk of flooding.

- (22) Removal or clearance of vegetation or buildings (if existing) from the site shall only be carried out outside of bird breeding season (March to August, inclusive) unless the site has first been examined by a competent and qualified ecologist details of the works submitted to and approved in writing by the Local Planning Authority. If any breeding birds are present on the site all works must cease on that part of the site until all the young have fledged.

Grounds: To minimize harm or disturbance to nesting birds, and in accordance with the Wildlife and Countryside Act 1981.

- (23) The development shall be carried out to achieve Level 3 of the Code for Sustainable Homes (November 2010) for all housing to be provided, as specified by paragraph 2.10 of the Addendum to Planning Statement received 3 November 2014. A post-construction certificate shall be submitted within six months of practical completion demonstrating the development has been carried out in accordance with this condition.

Grounds: In the interest of promoting energy efficiency and sustainable development, and in accordance with the submitted details.

- (24) The Local Planning Authority shall be given notice seven days prior to the commencement of the development hereby approved, and within a period ending 52 weeks from the date of such notice (or a longer period agreed in writing by the Local Planning Authority) the off-site highway improvement works consisting of the provision of a pedestrian crossing point on Power Station Road, as shown on RGP drawing 2014/2181/00 (or such other crossing point design as shall be agreed in writing by the Local planning Authority) shall be constructed and made available for use by the general public.

Grounds: because no such pedestrian crossing point is currently provided and in the interests of the safety and convenience of pedestrians living in or visiting the residential development hereby approved.

Informative(s):

- (1) The applicant / developer should enter into a formal agreement with Southern Water to provide the necessary sewerage infrastructure required to service this development. Please contact Southern Water, Sparrowgrove House, Sparrowgrove, Otterbourne, Hampshire, SO21 2SW (tel: 0330 3030119) or www.southernwater.co.uk.

Please note you must comply with all the conditions attached to this permission. Otherwise the permission may not be valid and any development may be unauthorised.

The Council's approach to this application:

to Applicant: APPROVAL

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 further information was requested and the application subsequently considered to be acceptable.



James Freeman
Head of Planning Services
Swale Borough Council

IMPORTANT - YOUR ATTENTION IS DRAWN TO THE ATTACHED NOTES

NOTIFICATION TO APPLICANT FOLLOWING REFUSAL OF PERMISSION OR GRANT OF PERMISSION SUBJECT TO CONDITIONS

This decision does not give approval or consent that may be required under any act, bylaw, order or regulation other than Section 57 of the Town and Country Planning Act 1990.

Appeals to the Secretary of State

If you are aggrieved by the decision of your local planning authority (LPA) to refuse permission for the proposed development, or to grant it subject to Conditions, then you can appeal to the Secretary of State (SoS) under Section 78 of the Town and Country Planning Act 1990.

Please see "Development Type" on page 1 of the decision notice to identify which type of appeal is relevant.

- If this is a decision on a planning application relating to the same or substantially the same land and development as is already the subject of an enforcement notice and if you want to appeal against the LPA's decision on your application, then you must do so within **28 days** of the date of this notice.
- If an enforcement notice is served relating to the same or substantially the same land and development as in your application and if you want to appeal against the LPA's decision on your application, then you must do so within **28 days** of the date of service of the enforcement notice, or within **6 months [12 weeks in the case of a householder or minor commercial application decision]** of the date of this notice, whichever period expires earlier.
- If this is a decision to refuse planning permission for a **Householder** application or a **Minor Commercial** application and you want to appeal the LPA's decision, or any of the conditions imposed, then you must do so within **12 weeks** of the date of this notice.
- In all other cases, you will need to submit your appeal against the LPA's decision, or any of the conditions imposed, within **6 months** of the date of this notice.

Appeals must be made using a form which you can get from the Secretary of State at Temple Quay House, 2 The Square, Temple Quay, Bristol BS1 6PN or online at www.planningportal.gov.uk/pcs.

The SoS can allow a longer period for giving notice of an appeal but will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.

The SoS need not consider an appeal if it seems to the SoS that the LPA could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order.

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REPORT SUMMARY

REFERENCE NO - 15/510316/LBC			
APPLICATION PROPOSAL Listed Building Consent - Internal alterations to facilitate the creation of a new village hall			
ADDRESS Iwade Barn 20 All Saints Close Iwade Kent ME9 8FP			
RECOMMENDATION Grant Consent			
SUMMARY OF REASONS FOR RECOMMENDATION The proposals would preserve the special architectural and historic interest of the listed building.			
REASON FOR REFERRAL TO COMMITTEE The applicant is a Ward Councillor			
WARD Bobbing, Iwade & Lower Halstow	PARISH/TOWN COUNCIL Iwade	APPLICANT Iwade Parish Council AGENT David Paine Architects	
DECISION DUE DATE 08/02/16	PUBLICITY EXPIRY DATE 03/02/16		
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):			
App No	Proposal	Decision	Date
SW/06/1355	Development of 27 dwellings & ancillary buildings, a new car park adjacent to All Saints Church, refurbishment of listed barn for community use, provision of open space, creation of wetlands habitat & transfer/provision of burial ground. Amended details of design.	Approved	24.03.2009

MAIN REPORT

1.0 DESCRIPTION OF SITE

- 1.01 Iwade Barn is a Grade II listed 18th Century timber framed building situated on a corner plot adjacent to The Street and All Saints Close.
- 1.02 The Barn measures 12.2m x 4.4m, 2.8m to the eaves and 4.8m in overall height. The roof is pitched with hipped ends.
- 1.03 The boundary treatment comprises a timber post and rail fence approximately 1m in height. The wider site also includes the car park, however, this has not been included in the red line on the site location plan.
- 1.04 All Saints Church lies 33m to the south east of the Barn with dwellings to the south, west and north.

2.0 PROPOSAL

- 2.01 This application seeks listed building consent for alterations to the Barn to allow for its use as a village hall.

The proposed alterations can be summarised as follows:

- Installation of a w.c. and kitchen / kitchen servery;
- Internal partitions to divide the building;
- New French doors on side elevation inset of the existing shutters;
- Covering and lining of ceiling joists;
- A new footpath to be provided.

- 2.02 It is noted that under SW/06/1355 an application for the wider site which included the use of the barn for community use was approved. As such, this application is solely considering the alterations to the listed building as set out above.

3.0 PLANNING CONSTRAINTS

- 3.01 Iwade Barn - Grade II listed

4.0 POLICY AND OTHER CONSIDERATIONS

- 4.01 The National Planning Policy Framework (NPPF) at paragraph 132 states that *"When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. As heritage assets are irreplaceable, any harm or loss should require clear and convincing justification. Substantial harm to or loss of a grade II listed building, park or garden should be exceptional."*

Development Plan: E1, E14, E19 and E24 of the Swale Borough Local Plan 2008

Supplementary Planning Documents: Listed Buildings

5.0 LOCAL REPRESENTATIONS

- 5.01 A newspaper advertisement was published and a site notice displayed close to the site, no responses have been received.

6.0 CONSULTATIONS

- 6.01 Iwade Parish Council made no comment.

7.0 BACKGROUND PAPERS AND PLANS

- 7.01 Application papers and correspondence relating to planning reference 15/510316/LBC.

8.0 APPRAISAL

- 8.01 The main consideration in the determination of this application concerns the statutory duty placed upon the Council to preserve the special architectural or historic interest of the listed building.

- 8.02 In my view the proposals will enhance the function of the building and allow for the preservation of the interior which in the past had not been kept to a good standard.

Furthermore, the alterations that are proposed here will provide the opportunity for future use of the building which is often the best way to ensure preservation of heritage assets.

- 8.03 It is noted that the majority of the works proposed are internal with the main changes when viewing the Barn externally being the installation of French doors. As such, conditions relating to the submission of samples of materials and details of joinery are recommended to ensure the listed building is preserved.

9.0 CONCLUSION

- 9.01 In light of the above, I take the view that the proposals would preserve the special architectural and historic interest of the listed building. I recommend that listed building consent be granted.

10.0 RECOMMENDATION – GRANT Subject to the following conditions:

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

Reasons: In pursuance of Section 18 of the Listed Building Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

- (2) The development hereby approved shall be carried out in accordance with the following approved drawings: 002, Rev A and 004, Rev B unless otherwise agreed in writing by the Local Planning Authority.

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

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

Reasons: In the interest of visual amenity.

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

Reasons: In the interest of preserving or enhancing the character and appearance of the surrounding area.

- 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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REFERENCE NO - 15/509861/FULL & 15/509862/LBC		
APPLICATION PROPOSAL Installation of a 200mm diameter dish antenna and a 300mm diameter dish antenna and ancillary works.		
ADDRESS Radio Transmitter Courtenay Road Dunkirk Kent ME13 9LH		
RECOMMENDATION – Approve		
REASON FOR REFERRAL TO COMMITTEE Parish Council objection		
WARD Boughton & Courtenay	PARISH/TOWN COUNCIL Dunkirk	APPLICANT Arqiva Ltd AGENT Ms Jenny Bye
DECISION DUE DATE 18/02/2016	PUBLICITY EXPIRY DATE 20/01/2016	

THIS REPORT RELATES TO TWO SEPARATE APPLICATIONS BUT THEY ARE REPORTED TOGETHER AS THE SAME ISSUES ARISE. EACH APPLICATION SHOULD BE DETERMINED ON ITS OWN MERITS.

RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):

SW/10/1128 - erection of offices and storage building - refused.

SW/11/1370 - Erection of a data storage facility (B8) and permanent historical exhibition (D1) - refused. Appeal dismissed by the Planning Inspectorate.

SW/13/0880 & 0885 - installation of 2 x 1.8 microwave dishes at a height of 40 metres - approved. Not proceeded with due to the two dishes now proposed having been installed at that height – leading to SW/13/1340 and 1341.

SW/13/1273 and 1274 - installation of two 1.8m microwave dishes at a height of 58m on the existing 110m tower, associated cabling and the installation of a small equipment cabin at ground level - approved.

SW/13/1340 and 1341 - listed building consent and planning permission for the placement of one x 2.4m and one x 1.2 dishes at a height of 47 metres - approved.

SW/13/1462 & 1463 - planning permission and listed building consent for two 1.2m microwave dishes installed at a height of 40m on the existing 110 tower, and associated cabling and the installation of a small equipment cabin at ground floor – approved January 2014.

SW/14/0003 and 0004 – installation of two 1.2m microwave dishes at 40m - approved

14/500065/FULL - Erection of a data storage facility (B8) and permanent historical exhibition (D1) - refused. Appeal dismissed by the Planning Inspectorate.

14/506050/FULL and 14/506051/LBC - Installation of new steel bracing - approved March 2015

14/500285/FULL and 14/500286/LBC - Installation of 4no. dipole antennas at a mean height of 90.5m and related strengthening of mast, a 1.8m diameter ground mounted satellite dish and development ancillary thereto including 2no. GPS antennas on existing building – approved November 2015

1.0 DESCRIPTION OF SITE

- 1.01 This former RAF mast is grade II listed and lies within the designated countryside directly adjacent to the built-up area boundary of Dunkirk. The existing mast has a height of 94.5 metres and is already host to a number of items of telecommunications equipment, please see planning history above for more details. The site is located within the designated countryside and within a Special Landscape Area.
- 1.02 To the northwest of the site, beyond the fenced compound, is a larger area of land that once formed the weapons store and surface air raid shelter of RAF Dunkirk Chain Home Radar Station, and which is now protected as a Scheduled Ancient Monument.

2.0 PROPOSAL

- 2.01 It is proposed to use the existing mast for Digital Audio Broadcasting (DAB) network expansion consisting of the installation of a 200mm dish antenna and a 300mm dish antenna at 50m, with ancillary works. These dishes are far smaller than the majority of the microwave dishes currently evident on the mast.
- 2.02 Planning permission and listed building consent are sought for the following proposals:
- Installation of a 200mm and 300mm diameter dish antenna at 50m on the mast
 - Ancillary works including bracing on the mast located between 65m and 69m levels – this includes bolting additional steel work to the existing bracings to strengthen rather than replace.

NOTE: The bracing works are the same works approved by the Council in November 20-15 under applications 14/500285/FULL and 14/500286/LBC

- 2.03 A full structural report and heritage statement have been provided with the application. The applicants explain that the two dishes are necessary in order to connect the site to the Sound Digital network, which provides public digital radio (DAB) and related interactive services.

3.0 PLANNING CONSTRAINTS

Potential Archaeological Importance

Dunkirk Airfield Multiple

Potential Archaeological Importance

Listed Buildings MBC and SBC Ref Number: 1378/SW

4.0 POLICY AND OTHER CONSIDERATIONS

Swale Borough Local Plan 2008

- 4.01 Saved policies E1 (General Development Criteria), E6 (Countryside), E14 (Proposals affecting Listed Buildings), E16 (Proposals affecting Scheduled Ancient Monuments and Archaeological Sites), E19 (Achieving High Quality Design & Distinctiveness) are the most relevant to these applications,

National Planning Policy Framework

- 4.02 The National Planning Policy Framework is also a material consideration in determining this application. Of particular relevance are the following paragraphs;

Paragraph 42 states that *“Advanced, high quality communications infrastructure is essential for sustainable economic growth. The development of high speed broadband technology and other communications networks also plays a vital role in enhancing the provision of local community facilities and services.”*

Paragraphs 131 & 132 state that *“In determining planning applications, local planning authorities should take account of:*

- *the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;*
- *the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and*
- *the desirability of new development making a positive contribution to local character and distinctiveness*

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.”

5.0 LOCAL REPRESENTATIONS

- 5.01 One letter of objection has been received which makes the following summarised comments:

- The mast is at full capacity and now needs bracing. How much more bracing will be added?
- There seems to be no control over who puts what on the mast
- Nobody seems to know who is responsible for what in relation to safety
- Concerned about safety issues - structural integrity
- The Council should be responsible for any damage caused
- The Parish Council should be able to identify what is going on but there are so many applications

6.0 CONSULTATIONS

- 6.01 Dunkirk Parish Council objects to the application. They state this application was lodged a few days after the last committee meeting where it was stated that there would be no more dishes and it must be remembered that Dunkirk is one of the last remaining towers from WWII.
- 6.02 The Parish Council states that they believe the application is contrary to policies within the Swale Borough Local Plan 2008, the National Planning Policy Framework and the Bearing Fruits emerging Local Plan, which amongst other aims seek to conserve heritage assets in a manner appropriate to their significance. Policies mentioned within the Swale Borough Local Plan 2008 are E1, E14 and E19. References were also made to the Bearing Fruits emerging Local Plan policies CP8, DM14, DM30, DM32 and DM34 which relate to General Development Criteria, Landscape and Biodiversity, Listed Buildings and Scheduled Monuments and Archaeological Sites.

7.0 BACKGROUND PAPERS AND PLANS

- 7.01 Application papers for 15/509862/LBC and 15/506861/FULL

8.0 APPRAISAL

- 8.01 The main considerations in the determination of these applications is the impact on the historic character of the listed former RAF mast, and the visual impact on the surrounding area. I will also be taking into consideration the concerns in relation to the structural integrity of the mast. Finally, I consider the impact of the proposals on the heritage value of the listed building.
- 8.02 The NPPF provides clear guidance on the location of telecommunications infrastructure stating that where possible existing structures should be used. The proposals are very small scale in nature and will not in my view have any significant impact on the special historic character and appearance of the grade II listed former RAF Mast.
- 8.03 The mast has a complex planning history which includes various permissions for installation of telecommunication equipment, a number of which have been approved in the past few years. It appears a logical approach to locate new telecommunications infrastructure on existing structures/sites as they appear in keeping with the character and nature of the existing structure.
- 8.04 The applicants have stated the dishes would be painted white but would be willing to follow advice of the Council as to colour. I consider that it would be better if the dishes were painted grey in keeping with the colour of the mast itself and I have recommended suitable conditions below.
- 8.05 I note the comments received by the Parish Council and a local resident who have raised concerns in relation to the structural integrity of the mast and the impact on the character of the mast. Additional bracing will be placed on the mast between 65m and 69m levels to address the marginal overloading of around 12%. This strengthening work is at a high level and will not have a significantly adverse impact on the appearance or interest of the mast. The bracing is the same as that already approved in relation to the recently approved dipole antennae.
- 8.06 The Council has a statutory duty to give special weight to the impact of development on heritage assets. In this case Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires the Council to have special regard to the

desirability of preserving or enhancing the listed building or its setting or any features that are of special architectural or historic interest which it possesses. I am satisfied that the works proposed will not detract from the historic or architectural importance of the listed building as they will be small in scale and will not entail removal of any original features or fabric.

9.0 CONCLUSION

9.01 In my opinion the proposals will appear in keeping with the existing character of the mast and will not have any significant impact on the surrounding amenity of the area. A full structural survey has been carried out and sent with the application showing the amount of extra bracing needed. Taking the above into account I recommend that planning permission and listed building consent are granted.

10.0 RECOMMENDATION – GRANT Subject to the following conditions:

CONDITIONS

15/509861/FULL Planning application

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

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

2. The development hereby permitted shall be carried out in accordance with the following plans:

DRG No. 57220-91-150-MD028 Rev 28 and 57220-91-100-MD028 Rev 28.

Reasons: In the interests of certainty and proper planning

3. The telecommunications apparatus hereby permitted shall be removed from the site as soon as reasonably practical after it is no longer required for telecommunication purposes.

Reasons: In the interest of visual amenity.

4. The telecommunications dishes hereby permitted shall be painted grey.

Reasons: In the interest of visual amenity.

The Council's approach to this application:

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

- Offering pre-application advice.
- Where possible, suggesting solutions to secure a successful outcome.

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

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

15/509862/LBC Listed building consent application

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

Reasons: In pursuance of Section 18 of the Listed Building Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

2. The telecommunications dishes hereby permitted shall be painted grey.

Reasons: In the interest of visual amenity.

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.

REFERENCE NO - 15/507671/FULL			
APPLICATION PROPOSAL Demolition of the existing light industrial unit and the erection in its place of one four bedroom detached house			
ADDRESS Store Adjacent 24 Plantation Road Faversham Kent ME13 8QY			
RECOMMENDATION: Grant with conditions			
REASON FOR REFERRAL TO COMMITTEE Local objection			
WARD St Ann's	PARISH/TOWN COUNCIL Faversham Town	APPLICANT Karl Stevens AGENT Alex Bradshaw Design	
DECISION DUE DATE 15/02/16	PUBLICITY EXPIRY DATE 21/12/15		
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):			
App No	Proposal	Decision	Date
14/505309/FULL	Demolition of existing light industrial unit and the erection in its place of two three-bedroom terraced houses	Withdrawn	July 2015
In relation to the walnut tree at 8 Cavour Road adjacent to the site;			
TC/05/0032	Notification to fell walnut tree	TPO made	2005
TP/05/0056	Section felling of walnut tree	Refused	2005
TP/06/0067	Works to walnut tree	Approved	2006
TP/11/0100	Reduce canopy of walnut tree	Approved	2011

1.0 DESCRIPTION OF SITE

- 1.01 This site lies within the built up area of Faversham and the town's conservation area. It consists of a broadly rectangular piece of land measuring 10 x 14m that slopes downward by some 1200mm toward the west, away for the road frontage. At present, the site contains a single storey commercial building of some 65sqm internal floorspace constructed mainly of timber with a double pitch cement tiled roof.
- 1.02 The front boundary of the site is defined by a 2.5m high red brick buttressed wall with a 2.5m wide entrance to the site defined by brick pillars. This wall extends some 22 m to the north from the entrance and also serves to define the street boundary of the garden to the adjacent bungalow at 8 Cavour Road which backs onto the site.
- 1.03 Located at the rear of the garden of 8 Cavour Road and close to the boundary with the application site is a mature walnut tree protected by a Tree Preservation Order (TPO 3 of 2005) with some overhang of the tree's canopy onto the site.
- 1.04 To the south is located the blank gable end of the two storey dwelling at 24 Plantation Road, part of a terrace of three Victorian dwellings with small front curtilages facing onto the street, and with mainly enclosed yard areas to the rear. To the west are banks of lock up garages with the nearest dwellings located in excess of 30 metres distant from the site.

2.0 PROPOSAL

- 2.01 This application seeks to erect a split level 4 bedroom dwelling within the plot with an overall internal area of 125sqm. The front elevation facing onto the street would present the appearance of a vernacular two storey brick built dwelling with tiled roof set back from the front wall by 1.2m to align with the adjacent terrace. The front entrance to the site and boundary wall facing onto Plantation Road would both remain in situ and unaltered.
- 2.02 Distances to the boundaries would be;
- 1.6m from the gable elevation of 24 Plantation Road;
 - Between 20cm and 50cm from the boundary with the garden of 8 Cavour Road and;
 - Between 3.9 and 4.8m from the rear boundary with the block of garages.
- 2.03 The split level design allows for the development of this sloped site with the southern part of the building inset from the main rear wall by 1 metre. Though utilizing a conventional public presentation of a two storey vernacular dwelling to the front, the rear employs a contemporary appearance with a balcony inset into the rear elevation, screened by the remainder of the building to the north and primarily overlooking the garage area to the rear. The adjacent terrace of housing also has a rather unusual rear aspect due to the same level changes.
- 2.04 Internal arrangements would allow for reception, kitchen and living areas to be located on the ground levels with the 4 bedrooms situated on the upper floors. A study-room would be provided within the roof space.
- 2.05 External living space would be located primarily to the rear within a rear garden some 4.0m deep by 10.3m wide. A small curtilage, some 1.3m deep would be located between the front of the house and the boundary wall with an 1100mm pathway to the side providing a pedestrian link to the rear.
- 2.06 Boundary treatments would consist of the retention of the existing brick wall to the front; maintaining the rear west facing boundary onto the garage block with the southern boundary consisting primarily of the gable end of the dwelling at 24 Plantation Road. A new 1.8m high close boarded would be located on the northern boundary with 8 Cavour Road.
- 2.07 It is proposed to liaise with the Highway Authority to remove the existing drop curb at the entrance to the site in order to provide for an additional on-street parking space on Plantation Road.
- 2.08 External finishing materials would consist of a dark yellow brick with grey roof tile to match that utilized on the neighbouring terrace. Front elevation windows would be of a white double glazed sash type to the front with aluminium framed windows and folding doors, grey powder coated, to the rear. Timber doors to the front and side would be partly glazed.
- 2.09 The application is supported by a Design and Access Statement, a Contaminated Land Risk Assessment, marketing information and, more recently and at my request, an Arboricultural Impact Assessment Report and associated Arboricultural Method Statement. From these I draw the following summarised points;

- The house has been designed to extend the form of the existing terrace to maintain the streetscene, keeping the current front wall
- The design makes full use of the changes in level within the site, having two storeys to the front but three storeys to the rear
- Materials would reflect local character
- The site has been marketed since early 2014 with few enquiries and no formal offers
- The protected walnut tree is worthy of retention, and has been crown reduced in the past
- It has an uneven canopy due to the long term presence of a row of conifer trees within the application site (now removed) so that it does not overhang the boundary as much as it might have done if the conifers had not been there
- The canopy of the tree will almost touch the proposed house but there are no windows or gutters proposed here, and minor pruning of branches will have a negligible impact on the tree's health and longevity
- The house will in reality impact on only 10% of the tree's root protection area, which is a minor impact
- Brickwork can be built "over-hand" to remove any impact on the tree from scaffolding
- An exploratory trench has been dug to assess likely impact on tree roots. Few were found
- The impact on the tree both in the short and long terms will be within acceptable suitable tolerances if precautions are taken
- Retention of the walnut tree will partly screen the new house from the north

2.10 Finally, the applicant has forwarded details from a previous owner of the site saying that asbestos roofing sheets were replaced with composite roofing in 1974, and that he is willing to sell to the applicant a garage in the block to the rear of the site.

3.0 SUMMARY INFORMATION

	Existing	Proposed	Change (+/-)
Approximate Ridge Height (m)	4.2m	8.7m	+ 4.5m
Approximate Eaves Height (m)	2.6m	5.6m	+ 3m
Approximate Depth (m)	7.7m	8.3m	+ 600mm
Approximate Width (m)	7.6m	8.2m	+ 600mm
No. of Storeys	1	3	+ 2
Net Floor Area	65sqm	125sq m	+ 60sqm
Parking Spaces	0	0	0
No. of Residential Units	0	1	1

4.0 PLANNING CONSTRAINTS

Article 4 Faversham Conservation Area

Article 4 Swale Article 4 directive

Conservation Area Faversham

TPO No 3 2005 – Walnut Tree within the rear garden of 8 Cavour Road.

5.0 POLICY AND OTHER CONSIDERATIONS

- 5.01 The National Planning Policy Framework (NPPF) and the National Planning Practice Guidance (NPPG) are relevant in terms of encouraging sustainable housing development and efficient use of land within existing urban areas. Good design standards are encouraged as well as seeking to minimise potential impacts of any development upon the amenity of neighbouring residents. Applications are encouraged to contribute to and enhance and contribute to both the natural and local environment particularly in respect of ecology and heritage assets.
- 5.02 The adopted Swale Borough Local Plan 2008 saved policies E1, E19, H2 and T3 in particular are all considered to be compliant with the guidance in the NPPF, encouraging the provision of high-quality housing development within sustainable locations, with adequate parking provision, and minimising potential amenity impacts for local residents.
- 5.03 Saved Policy E10 (Trees and Hedges) continues to reflect guidance contained within Section 11 of the NPPF in respect of the continued protection of the natural environment particularly veteran trees found outside of ancient woodland (para.118). Similarly, saved Policy E15 (Conservation Areas) places emphasis on the continuing requirement contained in Section 12 of the NPPF for development to contribute positively to the special character and appearance of the conservation area.
- 5.04 The publication draft of the emerging Local Plan, entitled Bearing Fruits 2031, was agreed by Members at Full Council late last year and, as such, carries some weight in the determination of planning applications. Policies DM14 and DM19 are relevant in this instance.

6.0 LOCAL REPRESENTATIONS

- 6.01 I have received 7 letters of objection raising the following summarised grounds:
- No off-street parking provision made
 - Increased pressure on street parking in both Plantation Road and neighbouring streets leading to parking congestion
 - Further risk to access for emergency vehicles
 - Access to existing properties will be restricted during construction
 - Removal of the existing dropped kerb will remove a passing place and hinder disabled people crossing the road
 - The proposal would result in an unacceptable disturbance to crown and root system of the mature walnut tree located nearby in the garden of 8 Cavour Road to the potential detriment of the health and future well-being of this protected Tree (TPO No.3 2005)
 - The developers will have to dig through the roots of the tree possibly destabilising it
 - The side wall of the house will abut the tree canopy denying it sunlight to promote natural growth
 - Non declaration of hazardous waste – the roof is alleged to contain asbestos based cement tiles – no details provided in respect of the disposal of this waste
 - Overshadowing and loss of light to the south facing rear garden and bungalow at 8 Cavour Road, which is already overshadowed by the walnut tree, especially when it is in full leaf
 - Loss of privacy and visual intimidation of the residents of 8 Cavour Road because the proposed wooden boundary fence, which will not be adequate to prevent views into the garden

- The property is of a similar footprint to the previous application for two houses on this site
- Breach of the planning consultation process by the alleged failure to post a site notice close-by
- Loss of natural light and overshadowing to the front of properties opposite to the east across Plantation Road (numbers 15 – 21) from continuation of the tall terraced houses, set back from the road, where they are not matched opposite, but which are lower and closer to the road
- Cramped form of development inconsistent with the local built form. Overdevelopment of a scale and presence that would fail to enhance and maintain the character of the surrounding conservation area, contrary to Local Plan policies
- The design does not compliment or enhance the character of the conservation area, or contain the necessary detailing or proportions
- Only a small bungalow should be built, with its own parking facility

6.02 The immediate neighbour at 8 Cavour Road who owns the walnut tree has submitted her own professional Tree Survey – Arboricultural Impact Assessment. This confirms that the tree is a healthy specimen and that with proper precautions the development can be carried out without risking the health of the tree. However, it does warn that “If all the guidelines and principles outlined in this report are not adhered to, as with all development sites, there is a risk that the construction activities will result in damage to and potentially the death of the retained trees”. It does also say that “It should be noted that healthy trees will usually withstand a loss of a proportion of their root system”, and that “...it is our opinion that by adopting construction and tree protection techniques that minimise root disturbance it will be possible to achieve the successful construction of the proposed development. By adopting such methods lasting damage to retained trees will be avoided and amenity will be preserved for future generations”.

6.03 The owner of the walnut tree has suggested that a way to overcome any concern about the likely impact of the development on the walnut tree is to have the tree removed and replaced with another tree. This would have to be the subject of a separate legal procedure.

7.0 CONSULTATIONS

7.01 Faversham Town Council raises no objections to this proposal

7.02 The erection of a single dwelling without the creation of any new access now falls outside the remit of application that Kent Highway Services advise on, and they do not provide any formal comments on the proposal.

7.04 The Environmental Health Manager observes that there is a history of asbestos content in the roof tiles of the existing building, so this will need to be removed with appropriate care by a licensed contractor and disposed of in the recommended manner. He notes that the Contaminated Land Risk Assessment identified that there is a potential for metals, hydrocarbons, paints and solvents to be present on site as the current workshop is used for a building and painting workshop. It was concluded that there is no risk as the site is on hard standing so this will stop spillages into the ground. Also, the proposed garden space is to be a patio area. Finally, he notes that there is a potential to cause a noise nuisance to nearby neighbours during the demolition of the existing workshop and the construction of the new dwelling. He raises no objection subject to conditions in respect of

- Safe removal of materials containing asbestos to suitably licenced waste disposal site;
- Limitation of hours of construction.

7.05 The Council's Tree Consultant has considered both the applicant's and the neighbour's arboricultural reports. In short he raises no objection to the proposal subject to conditions being imposed requiring that works undertaken within the root protection area (RPA) of the tree be undertaken in accordance with the methodology provided in the Arboricultural Method Statement submitted in support of this application. His formal comments are;

"Having read the submitted arboricultural tree survey and impact assessment reports by Envirocology Ltd (on behalf of the neighbour at no 8 Cavour Road) and Down to Earth Trees Ltd (on behalf of the applicant) I have the following comments to make.

Both survey and impact assessments agree that the Walnut is of early maturity of good vitality and that the crown has been reduced in the past. Both categorize the Walnut as B1 (tree of moderate quality) within the guidelines of BS5837:2012 Trees in relation to design, demolition and construction – recommendations and recognise its impact/amenity within the area.

The impact assessment by Envirocology Ltd is brief in content compared to that of Down to Earth although the last paragraph in section 3 of the report states that "with consideration of the RPA and existing site features (including natural and man-made topography) it is our opinion that by adopting construction and tree protection techniques that minimise root disturbance it will be possible to achieve the successful construction of the proposed development. By adopting such methods lasting damage to retained trees will be avoided and amenity value will be preserved for the future". The report then goes on to contradict this statement within Appendix 1 by stating in the brief that the development will come within the root protections (RPA) area of the Walnut and this being the case, the development should be reconsidered to better accommodate T1 although it does not elaborate further on what damage may occur to the tree by the developments intrusion within the RPA.

The Impact assessment by Down to Earth is more robust in its appraisal of the tree and the impact the development will have on it. It confirms that the very eastern part of the new development will come within the RPA of the tree and the north face wall of the building will skirt the very southern edge of the tree's crown. I agree with their appraisal that the crown of the Walnut to the south has been suppressed due to the presence of a line of conifers that have since been removed from within the site. I also accept that this suppressed habit would negate the need for any significant access facilitation pruning provided construction of this face of the building is of the "overhand" method from within the building footprint as described within the report.

One single branch that extends further into the site is proposed to be trimmed back to the site boundary. The trimming back of this one branch is acceptable in arboricultural terms.

BS5837:2012 does allow some justification of development within the RPA of a tree provided it can be demonstrated that the trees can remain viable and that the area lost to encroachment can be compensated elsewhere, contiguous with its

RPA. Down to Earths report takes this into account within its appraisal of the new foundation within the RPA of the Walnut. It also proposes a number of mitigation measures such as hand digging, lining of the footing with heavy duty plastic barrier to prevent the leaching of concrete (which is toxic to tree roots) into the surrounding soil and site supervision by an Arboriculturist. All these mitigation measures are considered appropriate given the site circumstances and in the most part comply with the guidance given BS5837:2012.

On balance provided the development complies with the guidance and mitigation measures outlined in both submitted arb reports there are no tenable grounds to refuse this application from an arboricultural perspective. Therefore, if you are minded to approve this application I would want to see strict conditions attached that would ensure the development fully complies with the submitted Arb method statements.”

8.0 BACKGROUND PAPERS AND PLANS

8.01 Application papers for application 15/507671/FULL

9.0 APPRAISAL

Principle of Development

- 9.01 This site is positioned within the boundary of the built up area of Faversham where local and national policy continue to support the provision of new housing and the efficient use of land. For instance, this development would be compliant with the guidance contained within paragraph 51 of the NPPF in bringing into use an unused site for residential use close to and within walking distance of the town centre, essential services and public transport routes. Residential use of the site would therefore be capable of playing a part in supporting the requirements of Section 2 of the NPPF (paragraph 23) in ensuring the vitality of town centre by encouraging residential development in appropriate sites.
- 9.02 Use of this land within the built up area would utilize the site for residential within a primarily residential area of the town and demonstrate an efficient use of urban land in adding to the range of house types in the area. As such the proposal would be compliant with saved Policy H2 of the Swale Borough Local Plan 2008 in respect of being located within an established residential area located within a defined built up area.
- 9.03 On balance, the proposal would constitute a sustainable form of development (Para 14 of NPPF) and comply with the requirements of saved policy H2 of the adopted Local Plan. In this respect, the development is therefore considered to be acceptable in principle.
- 9.04 In terms of design, the proposal seeks to construct a detached dwelling with a two storey frontage containing design cues that reflect the character and building lines of the adjacent terrace to the south. Design and appearance to the rear is more contemporary in appearance providing a three storey configuration that makes full use of the slope to the rear.
- 9.05 Orientation of the windows would be east-west thereby avoiding any direct overlooking of the curtilages of adjacent dwellings particularly to the north. The rear first floor balcony would be inset into the building with the positioning of walls to this

structure effectively preventing any overlooking of the rear curtilage to 8 Cavour Road. Window to window interface distances to the east, though less than 21m normally recommended in respect of rear-to-rear windows would reflect the fact that the house is designed to fit into an established street scene, and to set the building further back would be to the detriment of the character of the area where the majority of terraced dwellings are located on or close to the street. Overlooking of the rear gardens to the south would be prevented by the blank gable end of 24 Plantation Road. The design, in effect, would limit balcony views westward across the garages.

- 9.06 The small front curtilage would be limited to providing pedestrian access and small circulation areas for window cleaners etc. A side pathway of some 1500mm width would provide access to the rear and a 3 – 4m deep rear curtilage would provide for a small amenity area to the rear and potential for bin storage. This in turn would be located lower than the ground level of the adjoining garden area of at 8 Cavour Road and boundary treatments would maintain mutual levels of privacy. Though small, the proposed rear amenity area would be able to provide for a rear secluded patio area adequate to serve the needs of this dwelling, given its central location.
- 9.07 Overall, the design of the proposal would provide for a four bedroom dwelling with rear amenity space within a small urban site that would continue to reflect the character, configuration and prevailing density of the majority of terraced dwellings located nearby.
- 9.08 This proposal is designed to provide for a multi-storey dwelling in a confined space with a ridge height of 8.7m when seen from the road. This would represent an increase of 4.5m in height in comparison with the single storey structure that it would replace. However, the two storey/three storey configuration of the proposed building would continue to reflect both the mass, orientation and presence of its surroundings consisting mainly of terraced dwellings located nearby.
- 9.09 Although the proposed dwelling would be located directly to the south of, and form a new visual presence in the middle to rear distance of No.8 Cavour Road, this would not significantly further close-down what is already a restricted aspect enjoyed by this dwelling by reason of the existing store building, the gable to 24 Plantation Road; the location within the rear garden of an intervening mature protected Walnut Tree (TPO3 of 2005), and intervening single storey buildings located in the rear curtilage.
- 9.10 The dwelling would sit well within the prevailing street-scape of mainly high density terraced dwellings with small front curtilages and, whilst it would form an additional visual presence in the immediate locality, the proposal would not in my view have an over-dominant or overbearing presence within the local street scene.
- 9.11 Some matters of residential amenity have already been touched on by the section on visual impact. Suffice it to say that there would be no discernible detriment to the residential amenity of neighbouring dwellings by reasons overlooking or loss of aspect. Rear elevation windows to 8 Cavour Road, the neighbouring bungalow dwelling located directly to the north would be separated from the blank gable of the proposed dwelling by a 13m deep curtilage. There is no direct window to window interface between the proposal and this dwelling with the rear balcony being fully screened from view, and the presence of existing intervening boundary screening with garden buildings located within the curtilage of 8 Cavour Road. As such there would be no direct overlooking between the properties.
- 9.12 A distance of some 11 – 12 metres would separate the front elevation ground floor reception and upper floor bedroom windows of the proposal with the front windows of

the terrace of dwellings opposite and across the street at 15 – 21 Plantation Road. Though this level of window to window interface would not usually be considered acceptable between rear windows in a new build situation, this relationship reflects the spatial reality of this Victorian street within the conservation area where the window to window relationship to the public front elevations of buildings are often less than this and therefore part of the built fabric of the area that, in itself, helps to define its character within the conservation area. The proposed window to window relationship between the proposed development and its neighbours across the road would therefore not be exceptional within the context of its location, would continue to reflect the prevailing character of Plantation Road and, as such, is considered to be acceptable within the spatial context of this area.

- 9.13 The site is located within the Faversham conservation area where saved policy E15 and guidance contained within Section 12 of the NPPF both apply requiring development to contribute positively to the special character and appearance of the conservation area. Paragraph 137 of the NPPF advises Local Planning Authorities to look for opportunities for new development within conservation areas. Proposals that preserve elements of the character and setting to make a positive contribution to the heritage asset should be treated favourably.
- 9.14 Some local residents maintain that the proposal would be overdevelopment and cramped in its form with a scale and presence that would fail to enhance and maintain the character of the surrounding conservation area. However, the existing single storey building on site is utilitarian in its design and appearance with no discernible architectural or historic merit that would serve to maintain or enhance the character of the conservation area in which it is located. The proposed dwelling would present the appearance of a detached two storey brick built dwelling that would better reflect the prevailing character of the surrounding conservation area in terms of design, scale, detail of the design and materials utilised; the appearance and character of the small terrace of three dwellings located immediately to the south. The existing brick built front boundary wall with pillared entrance shared with the property at 8 Cavour would be retained in situ maintaining definition of the street boundary to the site and serving to maintain a continuity of street character within the conservation area. The proposal would also, in terms of its scale and street presence better reflect the wider character of the area in which Victorian and Edwardian terraces prevail.
- 9.15 The rear elevation is of a more contemporary design and appearance that employs a three storey configuration to exploit the split level layout and slope of the site. The outlook to the rear consists of banks of garages with residential development beyond. To the north, the side elevation of the proposed dwelling is largely screened by the presence of intervening curtilage buildings and a substantial mature walnut tree in the rear garden of 8 Cavour Road. As such, the proposed development would result in an overall improvement in the character and appearance of the conservation area in terms of replacing a poorly designed commercial building with a dwelling that in terms of its scale and design better reflects the scale and residential character of the street. As such, the proposal would be in accordance with guidance contained within paragraph 137 of the NPPF and the requirements of saved Policy E15 of the Swale Borough Local Plan 2008.
- 9.16 No additional off street parking is to be provided in respect of this dwelling, but the potential for an additional on street parking space would be created by the removal of the drop kerb currently serving the access to the site and the restoration of the pavement. Residents have noted that loss of the dropped kerb may hinder disabled people crossing the road. However, there is no corresponding dropped kerb opposite

and in my view the removal of the dropped kerb will make use of the pavement itself far easier, subject to cars parking on it.

- 9.17 The site is located within a mainly terraced street close to the centre of the town where most dwellings within the street have small or no front curtilage or vehicular access to the rear garden areas, thereby limiting the opportunity to park vehicles off the road within their respective curtilages. There is a double bank of 30 garages accessed from Cavour Road and located to the rear of Plantation Road with a further bank of 19 garages located nearby and accessed off Kings Road. Notwithstanding this, there is a pattern of on street parking on either side of the road causing some congestion within the street. The applicant is exploring the potential to purchase one or more of these garages but that cannot be controlled by this application.
- 9.18 Previous uses for the site have included a builders' yard and a commercial garage, both of which are likely to have generated commercial vehicle movement. Although there is a dropped kerb at the site it is likely that these uses would have generated some on-street commercial vehicle parking on the road outside of the site. Arguably, the removal of the dropped kerb would have a neutral impact upon the parking in the locality by creating an additional on-street parking space with no additional pressure from commercial vehicles using this site or seeking to park on the street.
- 9.19 The Council relies on Kent County Council's Interim Guidance Note on Residential Parking (IGN3). This guidance does allow some latitude for parking provision to be reduced particularly in areas readily accessible to local facilities by public transport, by cycling or on foot.
- 9.20 In this respect, the site is located within walking distance to the town centre; is served by nearby good public transport links and is in close proximity to other local services such as schools, local shops and doctors' surgeries. Therefore, the circumstances of the site would allow for Members to consider a relaxation of parking requirements to be exercised in the replacement of a commercial building with a dwelling and for no off street parking to be provided in common with the majority of other dwellings within the street and the wider locality.
- 9.21 The proposal would, on balance, comply with many of the requirements of Section 4 of the NPPF (Promoting Sustainable Transport) particularly (paragraph 38) in providing a residential development where key facilities and services are within walking distance and allow for the use of the site for residential within an already residential street in accordance with the guidance contained in paragraph 50 of the NPPF
- 9.22 The provision of a single dwelling is unlikely to give rise to substantial additional vehicle movements on the surrounding highway network and, as such, not generate serious concerns in respect of highway safety and amenity. Kent County Council has raised no comment on this application in line with the current consultation protocol arrangements. In light of the above it is considered that it would be difficult to sustain an objection on highway grounds.
- 9.23 The soft landscape of this site is defined by the presence of a mature protected walnut tree located close-by within the garden adjoining the site at 8 Cavour Road. Concern has been raised by some local residents that the proposed development may damage the root system of this tree and thereby compromise the health of the tree which is recognised by all as an important feature of the local streetscape within the conservation area. In this respect, a neighbour has commissioned her own short Arboricultural Impact Assessment which assessed the proposal within the context of

criteria contained within BS5837-2012 (Suitability of trees retention in relation to design, demolition and construction). In synopsis, this report indicates that with adoption of suitable construction and tree protection techniques such as the use of a no-dig cellular confinement system for surfacing, it would be possible to achieve the successful construction of the proposed development and avoid lasting damage to trees thereby maintaining its health and amenity value.

- 9.24 The applicant's tree survey involved the digging of an exploratory shallow trench along the site boundary with 8 Cavour Road. No major roots from the walnut tree were revealed in the trench which reflects the findings that the root system of this tree was deflected away from the site by the presence of a line of conifer trees formerly established on the joint boundary between the two properties, and since removed.
- 9.25 Located close to the boundary between two properties, the tree has already been subject to maintenance pruning of the crown (see planning history above) with the asymmetric crown centred predominantly within the adjoining garden of the property at 8 Cavour Road. The applicant's submitted Arboricultural Impact Assessment Report indicates that some on-going minor periodic pruning would need to be undertaken but this has nonetheless already been accepted by the Local Planning Authority in its previous consents for these works. As a protected tree, any additional maintenance involving significant pruning back or crown reduction would continue to require the consent of this Authority
- 9.26 The majority of the root protection area (RPA) and the body of the tree would be protected throughout the construction period in accordance with current standards and guidance, and in accordance with the applicant's Arboricultural Method Statement, provided all works to the tree are undertaken and supervised by a qualified Arboriculturist
- 9.27 There appear to be few major roots to this tree within the application site and, as a protected tree, any crown reduction work would continue to be sanctioned by consent from the Local Planning Authority. The Arboricultural Method Statement indicates a satisfactory level of protection and working practices to be carried out during the construction period of the development. The proposed development is therefore unlikely to significantly adversely impact upon the root system of the protected walnut tree, thereby complying with the requirements of saved Policies E10 (Trees and Hedges) and E15 (Conservation Areas) of the Swale Borough Local Plan 2008 in respect of protection of trees in conservation areas; and guidance contained in Section 12 of the NPPF for development to contribute positively to the special character and appearance of the Faversham conservation area.

10.0 CONCLUSION

- 10.01 The site would be utilized for residential purposes within a primarily residential area of the town demonstrating an efficient use of urban land. As such, the proposal would be compliant with saved Policy H2 of the Swale Borough Local Plan 2008 in respect of being located within a defined built up area and would constitute a sustainable form of development (Para 14 of NPPF) In this respect, the development is therefore considered to be acceptable in principle.
- 10.02 The design would provide for a four bedroom dwelling with rear amenity space within a small urban site that would continue to reflect the character, configuration and prevailing density of the majority of terrace dwellings located nearby and in doing so, serve to maintain the character and appearance of the Faversham conservation area

in which it is located. As such, the proposal would be in accordance with guidance contained within paragraph 137 of the NPPF and the requirements of saved Policy E15 of the Swale Borough Local Plan 2008.

- 10.03 The site is located within walking distance of the town centre; is served by nearby good public transport links and; is in close proximity to other local services such as schools, local shops and doctor's surgeries. This would, comply with many of the requirements of Section 4 of the NPPF (Promoting Sustainable Transport) particularly (paragraph 38) in providing a residential development where key facilities and services are within walking distance and allow for the use of the site for residential purposes within an existing residential street in accordance with the guidance contained in paragraph 50 of the NPPF. Therefore the circumstances of the site would allow for Members to consider a relaxation of parking requirements to be exercised in the replacement of a commercial building with a dwelling and for no off street parking to be provided in common with the majority of other dwellings within the street and the wider locality.
- 10.04 The proposed development, undertaken in accordance with the submitted Arboricultural Method Statement during the construction period, is unlikely to adversely impact upon the root system of the protected walnut tree complying with the requirements of saved Policies E10 (Trees and Hedges) and E15 (Conservation Areas) of the Swale Borough Local Plan 2008 in respect of protection of trees in conservation areas; and guidance contained in Section 12 of the NPPF for development to contribute positively to the special character and appearance of the conservation area.
- 10.05 With the history of some asbestos contamination on the site not being conclusive, a precautionary condition can be put in place to require a further survey to be undertaken and appropriate remediation undertaken should any source of contamination be identified.

11.0 RECOMMENDATION – GRANT Subject to the following conditions

CONDITIONS

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

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

- (2) The development hereby approved shall not commence 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, and to ensure that such matters are agreed before work is commenced.

- (3) Prior to the commencement of the development hereby approved, details in the form of samples of external finishing materials and external joinery which shall feature painted timber windows to the front elevation, rooflights and of eaves and ridge

construction to be used shall be submitted to and approved in writing by the Local Planning Authority and works shall be implemented in accordance with the approved details.

Reason: In the interest of visual amenity, and to ensure that such matters are agreed before work is commenced.

- (4) No development shall take place until full details of 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 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.

- (5) The development hereby approved shall not commence until a programme for the suppression of dust during demolition and construction has been submitted to and approved in writing by the Local Planning Authority. The measures approved shall be employed throughout the period of demolition and construction unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of residential amenity, and to ensure that such matters are agreed before work is commenced.

- (6) Prior to the commencement of the development hereby approved, a survey specifying the location and nature of asbestos containing minerals (ACM) and an action plan detailing treatment or safe removal and disposal of the ACM identified as being present within the site shall be submitted to and approved in writing by the Local Planning Authority. The details in the approved action plan shall then be fully implemented and evidence of this shall be kept and made available for inspection at the request of the Local Planning Authority.

Reason: In order to secure the removal of any contaminated material that may be present on the site and to ensure that such matters are agreed before work is commenced.

- (7) Prior to the first occupation of the development hereby approved, evidence of the treatment or safe disposal of the asbestos containing materials (ACM) at a suitably licensed disposal site shall be submitted to and approved by the Local Planning Authority.

Reason: In order to secure the removal of any contaminated material that may be present on the site and to ensure that such matters are agreed before work is commenced.

- (8) If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing by the Local Planning Authority) shall be carried out until the developer has submitted, and obtained written approval from the Local Planning Authority for, a remediation strategy detailing how this unsuspected contamination shall be dealt with. The remediation strategy shall be implemented as approved.

Reason: To prevent pollution of groundwater.

- (9) No construction work in connection with the development shall take place on any Sunday or Bank Holiday nor 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) Notwithstanding the provisions of The Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking or re-enacting that Order with or without modification), the dwelling hereby approved shall not be altered or extended in any way without the prior written consent of the Local Planning Authority.

Reason: In the interests of the amenities of the occupants of the adjacent residential property.

- (11) Notwithstanding the provisions of The Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking or re-enacting that Order with or without modification), no part of the front boundary wall to the site shall be demolished or reduced in height without the prior written consent of the Local Planning Authority.

Reason: In the interests of the amenities of the occupants of the adjacent residential property.

- (12) The development shall proceed in accordance with the following approved drawings:

Stevens_001 Rev 2_1, _002 Rev 2_1, _003 Rev 2_1, _004 Rev 2_1, _005 Rev 2_1, _006 Rev 2_1, _007 Rev 2_1, _008 Rev 2_1, _009 Rev 2_1 and _010 Rev 2_1.

Reason: For the avoidance of doubt

- (13) In this condition "retained tree" means an existing tree, which is to be retained in accordance with the approved plans and particulars. Paragraphs i) and ii) below shall have effect until the expiration of 5 years from the date of completion of the development for its permitted use.

i) No retained tree shall be damaged, cut down, uprooted or destroyed, nor shall any retained tree be pruned other than in accordance with the applicant's Arboricultural Method Statement (S306_PLAN_CS_AMS_151127.docx) dated 30th November 2015, without the written approval of the Local Planning Authority. Any pruning approved shall be carried out in accordance with British Standard 3998:2010 Tree Work - Recommendations or any revisions thereof.

ii) If any retained tree dies, or is removed, uprooted or destroyed, another tree shall be planted at the same place and that tree shall be of such size and species and shall be planted at such time as may be specified in writing by the Local Planning Authority.

iii) The installation of tree protection barriers, the methods of working and the means of constructing the new dwelling shall be undertaken in accordance with the

applicant's Arboricultural Method Statement (S306_PLAN_CS_AMS_151127.docx) dated 30th November 2015.

Reason: Pursuant to section 197 of the Town and Country Planning Act 1990 and to protect and enhance the appearance and character of the site and locality,

(14) No development shall commence until the developer has:

i) Instructed an arboricultural consultant, approved in writing by the Local Planning Authority, to liaise with the developer and/or his architect or engineer to approve relevant details of construction methods, oversee the works and report to the Local Planning Authority throughout the period of the works in so far as the works may affect retained trees; and

ii) Submitted to and obtained the written approval of the Local Planning Authority for an auditable system of arboricultural site monitoring, including a schedule of specific site events requiring arboricultural input or supervision where construction and development activity is to take place within or adjacent to any root protection area of any tree identified for retention.

iii) The details approved under clause ii) above shall be implemented throughout the period of construction.

Reason: Pursuant to section 197 of the Town and Country Planning Act 1990 and to protect and enhance the appearance and character of the site and locality, and to ensure that these details are approved before works commence.

(15) All brickwork and pointing on the northern elevation of the building hereby approved shall be constructed "over-hand" without the installation of scaffolding to the northern side of the wall.

Reason: To prevent damage to the protected walnut tree during construction.

(16) 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.

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

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

Council's Approach to the Application

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

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

In this instance the application was 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.

REFERENCE NO - 14/501588/OUT		
APPLICATION PROPOSAL		
<p>Hybrid application (part outline, part approval of detail) consisting of: Outline application for the development of 550-600 houses and all necessary supporting infrastructure including roads, open space, play areas, neighbourhood shopping/community facilities (up to 650m2 gross) and landscaping. All detailed matters are reserved for subsequent approval except (i) vehicular access to A2 Fox Hill; (ii) emergency access to Peel Drive; (iii) landscape buffer between housing and countryside gap and (iv) layout, planting, biodiversity enhancement and management of countryside gap.</p>		
ADDRESS		
Land At Stones Farm The Street Bapchild Kent ME9 9AD		
RECOMMENDATION		
<p>Grant of outline planning permission for housing development and full permission for countryside gap and access arrangements; SUBJECT TO: a Section 106 Agreement for;</p> <ul style="list-style-type: none"> • Affordable housing, with review process • Developer contributions regarding education and other community facilities • A 650sq m area for the provision of a neighbourhood shopping/community facility within phase 1 of the scheme safeguarded until occupation of the 500th dwelling • Provision of wheelie bins • Strategic Mitigation payment at reduced rate • Public transport enhancement and travel plan implementation (£250000) • Off site playing pitch contribution • Commuted sums for maintenance of the countryside gap, landscape buffer and detention basin, and for local play areas • Ownership and management of the countryside gap • Funding of link and drop-off area, and footpath link at Lansdowne School • Broadband provision to all dwellings, electric charging points to all suitable dwellings • Commitment to the Considerate Constructors Scheme • Index linking of contributions, and • Monitoring fee <p>And to the further views of Kent Highways and Natural England</p>		
REASON FOR REFERRAL TO COMMITTEE..		
Significance, Parish Council objection, local representations, and need for Section 106 Agreement		
WARD West Downs	PARISH/TOWN Bapchild	COUNCIL APPLICANT G H Dean & Co.Ltd. AGENT Mr Paul Sharpe
DECISION DUE DATE 31/12/15	PUBLICITY EXPIRY DATE 29/01/16	

1.0 DESCRIPTION OF SITE

- 1.01 This large site extends to 33.4ha of open undulating farmland adjoining the eastern edge of the built up area of Sittingbourne, with the A2 to the south and the main railway line to the north; its eastern boundary being just within the Tonge conservation area. The majority of the site is open arable land but to the south-west there is an orchard, and a small part of the site is at a lower level and partly surrounded by trees growing on a bank. The site is crossed by two public footpaths but the site has no particular planning policy designation apart from its allocation as a development site on the proposals map of the Swale Borough Local Plan 2008, and now in the publication version of Bearing Fruits 2031 (The Swale Borough Local Plan Part 1). The site is easily visible from the A2 except where houses front the A2 along the western part of the site frontage. Housing opposite offers a good view across the site because it is largely set at an elevated position along the southern side of Fox Hill.
- 1.02 The site lies 900m from nearest part of The Swale SSSI/SPA/Ramsar site and 1500m from the bulk of the site. The applicants have commissioned studies regarding the possible impact of the development on that area. The application site mostly comprises heavily managed arable land and does not provide any habitat for bird species for which The Swale is designated, and no direct or hydrological impacts on the site from the development are envisaged. The most significant possible issue is that of recreational disturbance from new residents as walkers (especially dog walkers) and users of boats are known to disturb birds. If such effects are thought likely to be significant (either alone or in combination with other developments) and the development is not associated with management of the area it will be necessary for the Council to conduct an Appropriate Assessment of the development under the Habitats Regulations. However, the site is not particularly well linked to The Swale for visitors on foot, with the intervening railway line, farmland and the East Hall Farm development site making for an extensive circular route from the site to The Swale. In addition the development includes 15ha of informal open space right on the doorstep of the development which will be far more convenient to most dog walkers and might be considered as a Suitable Alternative Natural Greenspace (SANG) especially if suitably landscaped and laid out and linked to existing footpaths and the Tonge Mill Country Park.
- 1.03 The site contains some badger setts on a tree lined bank which had been thought to be abandoned but are now thought of as active. Otherwise the site has not been found to home to protected species other than slow-worms and lizards found around the site margins. It is suggested that reptiles can be re-located to within the proposed open space area on the site.
- 1.04 The site does not lie in a flood risk area or contain any listed buildings, protected trees or other special features except the very edge of the Tonge conservation area. The site lies adjacent to Lansdowne Primary School and close to Sittingbourne Community College on Swanstree Avenue.

2.0 PROPOSAL

- 2.01 This hybrid application is principally in outline and seeks outline permission for the development of up to 600 homes on 16.428ha to the west of the site adjoining the urban area of Sittingbourne. However, it also seeks detailed approval for means of vehicular access to the site from the A2 at Fox Hill, the pedestrian/cycle/emergency access point from Peel Drive, as well as for the landscaped buffer to the site and the

layout of the proposed 15ha countryside gap to the east towards Bapchild and Tonge.

2.02 The application is supported by the following documents;

- Application form
- Plans and drawings
- Design And access statement
- Transport assessment
- Travel plan
- Noise and vibration assessment
- Air quality assessment
- Habitat surveys and wintering birds survey
- Habitat regulations screening and scoping report
- Landscape studies
- Flood risk assessment
- Archaeological assessment
- Contamination reports
- Consultation statement
- Heads of terms for Section 106 Agreement
- Planning statement
- A 2015 Badger Survey report has since been submitted
- A 2015 Habitats Screening and Scoping Report on the potential impact of the development on The Swale etc Special protection Area has also since been submitted by the applicant.

2.03 The proposals follow local consultations since 2010 and the adoption by the Council (in May 2011) of a Development Brief for the site. The outcome of consultations has resulted in redesign of the main road junction in order to minimise impact on existing residents and to retain the cycle route; the inclusion of “character areas” within the now lower density (31 dwellings per hectare average density) housing areas; and refinements to the countryside gap proposals. Affordable Lifetime Homes standard housing will comprise 30% of the housing provision, whilst overall, the bulk of new housing would be 3 bedroom or more family housing. Housing was intended to be at or above Code Level 3 with drainage via a sustainable urban drainage system to Tonge, including a detention basin within the countryside gap. Most housing will be two-storeys with limited three storey development. Play areas will be included within the housing areas on top of the countryside gap open space proposals.

2.04 The countryside gap is intended to provide informal open space and to include a community orchard, wet woodland, open grassland, benches, seating and gates, paths, ecological “interventions” and a (normally dry) water detention basin to restrict water run-off rates to prevent localised flooding. The proposals also involve putting the existing overhead power lines underground across the countryside gap. The landscaped buffer immediately adjacent to the proposed housing area will feature a variety of native tree species to encourage a dense, tall tree and shrub screen of woodland character. These features are intended to protect the separate character of Bapchild, and to safeguard the setting of the Tonge conservation area, and will be implemented alongside the first phase of housing development. It is envisaged that a Section 106 Agreement will be required to secure the provision, management, accessibility and ownership of the countryside gap.

- 2.05 The proposals do not include any provision of, or reservation of land for, a continuation of the Sittingbourne Northern Relief Road (SNRR) between East Hall Farm and the A2 as the route of this has not yet been decided. No alternative route proposed so far has affected the proposed housing area of the site, but the effect of the SNRR on the proposed countryside gap is not yet known and will have to be dealt with when it is known. However, the most likely route of the SNRR is safeguarded by the current proposals for the countryside gap. It is not felt necessary to see the SNRR completed before this quantum of development takes place here as existing roads will have sufficient capacity.
- 2.06 The applicant's 2015 Habitats Screening and Scoping Report reviews the likely impact of the development on the European Special Protection Area (SPA) sites on the Thames, Medway and Swale. It recognises that these areas are of international importance for breeding and overwintering birds and that the application site lies about 900m south of the Swale. Under the relevant legislation the Council must consider whether the development will have a significant effect upon the SPA(s) under what is known as a Habitats Regulation Assessment (HRA). This is to establish whether or not the proposal (or project) will alone, or in combination with other projects, is likely to have a significant effect on the SPA. The applicant's report responds to Natural England's original response to this application which was to seek clarity on the potential effect (see below).
- 2.07 The applicant's report notes that the site is currently farmland but that the application proposes detailed plans for 15ha of the site to remain undeveloped and designed as a "Suitable Alternative Natural Greenspace" (SANG) to cater both for the needs of new and existing nearby residents, an approach advocated by the North Kent Environmental Planning Group. It points out that the adjacent housing estate (which has no local resource for dog walking) will be linked to the new development and SANG which will be provided as part of the first phase of the development, and that the SANG proposed is in fact larger than it needs to be, just to serve the development that is proposed. In terms of the potential for additional disturbance from recreational activity, especially dog walking, the report states that whilst physically close to the SPA walking routes between the two are, because of the railway in between, longer, between 2.6 and 4.6km; further than most walkers will wish to walk. Accordingly, most dog walking can be expected more locally perhaps within the SANG, which will also be accessible by existing residents nearby, such that it is estimated that the impact of dog walking from the site to the SPA will actually be reduced if some existing residents use the SANG instead of visiting the SPA.
- 2.08 In the applicant's covering letter with the above report they argue that Natural England does not challenge their evidence of minimal impact upon the SPA, but that they still suggest mitigation funding is required. However, the applicants are keen to point out that the likely increase in visitor numbers to the SPA is less than 1% of the overall impact envisaged from new development, and that the 585 dwellings on the adjoining housing state do not currently have dog walking areas on site, so that if 20% of these people diverted to the proposed countryside gap instead of using the SPA this figure would fall to just over half of one per cent, meaning that it is not a significant effect. In August 2015 the applicant submitted a number of amendments to the application in response to local representations and discussions both with officers and with other bodies. These comprise;
- Amendments to the Peel Drive emergency access to deter use by motorbikes and to ensure a better standard of design, involving reducing the width of the emergency

access from 4.8m to 3.0m and incorporating a locked five bar gate and pedestrian/cycle only barrier

- Alterations to the main A2 access point in relation to residents parking (increasing from 12 to 16 spaces) and access thereto, screening from car headlights, continuation of the cycle path, and clarification of bus stopping facilities. These amendments incorporate the results of and response to a safety audit
- Revisions to the design of the countryside gap and detention basin to clarify that the footpaths are not intended as cycle paths, to align proposed paths with existing footpaths and likely future desire lines. The detention basin has been refined to be more naturalistic in appearance, with no safety fence needed, and it will not now be a permanent basin.
- Confirmation that the downstream drainage network can accommodate surface water run-off at a natural rate
- In response to comments of the Swale Design Panel the character areas shown within the housing development have been amended so that The Crescent area is more formal, with the potential for slightly higher buildings at the northern part of the site, and the link from Peel Drive to the countryside gap has been “greened-up” to enhance its use by existing residents
- In addition the text of the Design and Access Statement has been amended to pin down the design requirements for the individual character areas so that a planning condition can ensure that future developers are required by planning condition to respond to the current work rather than start with a blank sheet for reserved matters

2.09 The applicants also advise that they have been negotiating with the County Council's Education and Highways teams to explore ways of overcoming the existing Lansdowne School traffic issues in Gladstone Drive without transferring those issues to the new roads on Stones Farm. I understand that the applicants have reached agreement with the school to fund a new access direct from the site to the school grounds within which a new drop-off/pick-up area cum hard surfaced sports area would be provided. The drop-off area might be accessible from both the new estate and from Gladstone Drive and whilst the route would be managed by the school and only available at each end of the school day, it might involve a one-way system to or from Gladstone Drive; although I have made it very clear that I see this is a bad idea as it might simply require all traffic to use Gladstone Drive even if it otherwise would not need to. The plans might also provide for the setting back of the school fencing between Gladstone Drive and the development site to provide a footpath link to Gladstone Drive for school visitors during the school day, avoiding a long walk (or drive) to the school. The details of this matter do not form part of this planning application and another planning application by the school will be necessary. However, at this stage the Section 106 Agreement with this application will need to require the developer to agree to safeguard access to the school grounds and to funding of the new drop-off zone, hopefully for completion between occupation of 200 to 300 dwellings.

2.10 With respect to the impact of the development on the potential completion of the Northern Relief Road (SNRR), the applicants say that;

- There is no agreed route between East Hall Farm and the A2
- Tests for Section 106 contributions are now legal tests, not simply policy tests
- The applicant's Transport Assessment indicates that the development does not rely on the completion of the SNRR meaning that there is no lawful case for requiring a financial contribution to the road

- 2.11 The applicant now further suggests that although policy H3 of the adopted Local Plan seeks a contribution of 30% affordable housing (as carried forward into the Development Brief in 2011) recent viability testing for the Council suggests that only a 10% contribution can be sustained by new housing developments in the Sittingbourne area. Accordingly, whilst they are prepared to sign up to a 30% contribution at the start, they maintain their concern over viability and seek provisions within the Section 106 Agreement to give the developer the option for an annual review of affordable housing and other contributions, supported by viability information.
- 2.12 The applicants have prepared a bespoke response to the Parish Council's comments, which I refer to below.
- 2.13 Finally, in relation to Habitats Regulations issues, in addition to the 2015 Habitats Screening and Scoping Report the applicants have noted that originally Natural England asked for clarification of the likely impact of the development on the SPA, but that now they seek a financial contribution to Strategic Mitigation strategy. The applicants say that they have demonstrated a minimal likely impact upon the SPA and have not seen any further response from Natural England (this is referred to further below).
- 2.14 The applicants do, however, comment on Natural England's (NE) suggestion that the countryside gap is put in place before occupation of any dwellings, saying that this is unreasonable, especially as NE suggest that the countryside gap will not mitigate the perceived impact of the scheme. They suggest that the provision of the countryside gap must be factored into any contribution to the Strategic Mitigation as the scheme is a special case as it provides alternative dog walking opportunities that other schemes do not. They maintain that neither a financial contribution nor an Appropriate Assessment are required of the application. Nevertheless, whilst maintaining their clear concern over the position taken by Natural England latest negotiations have resulted in the applicants offering a reduced contribution to Strategic Mitigation in recognition that the countryside gap will provide partial alternative provision, and that the combined contribution for future maintenance of the countryside gap and the Strategic Mitigation will be far in excess of that otherwise payable for Strategic Mitigation alone.
- 2.15 The application has been further amended in January this year to revise the main access layout to show how it will maintain access to rear parking areas of existing houses on Fox Hill for larger vehicles and to provide more convenient off-road parking for those houses here which do not have individual driveways. The main lay-by will now hold 12 parking spaces with the remaining four accessed from the west for easier use by visitors to the houses at 43 to 49 Fox Hill who do not have ready visitor access. I have re-consulted the Parish Council, Kent Highway Services and adjoining residents on this amendment (closing date for comments was 29/01/2016).

3.0 SUMMARY INFORMATION

	Existing	Proposed	Change (+/-)
Site Area (ha)	33.4ha	33.4ha	0
No. of Residential Units	0	Up to 600	Up to 600
No. of Affordable Units	0	Up to 180	Up to 180

4.0 PLANNING CONSTRAINTS

Allocated Development Site for housing development

Potential Archaeological Importance

Tonge conservation area

Public rights of way

5.0 POLICY AND OTHER CONSIDERATIONS

The National Planning Policy Framework (NPPF)
National Planning Practice Guidance (NPPG)

Development Plan: Swale Borough Local Plan 2008 saved policies SP4, SP6, SP7, E1, E7, E9, E10, E11, E15, E19, H2, H3, H5(6), H10 (housing on the application site), T1, T2, T3, T4, T5, C2, C3 and C5 (countryside gap on the application site).

Supplementary Planning Documents:

- Stones Farm Development Brief, May 2011
- Developer Contributions

The Publication version of Bearing Fruits 2031 (The Swale Borough Local Plan Part 1), especially policies A8 and AS1.

- 5.01 Policy H5(6) allocates land at Stones Farm for up to 600 dwellings with at least a 30% affordable housing contribution. This is the biggest single housing allocation in the Adopted Local Plan and represents just over 10% of all new land allocations for dwellings in the Plan across the entire Borough.
- 5.02 Policy H10 is the site specific policy for housing development on 18ha of land at Stones Farm. It did seek to restrict development until after 2011 unless other sites failed to come forward, but this restriction has now expired. The policy leaves a lot of detail to be resolved via a Development Brief. Such a brief has since been prepared and was adopted by the Council in May 2011; this largely guides the current planning application proposals. Policy T2 requires financial contributions towards completion of the SNRR from all housing developments of 10 units or more likely to generate traffic which will access Sittingbourne Town Centre in order to help fund the SNRR and other transport infrastructure.
- 5.03 Policy C5 relates to the countryside gap part of the application site, requiring at least 15ha of land to be retained as a permanent open gap between the housing development site and Tonge and Bapchild, also protecting the setting of Tonge conservation area. This is proposed as publicly accessible informal open space secured via a legal agreement. This part of the site is also included in an Important Local Countryside gap between Sittingbourne and Bapchild under policy E7.
- 5.04 In the publication version of Bearing Fruits 2031 (The Swale Borough Local Plan Part 1) the site is affected by a number of policies which are ST4 (Meeting the Local Plan development targets), A8 (Stones Farm, Canterbury Road, Sittingbourne), AS1 (Safeguarded area of search: Sittingbourne Northern Relief Road – The A2 link), CP3 (Delivering a wide choice of high quality homes), CP4 (Requiring good design), DM8 (Affordable housing), DM10 (Gypsy and Traveller Sites), DM18 (Local green spaces), DM19 (Sustainable design and construction) and DM25 (The separation of

settlements – Important Local Countryside Gaps). As this Plan has been approved by the Council for publication (November 2014) and through the recent Local Plan Inquiry (and we now await the Inspector's first interim findings) some weight can now be placed on these policies in accordance with paragraph 216 of the NPPF.

- 5.05 These policies continue to see the application site as suitable for up to 550 dwellings whilst providing a 15ha countryside gap (policy A8) which includes parts of both a Local green space (policy DM18) and Important Local Countryside Gap (policy DM25). This eastern part of the site is also within the safeguarded Area of Search for the completion of the Sittingbourne Northern Relief Road (policy AS1). As a large housing site, development will need to be compatible with policies CP3 (relating to dwelling mix), CP4 (design), DM8 (10% affordable housing), DM10, which requires that the development contributes to the provision of gypsy and traveller pitches (possibly six pitches here), and DM19 (sustainable design and construction).

6.0 LOCAL REPRESENTATIONS

- 6.01 Firstly, I have been contacted by Roger Gough, the County Council's Cabinet Member for Education and Health Reform, regarding the relationship of this development to Lansdowne Primary School and, in particular, the access links between the site and the school. He says that the school is expanding to ensure that it can accommodate pupils both from the development and existing residential areas even though it is located in a residential area with constrained streets. In the light of this he believes that there should be road and pedestrian access from the new development to the school as a condition of development, as well as enhanced drop-off and collection arrangements within the new development to ensure sustainability and safety.
- 6.02 I have also been contacted by Tom Gates, Chairman of the Swale Joint Transportation Board who considered this application in September 2014. He notes that Board Members were concerned with safety at the school and wanted measures to address the issue. The meeting agreed to a plan to include a walking bus and they resolved to ask the Planning Committee to seek a direct access from Stones Farm by foot and vehicular access into the school grounds. Members will note that work on this matter has now been done and that the applicants are offering to fund access to and a parking area within Lansdowne School as part of a Section 106 Agreement, although the school will be responsible for submitting the necessary planning application for the final design of that scheme.
- 6.03 The application has quite naturally generated a lot of local interest and initially I received 32 letters of comment from people living in the Peel Drive, Gladstone Drive, Fox Hill and Bapchild areas. They raised the following summarised points;
- The development would not be in keeping with the area and will cause a negative visual impact and change the character of the area, contrary to Local Plan policies E1, E19 and E24. Loss of orchard trees and landscape. More landscaping is required
 - Bapchild will lose its identity and become part of Sittingbourne – it already has no shop or Post Office
 - Traffic is a big issue and some fear that the development will make it worse especially at peak times, and especially when traffic is diverted along the A2 if the M2 is closed.
 - Traffic already queues on the A2 at the proposed access point at busy times making entry or exit from driveways difficult. Visibility will be reduced

- The new junction arrangements affect access and parking for existing houses, parents collecting children from the school when the village hall car park is in use, and create danger for children walking to school
- People are not likely to walk to work on the Eurolink as the application suggests
- Would a roundabout at the site entrance be safer and more efficient than the junction that has been designed?
- Car headlights shining into houses opposite the new junction
- There have been accidents involving pupils from school on Swanstree Avenue crossing the A2, and increasing traffic will not help this
- Can a new entrance and drop-off facilities be provided at Lansdowne School to deal with the inevitable increase in traffic?
- The access to Peel Drive is poorly detailed and it is essential that this is not a through route – yet the few bollards shown will not prevent motorbikes getting through. This entrance should be gated, not just a few bollards. Emergency access should be via the A2, not Peel Drive
- Extra traffic in the Vincent Park estate and in Gladstone Drive for Lansdowne School
- Will result in more traffic towards Kemsley/Iwade via Murston Road and Church Road passing primary school – or through Tonge Mill where the road is narrow and buildings are regularly hit by vehicles. The speed limit here ought to be reduced to improve safety
- The development should include completing the SNRR
- Houses on Canterbury Road should be given rear access as it will be impossible to get out of their driveways with the increased traffic
- Roads should be wide with more parking
- The footpath through the site should be relocated as it will lead to crime and anti-social behaviour
- A new crossing on the A2 will be essential
- Lack of health services in Sittingbourne. Can the developers be forced to provide GP facilities before being allowed to build homes?
- Lack of local employment, parking and shopping
- Will there be enough places at Bapchild School or Sittingbourne Community College? Enlarging Bapchild school will lose its village identity
- Will this help to bring back the bus service to this part of the town?
- Why include new shops, they will not last but will turn into fast food outlets leading to anti-social behaviour. In any case they should be at the rear of the site to reduce noise from deliveries, anti-social behaviour and late night opening to existing residents, and to reduce the impact of these tall buildings
- Where will the social housing be?
- Can play areas be provided from the outset and retained for the long term?
- The Countryside Gap is said to be informal open space, but then it refers to dog walking, ball games and picnicking
- How will undergrounding overhead wires affect residents?
- Will the osier swamp near Tonge Pond remain? Will run-off overwhelm the sluice gate at Tonge Mill and Pond where all run-off will eventually end up – and will it lead to additional problems for adjacent properties? Maybe the sluice gate and waterways here need to be upgraded. Will the attenuation pond take out pollutants, and will it be dangerous for small children?
- Destruction of habitats, loss of foxes, hedgehogs, squirrels, bats, owls, skylarks and rabbits.
- What arrangements will be put in place to manage the countryside gap? How will this affect the Tonge Country Park?

- Doesn't this mean the SNRR should go elsewhere? If it goes through the countryside gap it will adversely affect Tonge conservation area
- Where will I walk my dog?
- There should be lighting on paths, to prevent crime or fear of crime, even across the country park where people will want to walk their dog
- Increased crime, pollution, noise and flooding, including highway flooding. Hours of construction, parking for site workers, and dust from the site should be controlled
- Will the scheme include a traveller site?
- The scheme is clearly within the scope of the Local Plan and so whilst we do not object to it overall, attention must be focussed on getting it right. It looks a genuinely great design
- Overshadowing and loss of privacy from tall buildings, even three storeys, a 15m gap to new houses from the boundary is not enough. There should be no three storey buildings
- Loss of high grade agricultural land
- Loss of property values
- Poor consultation procedures, lack of time and facilities to register comments on-line

6.04 After consultation on amendments was carried out I received a further seven representations from local residents on the following subjects;

- Problems for residents of Fox Hill in accessing their rear parking areas via a narrow track which emerges close to the proposed traffic lights – the design does not seem to allow for more than an estate car when several properties have larger vehicles using that access
NOTE: The latest drawing shows how larger vehicles will be able to use the access
- Cars waiting to turn right into the access may block emerging vehicles and will have nowhere to move to
- Only two parking bays on A2 for the four houses concerned, creating problems for visitors and deliveries
NOTE: The two spaces have now been increased to four
- Despite what the applicants say residents are entitled to park in the cycle lane as it is not designated, and as some residents have steep drives they do need to park on the A2 from time to time
- The scheme is quite unnecessary, Sittingbourne is already large enough and we do not need 550 to 600 more houses. There is not enough infrastructure
- Over development of the site at too great a density leading to a poor development
- Loss of valuable open land, better to spend the money elsewhere on other important projects
- No details of proposals for improving the situation in Gladstone Drive
- Surprise at suggestion of no financial contribution to SNRR as it was understood that this scheme was intended to part fund it
- Concern over traffic volumes from the site on the busy A2, and concern over traffic survey methodologies used
- Congestion and pollution
- It is essential that the countryside gap is in place before any housing or roads are constructed as trees take time to settle in and habitats to adjust
- Local residents should be offered a screen from the development site
- Construction vehicles should be kept out of the countryside gap during construction

6.05 In response to the most recent limited re-consultation regarding the new lay-by arrangements for residents' parking along the A2, I have received two further

responses. One queries the nature of the proposals which the applicants have clarified with an annotated drawing.

- 6.06 The other refers to the newly amended residents' parking provision. The specific concern is that numbers 43 to 49 Fox Hill have no front access driveways and rely on a steep, narrow, rear access track for on-site parking within their gardens, which is not clear or convenient for visitors or deliveries. Further, it is pointed out that residents also need to park at the front in icy weather as the rear access is very steep.
- 6.07 At the moment, visitors to these houses tend to park on the carriageway where they obstruct a painted-on cycle lane, taking advantage of the unusually wide carriageway. Members should note that the new layout will remove the scope for this and officers have asked the applicant if the road could be aligned slightly further north to retain scope for on-street parking outside these four houses. However the applicant has been reluctant to do so, but instead, has suggested a small four-car lay-by for these residents in front of number 41 Fox Hill. The concern remains that existing residents will not be able to park on the road outside their houses and that the road could be moved over a little to retain this facility.
- 6.08 The other matter is that, as shown, a long vehicle entering the A2 from the residents' access will conflict with a vehicle waiting to turn right into the access. This would be avoided if the carriageway was moved as above, and this is what is still requested by residents.

7.0 CONSULTATIONS

- 7.01 Bapchild Parish Council opposed to the application as submitted due to their view that the applicant has failed to abide by the requirements of the Local Plan; due to lack of information; and due to lack of pre-consultation. They also say that they have been "immensely disappointed with the consultation process" over the application citing problems with the original limited and short (three week) publicity (this was subsequently extended) during a holiday period (this was in mid-2014), problems of accessing documentation on and other than by the internet, and its poor presentation from the planning administration service in Maidstone.
- 7.02 Specifically, the Parish Council argued that the application fails to fulfil the fundamental mitigation measure required of it, which is delivery of the full complement of open space required by the Local Plan and to have regard to the possible route of the SNRR/A2 link. This is because the Parish Council does not wish to see the possible route of the SNRR/A2 link detract from the 15ha of open space to be provided as part of this development. They argue that the Local Plan seeks to prevent development that will preclude achievement of the link, and that this proposal is contrary to that aim, without safeguarding any land for the road. They wish the Borough Council to recognise that the SNRR/A2 link is planned and that it should not just be ignored at this stage despite the fact that no route is yet agreed or a timetable for its construction yet known. They refer to the Local Plan Inspector's report which pre-dates adoption of both the Local Plan and the Development Brief for the site. Members should note that the Local Plan Inspector considered the implications for the site for the completion of the SNRR, recognising that the alignment of the final section of the SNRR was (and remains) not certain. The Inspector realised that the most achievable scheme would be the cheapest and the one which opened up as much land as possible for development i.e. the western route, which might in effect form a planning boundary to Sittingbourne. He decided that it was not his role to

consider possible route alignments, but that the Council needs to give serious consideration to the best route of this section of the SNRR before committing itself to a detailed design for the housing area of the development.

- 7.03 The Parish Council further argues that the adopted Development Brief does not adequately address the boundary between the housing development and open space parts of the development site, because the line of the SNRR/A2 link is not safeguarded by the proposals, nor does the housing development include construction of any part of the link, as it might have done. In my view this position ignores the fact that the housing area proposed avoids affecting possible routes, and does not include any part of the route as part of the development, whilst incorporating a substantial landscape buffer between the housing area and the possible road alignments.
- 7.04 In terms of the boundaries, phasing and maintenance of the proposed open space, the Parish Council wishes to be involved in drawing up any management plan, they express concern regarding its possible cost and they seek reassurances on this subject.
- 7.05 Questions are raised about the incompleteness of details of the emergency-only access to Peel Drive and on the detailed design for the new site entrance from the A2. The Parish Council has made a number of detailed comments on these aspects of the proposals.
- 7.06 The Parish Council feels that traffic impacts may have been under catered for by virtue of unrealistically favourable assumptions about likely travel patterns of future residents, and lack of any plans for improvements to the A2. They dispute the predicted lack of impact on traffic in Bapchild itself and suggest a review(s) during construction with mitigation measures implemented if necessary via Section 106 requirements. In terms of schools, the Parish Council recognises that the site is well placed, yet there can be no guarantee that children from the site will use nearest schools, but that no account of the traffic impacts of expansion of Lansdowne School has been taken, with the possibility of parents dropping off within the development rather than in Gladstone Drive not being catered for.
- 7.07 The Parish Council is very interested in the intended Section 106 Agreement but wish to be assured that once negotiated its terms will persist and not be subject to re-negotiation. They suggest that the countryside open space is protected by a legal covenant prior to any sale or transfer of that land prohibiting any form of development on it, and providing that its use is controlled for informal use only.
- 7.08 In terms of design matters the Parish Council questions the relevance of the application's references to low density developments in other parts of Kent, that appear to mis-represent the likely nature of this development, which might in fact be highly inappropriate for the rural setting. The application leaves many unanswered questions concerning the intended houses in terms of type, height, position and effect on privacy, although the idea of gardens backing onto existing gardens is accepted assuming that there are no boundary disputes and current fence alignments are correct, but they note that boundary fencing/planting intentions here are as yet unclear.
- 7.09 In relation to services and infrastructure the Parish Council is keen to explore the provision of new community, retail and doctors' surgery facilities prior to the detailed application, but they express concern over the inadequacy of foul sewage disposal

due to previous leakages which pose a threat to groundwater and to the Tonge Mill spring, stream and pond. They note that Southern Water are fully aware of the need for the development to secure an appropriate improvement in the system. However, they remain concerned over surface water run-off and the risk of flooding and contamination of the conservation area at Tonge Mill.

- 7.10 Trips to Lansdowne School currently result in severe traffic congestion in Gladstone Drive at school times, and a second point of vehicular access from the development site is desired, especially if KCC do double the school's intake as they have announced. Whilst the Parish Council supports a new access they have concerns over whether the development has been planned to take account of the likely traffic patterns that might emerge; they suggest that if a new vehicular access is created there is a designated drop-off/turning area within the school grounds, but in any case the traffic implications of any new access should be fully considered.
- 7.11 The applicants have prepared a bespoke response to the comments of the Parish Council, although the amendments to the scheme are partly in response to points raised by the Parish Council, including the following points;
- The potential future route of the SNRR is not yet clear and cannot be a factor in determining this application, although the development proposals do not prejudice any of the various routes so far suggested. No route is currently safeguarded in the emerging Local Plan. It will ultimately be a matter for the County Council to define the route of the SNRR (whether or not it cuts across the currently proposed countryside gap) but this application does not prejudice that process.
 - Clarification of the proposals for the countryside gap part of the application site
 - Confirmation of changes to access proposals
 - Confirmation that the Traffic Impact Assessment (TIA) has been prepared in accordance with national and local protocols and that any potential link to Lansdowne School will not necessitate a review of the TIA
 - Clarification of the intended timing and future management of the countryside gap area
 - Clarification of the intended relationship of new development to existing boundaries
- 7.12 Highways England (formerly The Highways Agency) initially imposed a direction prohibiting the granting of planning permission on 22 September 2014 expiring on 17 November 2014. They renewed that direction on 17 November 2014 and on 9 January 2015 when it ran until 1 May 2015. On 29 April they confirmed that after considering evidence of likely queue lengths on the off-slip at the A249/A2 Key Street junction, the development will not significantly affect the Strategic Road Network, and they withdrew their objection. They raise no comments on the amended details.
- 7.13 Kent Highway Services have commented that;
- The route of the extension of the potential northern relief road has been safeguarded and should not be prejudiced by the development
 - More detail of the proposed main A2 junction was requested
 - Access to the rear of numbers 31 to 49 Fox Hill would be better from the proposed new access road (lay-by), avoiding vehicles turning right just ahead of the new junction
 - More details of how the cycle route will be continued were requested
 - Traffic generation may require improvements to the Swanstree Avenue traffic signals

Note: The applicants are seeking to clarify this point with their highway consultants and I hope to be able to report further at the meeting.

- Additional traffic will add 27% to the morning peak time westbound flow and 2% to the afternoon peak eastbound flow, which requires consideration of junctions beyond just the two nearest to the site
- Traffic may affect air quality in the East Street AQMA
- The design of the emergency access to Peel Drive is acceptable
- There are adequate walking and cycling links although the footpath from A2 to Tonge will require upgrading for cycles
- Improvements to cycle lanes in the A2 are not shown but should be explored
- In relation to the Travel Plan KHS say that targets should be a reduction in driving and an increase in passenger, bus, cycling, walking and working from home
- Access from the site to Lansdowne School should be made available
- Good bus links will be important in encouraging bus use but no improvements to bus services are proposed

7.14 The Environment Agency has no objection in principle and recommends conditions relating to;

- Sustainable surface water drainage, and infiltration of water into the ground, and
- Handling any contamination found during construction

7.15 in response to the amended design of the drainage basin the Agency ask if filtration devices will be installed to protect groundwater and they seek assurance that surface water drainage to soakaways will be sealed against pollution. They suggest consulting KCC on the surface water drainage scheme. This has been done without any response being received. The applicants have since confirmed that soakaways are not intended so that filtration devices are not necessary, but that the detention basin will function as a form of filtration device.

7.16 Southern Water has sent details of the location of a public water trunk main, foul rising main and foul sewer, one of which appears to cross the proposed Countryside Gap area, and they seek restrictions on buildings, soakaways and planting close to such mains. They note that Sustainable Urban Drainage Systems are not adopted by them and that the developer will need to make arrangements for their long term maintenance. They seek a planning condition requiring details of foul and surface water drainage to be submitted to and approved by the Council in consultation with them. Finally, a lack of water supply capacity to the site is noted meaning that additional services will be required, and they suggest consultation with the Environment Agency due to the site's location within a Source Protection Zone.

7.17 In response to amendments Southern Water has raised no further points.

7.18 The application site is outside of the Lower Medway Drainage Board's district but it drains into Tonge Mill Stream which they manage and maintain. They consider the applicant's plans to limit run-off rates by using on-site storage to be appropriate. However, the use of Tonge Mill Stream for run-off from the whole site might increase overall volumes of water carried that way. The Board asks that the applicant investigates the downstream capacity and condition of the drainage network for suitability. They ask that a planning condition be imposed to require drainage details and maintenance arrangements with the Environment Agency and Kent County

Council. Members will note the applicants' comments above about the adequate capacity of downstream drainage.

- 7.19 Natural England has been consulted as a small part of the site lies within a consultation zone around The Swale SSSI/SPA/Ramsar Site, and they say that the development has the potential to affect the interest features of this area which is a European site. As the development is not intended to assist management of the European site they confirm that the Council must consider the likelihood of a significant effect on that site from the development, and if this cannot be ruled out, it must carry out an Appropriate Assessment under the Habitats Regulations. Natural England say that the application as submitted did not include enough information to determine whether the likelihood of significant effects can be ruled out and sought further updated details of how the development will avoid recreational impacts on the area following the work that the North Kent Environmental Planning Group has been undertaking, including details of avoidance and mitigation measures and means of securing their implementation.
- 7.20 Natural England do not comment on issues relating to protected species.
- 7.21 In relation to the applicant's updated Badger Survey and their Habitats Regulations Screening and Scoping Report, Natural England has said (June 2015) that;
- It will be necessary for the applicants to provide a financial contribution towards strategic mitigation for the North Kent Marshes, in addition to on-site greenspace countryside gap.
 - They have referred me to their overarching advice from January 2015.
 - They say that the provision of green infrastructure can be a useful and necessary element of an overall mitigation package for larger developments, but that this is not sufficient by itself as it cannot replicate the draw of coastal sites.
 - They continue that, the approach of strategic mitigation provides the best means of addressing in-combination effects from all new housing within the 6km zone of influence of the designated sites.
 - Natural England's advice is that subject to appropriate financial contributions being made to strategic mitigation, in addition to provision of on-site green infrastructure, the proposal is unlikely to have a significant effect on European sites, and can be screened out from any requirement for further assessment.
 - They suggest that the Council's screening decision is based on;
 - a) Appropriate financial contribution to the Thames, Medway and Swale Estuaries Strategic Access Management and Monitoring
 - b) Provision of on-site publically accessible open space as proposed in the application
 - c) This mitigation to be in place prior to occupation of any dwellings
 - Should the applicant not commit to any of the above features Natural England recommends that planning permission should not be granted and that the Council will need to demonstrate conclusively that the proposals will not have a significant impact on the SPA.
- 7.22 Members may wish to note that in their overarching advice, Natural England do suggest that;
- a) Dog walking, and in particular dog walking with dogs off leads, is currently the main cause of disturbance (by far) and therefore should be the focus for mitigation

- b) Potential mitigation measures include provision/enhancement of green space away from the SPAs
- c) "However, if bespoke mitigation is proposed by individual developers, Natural England's advice is that this will require careful consideration in order to demonstrate that the mitigation being put forward would ensure that bird disturbance from recreational pressure would not increase on the SPAs / Ramsar sites as a result of the development. If having considered any mitigation measures proposed, the likelihood of a significant effect cannot be ruled out, an appropriate assessment will be required."

7.23 In October 2015, in response to the applicants' latest information about Habitat Regulations issues, Natural England have stated that;

- They note the applicants insistence on not contributing to Strategic Mitigation and relying on the SANG
- They say that "such contributions are now necessary to address recreational disturbance"
- That Swale has agreed that Strategic Mitigation is the right approach and that this is embedded on our Local Plan
- They refer to their overarching advice on the matter
- They suggest that the SANG cannot replicate the coastal draw of the SPA and "cannot be relied upon alone to mitigate increased recreational disturbance on coastal sites"
- On such large sites they suggest that on-site open space is provided in addition to Strategic Mitigation

7.24 The applicants have sought confirmation from Natural England that as this scheme will have a negligible impact on the SPA Strategic Mitigation payments cannot be justified. In response Natural England have referred the applicants back to generic advice and, despite their own advice (see paragraph 7.22 above) suggesting that bespoke mitigation arrangement should require careful consideration, they simply maintain their position that Strategic Mitigation is necessary over and above that resulting from provision of the countryside gap.

7.25 KCC's ecological advice service has reviewed the application and notes that survey work was carried out in 2011, with an update in June 2013 showing no significant changes, but that even this is now some months ago. Nevertheless they see the combination of limited ecological value of the main part of the site, allied to proposed greenspaces and mitigation measures to be sufficient to enable determination of the application. However, repeat surveys are suggested to inform detailed mitigation strategies and a suitable planning condition is suggested.

7.26 In this scheme there is potential for ecological enhancements, especially within the landscape buffer zone and countryside gap areas and it is suggested that planning conditions are used to secure further details. Finally, with regard to the Habitats Regulations they advise that the relevant report dates from 2010 since when further research has been done and an updated report was requested.

7.27 In relation to the updated badger survey KCC has advised that the survey confirms the levels of activity and sett presence across the site which has the potential to be a significant constraint to development. They query why as part of an outline application the report states that the current setts cannot be retained, and suggests further discussions about this to explore options to minimise the potential for disturbance to or closure of setts. They add that reserved matters should

demonstrate the mitigation hierarchy of avoid – minimise – compensate in relation to the setts.

- 7.28 In relation to the applicant's Habitats Regulations Screening and Scoping Report, KCC advises that the report is not sufficient to rule out a likely significant effect on The Swale SPA despite the report's own conclusions. They say that whilst the development does provide public open space which will help to reduce the numbers of recreational visitors to the SPA the likely significant effect on the SPA in combination with other development across North Kent cannot be ruled out. They make clear their view that despite the inclusion of the open space the developer "will need to contribute to the strategic mitigation that is currently in development for Swale BC to be satisfied that the requirements under the Habitats Regulations have been met". They suggest that the Council confirms with its North Kent Environmental Planning Group representative the approach that the Council is taking on this matter.
- 7.29 In response to the applicants' latest amendments and updates KCC say that it has been agreed between all North Kent planning authorities that if a developer is not willing to make a financial contribution to Strategic Mitigation, they must carry out a full Habitats Regulation Assessment to demonstrate that their development will not result in a significant effect upon the SPA. They say that such an approach will require much more detailed evidence and will have to demonstrate that there will not be a likely effect, not just that such an effect cannot be ruled out and that the SANG will compensate for the effect. They reference Natural England's point that the proposed SANG cannot replicate the "coastal draw" of the SPA and that they cannot maintain that no residents will visit the coast. KCC also pour cold water on the assumption that diversion of existing residents from the coast to the SANG can be expected as there is no evidence base for this.
- 7.30 KCC then state that if the Council were to accept the applicants' position, the SANG would need to be provided in perpetuity which is likely to have a far more significant cost to the developer than the Strategic Mitigation figure currently being suggested. Finally, KCC says that the in perpetuity costs should be understood at this stage in case they are prohibitive and the SANG is not sustainable; they also refer to the possible impact of the SNRR on the long term future of the SANG.
- 7.31 The applicants have, as noted above, retained their strongly held view that this development has been planned in the full knowledge of the alleged potential for impact on the SPA, but that the combination of its difficult access to that area, the provision of a very substantial area of open space partially designed to off-set that impact, and the real potential for a reduction in existing visits from the adjacent existing housing area, means that the full Strategic Mitigation contribution cannot be justified. Nevertheless, they suggest that they make a contribution of £25,000 to Strategic Mitigation alongside the £270,000 commuted sum for maintenance of the countryside gap and detention basin; more than doubling what would have otherwise been payable for Strategic Mitigation.
- 7.32 Kent Police's Crime Prevention Design Advisor has noted that the applicant has considered crime prevention but he has not had any communication with them regarding formal application for Code for Sustainable Homes, BREEAM and Secured By Design, so he suggests reference to the Kent Design Initiative and a meeting between them without which it might be difficult to meet these standards retrospectively and lead to knock on effects for future services. Alternatively, he suggests a planning condition requiring that the development incorporates measures

to minimise the risk of crime, or a letter or an informative on the outline permission regarding crime prevention.

- 7.34 The KCC Public Rights of Way Officer has objected to the application as he considers that footpath ZR205 would be directly obstructed by the proposed development, as shown on the indicative layout plan, and that the development cannot proceed unless the footpath is diverted. Attempting to retain the path in its exact location introduces a number of unnecessary and unacceptable risks. He also notes that this footpath (which is to be retained on its current alignment through the housing development) would cross numerous roads with poor sightlines which is a safety concern, and that as the footpath will be carried on footways and through shared spaces it would suffer a significant loss of amenity and public enjoyment. One suggestion is to build part of the development over the footpath and then extinguish it. He suggests a planning condition preventing any development until the footpath is diverted or extinguished, and that such an Order could be made concurrently with determination of the application to save time.
- 7.35 On the other hand the Officer recognises that the development as a whole has excellent provision for walking and cycling links within open space which will adequately meet the needs of new residents. However, in respect of the footpath within the proposed Countryside Gap he asks that the proposals are amended to show a proposed surfaced route following the legally recorded alignment of the footpath, and he asks that the site operator maintain vegetation at a suitably low height to allow the full width of footpaths to remain open and available at all times.
- 7.36 In response to amended details the Officer has repeated his advice about the excellent provision for walking and cycling within the scheme but queries funding for the upkeep of such routes. He repeats his view that one public right of way is obstructed by the development (although no details of buildings are yet shown) and that with the public footpath ZR205 from Fox Hill to Peel Drive now in an urban setting its amenity value will be reduced.
- 7.37 The Officer accepts that the other public footpath ZR191 from Fox Hill to Tonge is now correctly recorded and has no objection to the overall application subject to ZR205 not being obstructed, or being legally diverted if necessary.
- 7.38 The Officer does not seek any Section 106 Agreement contributions in respect of public rights of way from this development due to the adequate on site provision.
- 7.39 The County Archaeological Officer has commented on the high probability of the site revealing archaeological remains despite much of the site having been quarried for brickearth. He recommends the imposition of a planning condition requiring field works and evaluation prior to other development proceeding.
- 7.40 The Council's Environmental Health Manager raises no objection to the application but recommends planning conditions regarding;
- Control of construction noise and vibration
 - Control on hours of impact piling, and on overall construction hours
 - Dust suppression during construction
 - Burning on site during construction
 - Survey for possible land contamination

- 7.41 In relation to air quality issues the Council's Environmental Health Manager (EHM) has raised concern over the possible impact of the scheme on the AQMA at East Street in Sittingbourne. Whilst he finds the applicants' air quality report robust he remains concerned about possible increase in Nitrogen Dioxide levels in the AQMA at Sittingbourne and Faversham (and the new AQMA at Teynham), especially in combination with other planned developments, and has asked for mitigation measures. The applicants have referred to the application's travel plan, pedestrian and cycle links, the proposed link to Lansdowne School, broadband connections to facilitate home working, open space provision, provision of electric vehicle charging points at most dwellings, cycle parking provision, and contributions to enhanced public transport to off-set his concerns. After much consideration and debate the EHM has accepted that this package of measures to mitigate against possible air quality issues and he is content to accept the application with these safeguards some of which can only be secured within the Section 106 Agreement.
- 7.42 The Council's Housing Manager notes that the application proposes 600 homes with 60 affordable, 60 intermediate and 60 key worker homes. However, she requests 30% affordable housing providing 180 affordable homes in a reasonable proportionate mix to the market housing; proportionately and clustered within each phase with 70% of units (126 units) for affordable rent and 30% (54 units) for intermediate housing, to serve a significant need in this area for all forms of accommodation. The affordable housing should include a number of wheelchair adapted homes and all affordable housing should be built to Lifetimes Homes standard with a 30% contribution in each phase with a reasonable and comparable mix to the market housing. She suggests within the affordable housing 70% should be for affordable rent with 30% for shared ownership and, a certain number to be wheelchair adapted to be agreed with the Registered Provider.
- 7.43 The Council's Greenspaces Manager has commented that the application does cater for most of the provision he would expect from such a large development with a large central open space, smaller satellite spaces, a large countryside gap for which a lot of detailed design work has been done. He notes that no allotments are included as a result of consultations but notes that there remains a waiting list for allotments locally.
- 7.44 The other point of concern raised is the lack of formal sports provision or contribution towards such provision as there is a potential deficiency in junior pitches, although he accepts that the countryside gap may not be the appropriate place for such provision. Accordingly, he raised the question of a financial contribution to improving capacity or facilities on existing sites. The applicants have now offered £160,000 as a financial contribution for off-site playing pitch equipment alongside £180,000 for maintenance of local play areas within the site, which the Greenspaces Manager has confirmed to be acceptable.
- 7.45 The Council's Climate Change Officer notes that in the adopted Design Brief it is said that in the light of an anticipated mandatory requirement to build to Code Level 6 by 2016 "about half" of the dwellings would be built to this standard. However, in the application papers now merely talk of homes that "meet or exceed" Code level 3, or that meet Code Level 3 as a minimum or Building Regulations at the time, whichever is higher. She notes that the Code for Sustainable Homes has now been abolished and that Building Regulations now replace the parts of the Code relating to energy and water use, leaving out other parts of the Code. She refers to emerging Local Plan policies DM19 and DM21 for guidance on this issue, including a water usage target per dwelling, and I have recommended a planning condition to require details of sustainable construction measure to be approved by the Council.

7.46 The Swale Design Panel considered this application at a meeting on 23 September 2014. In summary the panel found the proposals to be very well presented and convincing in most respects. Their main concern was to ensure that the intentions evident at this stage are carried through into the final development. The full text of the Panel's letter can be found at the Appendix to this item.

7.47 Kent County Council's Development Project Manager has noted comments in relation to the need for access to Lansdowne School from the application site and I gather that he has been involved in the discussions about this. Beyond this, he suggests that due to problems with further expanding Lansdowne School, the County Council are now having to look at expanding Murston Infant and Junior School. He further suggests that secondary school funding will be allocated towards Phase 2 of the Sittingbourne Community Academy expansion. He has requested developer contributions of (at March 2015);

- Primary Education £590.24 per flat and £2360.96 per house towards Murston Primary school expansion plus a new access and pathway to Lansdowne School
- Secondary Education £588.95 per flat and £2359.80 per house towards Sittingbourne Community Academy expansion
- Community Learning £60.43 per dwelling
- Libraries £227.00 per dwelling
- Adult Social Care £63.33 per dwelling - all three above towards new Sittingbourne Hub
- 12 wheelchair accessible homes as part of the affordable housing provision
- Youth Service £37.58 per dwelling towards New House Youth Centre on-site and outreach facilities

8.0 BACKGROUND PAPERS AND PLANS

8.01 All papers and plans submitted with application 14/501588/OUT.

9.0 APPRAISAL

9.01 This is essentially a simple case of an allocated housing site coming forward in accordance with an agreed Development Brief. The housing element of the proposal is in outline form apart from access points, whereas the countryside gap area is proposed in detailed form. This almost 50:50 split of the site between housing and open space is the main feature of the development. This open space is to be informally laid out to serve four main purposes. These are to;

- Maintain a permanent gap between Sittingbourne and Bapchild
- Protect the setting of Tonge conservation area
- Provide alternative natural green space for residents, improving biodiversity and reducing possible additional pressure on designated wildlife sites, and
- Providing a sustainable surface water detention basin

9.02 The overall approach to the housing development being split into character areas has been warmly welcomed by the Swale Design Panel and there have been few comments about the suggested housing layout or the impact of the houses themselves. Nevertheless, some markers have been laid down and a planning condition is recommended to require reserved matters to have regard to the

character area guidelines in the revised Design and Access Statement, avoiding all this work being undone by others. The countryside gap and landscape buffer will contain the impact of the development upon the character of Bapchild as a separate village.

- 9.03 The Parish Council has very strongly questioned how the countryside gap can be protected from a possible extension of the Sittingbourne Northern Relief Road (SNRR) which KCC consulted on, inconclusively, a few years ago. It is the Council's stated view based on high level transport modelling work that the housing now proposed here does not have any material impact on the need for completion of the SNRR. Nor does this proposal curtail any reasonable option for the possible route of the SNRR as no housing is proposed within the safeguarded area of search. It is, however, the Parish Council's view that the SNRR is known about and is likely to pass through what is currently being promoted as a countryside gap, leading to the question of what will happen to the countryside gap if the SNRR does go ahead. Whilst no preferred route for the road has yet been agreed, the draft Local Plan suggests a wide safeguarding area which includes both the area of the proposed countryside gap and much other land further east. Whilst the Parish Council may consider that the SNRR would cross the proposed countryside gap, the need for the road or its chosen alignment is by no means certain and none of the options open to the Local Plan Inspector in respect of the safeguarding policy, or those open to the Highway Authority at any later date, are likely to impact upon whether planning permission should be granted for this application. Notwithstanding this, it is, however, clear that this site was always likely to come forward for development before the route of the road was settled, and that it has been thought important that it comes forward in a way that does not narrow down route options.
- 9.04 The SNRR extension is not currently a project with a timetable or a certainty of completion. Accordingly, with the application site being an allocated site with a need for delivery, and its development not precluding the road, the only conclusion I can draw is that the possible route of the SNRR is not material to determination of the current application; and that if the SNRR is eventually proposed to cross the countryside gap it will be for the proposer of that scheme to address its impact on the countryside gap.
- 9.05 The access to the site is not designed to serve as the start of the SNRR but it does introduce a significant new junction on the A2. This has been designed following consultation with the community and is designed to minimise the impact of headlights from vehicles emerging from the site on houses opposite, partly by having the road sloping downwards where the houses opposite are set above road level, and by the inclusion of a light barrier fence alongside the junction. Amendments have been made to the junction layout to respond to queries from the Parish Council and local residents involving parking within lay-bys for residents and providing continuity for the cycle path through the junction. Kent Highway Services do not raise objection to the proposed junction layout, or to the expected traffic generation from the site, but the matter of the capacity of the Swanstree Avenue traffic lights, and the possible need for their upgrading, is one detail I am hoping to resolve before the meeting
- 9.06 Amendments have also been made to the secondary emergency access from Peel Drive which was originally wide and controlled simply by demountable bollards. It is now designed to be far narrower and with a locked five bar gate and adjacent motorcycle control barrier allowing only pedestrian and cycle access other than in an emergency. These amendments have been well received locally.

- 9.07 The securing of a new direct access to Lansdowne School has perhaps been the most significant access issue for this application. It is clear that children from this site will be closer to that school than many others will and there is currently no easy way into the school from the site. The school's only entrance is onto Gladstone Drive but congestion in Gladstone Drive is already seen as a problem and, without a more direct access this might only get worse. Solutions examined include a footpath from the site to the school gate and a direct access to the school. Whilst the footpath idea would help a lot, and it might reduce traffic in Gladstone Drive if parents use the new estate to get close to the school, it might simply transfer the congestion problem to the new estate. The applicants have not appeared keen to recognise this as their problem, or to agree to wider roads or a car park area being built on their land. However, they have privately negotiated with the school (and KCC) to fund a new hardsurfaced area within the school grounds. This might be a new playing court that can be used at each end of the school day for parents to enter the school with the car to park, drop-off or collect children. The school can then close the access during school hours and after the school closes for the day.
- 9.08 This drop-off zone has been suggested to be accessible both from the new estate and from Gladstone Drive, and even that there might be a one-way system employed through the school from Gladstone Drive to the new estate; or vice versa. This seems unnecessary to me as the alternative access point is likely to reduce traffic in Gladstone Drive (now the only access option) and to have a one-way system will potentially increase traffic in Gladstone Drive if all parents had to use that road at some point rather than being able to come in and go out from the new estate. Nevertheless, this idea does not form part of this planning application albeit funding for the drop-off area or link can be secured as part of the Section 106 Agreement and Members might wish to make clear at this stage what that funding can be used for. The potential footpath link outside the school fence is additional to the vehicular drop-off area or through route, and will allow access during the school day for parents to collect sick children or meet teachers, so will be very useful. I am recommending that Members agree that the Section 106 Agreement requires funding for this new access facility, although the necessary planning application would be made by the school or the County Council.
- 9.09 The detailed proposals for the countryside gap have not attracted much comment but they have been refined to better align proposed paths with the definitive footpaths and to refine the design of the detention basin from one of steep slopes and concrete outlets to a more natural looking often dry pond. This basin is designed to cater for all surface water on the site, avoiding the use of soakaways as the permeability of the ground is unclear. The detention basin should be an added attraction to the site.
- 9.10 Nature conservation has been a strong theme in the design and consideration of the scheme. Locally, the currently largely arable land will be enhanced with various habitats including the detention basin. Protected species (reptiles) can be re-located to this large area, although the future of the badger sett is not yet clear. As the application is in outline at this point, and the tree lined bank is proposed to stay between various character areas, I see no particular reason why the sett cannot remain in situ. A condition is recommended to ensure that the reserved matters take the location of the sett into account and plan accordingly.
- 9.11 On wider nature conservation issues, the site lies within 6km of The Swale SPA/Ramsar site/SSSI, where the Council has agreed that the impact of potential increase in recreational disturbance should be addressed by a Strategic Mitigation approach. This approach has been a long time in coming to a conclusion but this

development has been in gestation for some years and the countryside gap area is designed at least partly to act as mitigation for a potential increase in dog walking by new residents. Whilst it is not a coastal resource it does include a water body and will be a substantial area for new and existing residents to access. Provision of this sort of alternative natural green space is precisely one of the intended methods of Strategic Mitigation (normally provided on the basis of developer cash funding) and this scheme essentially provides it anyway. Accordingly, whilst Natural England do not consider that it can completely take the place of Strategic Mitigation, I am satisfied that the contribution it will make, bearing in mind the actual difficulties for residents to access the SPA, will be significant. Despite not being convinced, or having any clear answers from their enquiries with Natural England, the applicants are content to contribute to Strategic Mitigation albeit at a reduced rate. I am entirely satisfied that this is the right approach and that it would be wrong to seek the same level of cash contribution from this scheme as from any other that provides no on-site mitigation. Ultimately, this will be a more effective way of providing the mitigation as it will all come allied to phase one of the scheme, whereas otherwise it might only come as the development proceeds, and it will be provided direct by the developer without any leakage or administration costs. We are awaiting Natural England's comments on the approach being taken.

- 9.12 The countryside gap and Strategic Mitigation payments will be more than double what would otherwise be due for Strategic Mitigation alone and I believe this underlines the value that this approach offers. Accordingly, given the way in which this scheme makes direct and indirect (cash) contributions to Strategic Mitigation I am satisfied that there is no significant effect likely to arise for the SPA and that an Appropriate Assessment under the Habitats Regulations is not necessary in this case.
- 9.13 The applicants' position on affordable housing is worth noting. Saved policy H10 of the adopted Local Plan makes clear that at least 30% of new housing on this site will be affordable, as does the adopted Development Brief for the site. The application at submission stage accepted this position. However, Members will be aware of recent viability evidence that shows, amongst other things, that development at Sittingbourne might not be viable at such levels of affordable housing. Such conclusions are not applicable to all schemes and in order to deviate from the adopted Plan position it is normal to seek evidence on individual sites, and to have this independently verified at the applicants' expense.
- 9.14 In this case the applicants have, at a rather late stage, indicated that although this land has been in their ownership for many years, only a lower level of affordable housing might be viable. However, they do not wish to delay determination of the application pending viability studies and now suggest that they commit to 30 % affordable housing but with a mechanism built into the Section 106 Agreement that allows for annual review of the affordable housing level. I see no real objection to this provided the Section 106 Agreement makes it clear that any reduction in affordable housing provision will require viability testing in the same way as it would otherwise do.

10.0 CONCLUSION

- 10.01 This scheme remains faithful to the adopted Development Brief required by the adopted Local Plan, and I am measuring it primarily against those provisions for two reasons. Firstly, because the site was a reserve site in the adopted Plan and intended not to come forward before 2011; it is thus well overdue and could have

been expected to have been well underway by now. Land ownership reasons caused significant delay in the submission of the application. Secondly, the adopted Plan still carries more weight than the draft Plan where the policies are not significantly changing; here the only significant changes might have been affordable housing provision (referred to above) and the possibility of the site providing gypsy or traveller pitches under draft policy CP3 ;although this may now be abandoned in the light of new supply figures and changes to PPTS (2015).

10.02 Seen in this way, the application provides a firm foundation for a high quality development that retains the sense of separation between Sittingbourne and Bapchild, provides a significant area of public open space, protects the setting of Tonge conservation area, safeguards the possible route of the SNRR, and provides for access to Lansdowne School subject to a further planning application. Section 106 Agreement funding runs to in excess of £4.2 million and other safeguards in terms of environmental management and technological installations will enhance the quality of lives of residents.

11.0 RECOMMENDATION – GRANT full permission for the countryside gap area and outline permission for the housing area subject to the further views of Kent Highways and Natural England and to the following conditions:

CONDITIONS

(1) Details relating to the appearance, landscaping, layout and scale (the reserved matters) of the proposed buildings within the approved housing area 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 five 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 areas shown for development as a countryside gap, landscape buffer and detention basin on the approved drawings as listed in condition (5) below, and all landscape planting so shown, shall be implemented in conjunction and in parallel with the construction of the first phase of housing development and shall be in place and ready for their intended purpose before occupation of the 200th dwelling on the site. These areas shall thereafter be reserved as public open space and 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: In accordance with the terms of the application and to ensure that these areas are made available in the interests of the residential amenities and wildlife interests of the area.

(5) The landscape buffer, design of detention basin, layout of the countryside gap, landscape planting and access arrangements for the site shall be carried out in accordance with the following approved drawings:

D119/25RevI, D119/40RevF, D119/45RevA, D119/47RevC, 1930_DR_100RevA, 1930_DR_007RevJ, 1930_DR_011RevH, 1930_DR_012RevH, 1930_DR_013RevH, 1930_DR_014RevH, 1930_DR_015RevH, 1930_DR_016RevH, 1930_DR_017RevH, and 1930_DR_018RevH,

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

(6) The details submitted pursuant to condition (1) above shall provide full details of how the residential part of the development will meet the principles of 'Secured by Design'. The development shall be implemented in accordance with the approved details.

Reason: In the interests of public amenity and safety.

(7) The details submitted in pursuance of condition (1) above shall accord generally with the provisions of the adopted Stones Farm Development Brief Supplementary Planning Document dated 11 May 2011 and the Design and Access Statement (as amended in June 2015). Proposals shall incorporate the subdivision of the site into Character Areas generally as shown in Section 5 of the Design and Access Statement and for each Character Area the details shall incorporate the design principles set out in the Summary Table of Design Principles for each Character Area.

Reason: In the interests of promoting a consistent quality of development, sustainable development and of visual and landscape amenity.

(8) The details submitted pursuant to condition (1) above shall include cross-sectional drawings through the site, of the existing and proposed site levels. The development shall then be completed strictly in accordance with the approved levels.

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

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

Reason: In order to prevent pollution of water supplies and in order to prevent localised flooding; and to ensure that these details are approved before works commence.

(10) 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; and to ensure that these details are approved before works commence.

(11) No development shall take place (including any demolition, ground works, site clearance) until a method statement for ecological mitigation, including (but not necessarily limited to) reptiles, invertebrates, bats, nesting birds and the future retention and protection (or, subject to adequate evidence of need and of measures to re-locate the badgers closure) of the badger sett within intended housing area of the site has been submitted to and approved in writing by the Local Planning Authority. The content of the method statement shall include the:

- a) Purpose and objectives for the proposed works;
- b) Detailed design(s) and/or working method(s) necessary to achieve stated objectives, informed by detailed, reptile and badger surveys carried out in accordance with good practice guidelines;
- c) Extent and location of proposed works (including identification of receptor sites) shown on appropriate scale maps and plans;
- d) Timetable for implementation, demonstrating that works are aligned with the proposed phasing of construction;
- e) Persons responsible for implementing the works, including times when specialist ecologists need to be present on site to oversee works.

The works shall be carried out strictly in accordance with the approved details and shall be retained in that manner thereafter.

Reasons: In the interests of conserving protected species; and to ensure that these details are approved before works commence.

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

Reason: In the interest of promoting energy efficiency and sustainable development; and to ensure that these details are approved before works commence.

(13) The details submitted pursuant to condition (1) shall include infrastructure - including ducting - to provide each dwelling with a broadband connection. The development shall then be implemented in accordance with the approved details.

Reason: In the interests of ensuring that each dwelling benefits from a broadband network connection.

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

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

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

Reason: To protect groundwater; and to ensure that these details are approved before works commence.

(16) 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.

(17) Piling or any other foundation designs using penetrative methods shall not be permitted other than with the express written consent of the local planning authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to groundwater. The development shall be carried out in accordance with the approved details.

Reason: To protect groundwater quality.

(18) No infiltration of surface water drainage into the ground at the site is permitted other than with the express written consent of the local planning authority, which may 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 protect groundwater quality.

(19) No development shall take place until a programme for the suppression of dust during the construction of the development has been submitted to and approved by the Local Planning Authority. The measures shall be employed throughout the period of demolition and construction unless any variation has been approved by the Local Planning Authority

Reason: In the interests of residential amenity; and to ensure that these details are approved before works commence.

(20) As an initial operation on site, adequate precautions shall be taken during the progress of the works to prevent 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. The agreed details shall then be retained throughout the development.

Reason: In the interests of amenity and road safety.

(21) 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. No construction traffic shall park on the area intended as the landscape buffer, countryside gap or detention basin for operations supporting the construction of any houses.

Reason: To ensure provision of adequate off-street parking for vehicles in the interests of highway safety and to protect the amenities of local residents; and to ensure that these details are approved before works commence.

(22) During construction provision shall be made on the site to accommodate operatives' and construction vehicles loading, off-loading or turning on the site within the area intended for house building. No construction traffic shall use the area intended as the landscape buffer, countryside gap or detention basin for operations supporting the construction of any houses.

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

(23) The details submitted in pursuance of reserved matters shall show adequate land, reserved for parking or garaging in accordance with the Approved County Parking Standards and, upon approval of the details this area shall be provided, surfaced and drained to the satisfaction of the Local Planning Authority 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 and turning of vehicles is likely to lead to parking inconvenient to other road users and be detrimental to highway safety and amenity.

(24) No dwelling shall be occupied 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.

(25) 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.

(26) Before the first occupation of any dwelling the following works between that dwelling and the adopted highway shall be completed as follows:

(A) Footways and/or footpaths shall be completed, with the exception of the wearing course;

(B) Carriageways completed, with the exception of the wearing course, including the provision of a turning facility beyond the dwelling together with related:

- (1) highway drainage, including off-site works,
- (2) junction visibility splays,
- (3) street lighting, street nameplates and highway structures if any.

Reason: In the interests of highway safety

(27) No clearance of the site shall take place in the months March to August inclusive, this being the breeding season for birds.

Reason: In the interests of biodiversity.

(28) 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 any other day except between the following times:-

Monday to Friday 0900-1700 hours unless in association with an emergency or with the written approval of the Local Planning Authority.

Reason: In the interests of residential amenity.

(29) No works or ancillary operations 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. Deliveries to the site and removal of plant, equipment, machinery and waste from the site must only take place within the permitted hours detailed above.

Reason: In the interests of residential amenity.

(30) Upon completion of the approved landscaping planting, 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.

(31) If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until the developer has submitted a remediation strategy to the local planning authority detailing how this unsuspected contamination shall be dealt with and obtained written approval from the local planning authority. The remediation strategy shall be implemented as approved.

Reason: To protect groundwater which is a controlled water.

INFORMATIVES

This development is also subject to a legal agreement under Section 106 of the Town and Country Planning Act 1990.

Council's approach to the application

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

Offering pre-application advice.

Where possible, suggesting solutions to secure a successful outcome.

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

In this instance:

The application was considered to be fundamentally acceptable and in accordance with the provisions of the Development Plan and the NPPF, and a Section 106 Agreement was intended to provide safeguards not possible under planning conditions.

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

Graham Thomas
Area Planning Officer
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Kent
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South East Regional **Design Panel**

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2 October 2014

Dear Mr Thomas

STONES FARM, FOX HILL, SITTINGBOURNE
Planning Application Number: 14/501588/OUT

Thank you for asking the Regional Panel Swale to review the above project. Panel members visited the site before their meeting in Sittingbourne on 23 September. We were grateful to Hilary Satchwell of Tibbalds Planning and Urban Design for her presentation and it was also helpful to have your summary of the planning background.

SUMMARY

The proposals are very well presented and we find them convincing in most respects, responding appropriately to its surroundings and taking advantage of the topography. Our main concern, which is also shared by the applicants, is to ensure that the aspiration for an exceptional quality of design will be met when others build out the development. Whilst we recognised the need for flexibility it would help if the hybrid application went further in pinning down the requirements for each character area. This can be done without having to produce a design code, which may not be an appropriate mechanism for this site.

The development offers the chance for the highway authority to improve the very poor environment on the A2, calm traffic and improve the conditions for pedestrians and cyclists. As part of this redesign, we would invite the team to look again at the junction to see if a less formal configuration would work.

CONTEXT

The site is on the eastern edge of Sittingbourne and is allocated for development in the 2008 Swale local plan for up to 600 homes and 15 hectares of open space. This is supported by a development brief (SPD) adopted by the Council in 2011. Objectives in the brief include maintaining of a gap between Sittingbourne and the neighbouring village of Bapchild.

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Land to the north of the site at Easthall Farm is also allocated for residential development but is separated by the railway line.

The land is currently in arable use but the western part was at one time used for extraction of brickearth. The south- western corner was formerly a commercial pear orchard.

A hybrid planning application was submitted earlier this year.

DESIGN PRINCIPLES

The principles underpinning the scheme are clearly set out in the Design and Access Statement; the aim is for a robust, distinctive but varied new quarter for Sittingbourne. There will be a landscape buffer to maintain the separation with Bapchild and the development is broken down into character areas. The development has been designed with a positive face to the countryside gap, forming a firm edge to the town and encourage biodiversity. We support these aims and consider that they are being addressed effectively.

More sectional analysis would help the detailed design, particularly in dealing with some abrupt changes of level around the brickfields area.

MOVEMENT AND CONNECTIONS

The site is bounded to the south by the A2 road - the old Roman Road from Dover to London with the main railway line to the north, mostly in cutting. Changes of level and poor permeability through the housing to west have resulted in a single access from Fox Hill. There will be pedestrian and emergency access only from the existing housing to the west. A Sittingbourne eastern link road has been proposed and would cut across part of the site, but its route remains uncertain.

The applicants aim to avoid the artifice of a distributor road, making circulation as logical and natural as possible. We endorse this approach, but the parameter plans might need to be more explicit about how it will be secured.

Access to Lansdowne School should be as easy as possible, but there may be a demand for drop-off parking within the development.

The Fox Hill stretch of the A2 is unattractive for pedestrians and sub-standard for cyclists. The development offers the chance to greatly improve the existing conditions through a partnership between the developer and highway authority, calming the traffic and perhaps have a more modest junction. Reduced vehicle speeds will ensure that children at the community college can safely cross the main road.

This work could be the first part of a much longer project for improving the A2 but there is also an opportunity for the applicants to design for health; encouraging walking including circular walks to landmarks like Tonge Castle or to the pub (especially if its setting was improved through the blue infrastructure scheme). Making the most of the cycle network could also contribute to healthy living.

PUBLIC REALM, LANDSCAPE AND ECOLOGY

The public realm strategy is well thought out and we like the positioning of the Ridgeline Park (formerly the site of Stones Farm) on the crown of the hill. The proposed community

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orchard is an attractive idea. Stones Square, served by the loop road, has the prospect of being a well-used multi-purpose space.

We wonder whether more could be done to sustain or encourage wildlife habitats and a wider landscape buffer might be needed.

CHARACTER AND COMMUNITY

We fully support the idea of using the illustrative masterplan to create distinct character areas rather than rely on their later interpretation by the housebuilder. The seven different areas (nine with the landscape and countryside areas) are logical and well described in the Design and Access Statement. We commend the intention to use differences of rhythm, density, scale and landscape qualities as determinants of character. However, we feel the plan may need to be more prescriptive if the aspirations are to stick. There is a case for another parameter layer, stopping short of a design code but including the metrics or standards that the housebuilder would need to follow.

SUSTAINABILITY

There is considerable scope for a holistic approach to sustainable design, embracing water management, climate change mitigation and a water-sensitive urban design. We see an opportunity to use aims for a low carbon development to influence the distinctiveness of the houses and to reinforce the character areas through the orientation of buildings and energy saving through planning. Recycling and waste management might be better served through communal collections, with below ground cassette systems as an alternative to wheely bins.

We hope you find these comments helpful. Please keep us in touch with further progress and do contact me if anything in this letter is unclear.

Yours sincerely



ROBERT OFFORD
Panel Manager

cc Oliver Doubleday, GH Dean & Co Ltd
Hilary Satchwell, Tibbalds Planning and Urban Design
Julian Bore, Lloyd Bore
Paul Sharpe, Paul Sharpe Associates
Graham Eves, PFA Consulting
John Woodward, Swale BC
Cllr Mike Henderson, Swale BC
Cllr Monique Bonney, Swale BC

Panel members present: Allan Atlee (chair), Luke Engleback, Robert Huxford,
Marianne Mueller, Richard Scott
Geoff Noble, DSE (report)

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NOTE

Hilary Satchwell, Director at Tibbalds is a member of the South East Design Panel, which is managed jointly with the Swale Panel by Design South East. This association was declared at the start of the meeting.

Ms Satchwell has played no part in the Swale Panel's deliberations or in the contents of this letter.

This review was commissioned by G H Dean & Co Ltd with the knowledge and agreement of Swale Borough Council.

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REFERENCE NO - 15/508927/FULL			
APPLICATION PROPOSAL Retrospective erection of single storey side and rear extension with increase in flat roof pitch and roof lights			
ADDRESS 8 Rooks View Bobbing Kent ME9 8GB			
RECOMMENDATION Approve			
SUMMARY OF REASONS FOR RECOMMENDATION The principle of development is accepted and the proposal does not cause unacceptable harm to residential or visual amenities.			
REASON FOR REFERRAL TO COMMITTEE Recommendation contrary to Parish Council view			
WARD Bobbing, Iwade & Lower Halstow	PARISH/TOWN COUNCIL Bobbing	APPLICANT Mr Stuart Usher AGENT	
DECISION DUE DATE 29/12/15	PUBLICITY EXPIRY DATE 02/12/15		
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):			
App No	Proposal	Decision	Date
SW/10/1463	Lawful Development Certificate for the conversion of loft from storage to bedroom with 3 rear and 1 side rooflight (existing).	Approved	21.04.2011
SW/12/0230	Lawful Development Certificate for construction of a new brick built extension to the side and rear of the property including windows and to the front and patio doors to the rear. (Proposed)	Approved	7.3.2012
14/505725/LAWPR O	An application for a Certificate of Lawful Development for a proposed development being rear and side extension.	Approved	12.01.2015
15/502978/FULL	Single-storey side and rear extension	Approved	07.07.2015
15/507284/NMAMD	Non Material Amendment to introduce an element of flat roof to increase the pitch to ensure tiles match the existing, the introduction of 2 new bi fold doors to replace the previous doors and windows and roof lights to the flat roof and the omission of the Velux windows as the roof pitch no longer allows for this. Construct part of the side facing wall from breeze blocks - planning application 15/502978/FULL	Refused	07.10.2015

1.0 DESCRIPTION OF SITE

- 1.01 No.8 Rooks View is a relatively modern two storey detached property sited within an estate of houses of a similar scale and design. The property has a detached double garage located in front of the dwelling. The frontage also includes a driveway and a landscaped garden.
- 1.02 To the rear of the property is private amenity space measuring approximately 15m deep by 15m wide, and enclosed by a 1.8m close-boarded fence.
- 1.03 The estate is generally well-spaced and the neighbouring properties feature similar-sized gardens.

2.0 PROPOSAL

- 2.01 This application seeks retrospective permission for the erection of a single storey side and rear extension.
- 2.02 The extension projects sideways from the existing flank elevation of the property by 2.68m at a depth of 8.6m (to approximate level with the rear elevation). The flank wall will then be stepped in by 0.2m and project from the main rear wall of the dwelling by 4m. On the opposite side of the property the extension will be set in from 2.8m to avoid the existing kitchen window.
- 2.03 The extension will have a partly hipped and partly flat roof, measuring 2.345m to the eaves. The overall height will be 3.3m for the side element and 3.7m for the rear element. The side element will also include a parapet wall.

3.0 PLANNING CONSTRAINTS

- 3.01 None relevant.

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 RC4 aims to restrict development within the countryside and 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, 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 One response has been received from the occupier of No.9 Rooks View, objecting to the application on the following grounds:

- The side element of the extension (facing towards No.9) is now a blank wall which is unsightly compared to the patio door which was previously approved;
- The side wall (facing towards No.9) is very high and causes overshadowing;
- Workmen consistently park in the middle of the shared drive;
- The drain cover in the driveway has been damaged;
- Building materials are falling down the drain which may cause a blockage.

6.0 CONSULTATIONS

6.01 Bobbing Parish Council state the following:

“The Parish Council would ask the Planning Committee to take note of the residents who have objected to this application.

The Parish Council objects to this application as it has not been built to previously agreed specifications.”

7.0 BACKGROUND PAPERS AND PLANS

7.01 Application papers and drawings referring to application reference 15/502978/FULL, 15/507284/NMAMD and 15/502978/FULL.

8.0 APPLICANTS SUPPORTING COMMENTS

8.01 *“We are seeking a new revised planning application as it has become apparent that the initially proposed roof angle resulted in a roof tile which would not match the same style as the existing house roof.*

As such we have amended the design to increase the pitch of the roof to a higher pitch almost matching that of the existing roof line, which will ensure that the roof tiles selected match the existing.

In amending the roof pitch to a suitable level, this has created the need for an element of flat roof which will hook around the building to ensure that both pitches match.

Whilst increasing the pitch of the roof and introducing flat roof elements, this has reduced the available area for the original Velux type windows to be installed, as these would now be too small and be located too close to the end wall, as such we have considered the installation of two number roof lights.

It is important to note that the height of the highest element is still within that originally granted.

The revised plans also show a revision to the window on the right hand side of the scheme, this has been brought about as the building control officer would not permit the re use of the existing window due to their construction not meeting the current minimum Building regulation U Value levels, as such we have amended the layouts

to include for 2 No. bi fold doors to the rear, 1 of which (left side facing out) is only marginally larger the original consented door set.”

9.0 APPRAISAL

- 9.01 Members may recall that a similar application on this site was reported to Planning Committee on 2nd July 2015 and approved. During the course of construction it became apparent that the scheme was not being built in accordance with the approved drawings and a non material amendment was submitted (as set out above). The amendments were not considered to be non material for the following reasons:

“In this case I consider that the amendments that are shown can not be considered as non material amendments to the approved planning application. The reason that I have come to this conclusion is due to the scope and impact of the amendments sought under this current application. In terms of the introduction of an element of flat roof, in my view this represents a lowering of design standards from the previously approved application and as such is not considered to be non material. In relation to the block work that was been constructed, the use of these materials would not have been considered to be acceptable if submitted as a formal application and as such I also take the view that this alteration can not be considered as constituting a non material amendment.”

- 9.02 Although the amendments were not considered to be non material this does not mean that they are unacceptable regardless. It simply means that a planning application is required to make a full assessment of the scheme.
- 9.03 It is firstly worth noting that the blockwork that is referred to above has now been replaced with facing brickwork which matches the existing property, as such I do not consider that further elaboration of this point needs to be made and believe that this issue has been acceptably overcome.

Principle of Development

- 9.04 As was considered in the previously approved scheme, whilst the site lies within the countryside, its immediate context is that of a medium-sized modern housing estate, which is primarily characterised by large detached dwellings situated on generous plots. Therefore, whilst the site is covered by the Council’s established policies of rural restraint it is, in real terms, far removed from the type of property those policies were designed to protect. The purpose of policy RC4 is to protect the character and appearance of the countryside and to retain a stock of smaller dwellings in the countryside. Neither of these are particularly pertinent here, and in any case this proposal is quite modest in terms of the impact on the host property.
- 9.05 I therefore believe that the general thrust of policies E6 and RC4 is complied with in this case, and I consider that the proposal is acceptable in principle, subject to compliance with relevant Development Management policies.

Residential Amenity

- 9.06 The proposal in broad terms is similar in scale to the application previously approved under 15/502978/FULL. The height of the eaves and the overall height of the roof is within 100mm of the height approved under this previous application and much of the roof will in fact be slightly lower than the extension approved under 15/502978/FULL. The closest properties to the side extension are nos. 6 and 7 Rooks View, which are

located to the north, with the rear of these dwellings facing towards the application site. The distance between the flank wall of the side extension and the rear of these properties would be approximately 14m to the closest point of no.6 and 16m to the closest point of no.7. I remain of the view that due to the extension being single storey with the roof pitching away from the common boundary, combined with the distance to the closest properties, nos. 6 and 7, the proposal will have little impact upon the neighbouring amenities of these properties.

- 9.07 I note that an objection has been received from the neighbouring property on the opposite side in regards to, amongst other matters, an overbearing impact. There is a gap of 2m between the flank wall of the host property and No.9 and the extension is set 2.8m in from the side wall of the property. As such, the flank wall of the extension will be 4.8m away from the flank wall of No.9. Due to the distance between the extension and the adjacent property I am of the opinion that the proposal would have a minimal impact upon the neighbouring amenities of this adjacent dwelling. In relation to the objection raised regarding the flank wall now being blank, I consider that this would have little impact upon the amenities of the neighbouring dwelling. There is a close boarded fence located along the common boundary installed to an approximate height of 1.8m. Therefore I do not consider that the alteration from a section of glazing to a black elevation would have a significant impact. Conversely, in my view it would allow for additional privacy by stopping any side facing views.
- 9.08 In terms of other amendments to the scheme, the removal of previously approved rooflights and the installation of roof windows / lanterns would in my view create no further opportunities for overlooking and are in this regard satisfactory.

Visual Amenity

- 9.09 The main amendments from the scheme as approved under 15/502978/FULL relate to the design of the proposal. The alteration from a fully hipped to a part hipped / part flat roof constituted one of the main reasons for the submission of this application. I note the comments from the applicant in regards to the reason for the change in design and make the following assessment.
- 9.10 When viewed from the highway and surrounding public vantage points the side extension is extremely heavily screened by the existing garage which sits to the front of the existing property. As such, when passing along the highway, the extension is only visible from an extremely limited number of vantage points. Therefore, although the design standards have been lowered from the previous extension I do not believe that they would have a significantly detrimental impact on either visual amenities or upon the streetscene as to substantiate a reason for refusal. The remainder of the extension is on the rear of the property and as such I consider the design as proposed to be acceptable in this non designated location.

Other Matters

- 9.11 I note the additional objections made by the occupiers of No.9 and respond as follows. Boundary matters such as shared driveways and the broken drain cover are private legal matters between neighbours and not material planning considerations.

10.0 CONCLUSION

10.01 In overall terms, after making the above assessment, I do not consider that the application has altered so dramatically from the scheme approved under 15/502978/FULL that a different recommendation should be reached. I believe that the proposal does not impact unacceptably upon neighbouring amenities and due to the position of the detached garage, the impact upon visual amenities or the streetscene will not be significantly harmful. I recommend that planning permission be granted.

11.0 RECOMMENDATION – GRANT Subject to the following conditions:

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

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

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

Reasons: In the interests of visual amenity.

The Council's approach to this application:

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

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

In this instance:

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

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

REPORT SUMMARY

REFERENCE NO - 14/500327/OUT			
APPLICATION PROPOSAL			
Outline (Access not reserved) - Up to 8000m2 of Class B1 and B2 floor space and all necessary supporting infrastructure including roads, parking, open space, amenity landscaping, biodiversity enhancement and buffer to proposed extension to Milton Creek Country Park. Detailed approval for Phase 1 including (i) vehicular and pedestrian access to Swale Way; (ii) 30 space (approximately) informal car park to serve extension to Milton Creek Country Park; Change of use of approximately 13.31 ha of Kemsley Marshes as an extension to Milton Creek Country Park with footpath connections to the proposed informal car park			
ADDRESS Land South Of Kemsley Mill, Swale Way, Sittingbourne, Kent, ME10 2SG.			
RECOMMENDATION Grant subject to conditions and receipt of outstanding representations from KCC Highways & Transportation, the Kent County Council Biodiversity Officer, and subject to the signing of a Section106 to secure land to form an extension to the Milton Creek Country Park.			
SUMMARY OF REASONS FOR RECOMMENDATION			
Development would provide additional employment within the Borough, in a sustainable location with good road access, and without giving rise to any serious amenity issues or harm to landscape, ecology or designated heritage assets.			
REASON FOR REFERRAL TO COMMITTEE			
Section 106 Legal Agreement required.			
WARD Kemsley	PARISH/TOWN COUNCIL None.	APPLICANT Fletcher Challenge Forest Industries Ltd AGENT Paul Sharpe Associates LLP	
DECISION DUE DATE 26/09/14	PUBLICITY EXPIRY DATE 26/09/14	OFFICER SITE VISIT DATE Various	
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):			
App No	Proposal	Decision	Date
SW/96/0836	Remodelling of existing car park to provide improved visitor and disabled parking and landscaping; relocation of bus terminus and extension to car park.	Approved	09.08.2000
That application, although renewed several times (as below) has not been constructed and would not be able to go ahead if the current scheme were approved.			
SW/06/0896	Renewal of planning permission SW/96/0836 (with amendments).	Approved	12.09.2006
SW/09/0627	Renewal of planning permission SW/06/0896.	Approved	22.09.2009
SW/12/1035	Renewal of planning permission SW/06/0896.	Approved	01.10.2012

MAIN REPORT

1.0 DESCRIPTION OF SITE

- 1.01 The application site forms a wedge of undeveloped land bordered by Kemsley Paper Mill to the north, the Sittingbourne Northern Relief Road (SNRR) to the south and west and Milton Creek to the east. The land is crossed towards the eastern end by the Sittingbourne & Kemsley Light Railway (SKLR) which runs roughly north-south, and large electricity pylons and lines running roughly east-west. The surrounding area is dominated by the structure of Kemsley Mill, the new SNRR and the Church Milton and Kemsley residential areas beyond.
- 1.02 Land levels change considerably within the area, and the site ranges in elevation from approximately 14.0m AOD at the north-western end (near the Mill car park) to roughly sea level next to the Creek (at the eastern end).
- 1.03 The site can be characterised into two parts. Firstly the top of the ridge and south east facing slope below the existing Mill car park is open rough grassland. Together with the existing car park this higher land is known as Kemsley Down. Secondly, on the lower ground is a flat marshland area extending to Milton Creek with extensive areas of scrub (particularly around Castle Rough) with natural and manmade ditches, marsh and reed bed areas. This lower area is known as Kemsley Marshes.
- 1.04 Castle Rough is a Scheduled Ancient Monument (SAM) situated on the edge of the marshland area at the foot of the slope down from Kemsley Down, and to the east of the application site. Essentially a ground formed feature, it is covered in dense scrub undergrowth and is thus not visually obvious or prominent in the area. Historic England has provided further commentary on Castle Rough:

“Castle Rough is a medieval moated settlement site of particular importance because although its medieval buildings no longer exist above ground, most of the remainder of the site survives to a great extent intact as buried deposits and earthworks. In addition, the significance of the moated site is further informed by an understanding of the rural or semi-rural surroundings in which it would have been constructed and used. Although much industrial development has taken place in the wider landscape surrounding Castle Rough, the site currently sits within a pocket of green-space, separated from the industrial activity on the Kemsley ridge by the natural valley topography and the immediate surrounding green space to the west. It is also buffered by the Kemsley marshes to the east. The historic function and position of Castle Rough, at the interface between the valley uplands, the marshes, and estuary beyond, can therefore still be interpreted and understood.”

2.0 PROPOSAL

- 2.01 This is a hybrid application that seeks outline planning permission for erection of a business park (to be known as Fulcrum Business Park), including all supporting highways works, parking, landscaping and biodiversity enhancements, together with an extension to the Milton Creek Country Park, on land to the south of Kemsley Paper Mill. Detailed planning permission is being sought for Phase 1 of the development, which includes:

- Vehicle and pedestrian access to Swale Way;

- Formation of an informal, 30-space car park for use by visitors to the country park; and
 - Change of use of land to serve as an extension to the Milton Country Park.
- 2.02 The business park extends to approximately 4ha of land set to the south-west of the mill, south of the mill's car park, east of the roundabout, and with Swale Way (the Sittingbourne Northern Relief Road (SNRR)) forming the western boundary.
- 2.03 Vehicle access to the site will be via an existing junction on Swale Way, which currently serves a field used for the keeping of horses (but was formed during construction of the SNNR in anticipation of development coming forward on this site). Each unit is shown with a dedicated parking area and yard immediately adjacent, with direct access from the central estate road.
- 2.04 The submitted indicative layout for the business park shows 13 units spread across the site with substantial intervening space for landscaping – including along the site boundaries. Indicative building heights range from 9.0m in the southern part of the site; 10.2m in the central part; 11.4m on the eastern part closest to the mill; up to 12.0m tall for the northernmost units adjacent to the roundabout. The submitted Planning Statement comments:

“Generally, the topography of the site limits the size of business units that can be constructed and the architect and landscape architects have collaborated to design a layout which assimilates the proposals into the landscape with the marshland features extending into the site. In addition, the highways consultants have provided input to inform a practical and economic highway layout on what is a challenging site.

Consequently, in this particular case, the layout which accompanies the application is much more indicative of the likely development layout than would normally be the case with an outline application.”

- 2.05 The application proposes up to 8,000 square metres of floor space for a mix of uses within Classes B1 (light industrial) and B2 (general industrial), although specific units have not been identified for specific uses / occupiers at this, outline, stage.
- 2.06 The proposals include the transfer of 13.31 ha of land at Kemsley Marshes to Swale Borough Council to form an extension to the Milton Creek Country Park; construction of an informal car park (within the grounds of the business park) to serve the extended Country Park, and construction of inter-connecting footpaths. An interpretation facility for the Castle Rough Scheduled Ancient Monument would also be provided within the car park. The submitted Planning Statement comments:

“The land comprising the extension to Milton Creek Country Park would be transferred to the Borough Council for use in conjunction with the existing Country Park at an appropriate time (yet to be agreed) following the grant of planning permission.

The visitor car park, interpretation facility and the footpath links to connect the car park to existing footpaths within the Country Park would be provided by the developer of the Business Park as part of Phase 1 of that development.

Ownership of the car park itself (and the buffer) would remain with the owner of the Business Park who would also be responsible for its long term maintenance.”

- 2.07 No commuted sum is proposed to finance future maintenance of the country park extension, but little maintenance is envisaged in any case due to the nature of the site.
- 2.07 The scheme has been amended since receipt, further to comments from Historic England (as at 7.04 below), with the area of development being moved further away from Castle Rough.

3.0 SUMMARY INFORMATION

	Proposed
Site Area (ha)	4.4ha (+ 13.3ha for country park extension)
Approximate Ridge Height (m)	From 9.0m to 12.0m

4.0 PLANNING CONSTRAINTS

- 4.01 The site is within an area of Potential Archaeological Importance.
- 4.02 There is a High Pressure gas pipeline running adjacent to the light railway, to the southeast of the site, serving the mill.

5.0 POLICY AND OTHER CONSIDERATIONS

National Planning Policy Framework

- 5.01 Para 7 of the NPPF identifies three dimensions to sustainable development; economic, social and environmental, subsequently ascribing these “roles” to the planning system.
- 5.02 Paragraph 14 establishes a presumption in favour of sustainable development indicating that proposals that accord with the Development Plan should be approved without delay and where the Development Plan is absent, silent or relevant policies are out of date, again to grant permission unless adverse impacts will be significant and would demonstrably outweigh the benefits.
- 5.03 As a core planning principle, the NPPF requires the planning system to proactively drive and support sustainable economic development to deliver business and industrial units, infrastructure and thriving local places. Every effort should be made objectively to identify and then meet business and other development needs of an area and respond positively to wider opportunities for growth. In seeking to deliver sustainable development and build a strong and competitive economy paragraph 19 of NPPF advises that significant weight should be placed on the need to support economic growth through the planning system.

Adopted Swale Borough Local Plan 2008

- 5.04 Policies SP1 (Sustainable Development), SP3 (Economy), TG1 (Thames Gateway Planning Area), E1 (General Development Criteria), E6 (The Countryside), E9 (Protecting the Quality & Character of the Borough’s Landscape), E11 (Protecting & Enhancing the Borough’s Biodiversity & Geological Interests), E12 (Sites Designated for their Importance to Biodiversity or Geological Conservation), E13 (The Coastal Zone & Undeveloped Coast), E16 (Scheduled Ancient Monuments & Archaeological Sites), E19 (Achieving High Quality Design & Distinctiveness), B2 (Providing for New

Employment), T1 (Providing Safe Access to New Development), T2 (Essential Improvements to the Highway Network), T3 (Vehicle Parking for New Development), T4 (Cyclists & Pedestrians), and T5 (Public Transport) are relevant to this proposal.

Emerging Local Plan – “Bearing Fruits 2031” – Publication Draft December 2014

- 5.05 The emerging Local Plan went through a formal review by the Local Plan Inspector late last year, and has broadly been agreed in principle. As such the policies therein carry some weight.
- 5.06 Policy A2 of the merging Plan allocates the site for “a mix of ‘B’ use class employment uses up to about 8,000sq m of floorspace. The site’s main strengths are its good local road access to the A249 and proximity to existing employment activities.” (Bearing Fruits para 6.3.1) The policy text states:

“Planning permission will be granted for employment uses (use classes B1, B2 or B8) on land to the south of Kemsley Mill, as shown on the Proposals Map. Development proposals will:

1. *Bring forward proposals to minimise the potential visual, heritage and residential amenity impacts of development through high quality integrated landscape-led design, including the use of the Council’s Design Panel;*
2. *Facilitate an extension to the Church Marshes country park to bring about enhancements to the significance, condition, appearance and appreciation of the wider landscape, biodiversity and heritage of the area;*
3. *Achieve the preservation and enhancement of the Scheduled Monument (including its setting) and undertake archaeological evaluation of the site in accordance with Policy DM34 and respond accordingly;*
4. *Contribute toward improvements to highway infrastructure where identified by a transport assessment; and*
5. *Bring forward sustainable design and construction, renewable energy and sustainable urban drainage measures in accordance with Policies DM19-DM21.”*

Swale Landscape Character & Biodiversity Appraisal (2011)

- 5.07 The site lies within the Chetney & Greenborough Marshes landscape character area, where it is noted that “*the statutory designations that dominate this area reflect the strategic priority to conserve the existing habitats in this area and manage them to maintain favourable condition under the guidance and consenting of Natural England. Any opportunities to buffer the designated site through appropriate habitat creation or enhancement at its margins would be of benefit...*”

6.0 LOCAL REPRESENTATIONS

- 6.01 A letter from the mill (DS Smith) has been received noting that the proposed country park extension may provide public access to their site, and that appropriate boundary treatments should be used to prevent this.
- 6.02 The Swale Footpaths Group has no objection but note that the status / ownership of the proposed pathways should be made clear [they will be incorporated into the country park].
- 6.03 No other representations have been received.

7.0 CONSULTATIONS

- 7.01 Natural England raises no objection.
- 7.02 Southern Gas Networks note that a high pressure gas pipeline runs in close proximity to the site, and its exact location needs to be determined prior to construction and various working practices carried out during development to protect it. I have forwarded a copy of SGNs letter to the agent for information in this regard.
- 7.03 KCC Highways & Transportation were involved in discussions early on in the application process, but have not yet provided formal written comments on the amended scheme. I will update Members of their response at the meeting.
- 7.04 Historic England objected to the original layout due to the impact upon the setting of Castle Rough, which is a Scheduled Ancient Monument. The application was subsequently held in abeyance while the agent engaged in lengthy discussions with Historic England, which ultimately lead to the current, revised scheme (moving the development further away from Castle Rough). Further to these discussions and amendments Historic England have no objections:

“The applicant has changed the layout of the business park to allow for smaller and lower height buildings to be constructed closest to the monument, the overall number of buildings has been reduced, the proposed country park car parking has been incorporated within the development boundary to provide a greater ‘buffer’ of open ground surrounding the monument, and the landscaping has been enhanced along the south east site boundary to provide a deeper vegetation screen between the business park and the moated site.

It is our view that the amended proposals have reduced the level of harm to the monument caused by development within its setting, and we think that the inclusion of the monument within the country park will provide opportunities for better access and management of the site...

... and recommend that the application should be determined in accordance with national and local policy guidance, and on the basis of your specialist conservation advice.”

- 7.05 The County Archaeologist has no objection subject to conditions to secure field evaluation works, as below.
- 7.05 Kent Police note that the development has the potential to generate crime or anti-social behaviour by virtue of its location and layout, and recommends that the developer include crime prevention measures such as lockable gates and CCTV. These can't be secured by planning conditions, but I have advised the agent of the Police's comments.
- 7.06 The Council's Environmental Health Manager notes that *“the development site is in close proximity to residential properties in Recreation Way and due to the unknown quantity and type of B2 use we would not recommend allowing units in this location to operate over the night time period.”* They therefore recommend a number of conditions (below) to limit hours of use, restrict levels of noise, and secure further details prior to occupation of the units by any Class B2 (general industrial) use.

- 7.07 Southern Water request that an informative be attached to the permission notifying the developer that a formal application will be required for connection to the public sewer, and a standard condition requiring details of foul and surface water drainage to be provided and agreed prior to development. Otherwise they raise no objection.
- 7.08 The Environment Agency has no objection subject to the conditions below.
- 7.09 The Lower Medway Drainage Board have no objection subject to a drainage condition (the same as Southern Water, above), and request that the developer is made aware that Board consent is required for any works that may affect watercourses. I have attached an informative to this effect.
- 7.10 UK Power Networks have no objections.
- 7.11 The Health & Safety Executive have been consulted due to the proximity of the site to a High Pressure gas pipe, but “do not advise against” granting permission.
- 7.12 The Council’s Tourism Officer notes that the Council has been involved in informal discussions to secure this land as an extension to the country park since December 2012. She is supportive of the scheme noting that it will expand the existing park, and provide some car parking facilities for visitors.
- 7.13 The Council’s Open Spaces Officer is generally supportive of the scheme (and has been involved in discussions with the applicant’s agent re: transfer of land to the Council to form an extension to the country park), but I await a full formal comment from him and will update Members at the meeting.
- 7.14 I await comments from the County Biodiversity Officer and will update Members at the meeting.

8.0 BACKGROUND PAPERS AND PLANS

- 8.01 The application is accompanied by a full suite of drawings and supporting documents, including a Planning Statement, contamination survey, ecological survey and traffic study.

9.0 APPRAISAL

Principle / policy

- 9.01 The eastern edge of the proposed business park lies outside of the defined built up area boundary set by the adopted Local Plan, and is thus within the countryside in planning terms. However it lies immediately adjacent to the built up area, and to the built form of the Kemsley Mill site, and within a wholly sustainable location in my opinion. Furthermore the emerging Local Plan – “Bearing Fruits 2031” – includes the entire site within a revised built up area boundary and shows it as an allocated employment site (policy A2, as noted at 5.06 above). The Emerging Local Plan was examined by the Inspector late last year; the Council is still awaiting the Inspector’s report but officers do not envisage there being any significant issues raised to this particular allocation.
- 9.02 Local and national policies generally encourage development that would positively contribute to sustainable economic development and employment. Paragraph 17 of the NPPF in particular sets out that planning should proactively drive and support sustainable economic development to deliver business and industrial units,

infrastructure and thriving places. Paragraph 19 of the NPPF continues to state that significant weight should be placed on the need to support economic growth through the planning system.

9.03 The submitted Planning Statement comments on this matter:

“the Council’s Employment Land Review 2010 identifies this site as one of the three best ranking sites for employment use in the Sittingbourne area. The Economic & Market Appraisal prepared by Harrisons, highlights the need for this site in terms of current employment land supply. It would fulfill a niche role, ie not catering for the sort of companies that would locate at G Park, Eurolink or Kent Science Park but rather small and medium sized companies making their first moves; perhaps a move to owner occupation. The Harrisons Appraisal demonstrates the need for this employment site, its geographic location relative to Kemsley Mill, G Park, Eurolink, SNRR and A249 providing a unique employment opportunity but Class B8 storage or distribution uses are specifically not applied for as the site is considered unsuitable for such activities.”

9.04 The submitted Economic and Market Appraisal comments that *“the demand for business units has continued through the recent recessionary times be it at a low level, however this is expected to improve during the forthcoming year and suitable sites and premises will need to be immediately available to sustain continued employment growth. This site will complement other employment sites currently available and will not directly compete with them.”* The allocation of the site within the emerging Local Plan (as above) reflects officers view that this is a good site for such employment development. I therefore consider that the proposals accord with the thrust of adopted and emerging policy, and are acceptable in principle.

Highways

9.05 The unsuitability of the site for B8 uses (referred to at 9.03 above) arises from potential capacity issues with the existing Grovehurst Road / A249 roundabout junction for significant vehicle movements associated with a storage and distribution use (which tend to generate significant vehicle movements over other uses). Junction capacity is to be addressed long-term through specific funding allocations to be brought forward under new S106 / CIL (Community Infrastructure Levy) charging structures that are currently under discussion, but remain some way off.

9.06 The transport assessment submitted with the current application shows, however, that the existing junction will be capable of handling the proposed B1 / B2 uses even upon completion of the forthcoming Eurolink V extension (likely completion date approximately 2019). No significant delays are envisaged for drivers using the roundabout, and the development is anticipated to slot into existing network capacity without any serious issues. The assessment comments (at paras. 6.48 onwards):

“...the Transport Assessment finds the site in a highly sustainable location. A good range of leisure, retail and health facilities are available in the vicinity; the site is also within walking distance of bus stops at Kemsley served by bus No. 347 between Kemsley and Sittingbourne; within walking and cycling distance of Kemsley Rail Station and a reasonable cycling distance from Sittingbourne Rail Station.

Based on traffic surveys of the local network and industry standard modeling, the proposed business park is predicted to generate a total of 97 vehicle trips

including 4 HGV's in the AM peak and 73 vehicles including 2 HGV's in the PM peak. The proposed Country Park extension is expected to generate negligible traffic during week day peak hours.

Assessment of the site access junction indicates that it would operate satisfactorily in 2019 even with the addition of traffic from the permitted Eurolink V development. It should also be noted that the existing planning permission for about 310 cars on the site will be replaced by the proposed employment development which would have a capacity of about 152 parking spaces together with about 30 parking spaces for the car park for the Country Park extension. The car park permission has the potential to result in far more peak period traffic than the employment and country park development currently proposed. Therefore the proposed development is likely to have a lesser impact on the local highway network than the extant car park permission which it will replace. Consequently, the analysis in the Transport Assessment very much represents the worst case."

- 9.07 I await final comments from KCC Highways & Transportation, but do not expect there to be any serious concerns raised at this stage. I will update Members accordingly at the meeting.
- 9.08 I would also reiterate that the application is at outline stage (as far as the business park is concerned) and that matters of precise number of parking spaces, HGV parking and turning, delivery space, and loading / unloading areas will be considered in greater detail at the reserved matters stage. Sufficient space is available across the site to accommodate this in accordance with adopted requirements, however, while still retaining a large amount of land for landscaping (2.04 above refers).

Landscape impact

- 9.08 The submitted planning statement notes (at 6.30) that *"The site is generally open in character with medium distance views to/from surrounding built up areas and countryside. Important landscape features include the hillside itself at Kemsley Down and peripheral clumps of scrub vegetation. Although that part of the site west of the SKLR has no landscape designation, that to the east of the railway is included within a Special Landscape Area."*
- 9.09 A Landscape and Visual Impact Assessment Report was submitted in October 2011 as part of the call for potential site allocations for the Core Strategy as part of the emerging Local Plan (Bearing Fruits) process, and updated by an addendum compiled for this current application (dated January 2014). These conclude that the proposal would be of "minor beneficial to minor adverse significance" in the long term, with benefits arising from anticipated improvements in urban grain patterns to the north of Sittingbourne; greater connectivity; and a graduated transition in scale from the nearby residential estates to the large built form of Kemsley Mill.
- 9.10 Minor adverse impacts relate to the effect of the development upon the adjacent marshes (to the east), but there is considerable scope to mitigate such impacts. The indicative details put forward show a gradual transition in building heights rising from east to west, and space within the layout for a robust and heavy landscaping scheme to be incorporated. This would not only help to soften the appearance of the proposed development, but also serve to screen views of the existing mill site from some vantage points.

- 9.11 I therefore consider that there is, arguably, an overall benefit to be gained in visual terms from this development – subject to full consideration of building design and external materials at the reserved matters stage, and the implementation of a full and robust landscaping scheme.

Amenity

- 9.12 The site lies a minimum of approximately 81m from the rear of the nearest houses on Recreation Way, 180m from properties on Walsby Drive (beyond the fishing lakes within the existing country park), and 244m from the new properties on Reams Way (the ones with the asymmetrical roofs). There is therefore potential for any activities on the site to give rise to noise and disturbance for local residents – above and beyond that caused by the almost continual operation of the mill.
- 9.13 Class B1 (light industrial) uses are those that, by their very nature, can be carried out within a residential area due to the very limited potential for amenity impacts by virtue of noise, activity, dust, smell, etc. I therefore have no serious concerns in regard to this aspect of the proposal.
- 9.14 The Council's Environmental Health Manager has noted the potential for class B2 (general industrial) activities to give rise to amenity impacts for nearby residents, however. As the business park portion of the application is at outline stage it is not known who the end users of the units will be, and therefore difficult to impose specific conditions to restrict activities that would have a negative impact on neighbours. In this regard he has recommended the more general conditions below that prevent any unit from being occupied by a B2 use until full details of the proposed activities have been submitted to the Council. This would enable officers to impose restrictions on a case-by-case basis to prevent activities / process that would cause significant harm.
- 9.15 As with some of the items above a robust and well-considered landscaping scheme would go some way to helping to reduce impact upon nearby residents. Planting along the boundary with Swale Way – particularly tree planting – may provide an effective screen to not only partially hide the buildings themselves, but to filter and buffer any noise emanating from the site.
- 9.16 Therefore, subject to the conditions below, I consider that the scheme would be unlikely to give rise to any serious amenity concerns for local residents.

Country park / archaeology

- 9.17 In addition to the above some weight should be given when considering the merits of this application, to the proposed land transfer that will extend the country park. Whilst such an offer couldn't be used to justify an otherwise unacceptable development, I consider this scheme to be acceptable (as above) and note that the proffered land will contribute significantly to local biodiversity (within an area allocated for its biodiversity importance) and recreation space / opportunities for the local community. In this regard I would reiterate that the Council's Open Spaces Officer and Tourism Officer are in support of the scheme.
- 9.18 The land includes Castle Rough – a Scheduled Ancient Monument – and a tract of land surrounding it that is considered important to its setting (see Historic England's comments at 7.04 above). The Castle is currently subsumed by scrub growth and it is not possible to appreciate the site in its wider context (although I note the majority of its archaeological importance is below ground).

- 9.19 The transfer of this land to the Council would enable it to be properly managed in a way to improve its heritage and cultural value. The application includes the provision of “interpretation boards” that would provide information about the site to visitors and increase awareness of its significance. Furthermore the transfer of land to the Council would represent a significant safeguard for the future of the site, as any activities within the area could be tightly controlled.

Ecology

- 9.20 The application is accompanied by a Scoping Survey which found the land to be of generally low ecological value but did identify the potential for Great Crested Newts and other reptiles. As a result a reptile survey was carried out, covering both areas of the application site (business park and country park extension). This found low populations of slow worms and lizards within the business park site, but notes that the adjacent land for the country park extension would be a suitable receptor site for relocation of these animals.
- 9.21 Great Crested Newts were found in a pond 330m from the business park site – beyond the SKLR train tracks – and it is not anticipated that these will migrate up the hill to the development area. The documents state, however, that a precautionary approach will be taken during development.
- 9.22 As above: I await comments from the County Biodiversity Officer, but do not expect there to be any significant issues or objections and anticipate standard conditions to monitor the site during development.
- 9.23 Notwithstanding the possibility of having to relocate reptiles from the business park land, I generally consider the scheme to represent a positive improvement upon ecological potential within the area. Extending the country park will provide additional habitat directly adjacent to an area identified and allocated for its biodiversity potential, and place it under the Council’s control to ensure proper and appropriate management in perpetuity.

10.0 CONCLUSION

- 10.01 This application seeks outline planning permission (with all matters except access reserved) for the erection of a new Class B1 and B2 industrial estate on land adjacent to the Kemsley Mill and Swale Way, and full detailed permission for the formation of an extension to the Milton Creek Country Park, including new pathways, a visitor car park, and transfer of approximately 14ha of land to the Council.
- 10.02 The site of the proposed business park is allocated for employment uses under the emerging local plan – Bearing Fruits 2031 – and is within a sustainable location suitable for economic development. The proposed development would not give rise to any serious harm to local amenity, wildlife, or the character or appearance of the area. The proposed country park extension brings wider benefits in terms of ecological habitat, additional recreation space, and opportunities to enhance and protect Castle Rough, which is a Scheduled Ancient Monument.
- 10.03 Taking the above into account I recommend that outline planning permission should be granted for the proposed business park and detailed planning permission should be granted for the proposed Country Park extension, footpaths, and car park – subject to receipt of outstanding responses from KCC Highways & Transportation and the County Biodiversity Officer, and the completion of a S106 legal agreement to secure transfer of the offered land.

11.0 RECOMMENDATION – GRANT Subject to the above and to the following conditions:

Commencement

- (1) The development of Phase 1 (including vehicular and pedestrian access to the site, and formation of a car park to serve Country Park extension and footpath connections thereto) must be begun not later than the expiration of three years beginning with the date on which the permission is granted.

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

- (2) Details relating to the layout, scale and appearance of the proposed buildings, and hard and soft landscaping of the site shall be submitted to and approved by the Local Planning Authority before any development is commenced.

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

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

Reasons: 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 development to which outline 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.

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

- (5) No development shall be carried out other than in complete accordance with the following drawings and technical documents unless otherwise agreed in writing by the Local Planning Authority:

- 1080.10, 11D, 12D, 13D, 14E, 15E, 16E, and 19.
- 2138 / D01 rev F, and DR003 rev E.
- 13053-SK151120.1.
- Lloyd Bore winter bird survey ref 2138_RP_005_REV A.
- Lloyd Bore reptile presence / likely absence survey and outline mitigation and compensation ref 2318 / R002.
- Lloyd Bore Great Crested Newt (*Triturus Cristatus*) presence / likely absence and population assessment report ref 2318 / R003.
- Lloyd Bore Ecological scoping survey ref 2499 / R02 / Rev A.
- Lloyd Bore Management plan addendum – Extension to Milton Creek country park ref 2138 / RP006-B.
- PFA Consulting Flood Risk Assessment.

Reasons: For the avoidance of doubt.

Pre-commencement

- (6) No development shall take place until the applicant, or their agents or successors in title, have secured the implementation of:
- (1) archaeological field evaluation works in accordance with a specification and written timetable which has been submitted to and approved in writing by the Local Planning Authority; and
 - (2) 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 in writing by the Local Planning Authority.

Reasons: 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, and to ensure that such matters are agreed prior to the commencement of development.

- (7) No development shall take place until full details of the method of disposal of foul and surface waters have been submitted to and approved by the Local Planning Authority. The approved details shall be implemented before the first use of the development hereby permitted.

Reasons: In order to prevent pollution of water supplies and to ensure that such matters are agreed prior to the commencement of development.

- (8) 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 Local Planning Authority. The measures approved shall be employed throughout the period of demolition and construction unless any variation has been approved by the Local Planning Authority.

Reasons: In the interests of residential amenity.

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

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

Reasons: 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.

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

Construction Phase

- (12) 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.

Reasons: In the interests of residential amenity.

- (13) 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 Local Planning Authority.

Reasons: In the interests of residential amenity.

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

Reasons: In the interests of highway safety and convenience.

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

Reasons: In the interests of highway safety and convenience.

Contaminated Land

- (16) No infiltration of surface water drainage into the ground is permitted other than with the express written consent of the local planning authority, which may 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.

Reasons: To protect the secondary aquifer and any baseline feed to local surface waters and habitat and to comply with NPPF.

- (17) 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.

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

- (18) 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.

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

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

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

Use of units

- (20) The units hereby permitted shall not be occupied by any uses other than those falling within Classes B1 or B2 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended), and, before any unit hereby permitted is occupied by a Class B2 use, detailed information relating to:

- Noise levels to be produced from the premises and the predicted noise levels at the site boundary;
- The siting of machinery and their associated noise levels;
- The provision to be made for the insulation of the building against the transmission of the noise and/or vibration;
- The times during which noise producing activities will be carried out;
- The times during which the premises shall be operated;

Shall be submitted for the approval of the LPA prior to the occupation of the units. The development shall be carried out, completed and used in accordance with the approved details.

Reasons: In the interests of residential amenity and minimising the potential for noise and disturbance to nearby residential properties.

- (21) Activities involving traffic movements including deliveries, collections, unloading and loading audible at the nearest residential dwelling in connection with the operation of the site shall not be permitted between the hours of 19.00 – 0700 Monday to Friday 17.00 – 08.00 Saturday and at any time on Sundays and Bank Holidays.

Reasons: In the interests of residential amenity and minimising the potential for noise and disturbance to nearby residential properties.

- (22) No air conditioning, ventilation or refrigeration equipment shall be installed until full details of its design, siting, discharge points and predicted acoustic performance have been submitted to and approved by the Local Planning Authority.

Reasons: In the interests of residential amenity and minimising the potential for noise and disturbance to nearby residential properties.

- (23) There shall be no outside working permitted at any of the units hereby approved, and no outside storage of materials or equipment.

Reasons: In the interest of visual amenity and minimising the potential for noise and disturbance to nearby residential properties.

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

- A statement of why lighting is required, the proposed frequency of the use and the hours of illumination.
- A site plan showing the area to be lit relative to the surrounding area, indicating parking or access arrangements where appropriate, and highlighting any significant existing or proposed landscape or boundary features.
- Details of the number, location and height of the lighting columns or other fixtures.
- The type, number, mounting height and alignment of the luminaries.
- The beam angles and upwards waste light ratio for each light.
- An isolux diagram showing the predicted illuminance levels at critical locations on the boundary of the site and where the site abuts residential properties.

Reasons: In the interests of local visual and residential amenity, and to minimise disturbance to wildlife upon the neighbouring land.

- (25) The details submitted pursuant to condition (2) above shall show adequate land reserved for the parking of vehicles (in accordance, where appropriate, with the currently adopted Kent County Council Vehicle parking standards for the particular development proposed) and for the loading and off-loading of commercial vehicles, and upon approval of the details no permanent development, whether permitted by the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking or re-enacting that Order) or not, shall be carried out on the land so shown or in such a position as to preclude vehicular access to this reserved space; such land and access thereto shall be provided prior to the occupation of the building hereby permitted and shall be used for or be available for use for the parking, loading and off-loading of vehicles at all times when the premises are in use.

Reasons: Development without adequate provision for the parking, loading or off-loading of vehicles is likely to lead to parking inconvenient to other road users and in a manner detrimental to highway safety and amenity.

INFORMATIVES

- (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 is required in order to service this development. Please contact Southern Water, Sparrowgrove House, Sparrowgrove, Otterbourne, Hampshire, SO21 2SW (tel. 03303 030119) or www.southernwater.co.uk.
- (3) Prior written consent from the Lower Medway Internal Drainage Board will be required for any works that affect ordinary watercourses (outfalls and crossings). Please contact the Medway Internal Drainage Board, 17 Albion Place, Maidstone, Kent, ME14 5EQ (tel. 01622 758345) or enquiries@medwayidb.co.uk.
- (4) Any facilities for the storage of oils, fuels or chemicals shall be provided with secondary containment that is impermeable to both the oil, fuel or chemical and water, for example a bund, details of which shall be submitted to the local planning authority for approval.

All precautions must be taken to avoid discharges and spills to the ground both during and after construction. For advice on pollution prevention, the applicant should refer to our guidance "PPG1 – General guide to prevention of pollution", which can be found at:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/290124/LIT_1404_8bdf51.pdf

- (5) Please note that the CLAIRE Definition of Waste: Development Industry Code of Practice (version 2) provides operators with a framework for determining whether or not excavated material arising from site during remediation and/or land development works are waste or have ceased to be waste.

Please also note that contaminated soil that is excavated, recovered or disposed of, is controlled waste. Therefore its handling, transport, treatment and disposal is subject to waste management legislation which includes:

- i. Duty of Care Regulations 1991
- ii. The Waste (England and Wales) Regulations 2011
- iii. Hazardous Waste (England and Wales) Regulations 2005
- iv. Pollution Prevention and Control Regulations (England and Wales) 2000
- v. Environmental Permitting (England and Wales) Regulations 2010

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.

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.

REPORT SUMMARY

REFERENCE NO - 14/506623/OUT			
APPLICATION PROPOSAL Outline application for proposed residential development of 18 units, with Appearance, Layout and Scale to be considered at this stage and all other matters reserved for future consideration.			
ADDRESS 109 Staplehurst Road Sittingbourne Kent ME10 2NF			
RECOMMENDATION – (a) delegate authority to the Head of Planning Services to approve the application for 18 dwellings subject to the imposition of appropriate conditions and informatives and the prior completion of a legal agreement pursuant to s.106 of the Town & Country planning Act 1990 to secure commuted sums for Affordable Housing, Primary Education, Secondary Education, Library services, Youth Services, Wheelie Bins; off-site open space provision; appropriate monitoring charge; and (b) that the Head of Planning Services be further authorised to refuse the application if the above legal agreement is not completed and the planning permission not issued by the end of 10 August 2016.			
SUMMARY OF REASONS FOR RECOMMENDATION The application is acceptable in principle and accords with the Development Plan and all other material planning considerations and therefore subject to the provision of legal agreement to secure the appropriate commuted sums is recommended for approval.			
REASON FOR REFERRAL TO COMMITTEE To seek the agreement of Members of the Planning Committee to amend the details of the application and make consequential changes to the S106 agreement and to make minor amendments and additions to the proposed conditions.			
WARD Chalkwell	PARISH/TOWN COUNCIL		APPLICANT Mr Frank Balloch AGENT MSD Architects
DECISION DUE DATE 19/03/15	PUBLICITY EXPIRY DATE 19/03/15	OFFICER SITE VISIT DATE N/A	
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):			
App No	Proposal	Decision	Date
14/506623/OUT	Erection of 18 houses	Resolution to Approve	May 2015
<i>Summarise Reasons: Acceptable housing development for the area.</i>			
SW/12/0829	Erection of 14 terraced houses	Approved	24/06/13
<i>Summarise Reasons: Acceptable housing development for the area. Not implemented.</i>			
SW10/0102	30 No. one-bed flats, 12 No. two-bed houses, 6 No. three-bed houses	Approved	26/05/11
<i>Summarise Reasons: Acceptable housing development for the area. Not implemented.</i>			

MAIN REPORT

1.0 INTRODUCTION

1.01 This report relates to a planning application for the development of land at Staplehurst Road, Sittingbourne. The proposal is to redevelop the existing vacant site for 18 dwellings. It was previously reported to the Planning Committee in April 2015 with a recommendation to approve the application subject to conditions and a Section 106 legal agreement to secure various commuted sums. The relevant Committee report is attached at Appendix A to this item. The application was deferred pending further information from consultees, in particular KCC Highways and Transportation.

1.02 The application was subsequently reported back to the Planning Committee in May 2015 and provided the updated information for the Committee. The relevant Committee report is attached as Appendix B to this item. The application was approved subject to conditions and the completion of the legal agreement. The Minute of the meeting read as follows:

“That application 14/506623/OUT be delegated to officers to approve subject to additional conditions as requested by KCC Highways and to conditions (1) to (24) in the report.”

1.03 The Head of Terms for the legal agreement were agreed as:

- Primary Education - £2,360.96 per house towards Phase 1 of the Murston Primary School expansion
- Secondary Education - £2359.80 per house towards the expansion of Phase 1 of the Sittingbourne Academy
- Library Services - £4086 towards Sittingbourne Gateway project and bookstock for this development
- Youth Services - £675.60 for Youth workers and organisations covering Sittingbourne for equipment etc.
- Wheelie Bins - £37.61 per bin with each dwelling requiring 2 bins.
- Off-site open space provision - £861.80 per dwelling.

1.04 The County Council's contributions (Primary Education, Secondary Education, Library Services and Youth Services) were amended after the April 2015 Committee meeting, in order to comply with the Community Infrastructure Levy (CIL) Regulations. The amended figures were however updated in time to be reported to the Committee in May 2015 and are the figures referred to above. In preparing this report the County Council was contacted and has confirmed that the amounts and the proposed projects remain unchanged and CIL compliant.

1.05 The requirement for a contribution for two wheelie bins per dwelling (landfill and recycling) is applied across the Borough for all new houses. It is also set out in the Council's Supplementary Planning Document 2009 on Developer Contributions. The requirement for a contribution towards open space provision is in accordance with Policy C2 of the 2008 Local Plan and the Council's Supplementary Planning Document 2009 and is applicable in this case given the constraints of the site and

subsequent lack of provision on the site itself of open space. The Council's Green Spaces Manager confirmed that the contribution would be used to improve the existing play area and open space at Cavell Road which is within 300 metres of the site.

- 1.06 It is considered that in this context the contributions for wheelie bins and off-site open space provision remain necessary to make the development acceptable in planning terms. These contributions are directly related to the development and are fairly and reasonably related in scale and kind to the development.
- 1.07 The exact trigger points at which these monies would be paid will be agreed as part of the process to complete the S106 agreement.

2.0 REASONS FOR REFERRAL BACK TO COMMITTEE

- 2.01 Since May 2015 the application has been subject to further discussions between the applicant and officers regarding the provision of the affordable housing. Accordingly, this report is designed to update the Committee on the situation and provide an updated resolution to reflect the changes which are now necessary and enable the development to proceed without further delay.
- 2.02 When the scheme was initially presented to the Committee in April 2015, the applicant was proposing that all the units would be affordable units. The applicant was working with a Registered Provider of affordable housing. However, that provider subsequently pulled out of the development and a new Registered Provider became involved.
- 2.03 The Committee was updated in the May 2015 report that the second Registered Provider was only able to commit to taking on 30% of the development, which was in accordance with the Council's established policy on affordable housing.
- 2.04 Since that time the second Registered Provider has had to pull out of the scheme. Despite seeking alternative Registered Providers the applicant was unable to secure the necessary interest. Following discussions with the Council's Housing Services Department it was agreed that a commuted sum to be spent on providing affordable housing elsewhere would be an acceptable alternative approach in this instance. The local members and Chair of the Planning Committee were apprised of this alteration.
- 2.05 The application is for exactly the same scheme as the Committee previously resolved to approve albeit that the description of development now excludes reference to all the units being affordable and thus now reads:

Outline application for proposed residential development of 18 units, with Appearance, Layout and Scale to be considered at this stage and all other matters reserved for future consideration.

- 2.06 It should be noted that there has been no change to the design/layout of the scheme or the houses in the intervening period. Similarly, the previously agreed off-site highways works have not been altered and will still be a requirement of any planning permission.

- 2.07 However, it was considered appropriate to provide all members of the Planning Committee with an update and obtain a renewed resolution which reflected the current situation and revised S106 requirements.
- 2.08 In addition to the change to the affordable housing, there will need to be some minor amendments to the wording of some of the previously agreed conditions and some additional conditions need to be imposed to reflect the views of the Environment Agency.
- 2.09 The monitoring contribution (the Council's standard charge is 5%) is subject to negotiation with the applicant and I seek authority to agree a suitable contribution.

3.0 KEY ISSUES

Affordable Housing

- 3.01 Although the application was initially submitted as a scheme entirely for affordable housing, this was a decision made by the applicant. The assessment of the scheme and subsequent reports to the Planning Committee assessed all the various issues raised by a scheme for 18 units. The issue of the dwellings' tenure was not a factor in the recommendation and indeed the recommendation made reference to securing a 30% provision of affordable housing. A 100% affordable housing scheme has never been a Council requirement for this site.
- 3.02 The Council's established policy is to seek a 30% on site provision of affordable housing for sites over 14 units. Policy H3 of the 2008 Local Plan sets out the Council's commitment to achieving affordable housing provision on suitable sites and the supporting text to that policy confirms that the Council will seek to ensure that at least 30% of the proposed dwellings are affordable. The Plan accepts that the precise requirement for a site will be the subject of negotiation with developers, taking account of need (from the housing needs survey, homelessness strategy and the housing register), and market and site conditions and thus some sites will provide more than 30%, whilst others might provide less. The Plan also confirms that exceptionally, a development's contribution towards the provision of affordable housing may be acceptable in the form of a commuted sum to be used elsewhere towards affordable housing.
- 3.03 The emerging Local Plan (Bearing Fruit 2031) similarly acknowledges that in exceptional cases, the Council may consider affordable housing provision to be provided through a commuted sum where the scale of a development triggers a requirement for affordable housing, but where it is not possible or desirable to provide it on the site itself.
- 3.04 In this particular case the applicant has tried to engage Registered Providers but in two cases the Registered Provider has pulled out of the development and subsequent attempts to engage an alternative provider have failed. The Council's Housing Services Department have been involved with the process and have accepted that in this instance a commuted sum is the most appropriate way forward.
- 3.05 Accordingly, the Council's retained consultants, CBRE, have subjected the application to an independent assessment to establish what the monetary value of the 30% affordable housing requirement should be in this instance. It has also been

necessary to assess the overall viability of the scheme to ensure that the development can afford both this contribution and the other contributions the scheme will make towards education, library, youth services, open space and wheelie bin provision as well as the off-site highway works. The consultants have advised that the scheme should make an affordable housing commuted sum contribution of £60,000.

- 3.06 In view of the above it is considered that in this case there are sufficiently exceptional circumstances for the Council to accept a commuted sum in the absence of affordable housing being provided on the site and that £60,000 is commensurate with the Council's Local Plan policies on affordable housing. Accordingly, the commuted sum is considered necessary to make the development acceptable in planning terms and the contributions have been shown to be directly related to the development and fairly and reasonably related in scale and kind to the development. The Council's Housing Services Department has confirmed that this money would be used for the provision of affordable housing delivery in Sittingbourne. The commuted sum is considered to be compliant with the CIL Regulations.

Consultees

- 3.07 At the time of the last report to the Committee in May 2015, the resolution to approve the application was subject to no objection being received from the Environment Agency.
- 3.08 The Environment Agency did subsequently advise that subject to conditions relating to the submission of a remediation strategy to deal with any contamination on site, limitations on piling/groundworks and surface water drainage details, the scheme was acceptable and no objection was raised. Conditions to reflect these requirements are now proposed for the development and are appended to this report.

Conditions

- 3.09 Since the application was last presented to the Committee there are a number of alterations which are considered necessary to the previously suggested conditions in order to tighten up the wording and ensure that they are sufficiently precise and enforceable.
- 3.10 The key changes are to conditions 8, 10, 11, 21 and 25. The changes will ensure that construction work does not take place on either Bank Holidays or Public Holidays (conditions 8 and 10); removal of reference to the Code for Sustainable Homes which is no longer extant (condition 11); that it is clear that a scheme for controlling mud on the road is submitted to and approved by the council prior to commencement of development (condition 21); and that an appropriate reference to the Borough Council is included (condition 25).
- 3.11 In addition, those conditions which require the submission and agreement of details prior to the commencement of development have been reworded so that they are using a consistent form of words.
- 3.12 In accordance with the previous resolutions, any permission which is issued will include updated conditions to reflect the requirements of the Environment Agency (conditions 20-23) and a 'Grampian' style condition as requested by KCC Highway Service (condition 26) to ensure that the off-site highways works are implemented prior to occupation of the dwellings.

Monitoring

- 3.13 The Council's Supplementary Planning Document 2009 on Developer Contributions seeks a 5% contribution towards monitoring costs associated with the development. The previous resolution to approve the application was subject to the inclusion of this charge within the legal agreement.
- 3.14 The applicant is aware of the charge which needs to be levied and the precise level of charge for this site will be negotiated with the developer as part of the completion of the legal agreement.

4.0 CONCLUSION

- 4.01 Since the application was last considered by the committee there have been three key changes in circumstance:
- The description of development now excludes reference to affordable housing;
 - An agreed affordable housing commuted sum shall be paid by the developer as part of the necessary legal agreement;
 - Amendments to conditions and imposition of additional conditions as requested by the Environment Agency and KCC Highways and Transportation; and
- 4.02 It is considered that these changes do not alter the overall acceptability of the scheme or raise new planning issues. Given the circumstances, the provision of a commuted sum for affordable housing meets the Council's policies and the monetary figure now proposed has been independently assessed by the Council's consultants and found to be appropriate for the site and scale of development.
- 4.03 The subsequent removal of the reference to the development being entirely for affordable housing does not alter the overall form of development, the site layout or appearance of the site when it is completed. Accordingly, it is considered that the alteration to the description of development does not raise any new issues or alter the recommendation to approve the scheme.
- 4.04 The changes to the conditions and the imposition of additional conditions are considered to strengthen the robustness of the eventual decision and ensure the development has a positive impact and does not adversely affect the wider area.
- 4.05 In view of the above, the proposed updates to the development and changes to the proposed permission are considered acceptable.

5.0 RECOMMENDATION – The recommendation is to:

- (c) delegate authority to the Head of Planning Services to approve the application for 18 dwellings subject to the imposition of appropriate conditions and informatives and the prior completion of a legal agreement pursuant to s.106 of the Town & Country planning Act 1990 to secure commuted sums for Affordable Housing, Primary Education, Secondary Education, Library services, Youth Services, Wheelie Bins; off-site open space provision; appropriate monitoring charge; and

- (d) that the Head of Planning Services be further authorised to refuse the application if the above legal agreement is not completed and the planning permission not issued by the end of 10 August 2016.

Conditions

- 1 Details relating to the access thereto and the landscaping of the site shall be submitted to and approved by the Local Planning Authority before any development is commenced.

Reasons: 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 this outline planning permission.

Grounds: 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.

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

4. Prior to the commencement of the development hereby approved details of the external materials, including details of the type and colour, to be used in the construction of the dwellings shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with those approved details.

Reasons: In the interests of the visual amenity of the surrounding area.

5. Notwithstanding the submitted plans, no development shall take place until full details of the hard and soft landscaping proposals have been submitted to and approved in writing by the Local Planning Authority. Details shall include hard landscaping; planting and species noting species (which shall be native species that contribute to local biodiversity), plant sizes and numbers where appropriate; soft landscaping; boundary treatments; and a timetable for their commencement and delivery, and a management and maintenance plan. These details shall be carried out in accordance with the approved details and thereafter retained and maintained unless otherwise agreed to in writing by the Local Planning Authority.

Reasons: To ensure that the landscaping is delivered to an acceptable quality and timetable.

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

Reasons: To ensure that the landscaping is delivered to an acceptable quality.

7. Prior to the commencement of the development hereby approved details of the security and crime prevention measures including lighting and CCTV shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with those approved details and thereafter retained unless otherwise agreed to in writing by the Local Planning Authority.

Reasons: To promote safety and security on the site.

8. No construction work in connection with the development shall take place on any Sunday or Public Holiday or Bank Holiday, nor on any other day except between the following times: Monday to Friday 0730 - 1900 hours and Saturdays 0730 - 1330 hours.

Reasons: To ensure the development does not prejudice conditions of residential amenity.

9. Prior to the commencement of development a programme for the suppression of dust and noise during the construction, use and removal of the haul road shall be submitted to and approved in writing by the Local Planning Authority. Works shall be carried out in accordance with those approved details and shall be employed throughout the period of the construction, use and removal of the haul road unless any variation has been approved in writing by the Local Planning Authority.

Reasons: To ensure the development does not prejudice the residential amenity of neighbouring properties.

10. No impact pile driving in connection with the construction of the development shall take place on the site on any Saturday, Sunday, Public Holidays 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.

Reasons: To ensure the development does not prejudice the residential amenity of neighbouring properties.

11. Prior to the commencement of development hereby approved statements demonstrating how the development will incorporate energy, water, carbon and natural resource saving methods, and will generate 10% of its remaining energy demand from on-site renewable generation has been submitted to and approved in writing to the Local Planning Authority. Development shall be carried out fully in accordance with those approved details.

Reasons: In the interests of promoting energy efficiency and sustainable development.

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

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

13. Unless otherwise agreed in writing by the Local Planning Authority no infiltration of surface water drainage into the ground is permitted. Approval will only be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to control waters.

Reasons: To ensure the proposed drainage methods as set out in the submission documents are appropriate to the sensitivity of groundwater in the underlying aquifer in order to prevent pollution of controlled waters.

14. Prior to the commencement of development a scheme for the disposal of foul and surface water drainage shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out fully accordance with those approved details and thereafter retained.

Grounds: To ensure the proposed drainage methods as set out in the submission documents are appropriate to the sensitivity of groundwater in the underlying aquifer in order to prevent pollution of controlled waters.

15. Prior to the commencement of development details of the measures to be taken to prevent the deposit of mud and other substances/debris on the public highway shall be submitted to and approved in writing by the Local Planning Authority. Such proposals shall include washing facilities by which vehicles will have their wheels, chassis and bodywork effectively cleaned and washed free of mud and similar substances. The approved details shall be fully implemented.

Reasons: To ensure that local highway network is not prejudiced by construction of the development.

16. Prior to the commencement of development details of how all vehicles (including operatives', construction and delivery vehicles) using the site will be loaded, off-loaded, turn and park on the site shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be fully implemented.

Reasons: To ensure that local highway network is not prejudiced in terms of traffic and parking.

17. Prior to the commencement of development, and notwithstanding the submitted plans, details of cycle parking for both visitors and residents shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with those approved details and thereafter retained.

Reason: To ensure the proposal provides for adequate cycle parking for the development.

18. The approved access details shall be fully implemented and completed prior to the occupation of any buildings hereby approved. The approved access shall thereafter be fully retained.

Reason: To ensure the proposal can be adequately and safely accessed so as not to prejudice the operation of the existing highway network.

19. Prior to the commencement of development a survey shall be carried out to establish traffic noise levels affecting the site and predictions shall be made of any future traffic noise levels over the next 15 years. The survey shall be carried out in accordance with a written protocol, details of which shall be submitted to and approved by the Local Planning Authority before the survey is carried out.

A report giving:

- (a) the results of the survey,
- (b) the predictions of noise levels,
- (c) details of the design measures that will be used to mitigate against traffic noise, and
- (d) details of the building specifications of the dwellings which will be used to achieve a maximum internal noise level within any of the dwellings of 35dB(A) (Fast) with windows closed,

shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development.

The approved measures shall be fully implemented prior to the first occupation of any of the buildings hereby approved

Reason: In the interests of residential amenity.

20. Prior to the commencement of development each of the following shall be submitted to and approved in writing by the Local Planning Authority:

- a) A desk study and conceptual model of the site indicating sources, pathways and receptors, based on the historical uses of the site and proposed end-uses, the risks from contamination and what further investigative works are required;
- b) A site investigation strategy, based on the approved desk study and conceptual model. This shall be submitted to and approved in writing by the Local Planning Authority prior to any intrusive investigations commencing on site;
- c) An investigation plan, detailing the data to be collected 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. This shall be submitted to and approved in writing by the Local Planning Authority prior to any intrusive investigations commencing on site;
- d) A site investigation report detailing all investigative works and sampling that has taken place on site, together with the results of analyses, risk assessment to any receptors (including those off-site) and a proposed remediation strategy which shall be of such a nature as to render harmless any identified contamination given the proposed end-use of the site and surrounding environment, including any controlled waters.

Reason: To ensure any contaminated land is appropriately remediated.

21. Prior to any occupation of any of the dwellings hereby approved, all remediation works identified in the contaminated land assessment and approved by the Local Planning Authority shall be carried out in full on site (or in phases as agreed in writing by the Local Planning Authority) 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 shall be submitted to and agreed in writing with the Local Planning Authority prior to any further remediation work taking place. The approved remediation scheme(s) shall be fully implemented.

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

22. Upon completion of the works identified in the contaminated land assessment, and before any part of the development is occupied, a Closure Report shall be submitted to and approved in writing by the Local Planning Authority. The submitted Closure Report shall include:

- (a) 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;
- (b) details of any post-remediation sampling and analysis to show the site has reached the required clean-up criteria;
- (c) any requirements for long term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

The Closure Report shall also include all necessary documentation detailing what waste materials have been removed from the site.

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

23. Details of any piling or other foundation designs using penetrative methods shall be submitted to and approved in writing by the Local Planning Authority prior to their use. The submitted details should demonstrate that there is no resultant unacceptable risk to groundwater. The development shall be carried out in full accordance with the approved details.

Reason: To prevent pollution of controlled waters.

24. Prior to commencement of development cross-sectional drawings through the site, showing the existing and proposed site levels shall be submitted to and approved in writing by the Local Planning Authority. The development shall be completed strictly in accordance with the approved drawings.

Reason: In the interests of visual amenity.

25. Prior to the commencement of development a programme of archaeological work in accordance with a written specification and timetable shall be submitted to and approved by the Local Planning Authority. The archaeological work shall be undertaken in accordance with the approved specification and timetable.

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

26. Prior to the commencement of any other development, off-site highways works to Staplehurst Road shall be carried out in accordance with a design and specification submitted to and agreed in writing by the Local Planning Authority. Such works shall include traffic calming between Ashington Close and Springfield Close, a pedestrian refuge island to facilitate crossing from the existing footway into the development and a realignment of the highway to accommodate improved turning movements into the existing access opposite the site.

Reason: In the interests of highway safety and amenity.

Council's approach to this application:

In accordance with paragraphs 186 and 187 of the National Planning Policy Framework (NPPF) the council has sought to work in a positive and proactive manner with the applicant on this application. 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.

INFORMATIVES

1. This permission was issued subject to a legal agreement pursuant to section 106 of the Town & Country Planning Act 1990. Accordingly, there are a number of financial obligations related to this development which must be adhered to when implementing this planning permission.
2. This planning permission does not convey any approval for construction of the required vehicular crossings or other works within the highway for which a statutory licence must be obtained. Please contact Kent County Council (Highways & Transportation) on 03000 418181 to obtain the necessary Application Pack.

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

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

APPENDIX A

Planning Committee Report
23 April 2015

REPORT SUMMARY

REFERENCE NO · 14/506623/OUT			
APPLICATION PROPOSAL Outline application for proposed residential development of 18 units for affordable housing, with Appearance, Layout and Scale to be considered at this stage and all other matters reserved for future consideration			
ADDRESS 109 Staplehurst Road Sittingbourne Kent ME10 2NF			
RECOMMENDATION: APPROVE , subject to the outstanding views of Kent Highway Services, Kent County Council Archaeology Officer, Network Rail and Environment Agency and the receipt of amended plans addressing concerns about the cramped, car parking-dominated layout, and the signing of a suitably-worded Section 106 Agreement; and the receipt of outstanding consultation responses (see Paragraphs 7.2 to 7.5 below)			
SUMMARY OF REASONS FOR RECOMMENDATION OF APPROVAL The proposals would be in accordance with the provisions of the Development Plan and all other material planning considerations. The proposed development would not cause unacceptable harm to the amenities of the area or prejudice highway safety or convenience.			
REASON FOR REFERRAL TO COMMITTEE Approval from the Members of the Committee for the signing of a Section 106 Agreement to secure financial contributions in respect of libraries, education, adult social services, community learning, off-site open space and play equipment, broadband connections, wheelie bins and a 5% monitoring charge, and to ensure that at least 30% of the dwellings are provided, and retained in perpetuity, as affordable housing.			
WARD Chalkwell	PARISH/TOWN COUNCIL	APPLICANT Mr Frank Balloch	AGENT MSD Architects
DECISION DUE DATE 19.03.15	PUBLICITY EXPIRY DATE 19.03.15	OFFICER SITE VISIT DATE 09.03.15	
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):			
App No	Proposal	Decision	Date
SW/12/0829	Erection of 14 terraced houses (ten 3-bed & four 4 bed)	Approved	24/06/13
Summarise Reasons	Acceptable housing development for the area - Not implemented		
SW/10/0102	30 one-bed flats, 12 two bed flats, 6 three-bed flats	Approved	26/05/11
Summarise Reasons	Acceptable housing development for the area - Not implemented		

MAIN REPORT

1.0 DESCRIPTION OF SITE

- 1.1 The site consists of a former railway depot situated within the built-up area to the west of the centre of Sittingbourne. The site is generally triangular in shape and bounded by Staplehurst Road, which runs southwest-northeast along the south western boundary and the railway line, which splits at the south eastern corner

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of the site and heads northwest to Sheppey and west to London. The areas beyond the railway lines to the northeast and southeast consist of predominantly residential areas. There are a number of light industrial units to the northwest of the site opposite Staplehurst Road.

- 1.2 The land is set well below the level of Staplehurst Road and it has been abandoned and unused for quite a number of years. There are areas of hardstanding which have become overgrown in places, whilst rows of trees located around the edges of the site, help to screen views into the site from the surrounding areas.
- 1.3 The site is not prominent when viewed from Staplehurst Road, due to it being sited approximately three metres below the adjoining road level. The submitted Topographical Survey provides full details. The site is not close to the nearest dwellings in the area, off Springfield Road and Waterloo Road respectively to the northeast and across the railway line.

2.0 PROPOSAL

- 2.1 The application seeks outline planning permission, with all matters reserved for subsequent approval, apart from the layout, scale and appearance of the dwellings. For the construction of 18 affordable dwellings (six as shared ownership and 12 as affordable rent) for Housing Association accommodation. Amicus Horizon are the interested Registered Provider. The site area is 0.48 hectares, which gives a housing density of 38 dwellings per hectare.
- 2.2 The proposed dwellings comprise eight 2 bed units, six 3 bed units and four 4 bed units and are sited in a semi-detached arrangement which slopes downward towards the south eastern corner of the site. The 3 and 4 bed roomed houses will have two car parking spaces each and there are 4 disabled persons' spaces provided on the site. A total of 40 car parking spaces would be provided.
- 2.3 The proposed floor areas for the dwellings would meet Lifetime Homes requirements, with private amenity space at the rear of the dwellings.
- 2.4 A new vehicular access to the site from Staplehurst Road, would be constructed at the midpoint along the north western boundary of the site, to provide maximum visibility in each direction for the site entrance.
- 2.5 The proposed housing layout would consist of 6 semi-detached dwellings on the northern side of a crescent shaped estate road, with 3 semi detached pairs of dwellings on the southern side of the road and a vehicular turning area close to the southern boundary of the site.
- 2.6 The reserved matters are access and landscaping and would be the subject of a further application in the future.

3.1 SUMMARY INFORMATION

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3.2 The new housing development would provide a modern contemporary design, with two rows of mono-pitched houses served by a central estate road and turning area at a sustainable location within an established residential area.

4.0 PLANNING CONSTRAINTS

4.1 This site is not subject to any planning constraints that warrant mention here.

5.0 POLICY AND OTHER CONSIDERATIONS

5.1 The National Planning Policy Framework (NPPF) and National Planning Practice Guidance (NPPG) are relevant, but none of the guidance warrants specific mention here.

5.2 Development Plan: Relevant Policies include SP1 (sustainable development), SP4 (Housing), E1 (general development criteria), E16 (archaeological sites), E19 (Design), H2 (New housing), C2 (Housing developments and the provision of community facilities), T1 (Safe access to new development), T2 (Essential improvements to the highway network), T3 (Vehicle parking), T4 (Cyclists and pedestrians), U3 (Renewable energy), and U4 (placing services underground) of the Swale Borough Local Plan 2008.

6.1 LOCAL REPRESENTATIONS

6.2 No letters of representation from local residents have been received.

6.3 I have though received a copy of a letter sent by the ward councillors to local residents about the development. It explains that they will "call in" the application for determination by the Planning Committee and refers to the potential "...*modification to the road, access, traffic calming, etc remains intact...*" I give further details in the 'appraisal' section at paragraph 9.7 below.

7.0 CONSULTATIONS

7.1 Kent County Council have requested a Section 106 Agreement to secure financial contributions towards the provision of primary and secondary school places, libraries, adult social services and community learning.

7.2 Comments from Kent County Council Highway Services, Kent County Council Archaeological Services Network Rail and Environment Agency are still awaited and I will report to members at the Committee meeting of any updates received.

7.3 Housing Services - No objections to development of the site for 18 affordable housing units. The provision of two bed housing units on the site is welcomed.

7.4 The Greenspaces Manager - No objections and considers that a financial contribution towards off-site open space play equipment from the developers should be secured.

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- 7.5 Southern Water - No objections, subject to a formal application for a connection to the public foul and surface water sewer is made by the developer. The site is located within a Source Protection Zone around one of Southern Water's public water supply sources as defined under the Environment Agency's Groundwater Protection Policy.
- 7.6 Environmental Health Manager - No objections providing conditions relating to a traffic noise survey for the site and design measures for the dwellings to mitigate against traffic noise have been undertaken. In addition, conditions are needed to deal with contaminated land on the site.

8.0 BACKGROUND PAPERS AND PLANS

- 8.1 The submitted application plans, reports and documents from the applicants.

9.0 APPRAISAL

- 9.1 The site is located within the urban area according to the adopted Local Plan, where the principle of development is generally acceptable, subject to matters of detail. The principle of the site being developed for housing has been accepted with the previous schemes for 48 flats in both 2004 (SW/04/0646) and 2010 (SW/10/0102). In addition, a housing development for 14 terraced units was approved in 2013 (SW/12/08929). The site is no longer suitable for employment use and as such it is considered that there has been no significant change in circumstances that would alter the recommendation that a residential use for the site should be supported in principle.
- 9.2 The submitted housing development proposes a modern design, whereby the dwellings have mono-pitched roofs, which has not been adopted elsewhere in the area. The site is separated from its surroundings by the railway lines and the road, which enables a different approach to be taken in the manner in which the site is developed. The use of good quality exterior facing materials for the housing should help the development to make a positive contribution to the character and appearance of the area, and Members will note the proposed condition (4) below.
- 9.3 The housing development would not be prominent when viewed from Staplehurst Road, due to the change in site levels in relation to the highway. It is considered that a good comprehensive landscaping scheme and the planting of further trees along the site boundaries will result in the proposed houses being screened from public view, and the detail will be subject to a separate reserved matters application, if this application is approved.
- 9.4 The housing development proposes four more housing units than the most recent approval for 14 terraced houses on the site. It retains a reasonable area of land for landscaping proposals and enables the dwellings to be sited away from the adjoining railway lines and provide space for boundary planting to

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soften the appearance of the dwellings. The dwellings are sited sufficiently far enough away from the nearest dwellings off Springfield Road and Waterloo Road respectively, so as to minimise the potential for any serious loss of residential amenities, in terms of overlooking / loss of privacy, overshadowing or loss of outlook for existing residents. For the avoidance of doubt, the nearest existing dwellings will be more than forty metres from any of the proposed houses.

- 9.5 The housing development will require a number of improvements to the public highway in order to accommodate these proposals. The views of Kent Highways Services are awaited to provide such details, and to ensure that conditions are imposed to secure delivery of off-site highway improvements.
- 9.6 The site is located within Flood Zone 1, which is considered to be less vulnerable for development. I therefore consider that there will not be any flooding risks. However, care must be taken with regards to drainage, and members will note the relevant condition below. The views of the EA are awaited, and I will update Members at the meeting.
- 9.7 The proposed housing development will trigger the requirement for a Section 106 Agreement for a financial contribution to be paid to Kent County Council towards the provision of primary and secondary school places, libraries, adult social services, and community learning. The financial contributions are as follows:-

Primary Schools: (New build) - £72,000.00
(Land acquisition costs) - £36,471.96
Secondary Schools - £42,476.40
Libraries - £4086.00
Adult Social Services - £960.48
Community Learning - £1087.70
Youth Service - £676.50

The **total amount** required by KCC is **£157,759**

- 9.8 Additional fees are required by Swale Borough Council for the provision of wheelie bins, off- site play equipment and a 5% monitoring charge.
- 9.9 With regard to affordable housing, the S106 agreement will need to include a clause to ensure that a minimum of 30% of the dwellings are provided as affordable units and that an acceptable tenure split is agreed.
- 9.10 The approval of Members is required to enter such a legal agreement.

10.0 CONCLUSION

- 10.1 There would appear to be no planning objections to these proposals and as a result a conditional approval is recommended, subject to receipt of relevant amended plans and the signing of an appropriate Section 106 legal agreement.

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10.2 Following careful consideration of the views of consultees, the relevant Development Plan policies and the planning merits of the proposals, I am of the view that the proposals would be acceptable in planning terms.

11.0 RECOMMENDATION – GRANT Subject to the following:

11.1 The receipt of outstanding consultation comments (namely from Kent Highways Services, the Environment Agency, Network Rail and KCC Archaeology), I recommend that planning permission be granted. I also seek delegation from Members for the signing of a Section 106 Agreement to secure financial contributions in respect of education, libraries, adult social services, community learning, wheelie bins, off-site play equipment, and 30% affordable housing provision, and a 5% monitoring charge.

Conditions

1 Details relating to the access thereto and the landscaping of the site shall be submitted to and approved by the Local Planning Authority before any development is commenced.

Grounds 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.

Grounds: 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.

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

4. Prior to the commencement of the development hereby approved details of the facing materials, including details of the type and colour, to be used in the construction of the dwellings shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with those approved details.

Grounds: In the interests of visual amenity.

5. Notwithstanding the submitted plans, no development shall take place until full details of the hard and soft landscaping proposals have been submitted to and approved in writing by the Local Planning Authority. Details shall include hard

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landscaping; planting and species noting species (which shall be native species that contribute to local biodiversity), plant sizes and numbers where appropriate; soft landscaping; boundary treatments; and a timetable for their commencement and delivery, and a management and maintenance plan. These details shall be carried out in accordance with the approved details and thereafter retained and maintained unless otherwise agreed to in writing by the Local Planning Authority.

Grounds: To ensure that the landscaping is delivered to an acceptable quality and timetable.

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

Grounds: To ensure that the landscaping is delivered to an acceptable quality and in pursuance of Policy E1 of the Swale Borough Local Plan 2008.

7. Prior to the commencement of the development hereby approved details of the security and crime prevention measures including lighting and CCTV shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with those approved details and thereafter retained unless otherwise agreed to in writing by the Local Planning Authority.

Grounds: To promote safety and security on the site.

8. 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 - 1330 hours.

Grounds: To ensure the development does not prejudice conditions of residential amenity.

9. The commencement of the development shall not take place until a programme for the suppression of dust and noise during the construction use and removal of the haul road has been approved by the Local Planning Authority. Works shall be carried out in accordance with those approved details and shall be employed throughout the period of the construction, use and removal unless any variation has been approved by the Local Planning Authority.

Grounds: To ensure the development does not prejudice conditions of residential amenity.

10. No impact pile driving in connection with the construction of the development shall take place on the site on any Saturday, Sunday or Bank Holiday, nor on any other day except between the following times: Monday to Friday 0900 -

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1700 hours unless in association with an emergency or with the prior written approval of the Local Planning Authority.

Grounds: To ensure the development does not prejudice conditions of residential amenity.

11. No development shall take place until details of how the proposal will achieve Level 3 of the Code for Sustainable Homes as set out in the submitted statements, and of how the development will incorporate energy, water, carbon and natural resource saving methods, and will generate 10% of its remaining energy demand from on-site renewable generation has been submitted to and approved in writing to the Local Planning Authority. Development shall be carried out in accordance with those approved details.

Grounds: In the interests of promoting energy efficiency and sustainable development.

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

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

13. No infiltration of surface water into the ground is permitted other than with the express written consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to controlled waters.

Grounds: To ensure the proposed drainage methods as set out in the submission documents are appropriate to the sensitivity of groundwater in the underlying aquifer in order to prevent pollution of controlled waters.

14. No development shall take place until a scheme for the disposal of foul and surface water drainage has been submitted to and approved in writing by the Local Planning Authority. Development shall be carried in accordance with those approved details and thereafter retained.

Grounds: To ensure the proposed drainage methods as set out in the submission documents are appropriate to the sensitivity of groundwater in the underlying aquifer in order to prevent pollution of controlled waters.

15. 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. Such proposals shall include washing facilities by which vehicles will have their wheels, chassis and bodywork effectively cleaned and washed free of mud and similar substances.

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Grounds: To ensure that local highway network is not prejudiced by construction of the development.

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

Grounds: To ensure that local highway network is not prejudiced in terms of traffic and parking.

17. Notwithstanding the submitted plans, no development shall take place until details of cycle parking for both visitors and residents has been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with those approved details and thereafter retained.

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Grounds: To ensure the proposal provides for adequate cycle parking for the development.

18. The access details shown on the approved plans shall be completed prior to the occupation of any buildings hereby approved, the use of the site being commenced, and the access shall thereafter be maintained.

Grounds: To ensure the proposal can be adequately and safely accessed so as not to prejudice the operation of the existing highway network.

19. The commencement of the development shall not take place until a survey has been carried out to establish traffic noise levels affecting the site and predictions shall be made of any future traffic noise level increase over the next 15 years. The survey shall be carried out in accordance with a written protocol, details of which shall be submitted to and approved by the Local Planning Authority before the survey is carried out.

A report giving:

- (a) the results of the survey,
- (b) the predictions of noise levels,
- (c) details of the design measures that will be used to mitigate against traffic noise, and
- (d) details of the building specifications of the dwellings which will be used to achieve a maximum internal noise level within any of the dwellings of 35dB(A) (Fast) with windows closed, shall be submitted to and approved by the Local Planning Authority prior to the commencement of the development.

The approved measures shall be implemented in full prior to the first occupation of any of the buildings hereby permitted

Grounds: In the interests of residential amenity.

20. 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

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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.

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

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

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

22. 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.

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

Council's approach to this application:

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

In this case amendments have been sought and the application is being referred to the Planning Committee for consideration.

Case Officer: Harry Heywood

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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 B

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21 May 2015

ITEM 2.5

Def item 1 REFERENCE NO. - 14/506623/OUT			
APPLICATION PROPOSAL			
Outline application for proposed residential development of 18 units for affordable housing, with Appearance, Layout and Scale to be considered at this stage and all other matters reserved for future consideration			
ADDRESS 109 Staplehurst Road Sittingbourne Kent ME10 2NF			
RECOMMENDATION: APPROVE , subject to the outstanding views of Kent Highway Services, Kent County Council Archaeology Officer, Network Rail and Environment Agency and the receipt of amended plans addressing concerns about the cramped, car parking-dominated layout, and the signing of a suitably-worded Section 106 Agreement; and the receipt of outstanding consultation responses (see Paragraphs 7.2 to 7.5 below)			
SUMMARY OF REASONS FOR RECOMMENDATION OF APPROVAL			
The proposals would be in accordance with the provisions of the Development Plan and all other material planning considerations. The proposed development would not cause unacceptable harm to the amenities of the area or prejudice highway safety or convenience.			
REASON FOR REFERRAL TO COMMITTEE			
Approval from the Members of the Committee for the signing of a Section 106 Agreement to secure financial contributions in respect of libraries, education, adult social services, community learning, off-site open space and play equipment, broadband connections, wheelie bins and a 5% monitoring charge, and to ensure that at least 30% of the dwellings are provided, and retained in perpetuity, as affordable housing.			
WARD Chalkwell	PARISH/TOWN COUNCIL N/A	APPLICANT Mr Frank Balloch	AGENT MSD Architects
DECISION DUE DATE 19.03.15	PUBLICITY EXPIRY DATE 19.03.15	OFFICER SITE VISIT DATE 09.03.15	
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):			
App No	Proposal	Decision	Date
SW/12/0829	Erection of 14 terraced houses (ten 3-bed & four 4 bed)	Approved	24/06/13
Summarise Reasons Acceptable housing development for the area - Not implemented			
SW/10/0102	30 one-bed flats, 12 two bed flats, 6 three-bed flats	Approved	26/05/11
Summarise Reasons Acceptable housing development for the area - Not implemented			

1.0 BACKGROUND

1.01.1 Members will recall this application from the committee meeting on the 23rd April, when they resolved to defer the case to a later meeting to enable the outstanding consultations from Kent Highway Services, in relation to traffic calming measures, including an assurance that 40 tonne lorries will be stopped from accessing Hythe Road, Springfield Road and Staplehurst Road. The weight restrictions for Hythe Road for HGVs is meant to control HGVs using Hythe Road. The additional information provided by the applicant's highway consultant shows that HGVs will no longer be able to turn left out of the McDonald Mailing site once the proposed highway improvements have been carried out. The traffic islands will physically prevent HGVs from performing that

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manoeuvre and the realigned kerblineline will make it easier for them to turn in from and exit to the south stretch of Staplehurst Road, so all movements associated with goods vehicles at that site will be forced to use the only legal route. The traffic calming, an arrangement almost identical to that previously expected with other approved developments for the site means an appropriate scheme will be delivered.

1.01.2 There are further comments from the Environment Agency, Kent Archaeology Services and Housing Services to be reported to the committee, together with four further representations which have been received from three local residents.

1.01.3 Kent County Council have revised their request for developer financial contributions and they are now seeking a total of £89,734.68 and contributions are no longer required for adult social services and community learning.

1.04 The Borough Council will require financial contributions of:-

Wheelie Bins @ £37.61 per bin – 2 bins for each dwelling giving 36 @ £37.61 which is £1353.96 .

Off-site open space provision @ £861.8 per dwelling giving 18 @ £861.8 which is £15,512.4

The Monitoring Fee which will be 5% of the total financial contributions will be payable, which will be £5,330.08

MAIN REPORT

1.0 DESCRIPTION OF SITE

1.1 The site consists of a former railway depot situated within the built-up area to the west of the centre of Sittingbourne. The site is generally triangular in shape and bounded by Staplehurst Road, which runs southwest-northeast along the south western boundary and the railway line, which splits at the south eastern corner of the site and heads northwest to Sheppey and west to London. The areas beyond the railway lines to the northeast and southeast consist of predominantly residential areas. There are a number of light industrial units to the northwest of the site opposite Staplehurst Road.

1.2 The land is set well below the level of Staplehurst Road and it has been abandoned and unused for quite a number of years. There are areas of hardstanding which have become overgrown in places, whilst rows of trees located around the edges of the site, help to screen views into the site from the surrounding areas.

1.3 The site is not prominent when viewed from Staplehurst Road, due to it being sited approximately three metres below the adjoining road level. The submitted Topographical Survey provides full details. The site is not close to the nearest

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dwellings in the area, off Springfield Road and Waterloo Road respectively to the northeast and across the railway line.

2.0 PROPOSAL

- 2.1 The application seeks outline planning permission, with all matters reserved for subsequent approval, apart from the layout, scale and appearance of the dwellings. For the construction of 18 affordable dwellings (six as shared ownership and 12 as affordable rent) for Housing Association accommodation. Amicus Horizon are the interested Registered Provider. The site area is 0.48 hectares, which gives a housing density of 38 dwellings per hectare.
- 2.2 The proposed dwellings comprise eight 2 bed units, six 3 bed units and four 4 bed units and are sited in a semi-detached arrangement which slopes downward towards the south eastern corner of the site. The 3 and 4 bedroomed houses will have two car parking spaces each and there are 4 disabled persons' spaces provided on the site. A total of 40 car parking spaces would be provided.
- 2.3 The proposed floor areas for the dwellings would meet Lifetime Homes requirements, with private amenity space at the rear of the dwellings.
- 2.4 A new vehicular access to the site from Staplehurst Road, would be constructed at the midpoint along the north western boundary of the site, to provide maximum visibility in each direction for the site entrance.
- 2.5 The proposed housing layout would consist of 6 semi-detached dwellings on the northern side of a crescent shaped estate road, with 3 semi detached pairs of dwellings on the southern side of the road and a vehicular turning area close to the southern boundary of the site.
- 2.6 The reserved matters are access and landscaping and would be the subject of a further application in the future.

3.1 SUMMARY INFORMATION

- 3.2 The new housing development would provide a modern contemporary design, with two rows of mono-pitched houses served by a central estate road and turning area at a sustainable location within an established residential area.

4.0 PLANNING CONSTRAINTS

- 4.1 This site is not subject to any planning constraints that warrant mention here.

5.0 POLICY AND OTHER CONSIDERATIONS

- 5.1 The National Planning Policy Framework (NPPF) and National Planning Practice Guidance (NPPG) are relevant, but none of the guidance warrants specific mention here.

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5.2 Development Plan: Relevant Policies include SP1 (sustainable development), SP4 (Housing), E1 (general development criteria), E16 (archaeological sites), E19 (Design), H2 (New housing), C2 (Housing developments and the provision of community facilities), T1 (Safe access to new development), T2 (Essential improvements to the highway network), T3 (Vehicle parking), T4 (Cyclists and pedestrians), U3 (Renewable energy), and U4 (placing services underground) of the Swale Borough Local Plan 2008.

6.1 LOCAL REPRESENTATIONS

6.2 Three letters of representation from local residents have been received, which raise the following issues:

- 6.3
1. Concern about the level of neighbour consultation
 2. Queries about existing access arrangements for the site opposite
 3. Concern about how HGVs will be prevented from gaining access to Hythe Road.
 4. Concern about the speed of traffic using Staplehurst Road and how this will be controlled to enable safe access / egress from the site.
 5. Neighbours in Hythe Road were not consulted.
 6. Development could result in problems both during the construction phase (noise, dust, construction vehicles, long construction hours) and once the Development is finished, notably from increased traffic flow and possible subsidence to adjacent dwellings.

7.0 CONSULTATIONS

- 7.1 Kent County Council have requested a Section 106 Agreement to secure financial contributions towards the provision of primary and secondary school places, libraries, adult social services and community learning.
- 7.2 Kent County Council Highway Services – No objections to the housing layout, there is adequate vehicle turning space for refuse vehicles and fire appliances within the site. The development will deliver traffic calming to Staplehurst road and other improvements to deal with the movement of vehicles past the site and the commercial activities opposite. Highway improvements have been requested for all the previous consent for the site. The drawing no. 718/432 with the previous consent SW/12/0829 introduced traffic calming between Ashington Close and Springfield Road to reduce vehicle speeds to an appropriate level. A refuge island to facilitate pedestrian movement between the site and the existing footway on the western side of Staplehurst Road and the re-alignment of the carriageway outside the site to assist HGV movement from the access opposite. These works must be secured through an appropriately worded Grampian condition within a Section 106 Agreement. Any approval must be subject to the following conditions:
Provision of off-site works to Staplehurst Road, including traffic calming between Ashington Close and Springfield Road, a pedestrian refuge island to facilitate crossing from the existing footway into the site and re-alignment of

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the highway to accommodate turning movements into the existing access opposite the site
Precautions taken to prevent the deposition of mud on the highway
Details of operatives visitors parking space
Details of operatives parking space
The surfacing of the parking and turning space on the site
Provision of on-site parking space before the occupation of the dwellings
The completion of the access details before any dwellings are occupied
The access gradient shall not exceed 1 in 10
The provision of adequate vehicular visibility splays at the access to the site
The provision of adequate pedestrian visibility splays at the access to the site
The completion of the highway details for the estate roads, to an agreed layout and construction
The completion of all the required highway works before the first occupation of a dwelling

- 7.3 Environment Agency – A validation report has been provided, however, the preceding reports need to be provided by the developer
- 7.4 Kent CC Archaeology – The application includes a specification that was agreed with the applicant's consultant for an archaeological evaluation of the site. The evaluation was subsequently carried out by Pre- Construct Archaeology and the fieldwork monitored. The evaluation has yet to be reported so it cannot be ascertained whether the works have been fully completed to a satisfactory standard. Therefore, a condition should be imposed for a programme of archaeological work to be completed to ensure items of archaeological interest are properly recorded.
- 7.5 Comments from Network Rail are still awaited and I will report to members at the Committee meeting of any updates received.
- 7.6 Housing Services - No objections to development of the site for 18 affordable housing units. The provision of two bed housing units on the site is welcomed It can be conformed that the interested RP has changed to Orbit, who have proposed the delivery of 18 affordable homes, however I have advised that even on a 100% affordable site we would still look to seek the standard 70:30 split. If an RP is not able to take the site forward as a 100% affordable scheme then I can confirm that Housing would seek 30% affordable houses (6 dwellings) with 70% as affordable rent (4 dwellings) and 30% shared ownership (2 dwellings). These homes should be a reasonable and proportionate mix to the open market dwellings..
- 7.7 The Greenspaces Manager - No objections and considers that a financial contribution towards off-site open space play equipment from the developers should be secured.
- 7.8 Southern Water - No objections, subject to a formal application for a connection to the public foul and surface water sewer is made by the developer. The site is located within a Source Protection Zone around one of Southern Water's public water supply sources as defined under the

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Environment Agency's Groundwater Protection Policy.

7.9 Environmental Health Manager - No objections providing conditions relating to a traffic noise survey for the site and design measures for the dwellings to mitigate against traffic noise have been undertaken. In addition, conditions are needed to deal with contaminated land on the site.

8.0 BACKGROUND PAPERS AND PLANS

8.1 The submitted application plans, reports and documents from the applicants.

9.0 APPRAISAL

9.1 The site is located within the urban area according to the adopted Local Plan, where the principle of development is generally acceptable, subject to matters of detail. The principle of the site being developed for housing has been accepted with the previous schemes for 48 flats in both 2004 (SW/04/0646) and 2010 (SW/10/0102). In addition, a housing development for 14 terraced units was approved in 2013 (SW/12/08929). The site is no longer suitable for employment use and as such it is considered that there has been no significant change in circumstances that would alter the recommendation that a residential use for the site should be supported in principle.

9.2 The submitted housing development proposes a modern design, whereby the dwellings have mono-pitched roofs, which has not been adopted elsewhere in the area. The site is separated from its surroundings by the railway lines and the road, which enables a different approach to be taken in the manner in which the site is developed. The use of good quality exterior facing materials for the housing should help the development to make a positive contribution to the character and appearance of the area, and Members will note the proposed condition (4) below.

9.3 The housing development would not be prominent when viewed from Staplehurst Road, due to the change in site levels in relation to the highway. It is considered that a good comprehensive landscaping scheme and the planting of further trees along the site boundaries will result in the proposed houses being screened from public view, and the detail will be subject to a separate reserved matters application, if this application is approved.

9.4 The housing development proposes four more housing units than the most recent approval for 14 terraced houses on the site. It retains a reasonable area of land for landscaping proposals and enables the dwellings to be sited away from the adjoining railway lines and provide space for boundary planting to soften the appearance of the dwellings. The dwellings are sited sufficiently far enough away from the nearest dwellings off Springfield Road and Waterloo Road respectively, so as to minimise the potential for any serious loss of residential amenities, in terms of overlooking / loss of privacy, overshadowing or loss of outlook for existing residents. For the avoidance of doubt, the nearest

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existing dwellings will be more than forty metres from any of the proposed houses.

- 9.5 The housing development will require a number of improvements to the public highway in order to accommodate these proposals. The views of Kent Highways Services are awaited to provide such details, and to ensure that conditions are imposed to secure delivery of off-site highway improvements.
- 9.6 The site is located within Flood Zone 1, which is considered to be less vulnerable for development. I therefore consider that there will not be any flooding risks. However, care must be taken with regards to drainage, and members will note the relevant condition below. The views of the EA are awaited, and I will update Members at the meeting.
- 9.7 The proposed housing development will trigger the requirement for a Section 106 Agreement for a financial contribution to be paid to Kent County Council towards the provision of primary and secondary school places, libraries, adult social services, and community learning. The financial contributions are as follows:-

Primary Schools: (New build) - £72,000.00
(Land acquisition costs) - £36,471.96
Secondary Schools - £42,476.40
Libraries - £4086.00
Adult Social Services - £960.48
Community Learning - £1087.70
Youth Service - £676.50

The **total amount** required by KCC is £157,759

- 9.8 Additional fees are required by Swale Borough Council for the provision of wheelie bins, off- site play equipment and a 5% monitoring charge.
- 9.9 With regard to affordable housing, the S106 agreement will need to include a clause to ensure that a minimum of 30% of the dwellings are provided as affordable units and that an acceptable tenure split is agreed.
- 9.10 The approval of Members is required to enter such a legal agreement.

10.0 CONCLUSION

- 10.1 There would appear to be no planning objections to these proposals and as a result a conditional approval is recommended, subject to receipt of relevant amended plans and the signing of an appropriate Section 106 legal agreement.
- 10.2 Following careful consideration of the views of consultees, the relevant Development Plan policies and the planning merits of the proposals, I am of the view that the proposals would be acceptable in planning terms.

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11.0 RECOMMENDATION – GRANT Subject to the following:

11.1 The receipt of outstanding consultation comments (namely from Kent Highways Services, the Environment Agency, Network Rail and KCC Archaeology), I recommend that planning permission be granted. I also seek delegation from Members for the signing of a Section 106 Agreement to secure financial contributions in respect of education, libraries, adult social services, community learning, wheelie bins, off-site play equipment, and 30% affordable housing provision, and a 5% monitoring charge.

Conditions

- 1 Details relating to the access thereto and the landscaping of the site shall be submitted to and approved by the Local Planning Authority before any development is commenced.

Grounds: 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.

Grounds: 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.

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

4. Prior to the commencement of the development hereby approved details of the facing materials, including details of the type and colour, to be used in the construction of the dwellings shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with those approved details.

Grounds: In the interests of visual amenity.

5. Notwithstanding the submitted plans, no development shall take place until full details of the hard and soft landscaping proposals have been submitted to and approved in writing by the Local Planning Authority. Details shall include hard landscaping; planting and species noting species (which shall be native species that contribute to local biodiversity), plant sizes and numbers where appropriate; soft landscaping; boundary treatments; and a timetable for their

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commencement and delivery, and a management and maintenance plan. These details shall be carried out in accordance with the approved details and thereafter retained and maintained unless otherwise agreed to in writing by the Local Planning Authority.

Grounds: To ensure that the landscaping is delivered to an acceptable quality and timetable.

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

Grounds: To ensure that the landscaping is delivered to an acceptable quality and in pursuance of Policy E1 of the Swale Borough Local Plan 2008.

6. Prior to the commencement of the development hereby approved details of the security and crime prevention measures including lighting and CCTV shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with those approved details and thereafter retained unless otherwise agreed to in writing by the Local Planning Authority.

Grounds: To promote safety and security on the site.

7. 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 - 1330 hours.

Grounds: To ensure the development does not prejudice conditions of residential amenity.

8. The commencement of the development shall not take place until a programme for the suppression of dust and noise during the construction use and removal of the haul road has been approved by the Local Planning Authority. Works shall be carried out in accordance with those approved details and shall be employed throughout the period of the construction, use and removal unless any variation has been approved by the Local Plan.

Grounds: To ensure the development does not prejudice conditions of residential amenity.

9. 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

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to Friday 0900 - 1700 hours unless in association with an emergency or with the prior written approval of the Local Planning Authority.

Grounds: To ensure the development does not prejudice conditions of residential amenity.

10. No development shall take place until details of how the proposal will achieve Level 3 of the Code for Sustainable Homes as set out in the submitted statements, and of how the development will incorporate energy, water, carbon and natural resource saving methods, and will generate 10% of its remaining energy demand from on-site renewable generation has been submitted to and approved in writing to the Local Planning Authority. Development shall be carried out in accordance with those approved details.

Grounds: In the interests of promoting energy efficiency and sustainable development.

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

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

13. No infiltration of surface water into the ground is permitted other than with the express written consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to controlled waters.

Grounds: To ensure the proposed drainage methods as set out in the submission documents are appropriate to the sensitivity of groundwater in the underlying aquifer in order to prevent pollution of controlled waters.

14. No development shall take place until a scheme for the disposal of foul and surface water drainage has been submitted to and approved in writing by the Local Planning Authority. Development shall be carried in accordance with those approved details and thereafter retained.

Grounds: To ensure the proposed drainage methods as set out in the submission documents are appropriate to the sensitivity of groundwater in the underlying aquifer in order to prevent pollution of controlled waters.

15. 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. Such proposals shall include washing facilities by which vehicles will have their

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wheels, chassis and bodywork effectively cleaned and washed free of mud and similar substances.

Grounds: To ensure that local highway network is not prejudiced by construction of the development.

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

Grounds: To ensure that local highway network is not prejudiced in terms of traffic and parking.

17. Notwithstanding the submitted plans, no development shall take place until details of cycle parking for both visitors and residents has been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with those approved details and thereafter retained.

Grounds: To ensure the proposal provides for adequate cycle parking for the development.

18. The access details shown on the approved plans shall be completed prior to the occupation of any buildings hereby approved, the use of the site being commenced, and the access shall thereafter be maintained.

Grounds: To ensure the proposal can be adequately and safely accessed so as not to prejudice the operation of the existing highway network.

19. The commencement of the development shall not take place until a survey has been carried out to establish traffic noise levels affecting the site and predictions shall be made of any future traffic noise level increase over the next 15 years. The survey shall be carried out in accordance with a written protocol, details of which shall be submitted to and approved by the Local Planning Authority before the survey is carried out.

A report giving:

- (a) the results of the survey,
- (b) the predictions of noise levels,
- (c) details of the design measures that will be used to mitigate against traffic noise, and
- (c) details of the building specifications of the dwellings which will be used to achieve a maximum internal noise level within any of the dwellings of 35dB(A) (Fast) with windows closed, shall be submitted to and approved by the Local Planning Authority prior to the commencement of the development.

The approved measures shall be implemented in full prior to the first occupation of any of the buildings hereby permitted

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Grounds: In the interests of residential amenity.

20. 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.

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

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

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

22. 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.

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

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

Grounds In order to secure a satisfactory form of development having regard to the sloping nature of the site in accordance with Policy E1 of the Swale Borough Local Plan 2008.

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

Grounds: To ensure that features of archaeological interest are properly examined and recorded in pursuance of policies E1 and E16 of the Swale Borough Local Plan 2008

Council's approach to this application:

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

In this case amendments have been sought and the application is being referred to the Planning Committee for consideration.

Case Officer: Harry Heywood

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

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REPORT SUMMARY

REFERENCE NO - 15/506140/FULL			
APPLICATION PROPOSAL Change of use of outbuilding from boarding cattery to one-bed holiday let unit			
ADDRESS 1 Warden Way Warden Road Eastchurch Kent ME12 4HA			
RECOMMENDATION Grant subject to conditions			
SUMMARY OF REASONS FOR RECOMMENDATION Proposed development would not give rise to harmful loss of employment use, nor to any unacceptable harm to residential or visual amenity , or to highway safety or convenience. The proposal is acceptable in all other respects.			
REASON FOR REFERRAL TO COMMITTEE Parish Council objections			
WARD Sheppey Central	PARISH/TOWN COUNCIL Eastchurch	APPLICANT Mrs Jacqui Bayliss AGENT Barron Planning Consultancy	
DECISION DUE DATE 25/09/15	PUBLICITY EXPIRY DATE 25/09/15		
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):			
App No	Proposal	Decision	Date
SW/91/0590	Side and rear extension.	Approved	02.08.1991
SW/03/1373	Retention of loft dormer and two storey extension and new single storey extension.	Refused	19.01.2004
SW/04/0443	Retention of two storey extension and new single storey rear extension.	Approved	25.04.2004
SW/06/0453	New cattery.	Approved	01.06.2006

MAIN REPORT

1.0 DESCRIPTION OF SITE

- 1.01 No. 1 Warden Way is located within the countryside to the east of Eastchurch. The site comprises of an end terrace house, with a sizeable rear garden with several outbuildings, which include a single storey cattery located to the western side of the site. The cattery has an area of approximately 60m², and has 10 pens with runs.
- 1.02 A single storey ancillary building, which accommodates an office and a kitchen, is located to the north of the cattery and to the west of the main building.

2.0 PROPOSAL

- 2.01 The proposal relates to the change of use of the cattery building to a one-bed holiday let.

- 2.02 The building would not be extended. Some internal and external alterations are proposed – the addition of two new windows on the western elevation and the change of the existing layout (i.e. inclusion of bathroom and kitchen). No other alterations are proposed to the exterior of the building, which comprises timber clad walls with white UPVC windows and an insulated corrugated sheeting roof.
- 2.03 The block plan shows two off street parking spaces, together with three on street spaces.

3.0 POLICY AND OTHER CONSIDERATIONS

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

- 3.03 Paragraph 28 of NPPF is particularly relevant, and states that *“planning policies should support economic growth in rural areas in order to create jobs and prosperity by taking a positive approach to sustainable new development.”* It continues on to state that, to promote a strong rural economy, local planning authorities should (amongst others):

- *“support the sustainable growth and expansion of all types of business and enterprise in rural areas, both through conversion of existing buildings and well designed new buildings;*
- *support sustainable rural tourism and leisure developments that benefit business in rural areas, communities and visitors, and which respect the character of the countryside. This should include supporting the provision and expansion of tourist and visitor facilities in appropriate locations where identified needs are not met by existing facilities in rural service centres.”*

Swale Borough Local Plan 2008

- 3.04 Policy E1 (General Development Criteria) states that all developments should be well sited, appropriate in scale, design and appearance with a high standard of landscaping, and have safe pedestrian and vehicular access whilst avoiding unacceptable highway impacts.
- 3.05 The application site lies within the countryside, where Policy E6 seeks to protect the general quality, character and amenity, and states that development will not be permitted outside rural settlements in the interests of countryside conservation, unless it relates to an exceptional need for a rural location.
- 3.06 Policy E19 (Achieving High Quality Design and Distinctiveness) requires development proposals to be well designed.
- 3.08 Policy B1 (Supporting and Retaining Existing Employment Land and Business) seeks to support and retain existing business uses within the Borough, unless they are inappropriately located, have an unacceptable impact, or no longer suitable for business use.
- 3.09 Further to this policy B5 (Existing and new Tourist Attraction and Facilities) seeks to retain and encourage tourist attractions and facilities in the Borough.
- 3.10 The proposal concerns the promotion of a new rural business, and Policy RC1 (Helping to Revitalise the Rural Economy) is therefore relevant. as it encourages

diversification of the rural economy, including the provision of new rural jobs and services.

- 3.12 Policy T3 (Vehicle parking for new development) requires parking provision in accordance with current adopted standards.

4.0 LOCAL REPRESENTATIONS

- 4.01 Eastchurch Parish Council objects because *“The committee feels that the parking is still insufficient and that it is inappropriate to suggest the use of on-road parking on a narrow stretch of a busy road.”*

- 4.02 One letter of support from a neighbouring resident.

- 4.03 Three letters of objection from a neighbouring resident, raising the following summarised concerns:

- Noise and disturbance;
- Nearby holiday parks provide plenty of tourist accommodation;
- Access to parking is via the public right of way;
- Insufficient parking provision;
- Road is 60mph and not pedestrian-friendly.

5.0 CONSULTATIONS

- 5.01 KCC Highways & Transportation have no objection subject to the conditions and informative below, commenting:

“The off-street parking provision as shown on the proposed plans is considered adequate for the existing dwelling and the proposed holiday let, particularly when measured against the extant use of the site.”

- 5.02 The County Public Rights of Way officer has no objection, but notes that any damage caused to the public right of way from vehicle access would be repaired at the applicant's expense.

- 5.03 The Council's Tourism Officer supports the proposals, commenting:

“The Borough has a limited stock of self-catering outlets of this type. The location lends itself to holidays promoting the 'great outdoors' and for those wanting to be a short distance from the main resorts to the north and to the marshland habitats to the south but will have appeal to both visitor types. The size and scale of the business operation will not impact on highways. Given this is an isolated unit there will need to be some serious consideration given to the marketing and promotion of the unit to ensure its sustainability.”

6.0 BACKGROUND PAPERS AND PLANS

- 6.01 The application is accompanied by full drawings and a Design & Access Statement. This notes that *“whilst the cattery is an employment business it has proved to be unsustainable and has become vacant. The business did employ the applicant as the cattery manager...she will be similarly employed in looking after and maintaining the holiday let...”*

7.0 APPRAISAL

- 7.01 Whilst policy B1 seeks to retain existing businesses I am mindful that the change of use here would result in a direct 1-for-1 replacement of business uses, and that the applicant – who used to run the cattery – will now manage the holiday let. Furthermore I note that the cattery has proved to be unsustainable and was forced to close, and the introduction of a replacement enterprise is, in real terms, a benefit to the rural economy. The proposal will also make use of an existing redundant building within the countryside, and the provision of small units of holiday accommodation is supported by the Council's Tourism Officer.
- 7.02 All of this is encouraged by the above policies and I therefore consider the proposal to be acceptable in principle.
- 7.03 The applicant lives at the site and there is an intimate relationship between the main dwelling and the former cattery building. In this regard there will be a degree of self-policing involved and I consider it unlikely that any serious issues of noise or disturbance would arise. That notwithstanding, however, any noise complaints could be appropriately addressed by the Council's Environmental Wardens, making use of other legislation.
- 7.04 The position of the building and its location within the site are such that I do not consider there would be any serious issues of overlooking or loss of privacy for neighbouring residents. Nor would there be any serious visual impact, in my opinion, as the building is existing.
- 7.05 I note local concern re: parking and access. However, the application proposes parking in accordance with current guidance, and further parking is available to the front of the site on the highway. Some residents have raised concern that the road is national speed limit, but at this point it is generally straight, visibility is good, and there is room for vehicles to safely pass one another.
- 7.06 I also note that KCC Highways & Transportation do not raise any concerns, and that the Public Rights of Way officer has no objection (subject to the understanding that the applicant would be liable for repairs). In this regard, whilst I appreciate local objections, I do not consider that there is any justification to refuse the application on highway or pedestrian safety grounds.

8.0 CONCLUSION

- 8.01 This application proposes change of use and minor alterations to convert a former cattery building to a self-contained holiday let within the grounds of 1 Warden Way, a residential property in the countryside at Eastchurch.
- 8.02 Whilst I note local concerns the proposal would make good use of an existing redundant building within the countryside in manner unlikely to give rise to any serious harm to local amenity, highway safety, or the character or appearance of the countryside.
- 8.03 Taking the above into account I recommend that planning permission should be granted.

9.0 RECOMMENDATION – GRANT Subject to the following conditions:

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

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

- (2) No development shall take place until details of the external finishing materials to be used on the development hereby permitted have been submitted to and approved in writing by the Local Planning Authority, and shall thereafter be implemented in accordance with the approved details.

Reasons: In the interest of visual amenity.

- (3) The development hereby permitted shall be used for the purpose of a one-bedroom holiday let unit and for no other purpose, including any other purposes in Class C3 of the Schedule to the Town and Country Planning (Use Classes) Order 1987. Occupation of the holiday let shall be limited to no more than four consecutive weeks by any one person or group of persons.

Reasons: In the interests of the amenities of the area and to ensure that the unit is not used for long-term residential lets.

- (4) The development hereby approved shall proceed wholly in accordance with the submitted drawing, received 23 July 2015.

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

- (5) The parking spaces shown on the approved drawing, received 23 July 2015, shall be provided prior to the first occupation of the premises as a holiday let, and thereafter shall be kept available at all times for the parking of vehicles, and no permanent development, whether permitted by the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking or re-enacting that Order) or not, shall be carried out on the land or in such a position as to preclude vehicular access thereto.

Reasons: 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.

- (6) Secure cycle parking shall be provided in a position and manner to be agreed in writing by the Local Planning Authority prior to the first occupation of the holiday let hereby permitted, and subsequently retained in perpetuity.

Reasons: In the interests of encouraging modes of transport other than private motor vehicle.

INFORMATIVES

- (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.

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.

REPORT SUMMARY

REFERENCE NO - 15/502912/FULL			
APPLICATION PROPOSAL Demolition of existing warehouse buildings and development of 162 houses and 80 flats (including 24 flats for over 55's), with accesses off Cooks Lane and King Street, public open space (including play area), ancillary parking and landscaping.			
ADDRESS Milton Pipes Gas Road Milton Regis Sittingbourne Kent ME10 2QB			
RECOMMENDATION Grant subject to conditions and the signing of an appropriately worded Section 106 agreement for developer contributions, the further views of the Environment Agency, Environmental Health and Greenspaces Officer on the amended plans and the possible receipt of further information from the developer on the viability of the site.			
SUMMARY OF REASONS FOR RECOMMENDATION The application is in general conformity with the emerging Development Plan, and given the Council's current position re: five year supply of housing land, there are overriding justifications for approval.			
REASON FOR REFERRAL TO COMMITTEE This is a major planning application that would not deliver all required developer contributions and as such should be fully considered by Members.			
WARD Milton Regis	PARISH/TOWN COUNCIL	APPLICANT Biffa Waste Services Ltd AGENT SLR Consulting Ltd	
DECISION DUE DATE 08/07/15	PUBLICITY EXPIRY DATE 08/07/15	OFFICER SITE VISIT DATE September 2015	
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):			
App No	Proposal	Decision	Date
15/503378/FULL	Change of use from B2 to Sui Generis comprising relocation of Biffa's vehicle depot and to use the site as a vehicle depot for the parking of empty waste collection vehicles and staff vehicles, use of part of existing building to provide a vehicle maintenance workshop, location and use of a two storey portable cabin office, bin storage, welfare unit, store unit, vehicle wash area and fuel storage area.	Approved.	01/09/2015

Whilst there is other planning history related to this site, none is directly relevant to the determination of this planning application.

MAIN REPORT

1.0 DESCRIPTION OF SITE

- 1.01 The application site is located to the north-west of the centre of Sittingbourne, on the western side of Mill Way – the B2005. The site is 4.2ha in area, with the majority being covered in hard standing and commercial buildings, relating to the previous

use of the site - the site has historically been used for commercial purposes, being operated by 'Milton Pipes' who manufacture concrete pipes for the construction industry.

- 1.02 The site is bounded by Milton Regis High Street to the north and west, which is a conservation area containing a number of listed buildings. Many of these buildings back on to the site, and directly overlook it. Immediately to the north and west of the site are residential properties that date from the mid twentieth century, as well as a small number of commercial properties.
- 1.03 To the south of the site is a petrol filling station (and small associated shop) and to the east lies Mill Way, which has a larger number of commercial entities further eastwards (as well as the track for the Sittingbourne and Kemsley Light Railway).
- 1.04 There are currently no direct views into the site, as it has significant (self-seeded) tree planting along the boundary, as well as security fencing. There are significant level changes both within the site, and to its exterior, with the land levels rising significantly as one moves northwards. The changes in level internally are near 6 metres from south to north.
- 1.05 The site is a draft allocation within the emerging 'Bearing Fruits' Local Plan document that has been through the examination process but has not yet been adopted.

2.0 PROPOSAL

- 2.01 This full planning application proposes the erection of 242 residential properties, which consist of the following:

2 Bedroom House	78
3 Bedroom House	64
4 Bedroom House	13
1 Bedroom Flat	51
2 Bedroom Flat	36
Total	242

- 2.02 As set out above, the application was significantly amended from that first submitted. Initially the development was very much an inward looking development, with back gardens that abutted the highways. This was sought to be amended, in order to create a more open feel to the development, with the provision of private drives along the Mill Way frontage.
- 2.03 This proposal would see the provision of a number of dwelling houses along this frontage, but these would be set back some 16 metres from the edge of the public highway, providing sufficient distance from the road to prevent noise and disturbance, whilst also creating a greener corridor along this stretch of road.
- 2.04 Internally the development would be of a relatively high density (approximately 57dph), making the most efficient use of this brownfield site, whilst also responding to the relatively tight knit development within the High Street, and the otherwise relatively self-contained nature of the site.
- 2.05 A number of the units proposed within the development would be for occupation for the over 55's only. This would be secured by condition, given the impact that this would have upon potential S106 contributions.

The Planning Statement

- 2.06 The planning statement outlines the applicant's position and highlights the merits of the development, and where appropriate adherence to the development plan.

Contaminated Land Assessment

- 2.07 The executive summary as set out within the submitted contamination land assessment sets out that there is a significant level of potential contamination within the site that would have significant costs to remediate. The remediation costs are set out within the application at in excess of £1.2m, which are significant for a site of 4ha.
- 2.08 The summary sets out a number of key recommendations that should be undertaken prior to any development taking place within the site. These include the remediation of sources within the gasworks area, including the removal of the tar tank and associated oily waters and tars. It also sets out further detailed qualitative risk assessments that would assess the significance of other contaminants within the site.

Transport Assessment

- 2.09 This document sets out the potential impact of this development upon the existing highway network, as well as commenting on the sustainability of the site, and its relationship with the public transport network. In summary it states:
- 2.10 *'Vehicular access into the southern part of Site A will be from King Street, approximately 80m north of the Mill Way (B2005)/ Prentis Quay/ King Street/ St Pauls Street (B2006) roundabout. The operation of this roundabout junction has been assessed on site and using ARCADY. It was recognised on site that in the evening peak period queuing occurred on the Mill Way (S) arm of the roundabout. The ARCADY assessment details that the inclusion of the development traffic will not affect the junction in the morning, it will continue to operate satisfactorily. During the evening period the junction will continue to operate with the Mill Way (S) arm close to capacity. The relative increase in traffic on this arm due to the development will not be significant. As such it is concluded that the development will not have a detrimental impact on the junction.'* (para. 7.4, page 41 of Transport Assessment).
- 2.11 *'A vehicular access to the northern part of Site A will be provided from the existing access onto Cooks Lane. The operation of this junction has been assessed using PICADY, and this details that it can comfortably accommodate traffic from the proposed residential development.'* (para. 7.5, page 41 of Transport Assessment).
- 2.12 The Transport Assessment also confirms that there are good links to existing public transport, and that pedestrians would have safe means of entering and leaving the site. There are no significant existing highway safety concerns to this proposal. Indeed, it states that *'analysis of the pedestrian and cycle infrastructure and bus services in the vicinity of the site confirms that there are good opportunities for residents to use these modes of transport.'* (para. 7.9, page 42 of Transport Assessment)

Heritage Statement

- 2.13 The applicant has submitted a heritage statement with the application on the basis of the site's proximity to both the Conservation Area and a number of listed buildings. This statement set out the following:

- 2.14 *‘Overall the proposed development would preserve the significance of Milton Regis High Street Conservation Area as it would positively respond to the significance and special interest of the conservation area. There would be no direct effect on fabric within the conservation area and the scheme would remove a component within its setting (the buildings on the application site) which does not positively contribute to the character and appearance of the conservation area.’ (para. 6.2, page 24 of Heritage Statement)*
- 2.15 *‘As such the proposed development is considered to be in accordance with the NPPF and local planning policy, including Saved Policies E1, E14 and E15. The development is also in accordance with emerging Local Plan Policies CP4, CP8, Dm14, DM32 and DM34 and guidance contained within Historic Environment Good Practice Advice in Planning Note 3: The Setting of Heritage Assets (English Heritage, 2015).’ (para. 6.4, page 24 of Heritage Statement)”*

3.0 SUMMARY INFORMATION

	Proposed
Site Area	4.2ha. (including 0.3ha to the east of Cooks Lane).
Net Floor Area	N/A
Parking Spaces	313 spaces
No. of residential units	242
No. of affordable units	6% (15 units)

4.0 PLANNING CONSTRAINTS

- 4.01 The site is not significantly restricted in terms of planning constraints, being ‘white land’ within the existing local plan, and land proposed for housing within the emerging local plan. There are however listed buildings (and a conservation area) to the north and west of the site, although these are very much as separate entities, and detached from the site due to their orientation, and also the changes in land levels.
- 4.02 A small portion of the site is located within flood zone 2 (according to the Environment Agency Flood Map) with the access point within flood zone 3.
- 4.03 There are no public rights of way that would be affected by this proposal.

5.0 POLICY AND OTHER CONSIDERATIONS

- 5.01 In this instance the status of the emerging Local Plan is a key consideration in the determination of the planning application. This section will therefore first highlight the relevant emerging policies before moving onto the national planning policy position.
- 5.02 In addition, the 2008 local plan remains a material consideration in the determination of the application, and will be assessed accordingly.
- 5.03 The Local Authority have already determined a number of planning applications having given weight to the emerging draft Local Plan (Bearing Fruits), and I am satisfied that given the level of examination given to the proposed policies, this is a sound approach to take. For this reason significant weight will be afforded to these policies.

Background to the Site/Emerging Allocation

- 5.04 The Strategic Housing Market Assessment (herein referred to as the SHMA) that has been undertaken has identified that the Borough needs to accommodate significant housing growth over the plan period. However, the Council are not seeking to meet the objectively assessed need by virtue of the significant constraints, in terms of infrastructure, AONB designation, and also significant question marks over deliverability.
- 5.05 Given these constraints, it becomes all the more necessary for brownfield sites within the urban area (and therefore sites most likely to be able to utilise existing infrastructure) to deliver significant yields. This site has a draft allocation, and can be developed at a high density to reflect its sustainable location.
- 5.06 The site specific **Policy A10** states that planning permission will be granted for 190 dwellings at Milton Pipes, Mill Way, Sittingbourne, subject to the following criteria being met:
1. Be led by an integrated landscape strategy that will include a substantial landscaped edge to Mill Way that will include street trees and open space with the objective overall of achieving a net gain in biodiversity and minimising impacts on European wildlife habitats;
 2. Achieve a design and layout that enhances the quality of the environment in Mill Way and St. Paul's Street and safeguards the views and setting of the Milton Regis Conservation Area;
 3. Enhance pedestrian and cycle links to the town centre, adjoining residential areas and to Milton Creek, including making a contribution toward the provision of the proposed landmark footbridge to the Crown Quay Lane housing allocation (Policy A9);
 4. Achieve for a mix of housing in accordance with Policy CP3, including provision for affordable housing and Gypsies and Travellers in accordance with Policies DM8 and DM10;
 5. Undertake a transport assessment and implement any highway and other transportation improvements arising from the proposed development;
 6. Assess impacts upon and ensure that air quality objectives are not compromised; and
 7. Provide infrastructure needs arising from the development.
- 5.07 The supporting text to this policy states that some 2.8 ha of public open space is likely to be required, including 0.5 ha of parks and gardens, 0.2 ha of amenity greenspace, 2 ha of natural & semi natural greenspace and 0.1 ha of allotments. Contributions will be required to enhance sport and formal play facilities in the area. As this site lies close to the Milton Creek, the Saxon Shore Way and the Country Park linkages should be made to these important assets in accordance with the CLG and Greening the Gateway Kent and Medway Green Cluster Study for Milton Creek. For example, public access to the creek side should be enhanced and further connectivity provided by a contribution toward the proposed landmark footbridge from the northern bank of the creek to the development site at Crown Quay Lane (Policy A9). A Habitats Regulations Assessment may be required to examine issues relating

to recreational pressures on European wildlife habitats and may require a financial contribution toward measures across the North Kent Marshes as required by Policy CP7 and DM29.

- 5.08 The matters set out within this policy are fully considered within the main body of the report.
- 5.09 A key consideration in the determination of this application relates to the level of affordable housing that would be provided should it be approved. **Policy DM8 (Affordable Housing)** states that for development of ten or more dwellings and where a need to provide affordable housing has been determined as appropriate, provision will be made in accordance with the levels set out. For the Sittingbourne urban area this is set at 10% for developments of this scale.
- 5.10 In addition, **Policy CP3** relates to the delivery of high quality homes within the Borough. These sets out a number of key objectives including meeting the specific housing need within the Borough, and the market area.
- 5.11 There are a number of other key policies within the emerging Local Plan that need to be considered within the determination of this application. These include:
- ST1 (Sustainable Development)
 - ST2 (Development Targets for Jobs and Homes)
 - ST3 (Settlement Strategy)
 - ST5 (Sittingbourne Strategy)
 - CP2 (Sustainable Transport)
 - CP4 (Design Quality)
 - CP6 (Community Facilities)
 - CP8 (Historic Environment)
 - DM7 (Vehicle Parking)
 - DM17 (Open Spaces)
 - DM19 (Sustainable Design)
 - DM21 (Flooding/Drainage)
 - DM28 (Ecology)

Swale Borough Local Plan (2008)

- 5.12 All of the policies set out below are considered to be consistent with the objectives of the NPPF, and can be given appropriate weight accordingly.
- 5.13 The site falls within the Sittingbourne Town Centre area action plan (**Policy AAP7**) which seeks to support the objective of *'consolidating and expanding Sittingbourne's position as a retail, business, cultural, education and civic centre for multi-purpose visits.'* The policy does not set out specific uses for any of its elements, but seeks to promote the vitality and viability of the town centre, and its periphery.
- 5.14 In addition to this, **Policy SP1** outlines the Council's approach to sustainable development, and to meeting the needs of its population. This sets out a number of criteria that need to be achieved in order to make any development acceptable. These include making best use of previously developed land, ensuring that proper and timely provision is made for social infrastructure, and to seek to reduce the reliance upon the private car (amongst other matters).
- 5.15 Other policies within the local plan that are relevant include:

- SP2 (Environment)
- SP3 (Economy)
- SP4 (Housing)
- SP7 (Transport)
- E19 (Design Quality)
- H2 (Providing New Housing)
- T1 (Highways)
- T2 (Highway Improvements)
- C2 (Housing Developments and the Provision of Community Services)
- C3 (Open Space and Residential Development)

National Planning Policy

- 5.16 Given the age of the existing local plan, and the current status of the emerging Local Plan, a key consideration in the determination of this planning application would be the guidance as set out within the National Planning Policy Framework (herein referred to as the NPPF) and the National Planning Practice Guidance (NPPG).

The National Planning Policy Framework (NPPF)

- 5.17 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. In 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:
 - (a) Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies within the Framework taken as a whole; or
 - (b) Specific policies in this Framework indicate development should be restricted.

- 5.18 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.*"

- 5.19 *Within the NPPF, paragraphs 47 to 55 then seek to significantly boost the supply of housing and housing land, in order to meet the needs of the growing population.*

- 5.20 It is clear from the document that the government see the delivery of housing as a key component of local plan making and decision taking; particularly within a sustainable location such as this.

6.0 LOCAL REPRESENTATIONS

6.01 Neighbouring occupiers were notified of the application and to date, 6 neighbour letters have been received. There were two letters of objection, two letters of support, and two letters raising issues but not expressing a view either for or against the proposal. The main concerns raised within these letters were:

- Impact on residential amenity – overshadowing and loss of light.
- Increased traffic and congestion.
- Loss of perimeter trees.

6.02 In addition to the letters set out above, 2 neighbours support the proposals but suggest trees along the border of the properties should be maintained.

7.0 CONSULTATIONS

7.01 **Southern Water** were consulted and raised no objections to the proposal, but did raise concern that a public foul and surface water sewer crosses the site, although the exact location of this is not known at present. Should this need to be diverted, which would be at the applicant's cost, there are five specific criteria that would need to be adhered to. These are:

- The 300mm diameter foul sewer requires a clearance of 3metres either side of the sewer to protect it from construction works and to allow for future access for maintenance.
- The 225mm diameter surface water sewer requires a clearance of 3 metres either side of the sewer to protect it from construction works and allow for future access for maintenance.
- No development or new tree planting should be located within 4 metres either side of the centreline of the public combined sewer;
- No new soakaways should be located within 5metres of a public sewer;
- All other existing infrastructure should be protected during the course of construction works.

Southern Water would require a condition to be imposed upon any planning permission that would require the full details of drainage works to take place across the site prior to any works taking place.

7.02 **Lower Medway Internal Drainage Board (IDB)** confirms the proposed site is situated outside of the IDB's district and provided that surface water runoff is not increased, raise no objection to the application.

7.03 **Highways England** confirms the proposed development will not be detrimental to the safe operation of the A249 and as such raise no objection to the application.

7.04 **Environment Agency** initially objected to the application due to lack of information provided relating to the risk of flooding to the site. The submitted Flood Risk Assessment (FRA) acknowledges that the site is affected by Flood Zone 3, however does not include any mitigation for proposed residential properties located within this area. To overcome the objections the Environment Agency suggested that the developer should submit an amended FRA which covers the deficiencies highlighted and demonstrates that the development will not increase risk elsewhere and where

possible reduces flood risk overall. Accordingly the applicants submitted an updated FRA in July 2015.

The Environment Agency have now viewed the FRA. Their full comments are, however awaited. Members will be updated at Committee should any new concerns be raised.

The Environment Agency were also consulted on the contamination issues, and raised no objections to the proposal subject to the completion of the proposed reports and mitigation as set out within the application documents.

- 7.05 **Natural England** were consulted and raised no objection to the proposal. They suggest the proposal is not necessary for the management of the European sites subject to appropriate financial contributions being made to strategic mitigation, and remediation of the site being undertaken to the satisfaction of the Environment Agency (EA), the proposal is unlikely to have a significant effect on these sites, and can therefore be screened out from any requirement for further assessment.
- 7.06 **UK Power Networks** were consulted and raised no objection.
- 7.07 **Kent Police** were consulted and suggested a condition relating to security, crime prevention and community safety.
- 7.08 **Kent County Council Archaeology** were consulted and raised no objection but suggest a condition for a programme of archaeological work should be attached to the permission if the application is granted, to ensure that features of archaeological interest are properly examined and recorded.
- 7.09 **Kent County Council** were consulted on this application and requested that the following contributions be provided:
- (1) A contribution of £393,099.84 towards primary education.
 - (2) A contribution of £392,906.70 towards secondary education.
 - (3) A contribution of £54,934.00 towards library book stock.
 - (4) A contribution of £14,623.26 towards community learning.
 - (5) A contribution of £12,913.12 towards adult social care.
 - (6) A contribution of £9,095.14 towards youth services.
- 7.10 **Kent County Council Ecology** were consulted and raised no objections to the proposal subject to contributions being made to the mitigation of the impacts upon the SPA, SSSI and Ramsar sites nearby. These contributions are set at £223.00 per dwelling.
- 7.11 **Kent Highways Services** were consulted and raised no objection to this proposal.
- 7.12 **The Council's Housing Manager** was consulted on the application and raised no objections to the proposal subject to the applicant providing 30% affordable housing within the site, in accordance with the adopted development plan. Further discussions have taken place with the Housing Officer on the basis that 10% is the emerging Policy. However, the officer is of the view that it is for the planning application to conclude the impact of viability in accepting any reduced provision.
- 7.13 **The Council's Environmental Protection Manager** was consulted on this application, and initially raised no objections to the proposal on the basis of the impact of noise to the rear gardens of the properties backing on to Mill Way. The

scheme has now been amended, and it is recommended that a further noise report be submitted prior to any works taking place on site to ensure that suitable noise mitigation can be provided for future residents.

- 7.15 **The Council's Greenspace Manager** was consulted on this application and his comments are awaited on the amended plans. Members will be updated at Planning Committee as to his view on this application.

8.0 BACKGROUND PAPERS AND PLANS

- 8.1 The following plans have been submitted as part of this planning application, and are for determination:

- 004 Rev A (site location plan);
- 005 (existing site plan);
- 006 (existing site – demolition plan);
- 008 Rev F (proposed site plan);
- 009 (site cross sections AA and BB);
- 019 Rev B (proposed site cross section AA);
- 021 Rev B (proposed flats plans and elevations);
- 022 Rev A (proposed flats plans and elevations);
- 023 Rev C (proposed flats plans and elevations);
- 026 Rev B (proposed house types);
- 027 Rev B (proposed house types);
- 028 Rev A (proposed house types);
- 029 Rev B (typical cul-de-sac layout);
- 030 Rev A (proposed site sections);
- 031 Rev A (proposed site sections);
- 032 Rev A (cross section);
- 033 Rev A (typical cul-de-sac street elevations);
- 034 Rev A (internal road street elevations);
- 035 Rev A (Mill Way street elevations);
- 036 Rev A (Mill Way street elevations);
- 037 Rev A (Main Road street elevations);
- 038 (Main Road street elevations);
- 039 (existing utilities plan);
- 50090/001 (landscape masterplan);
- 50090/002 (landscape masterplan Mill Way);
- 50090/003 (landscape masterplan green corridor);
- 50090/004 (landscape masterplan north and west);
- 50090/005 (landscape masterplan northern apartment).

9.0 APPRAISAL

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

- The Housing Land Supply Position
- The Principle of the Proposed Development and the Draft/Emerging Local Plan Allocation
- Highways Impacts
- Heritage Impacts
- Biodiversity/Ecological Impacts

- Affordable Housing/Financial Contributions

Housing land Supply and Delivery

The objectively assessed need for housing (OAN)

9.02 Swale Borough Council have had a Strategic Housing Market Assessment Update and Development Needs Assessment (2013) undertaken by National Lichfield and Partners. This was then updated by the Council's 2015 Strategic Housing Market Assessment which was undertaken by Peter Brett Associates (PBA). This fully considers the housing need of the Borough, and is the most up-to-date evidence base that the local authority has on this matter. This assessed the Council's OAN, and has indicated that a completion rate of 776 dwellings per annum (dpa) would be required to meet the Council's housing need for the plan period. The Council accepts this recommendation, and the overall OAN of 13,192. The purpose of this report is not to debate this figure, but rather to demonstrate how this proposal complies with it.

The 5-year supply of housing land

9.03 The Borough Council are currently unable to demonstrate a five year supply of housing, with their latest annual monitoring report showing that the Council have a 4.13 year supply of housing land when assessed against their objectively assessed need, or 82.63% of their requirement. For this reason, any proposal here should be fully assessed in accordance with the requirements of the NPPF and the remaining local plan policies, as well as the emerging Local Plan policies.

9.04 The NPPF is very clear in that it promotes the delivery of new housing within sustainable locations. Whilst the presumption in favour of brownfield sites is no longer explicit within the document, the government has made it clear that planning policy should be very much in favour of the redevelopment of previously developed land, and are seeking to introduce incentives accordingly.

9.05 Given that this is a draft allocation, the proposed site would form part of the Council's strategic need, but would also help meet any immediate need that they have. Whilst the contribution to the housing land supply should not be an overriding reason to grant planning permission, as an allocated site within the emerging Local Plan, this proposal would make a strong contribution to both the immediate housing need and also the Council's strategic need over the plan period, and significant weight should be afforded accordingly.

Employment Land (loss of)

9.06 The Borough Council have identified that this land is no longer required for employment purposes. The Council have a long, and successful track record of delivering development upon their employment land both within the vicinity, and further afield. The loss of this land, within a sustainable location for new properties is not therefore considered to be contrary to either planning policy or the objectives of the Council.

Principle of Development and Draft Allocation

9.07 In this case the principle of the development and whether this proposal should be supported ahead of the adoption of the Local Plan is a prime material consideration. The site was not allocated within the adopted Local Plan (2008) although it does fall within the Land Around Milton Creek Area Action Plan (AAP8). It is not considered

that the redevelopment of this site for residential purposes conflicts with that policy designation. Policy AAP8 does not explicitly promote purely residential uses, but does promote the area for up to 1,000 new homes across the whole APP area. The spread of retail or leisure here would be unlikely to come forward, and as such the objective of visual betterment should be considered as a genuine benefit.

- 9.08 As set out above, the NPPF (paragraph 49) is clear insofar as relevant policies for the supply of housing should not be considered up to date if the Council is unable to demonstrate a five year supply of housing land. The Council do not have this five year supply of housing land and as such significant weight should be given to the deliverability of housing at this point in time. Given this requirement, and given the relatively well advanced stage of the emerging Local Plan (and draft allocation) I am of the view that it is appropriate to support the principle of development within this site.

Urban Design

- 9.09 The design has been significantly amended since the first submission of the application, as it was felt that the first iteration was not of the desired quality to warrant the approval of planning permission. Within this supporting text for the draft allocation policy, it states that:
- 9.10 *'Given the site's prominent location on the approaches to the town centre, high quality development that enhances the frontage will be required, whilst respecting the adjacent conservation area, including views of the roof-scape of the buildings there. Development will be led by an integrated landscape strategy, which will provide a structure for the site that will include open space and street tree planting that will require development to be set back from Mill Way. Given the current previously developed state of the site, through use of landscaping and open space, it should be possible to achieve a net gain in biodiversity overall.'*
- 9.11 Whilst the existing site is very much contained behind existing boundaries, and is currently in no way outward looking, this has come about from the previous use of the site as a commercial yard, and manufacturing place. The proposal, to utilise the site for residential purposes will bring about a significant change to the character and appearance of the locality, and the design rationale was therefore sought to respond accordingly.
- 9.12 There are significant sensitivities within the locality of the site, and as such the development has been carefully designed to ensure that the proposal would not detract from the historic setting of a number of the surrounding buildings. The site is very much self-contained, by virtue of the changes in levels, and the manner in which it has been historically used. The scale of the buildings, and their orientation is such that the development would not appear as overbearing, and would not 'tower' above any existing properties. This, together with the use of materials that would articulate the buildings, and break up their mass will ensure that the development is not of a form that would detract from its surrounds.
- 9.13 The initial scheme submitted turned its back on to Mill Way, however it was felt that this was an inappropriate design response to the this sensitive site, and would do little to create a more pleasant environment along the highway. Furthermore, draft policy A10 requires for the provision of street trees and open space along this boundary, and with the provision of rear gardens and close boarded fencing along here, this would not be achieved. As such, negotiations took place that have seen the properties re-orientated so that they face onto Mill Way, but are served by a narrow

service road between it and the new dwellings. Whilst this does not necessarily provide useable 'open space' it does allow for an enhancement of ecology and certainly in terms of the quality of the soft landscaping provision along this boundary.

- 9.14 The opening up of this road frontage will also have a significant benefit to the character of the area, with a softer and more open aspect along this well used highway. This accords with the aspirations of the draft policy in terms of providing a greener corridor and also enhancing pedestrian and cycle links – certainly the northern path would be a more attractive route into the town once the development is completed than at present.
- 9.15 The properties that would front on to Mill Way would be predominantly terraced (although there is one pair of semi-detached properties) with car parking provision to their front. Whilst the provision of a significant level of visible car parking is not always desirable, in this instance, it is considered to be acceptable, given the softening that would be provided by the landscape buffer along the edge of Mill Way. I propose that a condition be imposed that requires the provision of tree planting (at suitable intervals) along this key route.
- 9.16 Whilst the majority of the properties along this road frontage are two storey dwellings, it is also proposed that a three storey apartment block be provided at the junction of Mill Way and Cooks Lane. Initially this was proposed at the southern end of the site, but it was felt that there was insufficient space to accommodate a building of this scale, without it appearing as cramped. The building now would be set back some 16 metres from the edge of the highway, and would enable a good level of soft landscaping to be provided along the road frontage once more. Car parking for this flatted element would be provided to the west, which would be out of view for those outside of the application site.
- 9.17 Internally, the proposal seeks to ensure that the majority of the properties front on to all internal streets or open spaces, to provide for natural surveillance where possible. Again, the internal layout was amended in order to address some concerns raised with regards to a lack of permeability and road hierarchy. These amendments are considered to respond to the concerns raised. This would also ensure that there are no blank elevations fronting on to key open spaces, or road frontages.
- 9.18 The individual design of the buildings is considered to be of a standard that would enhance the character of the area, with the roofscape being of a varied character, with a strong rhythm generated along the Mill Way frontage in particular. The flat blocks would be well articulated, and would not appear as dominant or incongruous within the locality. These would also be given sufficient space to provide adequate soft landscaping provision that would ensure that they don't appear as cramped within their setting.
- 9.19 It is regrettable that the majority of car parking spaces would be to the front of the properties, however this is brought about by the applicant making best use of the brownfield site within this sustainable location. This is clearly a balance, but in this instance I am of the view that the overall benefits of the development would outweigh any dis-benefits brought about by this parking arrangement.
- 9.20 It is therefore considered that the design of the proposal is of a good standard and that there would be no detriment to the character and appearance of the locality. As such, it is considered that the development accords with the objectives of the local plan and the NPPF and would not detrimentally impact on the adjoining Conservation area or the nearby Listed Buildings.

Highways

- 9.21 The application has been assessed by Kent Highways Services, and Highways England. The highway authorities have raised no objections to the proposal, and are content that the proposed plans would not result in any significant concerns in terms of parking provision or highway safety. Members will note that 313 spaces are to be provided within the development which is considered to be acceptable for this location.
- 9.22 Access to the site would be obtained from the eastern end of the site from Cooks Lane, and would also utilise the existing access from the roundabout at the western end of the site. Both accesses are considered to be acceptable and to provide the appropriate sightlines etc. to ensure that would be no detriment to highway safety.
- 9.23 The internal road layout has also been assessed, and no concerns are raised, although conditions are requested that would ensure that no development would take place in the existing car parking areas. With regards to parking provision, it is considered that there would be sufficient car parking provision within the site and that there would be no additional strain placed upon the surrounding road network. In any event, there are existing traffic controls along Mill Way that would prevent any on street parking, and should any take place along Cooks Lane or within the surrounding area, this is unlikely to give rise to any highway safety concerns. The car parking area that would be lost to the north of Cooks Lane is only used informally at present, and as such its loss does not require to be mitigated elsewhere. Again, the level of parking within this element of the site is considered acceptable.
- 9.24 It is proposed that details of cycle storage be required by condition, in order that this be delivered in accordance with the requirements of KCC highways.
- 9.25 The application is accompanied by a transport assessment which sets out that the surrounding highway network is able to accommodate the proposed residential growth without any severe harm (the test as set out within paragraph 32 of the NPPF).
- 9.26 For this reason, it is considered that the proposal would result in any significant harm to highway safety, and as such no objections are raised.

Ecology

- 9.27 The application site is located 1.6km southwest of the Swale Special Protection Area (SPA) and Ramsar site, and as such Natural England have commented on the application with regards to the impacts upon these designated nature conservation sites. Natural England raise no objections to the proposal, however do identify that the application does not contain a Habitat Regulations Assessment (HRA). Under the provisions of 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, insofar as these would be significant having regard to the objectives of this Article. The proposal therefore has potential to affect said site's features of interest.
- 9.28 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.

9.29 Natural England have written to all local authorities who are directly impacted by these requirements (on 17 August 2015) setting out their advice on these matters. It sets out that Local Authorities should seek to implement a policy that would set out how likely recreational disturbance impacts on overwintering bird interest from new residential development within the local plan will be avoided through strategic mitigation. Clearly, at present the Borough Council do not have such a policy. In this instance, Natural England advise authorities to consider an interim policy, or similar mechanism to ensure suitable funds are provided for an overarching mitigation strategy to be provided.

9.30 I am also mindful of the Council's own Habitat Regulations Assessment Screening, which was compiled in April 2015, and assesses this site as part of the local plan. Within this document it states that there are:

'no specific HRA implications (beyond the general contribution to recreational pressure associated with all housing within 6km of The Swale SPA/Ramsar site).

Milton Pipes, Mill Way is located 2.1km from The Swale SPA/Ramsar site. This distance is too great for construction/operation of the site development to result in a Likely Significant Impact on the SPA/Ramsar site, other than through the aforementioned pathway of recreational pressure applicable to all housing within 6km of the SPS/Ramsar site. This policy includes the provision of green space within the development.'

9.31 In terms of screening for this application, 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 some 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. The open space within the development would be publically available, which would be an improved 'offer' to the current situation. It is however, unlikely to be a 'destination' for use as open space, and the impact upon the designated areas is unlikely to be significant in this respect.
- Based on the correspondence with Natural England, I conclude that off-site mitigation is required. The Council has taken the stance that in such instances financial contributions can be sought in order for strategic mitigation to be provided.

9.32 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 secured in perpetuity.

- 9.33 The Council has a statement of common ground with Natural England in support of the Local Plan which sets out the confirmed points of agreement between the two parties with respect to the emerging policies and evidence base. This suggests a tariff of £223.00 per dwelling. Should this contribution be paid, I am therefore satisfied that the impact upon this designated site would be mitigated and that no significant harm would occur.
- 9.34 In addition the applicant has submitted an ecological report that states that the site contains no protected species. This report has been independently assessed by KCC Ecology who have raised no objections to this proposal.
- 9.35 Initially no bat survey had been provided, and this subsequently followed and was submitted to the Council. This surveyed all of the buildings within the application site, which identified that there was little or no activity within the site, and that none of the buildings were used for roosting or for breeding. As such, there are no objections raised on the basis of the impact upon ecology.

Flood Risk

- 9.36 The applicant has submitted a flood risk assessment with the application which is required by virtue of the size of the site, and also is location within both zone 2 and 3. This flood risk assessment sets out that the site is at medium risk to fluvial and tidal flooding, for the areas within zone 2 and 3. Flood zone 3 lies within the south western most corner of the site, and clips the access road into the development, and flood zone 2 skirts along the Mill Way frontage. The Flood risk assessment sets out that within these areas the internal floor levels will need to be carefully considered prior to the commencement of development to ensure that there are no habitable rooms that would be inundated in extreme flooding events.
- 9.37 The report sets out that there are no historical records of the site flooding, apart from a very small area within the south west of the site. There is a significant area of developed land that would need to flood before any waters reached the application site, from flooding from the Creek.
- 9.38 The proposal would actually bring about a reduction in hard surfacing, and so in terms of surface water drainage there would be an overall benefit to the area. It is also proposed that where possible soakaways/infiltration is provided to aid with surface water flooding.
- 9.39 For these reasons, it is considered that there would be a low risk of flooding within the site, and the development would not exacerbate the risk of flooding to more vulnerable sites elsewhere. For these reasons, no objection is raised to the proposal on flood risk grounds.

Heritage

- 9.40 As the site is adjacent to the conservation area and a number of listed buildings, the applicant has submitted a heritage statement which addresses the impact of the proposal upon these heritage assets.
- 9.41 Milton High Street has a number of listed buildings within it, and forms part of the Milton Regis Conservation Area. The proposed development would be set down at a

significantly lower level than the majority of the listed buildings, and the relationship between the two would therefore be rather disjointed. Members should note however that the Council's Conservation Officer raises no objection to the proposal on this basis.

- 9.42 Furthermore the form and in particular height of the buildings within the site are such that they would not have a significant impact upon the listed buildings, nor the conservation area. Indeed, the more attractive use and the opening up of the site is actually considered a benefit to the character of the area, and thus the conservation area. I am therefore of the view that no harm will be caused to these heritage assets.

Air Quality

- 9.43 The application is accompanied by an air quality assessment that addresses the potential impact of the development upon air quality. The report acknowledges that the scheme has the potential to cause air quality impacts during the construction and operational phases, which may include dust emissions from construction works and vehicle exhaust emissions. These impacts were fully assessed and the findings range from slight adverse to negligible at sensitive receptor locations within the vicinity of the site. The overall significance of potential impacts was determined to be 'slight adverse' in accordance with current guidance.
- 9.44 The Environmental Protection Team Leader has raised no objections to the proposal on air quality issues. Conditions are suggested for the construction phase to mitigate the impact of dust to ensure that air quality is not adversely impacted by this proposal.

Affordable Housing

- 9.45 The Council's existing adopted local plan requires for the provision of 30% affordable housing on developments of this scale. Members are also aware in the emerging Local plan, recently the subject to public examination, included Policy DM8 which acknowledges the viability issues within the Sittingbourne area and the up-to-date evidence base indicates that a 10% affordable housing requirement would be viable, and any more would be likely to render a schemes undeliverable.
- 9.46 The applicant has submitted a viability appraisal which indicates that they consider that only 6% affordable housing can be provided within the site for the scheme to work. This disparity has come about by virtue of the proposed build costs associated with the development particularly in relation to abnormal costs associated with the required remediation of this heavily contaminated site and in having to deal with the physical constraints of the site in terms of construction.
- 9.47 This policy has now been through the examination, and has been met with no significant resistance from either developers, or other interested parties. Given that this application seeks to ensure that the development adheres to all other. This is a strategic site, with its own policy which needs to be given weight. Whilst the emerging Local Plan (in terms of affordable housing provision) has yet to be adopted for the purposes of Development Management, I am of the view that this development will bring about a significant portion of the authority's housing need and as such should accord with the Council's strategic vision as best it can.
- 9.48 Deliverability is a key component of the NPPF, and should be given significant weight both in the plan making process as well as decision making on individual applications. Whilst the demand for affordable housing within the Borough is high,

this needs to be balanced against the necessity to see houses 'delivered' and the Council's evidence base and subsequent policy respond to this.

- 9.49 Subsequent to the completion of this work, a further meeting has been held with the applicants, who have expressed concern with regards to the continuing costs of maintaining this site, and the impacts that this has had on the viability of the proposal. Given that the requests for financial contributions are relatively high, they have expressed concern that the overall viability of the scheme is indeed in question. On this basis, they have requested an opportunity to re-visit the viability, and to submit further information for assessment. This information has not been made available prior to the completion of the report, and as such, Members will be updated on this matter at the Committee meeting. Should the viability demonstrate that there have been additional costs, not previously known of, then the matter of affordable housing/contributions will be re-assessed accordingly.

Heads of Terms

- 9.51 Any requests for contributions need to be fully scrutinised, in accordance with Regulation 122 of the Community Infrastructure Regulations 2010. These stipulate that an obligation can only be a reason for granting planning permission if it meets the following requirements:

It is

- (a) necessary to make the development acceptable in planning terms;
- (b) directly related to the development; and
- (c) fairly and reasonably related in scale and kind to the development.

- 9.52 Significant requests have been made by Kent County Council for primary school contributions to mitigate the additional demands placed upon the existing local primary schools by virtue of this development. This request is fully evidence based, and is considered to meet the tests set out above. I am therefore of the view that it would be appropriate to seek contributions for this purpose.
- 9.53 The County has also requested significant contributions for secondary school enhancements to the existing provision within the town. Initially contributions were sought for a new school provision to the north of the town but given the viability concerns of delivering this site, these were subsequently amended. This would however see substantial contributions provided to upgrade existing schools (TBC) within the town in order to mitigate the impact of the development. Given the number of family homes that would be provided within the development, I am of the view that it is appropriate to request contributions for this purpose.
- 9.54 Other contributions are sought including those for libraries, adult education, youth services and social care. Again, all of these have been evidence based, and accord with the requirements of the CIL regulations. However should viability issues arise this may suggest that these additional items may need to be reconsidered in light of the need to bring forward residential development , particularly on a brownfield site.
- 9.55 The applicant has submitted a full viability appraisal with the planning application, which demonstrates that the costs of redeveloping the site, in the manner that it proposed would result in the inability to provide the usual level of affordable housing, as set out above. The information submitted indicates that all contributions can be provided if a lesser amount (6%) of affordable housing is delivered through the S106

agreement. This is obviously a careful balancing exercise, but in this instance, it is considered that meeting all financial contributions, but only seeing a 4% drop in the affordable housing numbers (a loss of 9 affordable units) would in this instance be acceptable. Due to the late receipt of this most up-to-date report, officers will further analysis the findings, and should there be further amendments to the contributions paid, Members will be updated at the Planning Committee meeting.

Residential Amenity

- 9.56 The application site is located to the rear of some existing properties within the High Street and Hall Close, however, these are set at a higher level than much of the development proposed within this site. With regards to the main site, it is considered that all proposed properties are set a sufficient distance from the existing buildings to ensure that there would be no significant loss of light, overlooking, or creation of a sense of enclosure.
- 9.57 It is proposed that a three storey flatted development be provided within the south-west corner of the application site. Again, I am satisfied that this would have sufficient separation from the existing buildings, and their amenity space to ensure that there would be no significant overshadowing, or the creation of a sense of enclosure. However, I would recommend that any windows within the western elevation (at first floor or above) be provided with obscure glazing in order that no direct overlooking to these properties takes place.
- 9.58 With regards to the flatted development within the north-eastern parcel of land, this would be set well into the ground, and as a result there would be no direct overlooking of the neighbouring properties, or any other detrimental impact to residential amenity.

Conclusion

- 9.59 This is a site that the Council have identified as being suitable for residential use, through their emerging Local Plan, with draft policy A10 setting parameters for development.
- 9.62 As with many applications, there are a number of benefits and dis-benefits to this proposal that need careful consideration, and an assessment of the weight that these should be accorded. In this instance, the provision of a good number of houses within the site, within a sustainable location, and as a draft allocation carries significant weight. The applicant however, has made it clear that the costs of developing this site are significant, and this would result in the failure to meet the affordable housing requirement, and some of the financial contributions that are being sought as part of this development. These contributions are only sought if they are necessary, and as such their 'non-provision' is a concern.
- 9.63 Nevertheless, central government has been strong in their desire to see local authorities support sustainable development, and in particular the delivery of housing growth (and the provision of affordable housing) is acknowledged as very much a priority.
- 9.64 For the reasons given above, I am of the view that this application is now acceptable, and as such, recommend that Members give this proposal favourable consideration, and grant delegated powers to approve, subject to the imposition of suitable

safeguarding conditions, and the completion of a suitable legal agreement and subject to the outcome of any further viability assessment.

RECOMMENDATION

To Give the Head of Planning DELEGATED POWERS TO APPROVE subject to the completion of a suitable S106 legal agreement ,together with the imposition of 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) The development hereby approved shall be carried out in accordance with the following approved drawing:

004 Rev A (site location plan); 005 (existing site plan); 006 (existing site – demolition plan); 008 Rev F (proposed site plan); 009 (site cross sections AA and BB); 019 Rev B (proposed site cross section AA); 021 Rev B (proposed flats plans and elevations); 022 Rev A (proposed flats plans and elevations); 023 Rev C (proposed flats plans and elevations); 026 Rev B (proposed house types); 027 Rev B (proposed house types); 028 Rev A (proposed house types); 029 Rev B (typical cul-de-sac layout); 030 Rev A (proposed site sections); 031 Rev A (proposed site sections); 032 Rev A (cross section); 033 Rev A (typical cul-de-sac street elevations); 034 Rev A (internal road street elevations); 035 Rev A (Mill Way street elevations); 036 Rev A (Mill Way street elevations); 037 Rev A (Main Road street elevations); 038 (Main Road street elevations); 039 (existing utilities plan); 50090/001 (landscape masterplan); 50090/002 (landscape masterplan Mill Way); 50090/003 (landscape masterplan green corridor); 50090/004 (landscape masterplan north and west); 50090/005 (landscape masterplan northern apartment).

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

- (3) No development shall take place until written details and/or samples of the materials to be used in the construction of the external surfaces of the buildings hereby permitted have been submitted to and approved in writing by the Local Planning Authority. The development shall be constructed using the approved materials.

Reason: To ensure a satisfactory appearance of the development.

- (4) 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. 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.

- (5) No development shall take place until details of the refuse storage on site have been submitted to and approved in writing by the Local Planning Authority. The approved

facilities shall be provided before the first occupation of the development, and maintained thereafter.

Reason: As no such details have been submitted, and in the interests of amenity.

- (6) The development shall not commence until details of the colour of the external finish of the buildings have been submitted to and approved in writing by the Local Planning Authority. The approved colour scheme shall be fully implemented before the first occupation of the buildings and thereafter maintained.

Reason: In the interests of visual amenity.

- (7) The approved details of the parking/turning areas shall be completed before the development takes place, and shall thereafter be kept available for such a use. No development whether permitted by the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking and re-enacting that Order, with or without modification) or not, shall be carried out on the areas indicated or in such a position as to preclude vehicular access to them.

Reason: Development without adequate parking/turning provision is likely to lead to parking inconvenient to other road users to the detriment of highway safety.

- (8) No development shall take place until details of the means of access to the site, including the road width; kerb radii, visibility splays and details of finishing materials have been submitted to and approved in writing by the Local Planning Authority.

Reason: As no such details have been submitted and in the interests of highway safety and visual amenity.

- (9) All planting, seeding or turfing comprised in the approved details of the landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

Reason: To ensure a satisfactory setting and external appearance to the development.

- (10) No development shall take place until there has been submitted to and approved in writing by the Local Planning Authority a scheme of landscaping, using indigenous species which shall include:

- (a) Notwithstanding the details submitted to date, the provision of tree and low shrub planting along the 'Mill Way' road frontage;
- (b) The use of a range of natural flowering and berry bearing species of trees;
- (c) Areas of grassland to be managed as rough grassland – adjacent to the proposed tree planting along Mill Way; and
- (d) The provision of bird and bat boxes within the development.

together with indications of all existing trees upon the land and details of any to be retained, and measures for their protection in the course of development and a programme for the approved scheme's implementation and long term management.

Reason: No such details have been submitted and in the interests of visual amenity.

- (11) A landscape management plan, including long term design objectives, management responsibilities and maintenance schedules for all landscape areas, other than small, privately owned domestic gardens, shall be submitted to and approved in writing by the Local Planning Authority prior to the occupation of the development for its permitted use and the landscape management shall be carried out in accordance with the approved plan over the period specified.

Reason: To ensure satisfactory maintenance and management of the landscaped area.

- (12) All trees to be retained must be protected by barriers and/or ground protection in accordance with BS 5837 (2012) 'Trees in relation to Construction – Recommendations'. No work shall take place on site until full details of protection have been submitted to and approved in writing by the Local Planning Authority. The approved barriers and/or ground protection shall be erected before any equipment, machinery or materials are brought onto the site and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed, nor fires lit, within any of the areas protected in accordance with this condition.

Reason: To safeguard existing trees to be retained and to ensure a satisfactory setting and external appearance to the development.

- (13) No development shall take place until details of the proposed materials to be used in the surfacing of all access roads, parking and turning areas and pathways within the site, and the design of the kerb-stones/crossing points have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be undertaken in accordance with the approved details.

Reason: To ensure a high quality external appearance to the development.

- (14) No development shall take place until details of any lighting to be placed or erected within the site have been submitted to and approved in writing by the Local Planning Authority. The submitted details shall include, inter-alia, details of measures to shield and direct light from the light sources so as to prevent light pollution. The development shall thereafter be carried out in accordance with the subsequently approved details.

Reason: To prevent light pollution in the interests of the character and amenity of the area.

- (15) No development shall take place until details of foul and surface water drainage have been submitted to and approved by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details.

Reason: In the interest of avoiding pollution and flooding.

- (16) The development hereby permitted shall not be commenced until the following components of a scheme to deal with the risks associated with contamination of the site shall have been submitted to and approved, in writing, by the local planning authority:

1) A preliminary risk assessment which has identified:

- all previous uses

- potential contaminants associated with those uses
- a conceptual model of the site indicating sources, pathways and receptors
- potentially unacceptable risks arising from contamination at the site.

2) A site investigation, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.

3) A remediation method statement (RMS) based on the site investigation results and the detailed risk assessment (2). This should give full details of the remediation measures required and how they are to be undertaken. The RMS should also include a verification plan to detail the data that will be collected in order to demonstrate that the works set out in the RMS are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

4) A Closure Report is submitted upon completion of the works. The closure report shall include full verification details as set out in 3. This should include details of any post remediation sampling and analysis, together with documentation certifying quantities and source/destination of any material brought onto or taken from the site. Any material brought onto the site shall be certified clean; Any changes to these components require the express consent of the local planning authority. The scheme shall thereafter be implemented as approved.

Reason: In the interests of public safety and pollution prevention.

(17) The open areas within the residential development site shall remain open and available for public access and no fences, gates or other means of enclosure shall be placed or erected to preclude access to these areas at any time without the prior approval of the Local Planning Authority.

Reason: In the interests of permeability throughout the site, and to maintain the character and appearance of the landscaped areas.

(18) No development shall take place until details of the proposed slab levels of the buildings and the existing site levels have been submitted to and approved in writing by the Local Planning Authority. The development shall be completed strictly in accordance with the approved levels.

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

(19) No development shall take place until the applicant has secured and had implemented a programme of archaeological work in accordance with a written specification and timetable which has been submitted to and approved by the Local Planning Authority.

Reason: To enable the recording of any items of historical or archaeological interest.

(20) The development hereby permitted shall be carried out in accordance with the requirements of the Flood Risk Assessment.

Reason: In the interests of flood prevention.

(21) No infiltration of surface water drainage into the ground at the site is permitted other than with the express written consent of the Local Planning Authority.

Reason: To protect groundwater.

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

Reason: In the interests of highway safety.

- (23) No works or ancillary operations 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. Deliveries to the site and removal of plant, equipment, machinery and waste from the site must only take place within the permitted hours detailed above.

Reason: In the interests of residential amenity.

- (24) No burning of waste or refuse shall take place on site during construction works other than that agreed in writing with the Local Planning Authority.

Reason: In the interest of residential amenity.

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

Reason: In the interests of highway safety.

- (26) No development shall take place until wheel washing facilities have been provided on site and these shall be retained for the duration of the construction period.

Reason: In the interests of highway safety.

- (27) No external lighting shall be constructed at the site other than those on private domestic dwellings or in accordance with a scheme that has first been submitted to and approved in writing by the Local Planning Authority. The lighting scheme shall be designed in a matter that minimises impact on neighbouring residential amenity and bats.

Grounds: In order to prevent potential harm to neighbouring residential amenity and local bat population.

- (28) 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 any other day except between the hours of 0900 and 1700 hours (Monday to Friday).

Grounds: In the interests of residential amenity.

(29) No development shall take place until a programme for the suppression of dust during the construction of the development has been submitted to and approved by the Local Planning Authority. The measures shall be employed throughout the period of demolition and construction unless any variation has been approved by the Local Planning Authority.

Grounds: In the interests of residential amenity.

(30) The proposed flats as shown within the submitted documentation within the Cooks Lane area, and the flatted development adjacent to the High Street shall be provided for and occupied by persons of 55 years of age or over, together with a spouse or partner of 50 years of older if applicable, or other persons as may be agreed with the Local Planning Authority in writing.

Grounds: In the interests of secure proper development of the area, and to ensure that appropriate mitigation is in place for any impact upon local infrastructure.

INFORMATIVES

(1.) The applicant is advised to consider the contents of the Environment Agency's letter 10th June 2015.

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.

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

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

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REPORT SUMMARY

REFERENCE NO - 15/503342/FULL		
APPLICATION PROPOSAL Demolition of existing garage and erection of two storey side extension and single storey rear extension.		
ADDRESS 16 Stiles Close Minster-on-sea Kent ME12 2TQ		
RECOMMENDATION: APPROVE		
SUMMARY OF REASONS FOR RECOMMENDATION: Proposed development would not give rise to unacceptable harm to residential or visual amenity, or to highway safety or convenience. The proposal is acceptable in all other respects.		
REASON FOR REFERRAL TO COMMITTEE: Parish Council objection		
WARD Sheppey Central	PARISH/TOWN COUNCIL Minster On Sea	APPLICANT Mr D Price AGENT Oast Architecture
DECISION DUE DATE 30/06/15	PUBLICITY EXPIRY DATE 2/2/16	

MAIN REPORT

1.0 DESCRIPTION OF SITE

- 1.01 The application site, 16 Stiles Close, is a two storey detached dwelling, located in a cul de sac in the built up area of Minster.
- 1.02 It is sited side-on to the road, with a driveway and garden to the front, and private garden to the rear. The closest dwellings to the west/southwest are nos.10, 12 and 14 Appleford Drive, which all lie 11m from the site boundary. 15 Stiles Close abuts the south east boundary of the site and lies approximately 9m from the dwelling the subject of this application.

2.0 PROPOSAL

- 2.01 The application proposes a two storey side and single storey rear extension.
- 2.02 The two storey side extension would match the depth and height of the dwelling, with a gable end, no first floor flank windows, and projecting approximately 3.6m to the side of the dwelling, abutting the side boundary of the site with rear boundaries of nos.10 and 12 Appleford Drive. The two storey extension would, at its closest point, be approximately 11.5 metres from the rear elevation of no.12 Appleford Drive, and 11 metres from the rear elevation of no.10 Appleford Drive. To the rear of the application site, the proposed two storey extension would be 14 metres from the flank elevation of no. 15 Stiles Close.
- 2.03 The single storey rear extension would project approximately 1.7m to the rear, and would be approximately 7m wide, with a pitched roof (maximum height 3.6m).
- 2.04 The plans have been amended since the application was submitted. The application originally sought consent for a two storey side and single storey front extension. The

front extension has been deleted and the single storey rear extension added in order to allow more parking to the front. As a result of this, parking for two vehicles is shown to the front of the dwelling.

3.0 PLANNING CONSTRAINTS

The site is located in Flood Zone 3.

4.0 POLICY AND OTHER CONSIDERATIONS

4.01 The National Planning Policy Framework (NPPF) and The National Planning Practice Guidance (NPPG): are relevant in that they both encourage good design and seek to minimise serious amenity concerns.

4.02 Development Plan: Policies E1, E19, E24 and T3 of the adopted Swale Borough Council Local Plan 2008 are relevant in that they relate to general development criteria and design, and parking consideration.

4.03 Supplementary Planning Documents: The Council's adopted Supplementary Planning Guidance entitled "Designing an Extension" is also relevant, and remains a material consideration having been through a formal review and adoption process. The Adopted SPG entitled "Designing an Extension - A Guide for Householders", was adopted by the Council in 1993 after a period of consultation with the public, local and national consultees, and is specifically referred to in the supporting text for saved Policy E24 of the Local Plan. It therefore remains a material consideration to be afforded substantial weight in the decision making process.

:

5.0 LOCAL REPRESENTATIONS

5.01 Six representations were received objecting to the plans as originally submitted. A further five were received to the scheme as amended. A recent re-consultation has taken place relating to the description of the development, which due to an unfortunate error had not been amended to reflect the amended plans. Two further objections have been received. The objections raised are summarised as follows:

- Noise and disturbance during construction;
- Noise and disturbance as a result of the proposed extension;
- Dust during construction will have an impact on the health of the occupiers of several of the adjacent dwellings;
- Encroachment onto neighbouring properties during construction;
- Danger of building materials falling into neighbouring sites during construction;
- Vermin infestation during construction;
- Loss of day and sunlight and overshadowing to neighbouring gardens with resultant harm to trees, shrubs and plants in those gardens;
- Loss of day and sunlight to adjacent dwellings;
- Overlooking of neighbouring dwellings and gardens;
- Would result in loss of existing off street parking and give rise to insufficient off street parking at the site;
- Harm to visual amenity due to the cramped appearance of the proposed development;
- Would result in no access to the rear of the dwelling other than through the house. As a result, bins would be stored to the front, further reducing available parking spaces;

- One writer advises that he would not allow his boundary fence to be removed, nor any access to be taken from his property in order to allow any building works to go ahead;
- Digging foundations would give rise to an undermining of the garden of the adjacent site with consequent harm to trees, plants, shrubs and potential collapse of the garden;
- One writer advises that if one single nail falls onto his property, he will seek a court order stopping the build immediately. If anyone actually gets hurt, he will hold both the planning authority and the owners of the property personally responsible to the limit of the law;
- Risk of crime during construction as the result of boundary fences having to be removed;
- One writer likens the result of the development to be akin to living next to a gulag;
- Impact on property values;
- Will give rise to an increase in bird droppings in adjacent gardens; as a result of birds sitting on the roof of the extension;
- A formal flooding impact survey should be carried out;

7.0 CONSULTATIONS

7.01 Minster Parish Council object to the application and comment as follows:

“The size of the garage suggests it is not fit for purpose. With insufficient length to house a car, there is a requirement for three parking spaces to be provided. On these grounds there is inadequate parking in place. There were also vociferous objections from neighbours objecting to the impact on the amenities they might reasonably be expected to enjoy. Having now considered the amended plan as it does not resolve the parking problem; the Parish Councils objection still stands.”

8.0 BACKGROUND PAPERS AND PLANS

8.1 Application papers, plans and correspondence for application 15/503342/FULL

9.0 APPRAISAL

9.01 The key issues here are the principle of the development, its impact on visual and residential amenity, and on highway safety and convenience. Other matters raised in the representations received are addressed below.

Principle of Development

9.02 The site lies in the built up area of Minster, and the development is acceptable as a matter of principle. The site does lie in Flood Zone 3. However – subject to the conditions below relating to flood resistance and resilience measures, and to the finished ground floor level of the extension being no lower than the existing, I do not envisage harm to human life or substantial damage to the property as the result of a flood.

Visual Amenity

9.03 The site lies at right-angles to Stiles Close, which increases the prominence of the proposed two-storey side extension from public vantage points. However – it would be of traditional design, and whilst it would not have a ridgeline set down from that of

the original dwelling, it would be set rearwards of the existing front projecting gable. I am of the view that setting the ridgeline down as normally required by the SPG would give rise to an overly complicated front elevation that would not be an appropriate design solution. Reference is made by one of the objectors to the stark appearance of the flank elevation of the proposed extension. Whilst this is considered below in terms of its impact on residential amenity, I do not consider that the flank elevation of the extension would cause significant harm to the character and appearance of the area. The existing flank of the dwelling has a first floor window serving a stairwell. However – I do not consider that the lack of fenestration or other detail on the proposed flank elevation would give rise to a visually harmful scheme.

- 9.04 The single storey rear extension would not be prominent in views from public vantage points. Whilst it would have a part flat, part pitched roof (which is not an ideal design solution) it would not in my opinion be so harmful as to warrant refusal of planning permission.

Residential Amenity

- 9.05 The proposed single storey rear extension would not in my opinion have any impact on residential amenity. It would not give rise to overshadowing or overlooking.
- 9.06 The key matter in this respect is the impact of the proposed two storey side extension on residential amenity.
- 9.07 The dwellings that the proposed two storey side extension may have an impact on are nos.10, 12 and 14 Appleford Drive, and no.15 Stiles Close. I will deal with each of these in turn.

10 Appleford Drive

The extension would be located to the north of this dwelling and would not give rise to overshadowing or loss of sunlight. It would be located 11 metres from the dwelling, which is the normal minimum distance this authority seeks from the flank of one dwelling to the rear of an adjacent dwelling. Overlooking of the garden of no.10 would not be markedly worse than the existing, and no.10 would retain an area of private garden. Overlooking of the dwelling itself would be from an acute angle and would not in my opinion give rise to significant harm.

12 Appleford Drive

This property would face the flank elevation of the proposed two storey extension. No overlooking would take place. The proposed extension would lie approximately 11.5 metres to the east-north east of no.12, such that any impact in terms of day/sunlight would be limited to early in the morning, and even then for a very short period of time. I do not consider the proposed development would have a harmful impact on the occupiers of this dwelling. That the proposed flank elevation would be blank and would not have any fenestration is unfortunate, but not harmful to residential amenity. It would not in my opinion appear particularly oppressive. Any windows in this flank elevation would potentially give rise to very significant overlooking of no.12 Appleford Drive, unless obscure glazed and fixed shut. I recommend imposing condition (no 3 below, which removes permitted development rights for the insertion of any windows on this elevation.

14 Appleford Drive

The proposed extension would be sited approximately 11.5 metres from the rear elevation of this dwelling. It would lie to the east, and would be a sufficient distance from the dwelling to negate any significant impact in respect of loss of sun/daylight or overshadowing. Any overlooking would be at an angle, and would not in my opinion be significant. The proposed extension would not overlook the dwelling itself, and as with no.10 Appleford Drive, it would retain an area of private garden.

15 Stiles Close

The proposed extension would face the flank of this dwelling, at a distance of approximately 14 metres. It would give rise to some overlooking of the rear garden of the property, but this would not be significantly worse than existing. It would not give rise to overlooking of the dwelling itself. The separation distance, and the fact that the extension would lie wholly to the north of 15 Stiles Close means that no significant loss of light and no harm to the outlook of this dwelling would occur.

- 9.08 Given the above, I am firmly of the view that the proposed two storey side extension would not give rise to significant harm to residential amenity to the surrounding dwellings. I do not consider that planning permission should be refused on this basis.

Highways

- 9.09 The plans as amended show two independently accessible parking spaces to the front of the dwelling. This is wholly in accordance with Kent County Council Vehicle Parking Standards (as set out in Interim Guidance Note 3), which sets out that, in suburban areas such as this, 2 spaces is the minimum requirement for a 4+ bedroom dwelling. Given that the parking provision would be in accordance with KCC standards, I do not consider this to amount to a reason for refusal. Whilst all of the parking would be provided to the front of the dwelling, due to the relationship of the site to Stiles Close, the parking would largely be screened from view on approach from the west. As such, I do not consider that the parking arrangement proposed would have a harmful visual impact.

Other Matters

- 9.10 I note the issues raised in respect of dust during construction. I do not consider that a comparatively small scale development such as this requires dust suppression measures to be submitted to and approved by the Council. The development is unlikely to generate a significant amount of dust.
- 9.11 Issues relating to health and safety during construction are not a matter for the Local Planning Authority, but rest instead with the Health and Safety Executive. Any damage to private property is a private legal matter between the relevant parties, as are matters relating to access to sites, trespassing, and the Party Wall Act.
- 9.12 Whilst I note the concerns raised in respect of vermin, I do not consider that the erection of an extension would give rise to an increase in vermin, and this is not a matter upon which the application can be determined.

10.0 CONCLUSION

- 10.01 Given the above, I am of the view that the proposed development would not harm visual or residential amenity to such an extent that permission could justifiably be

refused. The proposal would be in accordance with KCC vehicle parking standards, and is acceptable in all other respects. I therefore recommend that planning permission is granted.

11.0 RECOMMENDATION – GRANT Subject to the following conditions

CONDITIONS:

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

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

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

Reasons: In the interests of visual amenity

- 3) No additional windows, doors, voids or other openings shall be inserted, placed or formed at any time in the flank wall of the two storey side extension hereby permitted.

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

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

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

- 5) The finished ground floor level of the development hereby approved shall not be set lower than that of the existing dwelling.

Reason: To prevent harm to human life in the event of a flood.

- 6) No development shall take place until details of flood resistance and resilience measures to be incorporated in the development have been submitted to and approved in writing by the Local Planning Authority.

Reason: To prevent harm to human life and damage to property in the event of a flood.

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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PLANNING COMMITTEE – 11 FEBRUARY 2016

PART 3

Report of the Head of Planning

REFERENCE NO - 15/509343/FULL		
APPLICATION PROPOSAL Single storey side extension with velux windows and new rear dormer with Juliette balcony.		
ADDRESS 75 The Street Newnham Kent ME9 0LW		
RECOMMENDATION - Refuse		
REASON FOR REFERRAL TO COMMITTEE Parish Council supports the application		
WARD East Downs Ward	PARISH/TOWN COUNCIL Newnham	APPLICANT Mr & Mrs Lowe AGENT CJS Design Services
DECISION DUE DATE 15/01/16	PUBLICITY EXPIRY DATE 23/12/15	

1.0 DESCRIPTION OF SITE

- 1.01 The application property is a semi-detached property built in the 1960's with little architectural value. The property has hardstanding to the front with vehicular and pedestrian access.
- 1.02 The property is located within the Kent Downs Area of Outstanding Natural Beauty and close to a number of listed buildings within the street scene. The location of the property within the AONB means that any roof extension require planning permission.

2.0 PROPOSAL

- 2.01 The application seeks permission for a single storey side extension with Velux windows and a large flat roof rear dormer window with Juliette balcony.
- 2.02 The side extension would measure 1.3m wide and 10m deep, with natural cedar cladding and a slate roof located 0.8m from the neighbours' boundary.
- 2.03 The rear dormer would also be finished in natural cedar cladding with a glass juliette balcony.

3.0 PLANNING CONSTRAINTS

Area of Outstanding Natural Beauty Maidstone AONB directive

Area of Outstanding Natural Beauty KENT DOWNS

4.0 POLICY AND OTHER CONSIDERATIONS

The National Planning Policy Framework (NPPF)
National Planning Practice Guidance (NPPG)
Development Plan: Saved policies E1, E6, E9, E19 and E24 of the Swale Borough Local Plan 2008

Supplementary Planning Documents: Designing an Extension – A Guide for Householders

5.0 LOCAL REPRESENTATIONS

5.01 No local representations were received.

6.0 CONSULTATIONS

6.01 Newnham Parish Council simply state that it “supports the application”.

7.0 BACKGROUND PAPERS AND PLANS

7.01 Application papers for application 15/509343/FULL

8.0 APPRAISAL

8.01 The site lies within the Kent Downs Area of Outstanding Natural beauty so the impact the development may have on the character of the surrounding area is of particular importance.

8.02 In the Council’s supplementary planning guidance (SPG) ‘Designing an Extension – A Guide for Householders’ paragraph 5.5 states “*dormers should be in proportion with the roof and only as large as necessary to allow light into the roof space...they should normally have pitched roofs with tiles to match the main roof*”. The dormer in this application is flat roofed and takes up almost the entire rear roof slope of the property. This creates a very unattractive appearance and is contrary to the advice given in the SPG as to what is expected in the design of dormers, and also policy E1 which expects proposals to meet the requirements set out in the SPG. Policies E1, E6, E9, E19 and E24 all require high quality design that will maintain or enhance the area, with which the proposed dormer does not comply.

8.03 The side extension in question has a width of 1.3m and extends 10m in length to be in line with the existing rear elevation, 0.8m from the neighbour’s boundary. While this part of the application would be acceptable, the size and design of the dormer is contrary to policy and the Council’s supplementary planning guidance, and therefore unacceptable.

8.03 I have attempted to contact the applicants to suggest that the proposed dormer window is deleted from the application to allow for approval of the side extension, but without success.

9.0 CONCLUSION

9.01 In my opinion the dormer in question would harm the residential and visual amenities of the area which is within an Area of Outstanding Natural Beauty. I therefore recommend that planning permission be refused.

10.0 RECOMMENDATION –REFUSE for the following reason:

REASON

(1) The scale and design of the proposed dormer would be harmful to the amenities of the area and be contrary to saved policies E1, E6, E9, E19 and E24 of the Swale

Borough Local Plan 2008. These policies require high quality design to protect the character and amenity of the area. The design and scale of the dormer would also be contrary to the guidance provided in the Council's Supplementary Planning Guidance - Designing an Extension.

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 not considered to comply with the provisions of the Development Plan and NPPF as submitted, and would have required substantial changes such that a new application would be required.

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

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REFERENCE NO - 15/510115/FULL			
APPLICATION PROPOSAL Retrospective application for garage.			
ADDRESS Roseann Saxon Avenue Minster-on-sea Kent ME12 2RP			
RECOMMENDATION Refuse			
SUMMARY OF REASONS FOR RECOMMENDATION The garage in isolation was found by the Inspector to be unacceptable and therefore, although Officers have previously been of the opinion that the garage would not cause significant harm to neighbouring amenities on its own, the Inspector, by reaching his decision has given a very clear indication that the impact of the garage is unacceptable. I therefore am of the opinion that due to this, the application should be refused by virtue of the increased sense of enclosure and significant harm to the outlook of the neighbouring occupiers of 'Pendower', as referenced by the Inspector.			
REASON FOR REFERRAL TO COMMITTEE Recommendation conflicts with Parish Council view			
WARD Minster Cliffs	PARISH/TOWN COUNCIL Minster On Sea	APPLICANT Mr David Gray AGENT	
DECISION DUE DATE 05/02/2016	PUBLICITY EXPIRY DATE 13/01/2016		
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):			
App No	Proposal	Decision	Date
APP/V2255/C/14/2 220485 (Appeal against an Enforcement Notice)	Requirements of the Enforcement Notice: (i) Demolish the rear extension and garage; (ii) Remove any materials or debris etc from the landscaped in complying with the requirements of (i) above.	Appeal dismissed and Enforcement Notice upheld	17/2/2015

1.0 DESCRIPTION OF SITE

- 1.01 'Roseann' Saxon Avenue is a detached bungalow with hardstanding to the front of the property and private amenity space to the rear.
- 1.02 The streetscene is made up of a mix of dwellings with bungalows, chalet bungalows and two storey properties present. The predominant dwelling type in the vicinity is detached.

2.0 PROPOSAL

- 2.01 This application seeks retrospective planning permission for the erection of an attached garage to the western side of the property, close to the neighbouring property known as 'Pendower.'

2.02 The garage measures 2.5m in width and 7.4m in depth. It has a pitched roof, the angle of which matches the main dwelling, it measures 2.5m to the eaves and 3.9m in overall height. The front facing elevation of the garage is set back from the L shaped front elevation of the main property.

2.03 The garage has been rendered to match the existing property and the tiles, grey slate, also match the main dwelling.

3.0 PLANNING CONSTRAINTS

3.01 None

4.0 POLICY AND OTHER CONSIDERATIONS

4.01 The National Planning Policy Framework (NPPF)
National Planning Practice Guidance (NPPG)
Development Plan: E1, E19 and E24 of the Swale Borough Local Plan 2008.
Supplementary Planning Documents: Designing an Extension – A Guide for Householders

(Adopted SPG entitled “Designing an Extension - A Guide for Householders”, was adopted by the Council in 1993 after a period of consultation with the public, local and national consultees, and is specifically referred to in the supporting text for saved Policy E24 of the Local Plan. It therefore remains a material consideration to be afforded substantial weight in the decision making process.

National Planning Policy Framework (NPPF)

The NPPF was released on 27th March 2012 with immediate effect, however, para 214 states “that for 12 months from this publication date, decision-makers may continue to give full weight to relevant policies adopted since 2004 even if there is a limited degree of conflict with this Framework.”

The 12 month period noted above has now expired, as such, it is necessary for a review of the consistency between the policies contained within the Swale Borough Local Plan 2008 and the NPPF.

This has been carried out in the form of a report agreed by the Local Development Framework Panel on 12 December 2012. Policies E1, E19 and E24 are considered to accord with the NPPF for the purposes of determining this application and as such, these policies can still be afforded significant weight in the decision-making process.

5.0 LOCAL REPRESENTATIONS

5.01 Adjoining neighbours have been notified by a consultation letter and one response has been received from the occupiers of the neighbouring dwelling, ‘Pendower’, raising an objection on the following grounds:

- The Enforcement Notice was upheld which gave the owner of the garage 6 months to remove it, this was over a year ago;
- The garage now in situ is a further 4.6m to the rear of the previous garage and 4.1m to the apex which towers above the porch, bathroom and kitchen windows, causing the kitchen to be in darkness;
- Would like the garage to be put back to its original position.

6.0 CONSULTATIONS

- 6.01 Minster on Sea Parish Council supports this proposal. They state that *“moving the garage has increased the on-site parking at the front of the property and removed any concerns about the proposal adding to parking in the street. This will benefit both residents and visitors. The proposal also improves the street scene.”*

7.0 BACKGROUND PAPERS AND PLANS

- 7.01 Application papers and correspondence relating to planning reference 15/510115/FULL and Enforcement Appeal reference APP/V2255/C/14/2220485.

8.0 APPLICANT'S SUPPORTING COMMENTS (summary)

- 8.01 *“Pendower's side door has privacy / frosted glass and so no viewpoint would be possible through this glazing from indoors – whether the garage was there or not.*

In relation to light, privacy glazing on the door would restrict this somewhat anyway. The garage is rendered white which does reflect the light. In addition, there is a wide path of 1300 / 1500mm (wall to wall) at this point between the two buildings and so the garage does not significantly restrict light. The door this room serves (kitchen?) clearly has windows to the rear and there is extensive glazing from the conservatory adjacent. The garage has not, therefore, impacted or restricted the only source of light (or viewpoint).

We think it important to mention that the garage at 'Roseann' in its original position sat entirely in front of the windows to the side (at the front) of the neighbouring property 'Pendower'.

Now that the rear extension at 'Roseann' has been removed to just leave the garage, we believe there is no 'overbearing structure making an increased sense of enclosure' and rather than the development 'denying light and impinging on their outlook', both are actually enhanced by having just the new garage along, positioned in the way it now is.”

9.0 APPRAISAL

- 9.01 At the outset it is important to set out the history at this site which will allow for a clearer explanation of the recommended decision. The garage which is the subject of this application was originally constructed along with a rearward projecting conservatory (which was attached to the garage) without the benefit of planning permission. The development was undertaken as one building operation and did not constitute permitted development. Members resolved to take enforcement action contrary to my recommendation, and an Enforcement Notice was served on 16th May 2014 and the breach of planning control as alleged in the notice read *‘the construction of a rear extension and garage, the approximate positions of which are highlighted on the plan, which in the opinion of the Council would require planning permission.’*

The requirements of the notice (as set out in paragraph 5) are:

- (i) Demolish the rear extension and the garage;
- (ii) Remove any materials or debris etc from the Land caused in complying with the requirements of 5(i)

- 9.02 An appeal was lodged against the Enforcement Notice and the decision is attached as an appendix. The appeal was dismissed, the enforcement notice was upheld and planning permission for the development refused. With specific regard to the garage, the Inspector commented:

“The enlargements to the side and rear of the bungalow appear to have resulted in a significant increase in the overall bulk and proximity of built development near the boundary with the adjacent bungalow, ‘Pendower’. The development appears to have resulted in an increased sense of enclosure to the occupiers of this property, to the extent that it significantly impinges upon their outlook. The oppressive impact of the garage is accentuated by its gabled flank wall, which is noticeable from some of the neighbours’ side windows and passageway..”

- 9.03 I appreciate that the conservatory to the rear of the development has now been removed, this has been confirmed by photographs submitted as part of the supporting documents and as witnessed by the case officer during his site visit. However, it is important to note in this case that the Inspector did have the opportunity to amend the Enforcement Notice and conclude that only part of the proposal, i.e. the conservatory or the garage on their own would constitute an acceptable form of development. This option was not taken. As such, I can only conclude that the Inspector found the development as a whole, and also crucially the garage in isolation, as unacceptable.
- 9.04 Therefore, although Officers have previously been of the opinion that the garage would not cause unacceptable harm to neighbouring amenities on its own, the Inspector, by reaching his decision has given a very clear indication that the impact of the garage is unacceptable. I therefore am of the opinion that due to this, the application should be refused by virtue of the increased sense of enclosure and significant harm to the outlook of the neighbouring occupiers, as referenced by the Inspector.
- 9.05 I have taken into consideration the comments received by the Parish Council but in this case, even though the parking and design of the proposal may be an improvement on the original arrangement, this does not override the Inspectors comments as set out above. I also recognise the objections received from the neighbouring occupiers but as these are largely in line with the conclusions of the Appeal decision I do not believe that they require further elaboration.

10.0 CONCLUSION

- 10.01 In overall terms the decision that has been reached in the Inspector’s appeal decision has heavily guided the recommendation that has been reached here. As such, it must be concluded that the garage as a single structure is unacceptable and causes significant harm to the residential amenities of the occupiers of the adjacent property, known as ‘Pendower.’ As such, I recommend that on this basis that planning permission be refused.

11.0 RECOMMENDATION – REFUSE for the following reasons:

As confirmed in the Inspector’s Appeal Decision (ref: APP/V2255/C/14/2220485) the garage, by virtue of its scale and proximity to the common boundary with the adjacent property known as ‘Pendower’ creates an unacceptable sense of enclosure and significantly impinges upon the outlook from this neighbouring property. The development is therefore contrary to policies E1 and E24 of the Swale Borough Local

Plan and the Council's adopted Supplementary Planning Guidance entitled "Designing an Extension: A Guide for Householders".

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



Appeal Decision

Site visit made on 13 January 2015

by **Nigel Burrows BA MRTPI**

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

Decision date: 17 February 2015

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

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

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

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

Procedural Matters

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

The appeal on ground (c)

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

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works were well advanced at this time. On the balance of probability, I therefore consider the development falls to be considered against the amendments to Class A, Part 1, Schedule 2 of the 1995 GPDO which came into force on 1 October 2008¹.

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

The ground (a) appeal and deemed application

8. The main issue is this appeal is the effect of the development on the living conditions of neighbouring residents, with particular reference to their outlook and sunlight.
9. The enlargements to the side and rear of the bungalow appear to have resulted in a significant increase in the overall bulk and proximity of built development near the boundary with the adjacent bungalow, 'Pendower'. The development appears to have resulted in an increased sense of enclosure to the occupiers of this property, to the extent that it significantly impinges upon their outlook. The oppressive impact of the garage is accentuated by its gabled flank wall, which is noticeable from some of the neighbours' side windows and passageway. The additional rearward projection of the linked conservatory exacerbates this sense of enclosure, to the extent that the neighbours are likely to feel hemmed in by the cumulative effect of the enlargements.
10. The appellant indicates the depth of the conservatory does not exceed 3.0m - as recommended in the Council's SPG². It is also alleged the SPG is dated, as a 4.0m deep rear extension would not require planning permission. Be that as it may, given the cumulative effect of the current enlargements, they constitute an unneighbourly form of development. The appellant also argues the recent amendments to the GPDO would allow the provision of an 8.0m deep rear extension³. However, this would need to be the subject of the prior approval procedure. In any event, there is no firm evidence to demonstrate there is 'a greater than theoretical possibility' that such a development might take place. This argument cannot be given significant weight in this appeal.
11. Concerns have been expressed about additional overshadowing of 'Pendower'. However, this has not been quantified, for example by reference to any sunlight or daylight calculations. Bearing in mind that a garage previously existed alongside 'Roseann', it is

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

² Supplementary Planning Guidance - 'Designing an Extension: A Guide for Householders'

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

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not clear whether the new extensions have unacceptably diminished the levels of sunlight available to 'Pendower' (or daylight). In any event, the increased sense of enclosure and consequential harm to the outlook of the neighbours constitutes a decisive objection to the development. In this respect, I find it conflicts with the objectives of 'saved' policies E1 and E24 of the Council's Local Plan⁴ to ensure that residential amenity is protected.

12. The appellant is evidently willing to replace the high-level windows on the west side of the conservatory⁵ with obscure glazed, fixed lights. However, this step would not overcome the overbearing and dominating impact of the development. It is not obvious to me that the adverse impact of the scheme could be overcome by any other planning conditions.
13. Having said that, I recognise that it might be possible for the parties to explore whether or not a mutually acceptable solution could be found for some alternative form of enlargement to the property. I also note the Council has given the appellant a period of up to 6 months to comply with the notice. This should allow adequate time for the parties to explore the matter further or, alternatively, for the appellant to comply with the notice.
14. The Council's concern to protect residential amenity is generally consistent with the Government's objectives for the planning system. Paragraph 14 of the National Planning Policy Framework (March 2012) sets out the presumption in favour of sustainable development. The economic, social and environmental dimensions of sustainable development should be addressed. Paragraph 9 also makes it clear that pursuing sustainable development includes seeking positive improvements in the quality of the environment and improving people's quality of life. I conclude the existing development materially conflicts with the latter objectives. The appeal on ground (a) therefore fails.

Conclusions

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

Formal Decision

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

Nigel Burrows

INSPECTOR

⁴ Swale Borough Local Plan (2008)

⁵ Which appear to encroach across the boundary when open

PLANNING COMMITTEE – 11 FEBRUARY 2016

PART 5

Report of the Head of Planning

PART 5

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

- **Item 5.1 – 2 Ruins Barn Road, Tunstall**

ENFORCEMENT NOTICE QUASHED AND PLANNING PERMISSION GRANTED.

PLANNING APPEAL ALLOWED.

Observations

REFUSED BY PLANNING COMMITTEE:

Members will recall that this retrospective application was recommended for approval by Officers, but refused by Members in accordance with a very strong Parish Council objection. The decision makes it clear that the proposal is not unusual or objectionable.

The matter of confusion over plans appears to stem from the Inspector having a different plan from that which was issued with the enforcement notice, but it has not been possible to find out how that arose.

- **Item 5.2 – 164 High Street, Milton Regis**

APPEAL DISMISSED

Observations

DELEGATED REFUSAL:

Full support for the Council's decision. The Inspector concluded that the proposal would amount to a poor quality development which would harm the amenities of its occupiers, that it would harm the character and appearance of the area, and that it would harm highway safety and convenience.

- **Item 5.3 – 32 Holmside Avenue**

APPEAL DISMISSED

APPELLANT'S CLAIM FOR FULL COSTS REFUSED

Observations

DELEGATED REFUSAL:

A welcome decision, where the Inspector agreed with the Council that the development proposed would harm the amenities of occupiers of adjacent dwellings. The appellant's costs claim was refused on the basis that the appellants could not demonstrate that the Council had behaved unreasonably. Quite the opposite in fact – the costs decision sets out the steps Officers had tried to take in advising the appellant.

- **Item 5.4 – The Laurels, New Orchard Farm, Upper Rodmersham**

APPEAL ALLOWED.**APPELLANT'S CLAIM FOR FULL COSTS REFUSED****Observations****APPEAL AGAINST NON-DETERMINATION:**

A perverse and baffling decision to allow an additional dwelling in a remote location, including the erection of two detached double garages, despite the Inspector recognising that relevant policies restrict residential development in the countryside other than in specific circumstances; and of him appearing to accept that this represents sustainable development.

Members might wish to note that this appeal against non-determination was submitted at the earliest possible opportunity and not in relation to any protracted delay in the decision making process.

- **Item 5.5 – 13 Briton Road, Faversham**

APPEAL DISMISSED**Observations****DELEGATED REFUSAL:**

Full support for our approach to replacement windows in this area; one covered by the Council's 2007 Article 4(2) Direction. This is now the second appeal dismissed on this property in relation to replacing the original sash windows with inferior units.



The Planning Inspectorate

Appeal Decisions

Site visit made on 23 November 2015

by **K R Seward Solicitor**

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

Decision date: 4 January 2016

2 Ruins Barn Road, Tunstall, Sittingbourne, Kent ME10 4HS

Appeal A: APP/V2255/C/15/3031335

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mrs Jennifer Zaluska against an enforcement notice issued by Swale Borough Council.
- The notice was issued on 15 April 2015.
- The breach of planning control as alleged in the notice is without planning permission a garage has been erected, the approximate position of which is highlighted on the plan, which in the opinion of the Council would require planning permission.
- The requirements of the notice are:-
 - (i) Remove the garage
 - (ii) Remove all materials and debris caused in complying with condition (i).
- The period for compliance with the requirements is 3 months.
- The appeal is proceeding on the grounds set out in section 174(2)(a) of the Town and Country Planning Act 1990 as amended. Since an appeal has been brought on ground (a) an application for planning permission is deemed to have been made under s177(5) of the Act.

Summary of Decision: The appeal is allowed subject to the enforcement notice being corrected in the terms set out below in the Formal Decision.

Appeal B: APP/V2255/W/15/3019443

- 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 Mrs Jennifer Zaluska against the decision of Swale Borough Council.
- The application Ref 14/503907/FULL, dated 9 September 2014, was refused by notice dated 16 March 2015.
- The development is to construct a timber framed and timber clad garage/storage area to the rear boundary of the property. Access via track to rear of Ruins Barn Road.

Summary of Decision: The appeal is allowed, and planning permission granted.

Preliminary Matters

1. The allegation in Appeal A refers to the approximate position of the garage being highlighted on the plan attached to the enforcement notice. An arrow on the plan points towards the dwelling whereas the garage is a separate building at the end of the garden. At my site visit, both parties agreed that the plan requires correction and this has been confirmed in writing. The location of the garage is correctly shown on the site plan accompanying the application in Appeal B. I am satisfied that the correction can be made without injustice to

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Appeal Decisions APP/V2255/C/15/3031335, APP/V2255/W/15/3019443

either party by substituting the enforcement notice plan with another to correspond with the location plan in Appeal B.

2. Equally, no injustice would arise from the consequential minor amendment required to paragraph 3 of the notice to make reference to the building being shown hatched rather than highlighted on the plan. I will therefore correct the enforcement notice in those two respects in order to clarify the terms of the deemed application under section 177(5) of the 1990 Act, as amended.
3. The garage was already built at the time of the application for planning permission in Appeal B and so the application was retrospective. The garage, as built, appears to correspond with the submitted plans.
4. The red line site for the location plan in Appeal B encompasses an area of hard-standing in front of the garage which does not appear in the enforcement notice plan. This does not affect the clarity or validity of the notice which does not require correction in this respect.

Appeal A on ground (a) and the deemed planning application; and Appeal B

5. Ground (a) is that, in respect of any breach of planning control which may be constituted by the matters stated in the notice, planning permission ought to be granted. This ground is concerned with the planning merits of the case, and it raises the same issues as the deemed application for planning permission. The linked section 78 appeal also raises the same issues, and I shall therefore deal with them together.

Main Issues

6. The main issues in both appeals are the effect of the garage on the character and appearance of the surrounding area and the living conditions of neighbouring occupiers with particular regard to outlook and sunlight.

Reasons

Character and appearance

7. No 2 Ruins Barn Road is one half of a pair of semi-detached houses in a long row of properties in the same form and architectural style. Each property in the row has a long rear garden. Most have a garage or outbuilding of some description at the end of their rear garden. The building subject to this appeal is a large double detached garage with a storage area within its roof space built at the end of the rear garden of No 2. In common with other garages in the row, vehicular access is obtained to it via an unmade track behind the Ruins Barn Road properties. The Council acknowledges that there is no dispute concerning the principle of development and refers to the garage as a "marginal" case.
8. The far side of the track is lined with dense hedgerow providing screening from the fields beyond. Whilst the garages are visible from neighbouring gardens, they cannot be seen from the public domain.
9. The garage has a pitched roof with gable ends. There is a large window in one gable end with a smaller window above. At a ridge height of approximately 4m, it is larger than most others in the row but not excessively so. Moreover, there is a wide variance in size, height, form and roof styles among the structures.

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The external finishes also vary considerably. Thus, there is no uniformity or fixed appearance with which the garage ought to accord.

10. Indeed, there is an example further along the row at No 28 where there is a notably larger garage building which has been approved by the Council. Not only does it have a higher ridge height than the appeal garage and is greater in scale, it features very large metal doors and painted render creating a very urban appearance and one that draws the eye from distance. In contrast, the appeal building has weatherboard cladding painted in a muted shade and a black corrugated roof. It is far more under-stated and befitting to its location surrounded by domestic gardens and close to open fields.
11. In addition, the appearance and finish is to my mind of superior quality than a good number of the other garages/outbuildings which are in varying states of repair. Given their condition and the wide assortment of outbuildings, the impression is somewhat haphazard. Against this backdrop, the garage is a positive addition. Although it fills a large part of the garden width, there is so much space behind the garage that it does not appear cramped in. I find no harm by reason of its size or design.
12. Consequently, there is no adverse effect on the character and appearance of the surrounding area contrary to Policies E19 and E1 of the Swale Borough Local Plan (LP) 2008 which, amongst other things, seek high quality design appropriate to the location. Nor does it conflict with the similar aims of Paragraphs 56 and 58 of the National Planning Policy Framework (the Framework).

Living conditions

13. Three large detached houses in Cromer Road share a rear boundary with No 1 Ruins Barn Road. They are sited perpendicular to the rear gardens of the Ruins Barn Road properties. High boundary fences separate the properties which, together with some foliage, will obstruct views of part of the garage for neighbours from downstairs rooms and rear gardens. However, there will be direct views of the garage roof behind the smaller garage at No 1 when viewed from first floor windows of No 4 Ruins Barn Road, in particular. There is no right to a view in law and so the fact the garage can be seen from neighbouring properties is not a material planning consideration. Instead, I have approached the question of outlook on the basis of any harm to the neighbouring occupiers' which is caused by an overbearing development rather than in the sense of a loss of view.
14. As a functional black coloured roof, it cannot be described as visually attractive. Nonetheless, the building is not close to neighbouring windows nor is it particularly close to the Cromer Road gardens. The rear garden for No 1 Ruins Barn Road provides separation. The roof also slopes away from the rear boundary of the Cromer Road properties which further reduces the likelihood of an enclosing effect occurring. It will still be possible to see around and above the garage albeit those views may have been more appealing before the roof was in place. Whilst neighbours may prefer the building to be flat roofed to reduce its visual impact, no material harm arises from the garage in its existing form. Its combined height, size and proximity are not of a level to give rise to an oppressive form of development for neighbouring residents whether from windows or gardens.

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15. Moreover, the separation distance between the garage and neighbouring houses suffices to avoid any material adverse effect on sunlight to rooms. For the same reason and with other intervening structures and planting, the level of any increased shading of gardens would not be significant.
16. Thus, I find no adverse effect on the living conditions of neighbouring occupiers in terms of outlook or impact on sunlight for demonstrable harm to residential amenity to arise in conflict with LP Policy E1. Likewise, there would be no conflict with the core planning principle in Paragraph 17 of the Framework which seeks to promote a good standard of living conditions for occupants of land and buildings.

Other Matters

17. The parish council has raised concerns regarding the potential use of the garage for commercial purposes. At the time of my site visit, the garage was filled with items of domestic storage on the concrete base. A moveable staircase was positioned in one corner leading to an upper floor level with restricted headroom where further items were being stored. From my observations, there was no evidence of an existing commercial use. A commercial use would amount to a material change of use of the building requiring planning permission. Therefore, it is not necessary to impose a planning condition restricting the use to purposes incidental to the dwellinghouse, as suggested by the Council.
18. Whilst the garage was constructed without the benefit of planning permission, this does not affect my consideration of the planning merits.

Formal Decisions

Appeal A

19. It is directed that the enforcement notice be corrected: by the deletion of the word "highlighted" from paragraph 3 of the notice and the substitution thereof of the words "shown hatched black" and the substitution of the plan annexed to this decision for the plan attached to the enforcement notice. Subject to these corrections the appeal is allowed and the enforcement notice is quashed. Planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act, as amended, for the development already carried out, namely the erection of a garage on the land shown hatched black on the plan annexed to this decision.

Appeal B

20. The appeal is allowed and planning permission is granted to construct a timber framed and timber clad garage/storage area to the rear boundary of the property, access via track to rear of Ruins Barn Road, at 2 Ruins Barn Road, Tunstall, Sittingbourne, Kent ME10 4HS in accordance with the terms of the application, Ref 14/503907/FULL, dated 9 September 2014 and the plans submitted with it.

KR Seward

INSPECTOR



The Planning Inspectorate

Plan

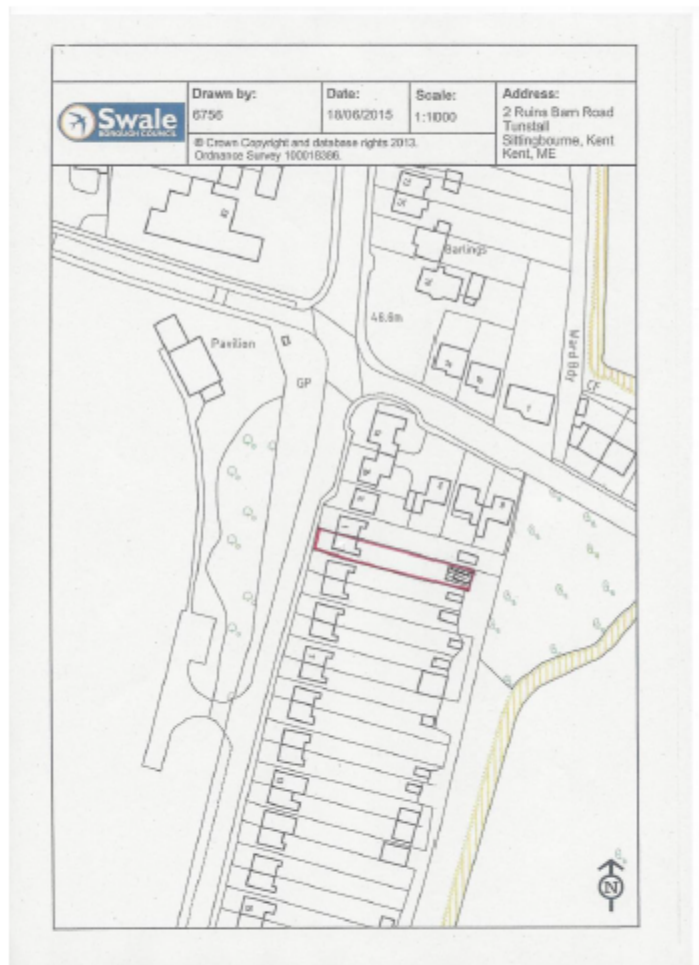
This is the plan referred to in my decision dated: 04.01.2016

by **K R Saward Solicitor**

Land at: 2 Ruins Barn Road, Tunstall, Sittingbourne, Kent ME10 4HS

Reference: APP/V2255/C/15/3031335

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Appeal Decision

Site visit made on 5 January 2016

by **Andrew Owen MA MRTPI**

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

Decision date: 11 January 2016

Appeal Ref: APP/V2255/W/15/3133440

164 High Street, Milton Regis, Sittingbourne, Kent ME10 2AT

- 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 Vijay Kapoor against the decision of Swale Borough Council.
 - The application, Ref 15/501926/FULL, dated 4 March 2015, was refused by notice dated 16 July 2015.
 - The development proposed is the demolition of existing side extension and conversion of existing two flats into one 3 bedroom house, construction of new driveway to new semi-detached pair of bungalow units at rear of property with hardstanding for 3 cars.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this appeal are:
 - (a) the effect of the proposal on the character and appearance of the area,
 - (b) whether the proposal provides satisfactory living conditions for occupiers of the development with regard to the provision of amenity space, and
 - (c) the effect of the proposal on highway safety.

Reasons

Character and Appearance

3. The site accommodates a narrow, two-storey, end of terrace property which has no front garden, but a long narrow rear garden. The majority of the other properties on High Street in proximity of the site are similar in appearance and this uniformity, and the high density of development, is a strong characteristic of the area. Sprotshill Close, north of the site, is a cul-de-sac of predominantly terraced, two-storey, dwellings which have a more modern appearance than those fronting High Street. Opposite the site, No 163 High Street is an isolated example of a property set behind the rear building line of neighbouring properties. Despite this, it still has a presence in the street scene due to a significant gap between the adjacent properties occupied by its access and a garage.
-

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4. The provision of two semi-detached bungalows to the rear of No 164 would represent a form of development that would differ considerably from the established character of the area. In particular, the backland nature of the bungalows, with little presence in the street scene, would contrast with the character and appearance of the area.
5. Whilst the development would represent a more efficient use of the plot, the bungalows would occupy a large proportion of the site and would be overdominating. Along the north boundary of the site is a footpath which connects High Street with the garage blocks associated with the properties on Sprotshill Close, and provides access to the rear gardens of the houses at Nos 12 – 17 Sprotshill Close. The bungalows would appear cramped and incongruous when viewed from this footpath and from neighbouring dwellings.
6. Accordingly the development would harm the character and appearance of the area and so would not accord with policies E1, E19 and H2 of the Swale Borough Local Plan (SBLP) 2008 which aim to ensure development is appropriate to its surroundings.

Living Conditions

7. The plans indicate a small area for flowers and shrubs in front of the two bungalows. Though no landscaping details are provided, the planting of this area with flowers or shrubs would leave no useable outdoor amenity space. Were this area to be grassed, it would have only a limited usefulness due to its small size. It would also not be private to either dwelling. As such the provision of such limited amenity space would not provide satisfactory living conditions for the future occupiers of either bungalow. Additionally, the dwelling at No 164 would not be provided with any usable outdoor amenity space, which would be to the detriment of the living conditions of its occupiers.
8. The lack of provision of satisfactory living conditions for the occupiers of the site means the development would fail to accord with Policy E1 of the SBLP which requires development to maintain residential amenity and Policy E19 which, among other criteria, requires development to create comfortable places.
9. I am unable to conclude that the development at Connaught Road in Sittingbourne is comparable with the appeal before me as I have not been provided with any details of it other than a photograph showing the vehicle parking and turning area. Notwithstanding this each development must be determined on its own merits.

Highway Safety

10. The vehicle access would run alongside the retained two storey part of No 164. The visibility splays shown on the submitted drawings relate to the visibility from the access to vehicles travelling on High Street and the Highways Officer has not objected to these. However there is no visibility from the access to pedestrians walking on the pavement along High Street south of the site as the retained two storey part of No 164 directly abuts the back edge of the pavement. Although pedestrian visibility to the north is achievable due to the grass verge to this side, the lack of sufficient visibility to the south would constitute a risk to the safety of pedestrians walking along High Street.

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11. Due to the small size of the site, sufficient clearance to enter and leave the proposed parking spaces would not be provided, and the comments from the Highways Officer supports this view. I note the appellant is willing to discuss the rearrangement of these spaces, but on the basis of the plans before me I can only conclude that the development would fail to provide a satisfactory parking arrangement.
12. Although the change of the existing property from two flats to one dwelling may itself result in a reduction in on street parking, the inadequate nature of the parking area for the bungalows would most likely result in this parking area being unusable and hence leading to an increase in on-street parking overall. The high density of development in the area means that on street parking is already prevalent and an increase in this would be harmful to highway safety in terms of affecting the efficient operation of the highway.
13. As such the development would have a harmful impact on highway safety in respect of pedestrians and road users. Consequently the development would be contrary to Policies E1 and T4 of the SBLP which aims to protect the safety of pedestrians, and Policies E1 and T3 of the SBLP which requires development to provide appropriate vehicle parking.
14. I note the existence of the vehicle access at No 163 opposite the site. Nonetheless that does not justify a relaxation of the standards at the appeal site.

Other Matters

15. The drawings do not indicate cycle parking provision, however there would be room on site or within the dwellings for occupants to park cycles and a condition could be imposed to require details of such parking to be provided. However this does not outweigh the harm that I have found in respect of the main issues.
16. I note the appellants concerns regarding fly-tipping at the site. However this issue could be addressed by means other than the proposed development and it does not justify the development.

Conclusions

17. For the reasons given above, and taking account of all other considerations, I conclude that the appeal should be dismissed.

Andrew Owen

INSPECTOR



The Planning Inspectorate

Appeal Decision

Site visit made on 4 January 2016

by **S J Papworth DipArch(Glos) RIBA**

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

Decision date: 13 January 2016

Appeal Ref: APP/V2255/D/15/3135197
32 Holmside Avenue, Halfway, Kent ME12 3EX

- 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 & Mrs Dewey against the decision of Swale Borough Council.
 - The application Ref 15/503321/FULL, dated 20 April 2015, was refused by notice dated 8 September 2015.
 - The development proposed is rear kitchen extension.
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Decision

1. I dismiss the appeal.

Application for Costs

2. An application for costs was made by Mr & Mrs Dewey against Swale Borough Council. This application is the subject of a separate Decision.

Main Issue

3. This is the effect of the development on the living conditions of neighbouring residential occupiers with particular regard to outlook and visual impact.

Reasons

4. Swale Borough Local Plan Policy E1 expects development to, among other things, cause no demonstrable harm to residential amenity. Policy E19 seeks high quality design and Policy E24 also requires alterations and extensions to be of a high quality of design, be in scale in relation to its surroundings and protect residential amenity.
 5. Supplementary Planning Guidance entitled "*Designing an Extension: A Guide for Householders*" sets out the requirements for the projection of single storey rear extensions on terraced properties 'close to your neighbour's common boundary' to be no more than 3m projection. In the case of the appeal property the extension would be on or very close to the boundary and over 3m. The guidance does however refer to the benefits of talking to neighbours before submitting an application and it does appear to be the case here that the neighbours do not object.
 6. The National Planning Policy Framework states at paragraph 56 that the Government attaches great importance to the design of the built environment; good design is a key aspect of sustainable development, is indivisible from
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good planning, and should contribute positively to making places better for people.

7. The appeal property is at the end of a terrace of similar properties, separated from the next terrace to the south by a narrow pedestrian access-way. The arrangement of the houses is that they have a common rear building line at first floor level and approximately half-width projections at ground floor only, and these are handed as pairs with a neighbour, leaving a full width gap between, with, in the case of the appeal property and number 30, a wall between. This gap allows light to reach the side window of each projection and for the outlook to be over the wall of open space past the end of the neighbouring projection.
8. The appeal proposal would add height to the built form nearest the rear yard area of number 30 and opposite the side window to that property. This risks introducing an oppressive outlook from the window, reducing the feeling of light and air in the yard area, and would result in the type of harm that the policies and Supplementary Planning Guidance seek to avoid. A 3m extension as put forward in the Guidance would, in this case, not have such a harmful effect, leaving space at the far end.
9. The appellant compares the 3m requirement with what could be permitted development in any event and queries whether any application would be made for such an extension. However, there are reasons why applications are made for express permission, perhaps where permitted development rights have been removed or already used. Whilst neither of these possibilities applies here, an application for express permission has been made and that stands to be determined in accordance with policy, and with adopted guidance as a material consideration. The existence of a relaxed regime for larger rear extensions would have been an option, but that has not been taken up in this case either.
10. It does appear to be the case that the present occupier of number 30 does not object, and that may well be the deciding factor in a prior approval application, but in this application for express permission the Development Plan has primacy, and the lack of objection from a present neighbour is not a determinative matter where the aims of both local and national policy and guidance are good design that makes places better for people.
11. Finally, it does appear to be the case that some other houses in the terraces along Holmside Avenue have similar extensions to that now proposed, although the circumstances and policy background to those are not known. Where placed to the north of the neighbour, the material considerations may well be different, and where both half-widths have been filled there would be no harm either. Nevertheless, this appeal falls to be considered on its merits and in line with current policy and guidance which is clear. There are no other material considerations of sufficient weight to indicate a decision other than to dismiss the appeal.

S J Papworth

INSPECTOR



Costs Decision

Site visit made on 4 January 2016

by **S J Papworth DipArch(Glos) RIBA**

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

Decision date: **13 January 2016**

**Costs application in relation to Appeal Ref: APP/V2255/D/15/3135197
32 Holmside Avenue, Halfway, Kent ME12 3EX**

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr & Mrs Dewey for a full award of costs against Swale Borough Council.
 - The appeal was against the refusal of planning permission for rear kitchen extension.
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Decision

1. I refuse the application for an award of costs.

Reasons

2. The Planning Practice Guidance advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. The appeal stems from the Council's refusal of an application for express planning permission. The application was made on a Swale Borough Council form entitled "*Householder Application for Planning Permission for works or extension to a dwelling. Town and Country Planning Act 1990*" and described the development as being "*proposed rear kitchen extension*".
4. There would have been other routes open to the appellant to provide for the accommodation sought. One of these would have been the permitted development regime under the Town & Country Planning (General Permitted Development) Order 1995 (as amended) as it was at the time of the application, but superseded by the Town & Country Planning (General Permitted Development) (England) Order 2015, by the time of the Council's Decision. Part A provides for a particular size of extension to be permitted and the options here would have been to build a shorter extension on the view that it complied, or seek agreement on compliance, perhaps by way of a Certificate of Lawful Development.
5. Part A also provides for larger extensions, in which case a 'prior approval' regime is in place until 2019 whereby the local planning authority must notify each adjoining owner or occupier about the proposed development by serving on them a notice, and where any owner or occupier of any adjoining premises objects to the proposed development, the prior approval of the local planning authority is required as to the impact of the proposed development on the amenity of any adjoining premises.

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6. It is not however for the Council to decide the route, or to change the process, but to react to the process chosen by the applicant. There may well be reasons why a particular applicant seeks express consent, as has been sought here, rather than proceed through the permitted development regime.
7. The evidence from the Council is that the correct process was followed for a householder application for planning permission, a process that must, unlike the permitted development or prior approval regime, take account of the Development Plan and any Supplementary Planning Document or Guidance. This is because section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that if regard is to be had to the Development Plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise.
8. The Council appear to have given the applicant opportunity to change the proposal or route chosen, advising as to whether the proposal was permitted development in any event, and mentioned refund of a fee. However, it is for an applicant to choose a route to be able to develop land as sought, and in this case the route chosen was that of seeking express planning permission and it is this process that has resulted in the appeal. There is no evidence that the Council's actions were unreasonable in the circumstances of the application and hence the need for an appeal.
9. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

S J Papworth

INSPECTOR



The Planning Inspectorate

Appeal Decision

Site visit made on 12 January 2016

by **M C J Nunn BA BPL LLB LLM BCL MRTPI**

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

Decision date: 20th January 2016

Appeal Ref: APP/V2255/W/15/3135819

**The Laurels, New Orchard Farm, Upper Rodmersham, Sittingbourne, Kent
ME9 0QL**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
- The appeal is made by Mr & Mrs John McGrath against Swale Borough Council.
- The application Ref: 15/505995/FULL, is dated 30 July 2015.
- The development is described as: "division of existing dwelling into two dwellings".

Decision

1. The appeal is allowed and planning permission granted for the division of the existing dwelling into two dwellings at The Laurels, New Orchard Farm, Upper Rodmersham, Sittingbourne, Kent, ME9 0QL, in accordance with the terms of the application, Ref: 15/505995/FULL, dated 30 July 2015, subject to the conditions at Annex A.

Preliminary Matters

2. The Council failed to give notice of its decision within the prescribed period. The Council's Statement of Case explains why it considers the development to be unacceptable and I have proceeded on this basis. An application for costs has been made by the appellants against Swale Borough Council. This is subject of a separate decision.

Background and Main Issues

3. The appeal building was originally constructed as stables, but before their completion, the owners sought permission for use as four holiday cottages. This was approved by the Council in 2001. Most recently in August 2014, a certificate of lawfulness was granted for the use of the building as a single dwellinghouse on the basis it had been used as such for over 10 years. The certificate related to the building itself, and not the surrounding land. This current proposal seeks to divide the dwelling into two smaller separate dwellings.
4. I consider the main issues are: (i) the effect of the proposal on the character and appearance of the area; and (ii) whether the scheme would comply with policies aimed at protecting the countryside.

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Reasons

Character and Appearance

5. The appeal building is a detached timber-clad structure with a 'U'-shaped footprint. It has a hipped pitched tiled roof with rooflights. Although the building has the appearance of a single storey structure, accommodation is provided over two levels, the upper level within the roof space. It is set well back from the road and reached via a long drive. Immediately to the west is the complex of buildings comprising New Orchard Farm. There are also other residential properties nearby to the west. The site falls outside the built-up area boundary in the adopted Swale Borough Local Plan ('the Local Plan') and is within the countryside.
6. The scheme involves removing a small central section of the existing building to create two individual detached buildings. The newly exposed side elevations would be weather-boarded to blend with the existing building. The new roof ends would be designed with small 'half hips'. The scheme would not increase the footprint or volume of the building. Rather, the removal of the central section means there would be a marginal reduction. No other changes are proposed to the external elevations. The existing dwelling's simple design, using a traditional palette of materials, currently appears unobtrusive. I consider that its division into two smaller separate dwellings would have a negligible impact on the character and appearance of the area.
7. Two additional weather-boarded garages are proposed to serve each dwelling. These would be easily accommodated on this site without appearing cramped. They would be perceived as part of a wider enclave of built development in the locality, and not as isolated or exposed buildings within the open countryside. I consider their prominence in the wider landscape would be very limited. I am satisfied that the two garages would be adequately assimilated in this area without harming its character or appearing incongruous.
8. I note that the Council states that the certificate of lawfulness for residential use only related to the building itself, and not the surrounding area. The Council is concerned that allowing this scheme would result in the creation of new curtilages with associated domestic paraphernalia. However, at my site visit, I observed there is currently an established landscaped garden area which serves the existing dwelling. There are also associated areas of lawn, as well as hardstandings for vehicle parking. I do not consider that the effect of the proposed subdivision of these areas on the landscape to be significantly different from the existing situation, nor to result in an unacceptable impact.
9. Overall, I conclude on the first issue that the proposal would not harm the character and appearance of the area. It would comply with Policy E1 of the Local Plan which requires development proposals to respond positively by reflecting the positive characteristics and features of the site and locality; to protect and enhance the natural and built environments; and to be well sited and of a scale, design and appearance that is appropriate to the location.

Countryside Protection

10. The Council has raised various objections on the basis that the site is outside the built-up area boundary and within the countryside where restrictive policies

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apply, and that the proposal is not justified by any exemptions. In particular, it is argued that the proposal is not necessary for agriculture, forestry or mineral extraction, and therefore contrary to Policy E6 of the Local Plan. It is also said that the scheme would not meet a rural housing need, specifically an identified local affordable housing need, and fails to meet the criteria of Policy RC3. It is also argued that the development is not associated with providing accommodation for gypsies and travelling showpersons, and would therefore fail to accord with Policy H4.

11. In my judgement, these objections are not well founded. I appreciate that the building lies outside the built-up boundary where restrictive countryside policies apply. However, the existing building already has an established lawful residential use, and therefore the principle of such a use in this location cannot be in doubt. The question, it seems to me, is whether the sub-division of the building into two smaller residential units would be harmful. For the reasons explained above, I do not consider that it would. Moreover, and very importantly, at the heart of the National Planning Policy Framework ('the Framework') is now a requirement to deliver a wide choice of quality homes, and to boost significantly the supply of housing. The Framework is clear that housing applications should be considered in the context of the presumption in favour of sustainable development. In this case, the proposal would result in an additional residential unit which accords with the aims of the Framework.
12. The Council has also raised objections in respect of Policy RC7 relating to rural lanes, on the basis that the additional traffic arising from the scheme would harm the character of this rural lane. However, no physical alterations are proposed to the road and any additional traffic arising would not be significant. I am satisfied that the existing character of this local rural lane would be unaffected by the scheme.
13. To sum up, I accept that the site is in a countryside location, outside the built-up boundary. However, the residential use of the building is already established, and I see no reason why its division into two smaller residential units would be harmful. Weighing all these matters in the balance, I do not consider the Council's various concerns to be valid reasons for the appeal to fail.

Conditions

14. I have reviewed the suggested conditions in the light of the Planning Practice Guidance (PPG). A commencement condition is necessary to comply with the relevant legislation. A condition requiring compliance with the submitted plans is necessary for the avoidance of doubt. Conditions relating to external materials, and hard and soft landscaping are necessary to preserve the character of the area. A condition restricting permitted development is also necessary for similar reasons. Where necessary, I have reworded the suggested conditions for succinctness, to avoid duplication and to accord with the PPG. For the reasons explained above, I conclude that the appeal should be allowed.

Matthew C J Nunn

INSPECTOR

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Annex A: Schedule of 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: Site Location Plan, 481-01 A, 481-02 A, 481-03 A, 481-04, 481-05, 473-06.
- 3) The materials to be used in the construction of the external surfaces of the development, including the alterations to the existing building and the new garages, shall match those used in the existing building in terms of type, colour and texture.
- 4) No development shall take place until there has been submitted to and approved in writing by the local planning authority a scheme of landscaping, which shall include details of hard and soft landscaping, as well as boundary treatments. The approved landscaping works shall be carried out before the subdivided residential units are first occupied, or in accordance with a programme agreed by the local planning authority; and any trees or plants which within a period of 5 years from the date of planting die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless the local planning authority gives written approval to any variation.
- 5) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), there shall be no enlargement, improvement or other alteration to either of the dwellings hereby permitted, or provision of buildings, structures or enclosures within their curtilages, apart from those authorised by this permission.



Appeal Decision

Site visit made on 12 January 2016

by **Andrew Steen BA(Hons) DipTP MRTPI**

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

Decision date: **21 January 2016**

Appeal Ref: APP/V2255/D/15/3139164
13 Briton Road, Faversham, Kent ME13 8QH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 as amended against a refusal to grant planning permission.
 - The appeal is made by Mrs G Pinder against the decision of Swale Borough Council.
 - The application Ref 15/506443/FULL, dated 23 July 2015, was refused by notice dated 5 October 2015.
 - The development proposed is replacement of 5 box sash windows with heritage range of timber box sash windows to match existing.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue in this appeal is whether the proposed windows would preserve or enhance the character and appearance of the Faversham Conservation Area.

Reasons

3. Briton Road is located within the Faversham Conservation Area and is one of a series of roads that comprise long rows of terraced housing dating from the late 19th century. These houses are of similar appearance and originally had timber sash windows similar to those that remain on the application property. Windows have been replaced on a number of houses in a variety of materials, although a significant proportion retain their traditional timber sash windows and contribute to the character and appearance of the conservation area.
 4. The Council has issued an Article 4(2) Direction that has not been provided, but I understand this restricts installation of replacement windows without first obtaining planning permission.
 5. I have been provided with a previous appeal decision on this property to replace the windows with uPVC double glazing. This was dismissed as that Inspector considered that those windows would not preserve or enhance the character or appearance of the Faversham Conservation Area.
 6. The proposal before me is for timber replacement windows, whose design aims to replicate that of the existing windows in the property whilst providing the benefits of modern double glazed units, specifically designed for use in listed buildings and conservation areas. Whilst the design is similar to that of the existing units, there would be small changes comprising the detailed size and
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profile of the respective components and the use of stuck on glazing beads rather than glazing bars and putty. In addition, the proposed glazing bar profile to be used is not clear from the information provided. As such, there would be a change to the character and appearance of the property that would not preserve or enhance the character and appearance of the conservation area. I accept that the replacement of sash weights with spring balances is unlikely to be visible, so that element would preserve the character or appearance of the conservation area.

7. My attention has been drawn to other windows in the locality that have been replaced in the past, most of which the Council have suggested pre-dated the Article 4(2) direction. The Council have granted planning permission for a number of timber double glazed units, similar to those proposed, but it would appear that these replaced previous poor quality windows that, based on the evidence before me, enhanced the character or appearance of the conservation area compared to the existing situation. Consequently, this does not outweigh the harm I have found. My attention was drawn to the replacement windows at 33 Norman Road, where the Council state that those so closely resembled the original windows that they did not require planning permission.
8. The harm to the conservation area is less than substantial given that the proposed windows are similar to the original windows. The appellant refers to the poor condition of the existing windows, the cost of repair and the benefits from the proposed windows in making the home warmer, more comfortable, more secure, less noisy and less expensive to run. However, there is limited information about the condition and costs and some of these benefits have not been quantified. The public benefits are not sufficient to outweigh the harm that I have found.
9. For the above reasons, I conclude that the proposed windows would fail to preserve or enhance the character or appearance of the Faversham Conservation Area. As such, the proposal would be contrary to Policies E1, E15 and E19 of the Swale Borough Local Plan (LP) that seek to promote and reinforce local distinctiveness, strengthen the sense of place and preserve or enhance features that contribute positively to the area's special character and appearance, in particular paying special attention to the use of detail in development.

Conclusion

10. For the above reasons and taking into account all other matters raised, I conclude that the appeal should be dismissed.

Andrew Steen

INSPECTOR