

AGENDA

PLANNING COMMITTEE MEETING

Date: Thursday, 10 March 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

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

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

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

The Chairman will inform the meeting that:

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

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

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

3. Minutes

To approve the Minutes of the Meeting held on 11 February 2016 (Minute Nos. 492 - 498) 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 29 February 2016 (Minute Nos. 536 - 537).

15/503342/FULL – 16 Stiles Close, Minster-on-Sea, Kent, ME12 2TQ

6. Deferred Items

1 - 63

To consider the following applications:

15/503580/FULL – Land North of Homestall Road, Doddington, Kent, ME9 0LB

15/508025/REM – Former HBC Engineering Site Power Station Road, Minster-on-Sea, Kent, ME12 3AB

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

Requests to speak on these items must be registered with Democratic Services (democraticservices@swale.gov.uk or call us on 01795 417328) by noon on Wednesday 9 March 2016.

7. Report of the Head of Planning

64 - 275

To consider the attached report (Parts 1, 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 9 March 2016.

8. Exclusion of Press and Public

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

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

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

9. Report of the Head of Planning

276 -
278

To consider the attached report (Part 6).

Issued on Wednesday, 2 March 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**

SWALE BOROUGH COUNCIL

PLANNING SERVICES

Planning Items to be submitted to the Planning Committee

10 March 2016

Standard Index to Contents

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

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

PART 2 Applications for which permission is recommended

PART 3 Applications for which refusal is recommended

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

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

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

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

This page is intentionally left blank

INDEX OF ITEMS FOR PLANNING COMMITTEE – 11 MARCH 2016

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

Deferred Items

Def Item 1 Pg 1 – 29	15/503580/FULL	DODDINGTON	Land north of Homestall Road
Def Item 2 Pg 30 – 63	15/508025/REM	MINSTER	Former HBC Engineering Site, Power Station Road
<u>Part 1</u>			
1.1 Pg 64 – 147	14/505440/FULL	SITTINGBOURNE	Spirit of Sittingbourne Regeneration Site
<u>Part 2</u>			
2.1 Pg 148 – 153	15/507023/FULL	BREDGAR	Dukes Shaw, Bexon Lane
2.2 Pg 154 – 162	15/510505/FULL	SITTINGBOURNE	Land north east of Barley House, Great Easthall Way
2.3 Pg 163 – 168	16/501079/FULL	FAVERSHAM	17 Orchard Place
2.4 Pg 169 – 172	16/500288/FULL	DUNKIRK	Aylesbury Cottage, 41A Horselees Rd
2.5 Pg 173 – 182	15/506115/FULL	WARDEN	The Chimes, Beach Approach
2.6 Pg 183 – 194	15/503652/FULL 15/503656/LBC and 15/503659/ADV	FAVERSHAM	5 Market Street
2.7 Pg 195 – 198	15/510564/FULL	IWADE	6 Meadow Rise
2.8 Pg 199 - 217	SW/14/0530	Minster	The Barn Yard, land adj Blackthorne Lodge, Greyhound Road
<u>Part 3</u>			
3.1 Pg 218 – 227	15/509814/FULL	FAVERSHAM	19 South Road
<u>Part 5 - Index</u> Pg 228 – 230			
5.1 Pg 231 – 232		MINSTER	24 Admirals Walk
5.2 Pg 233 – 236		EASTCHURCH	11 Range Road
5.3 Pg 237 – 243		BOBBING	Howt Green Farm, Sheppey Way

5.4 Pg 244 – 246	DUNKIRK	Moth's Field, Denstroude Lane
5.5 Pg 247 – 249	BOBBING	The Ponderosa, 48 Keycol Lane
5.6 Pg 250 – 253	MINSTER	Land at Cedar Lodge, Whybornes Chase
5.7 Pg 254 – 265	THROWLEY	The Old Bindery, Butchers Field
5.8 Pg 266 – 267	UPCHURCH	Greenacres, Holywell Lane
5.9 Pg 268 – 275	OSPRINGE	Land at Vicarage Lane

PLANNING COMMITTEE – 10 MARCH 2016

DEFERRED ITEM

Report of the Head of Planning

DEFERRED ITEMS

Reports shown in previous Minutes as being deferred from that Meeting

DEF ITEM I REFERENCE NO - 15/503580/FULL			
APPLICATION PROPOSAL			
Stationing of one residential caravan, as amended by revised site location plan received 11 June 2015, and by details contained in revised Noise Impact Assessment by Acoustics Plus ref: 103005.ad.Issue 2 dated 18 November 2015 including revised site layout drawing PBA2 REV.A).			
ADDRESS Land North Of Homestall Road Doddington Kent ME9 0LB			
RECOMMENDATION – Refusal - SUBJECT TO: Expiry of public consultation period (closing date 15 March 2016)			
WARD Teynham & Lynsted	PARISH/TOWN COUNCIL Norton And Buckland	APPLICANT Mr Patrick Nolan AGENT Philip Brown Associates	
DECISION DUE DATE 18/12/15	PUBLICITY EXPIRY DATE 15/03/15		
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):			
App No	Proposal	Decision	Date
NK/9/69/99/9795	Stationing of caravan	Approved by KCC on a personal basis until 31/8/1969	29/9/1968
NK/9/68/99A/9795	Renewal of temporary permission for one further year	Refused on rural policy grounds	28/1/1970
Enforcement Notice served 3/4/1970	Stationing of residential caravan	Appeal allowed on technical grounds	10/11/1970
NK/9/69/99B/9795	Renewal of permission	Granted for three years	8/5/1972
SW/75/388	Renewal of permission	Granted on personal basis for three years	20/6/1975
SW/78/415	Renewal of permission	Granted on personal basis for three years	31/5/1978
SW/81/623	Renewal of permission	Granted on personal basis for three years	11/6/1981
SW/84/605	Renewal of permission	Granted on personal basis for three years	30/8/1984

SW/87/1677	Renewal of permission	Granted on lifetime personal basis	10/2/1988
------------	-----------------------	------------------------------------	-----------

1.0 DESCRIPTION OF SITE

- 1.01 This application relates to a small triangular site measuring 0.15ha alongside the southern boundary of the M2 motorway between Sittingbourne and Faversham. The site thus lies just within the Kent Downs Area of Outstanding Natural Beauty but well away from any local services or amenities.
- 1.02 The longest, northern, boundary of the site is with the M2 (approximately 100m) with other boundaries to deciduous woodland, one area of which includes a large highway drainage pond. Access to the site is via a narrow but well constructed short spur road off Homestall Road, at the point where the road itself has been re-built to pass under the motorway, and where it is unusually wide.
- 1.03 The site was comprehensively cleared of all above ground structures, vegetation or signs of previous occupation by the current applicant in late 2014, and some hardcore was laid over part of the site. This laying of hardcore triggered the service of a Temporary Stop Notice in October 2014 since when no further work has taken place. The site now appears as a largely flat, barren, empty piece of land with only a variety of drain covers, cesspit holes and a water tap visible. The site is thus unoccupied and the application is not retrospective.
- 1.04 The site lies at a level below that of the motorway at a point where the motorway is climbing steeply westwards out of the Newnham Valley. However, the site is not prominent from the motorway and can only be seen when travelling westwards as a fleeting glance due to intervening vegetation. Due to the woodland on other sides, the site is not prominent from Homestall Road either, although the spur road provides a clue to the fact that access is provided to some unseen premises.
- 1.05 The remnants of occupation still visible on site stem from its peculiar planning history which is itemised above. Essentially this relates to occupation of the site by a man who appears to have lived generally in caravans, was described in 1970 as somewhat nomadic, and who had been employed by the Forestry Commission, then by the District Council as a refuse collector until 1967, and then by the County Council in a highway related capacity. He also dealt in scrap metal in a small way. It also appears that the man had previously been involved in the construction of the motorway and, in or around 1962, he stationed a caravan on this left over patch of land during motorway construction. He managed to acquire the land from the Ministry of Transport in 1969.
- 1.06 When occupation of the site came to light, the County Council granted temporary personal planning permission in 1968 for stationing of a caravan on the site to allow time for the occupant to find another site. This permission included a planning condition specifically requiring the use to cease and the site to be cleared by 31 August 1969. When the site was not cleared, the County Council took enforcement action in 1970. An appeal was lodged and the Inspector recommended that, however well screened the site was “the stationing of a residential caravan on the appeal site comparatively isolated from existing development and from health and other necessary services is undesirable”. The Minister of Housing and Local Government determining the appeal considered evidence on how long the caravan had been stationed there and concluded that, having stationing the caravan on the site in 1962 the site has already acquired existing use rights, and that planning permission was

not in fact required by virtue of immunity from enforcement action. However, because at that time a site licence required a grant of planning permission, the 1968 planning application had been necessary. He ruled that although KCC had been entitled to impose planning conditions, it had been wrong for KCC to impose a condition requiring the existing immune use to cease in 1969, as that took away existing use rights; and that that planning permission had been invalid.

- 1.07 Notwithstanding acceptance of the Inspector's conclusions on planning merits, a new temporary planning permission was granted by the Minister in 1970, running until 30 April 1971. According to the above arguments, the temporary permission did not then require cessation of the use, it merely authorised it for a temporary period sufficient to allow a site licence to be granted
- 1.08 Following this decision, and in explicit recognition of the existing use rights of the land and of the occupant's personal circumstances, a series of subsequent decisions by the former District Council, and then by this Council, allowed that individual to continue to stay on the site in recognition of his personal circumstances. Importantly, these permissions did not require cessation of the use at the end of the periods involved. By 1988, the site had become known locally as the site where the hermit lived, as the occupant was very quiet and solitary after the death of his wife, and few knew that the site was occupied. In 1988 the Council finally granted a lifetime personal permission on compassionate grounds, but with a condition requiring the site to be cleared and the use to cease when the original occupant no longer lived there. A full review of the site history for this application now suggests that this restriction appears to have been an error, but one that has never so far been challenged.
- 1.09 The site was at that time partly wooded and occupied by the occupant's caravan and a series of small shed type buildings that he had erected over time. The individual concerned eventually left the site, I understand initially to be cared for in a nursing home, before dying a few years ago. The current site owners and applicant are not related to the original occupant but the site is now owned by the applicant's grandmother, and after a false start the correct application papers have now been served on her by the applicant.
- 1.11 Members will recall that this application was extensively debated at the meetings on 5 November 2015 and 14 January 2016. After a long debate at the 5 November meeting involving votes both to approve and to refuse the application, both of which were lost, the Committee resolved:

"That application 15/503580/FULL be deferred to allow officers to liaise with the applicants about the suitability of the proposed bunding and acoustic fencing and on whether the number of caravans proposed could be lowered. "

- 1.12 After that meeting, I discussed Members' concerns with the applicant and sought further information regarding the proposal. The application was formally amended to just one caravan, and more details of the specification for acoustic fencing to address noise from the M2 motorway were submitted. Local Parish Councils and residents were notified of the changes to the application. It was on this amended basis that the application was re-presented for Members' consideration in January this year.
- 1.13 By the January meeting the application description read as;

"Stationing of one residential caravan, as amended by revised site location plan received 11 June 2015, and by details contained in revised Noise Impact Assessment

by Acoustics Plus ref: 103005.ad.Issue 2 dated 18 November 2015 including revised site layout drawing PBA2 REV.A)."

- 1.14 At that January meeting my recommendation was informed by further information about the history of the site, including that from the previous owner, and from Council Tax and aerial photograph records. My recommendation was that planning permission should be granted based on my view that the established use of the site had not been abandoned. I recommended that Members noted that this recommendation was based on the continuation of the established use of the site, without reference to supporting evidence of the applicant's personal circumstances or gypsy status. However, I made it clear that these factors could still be important in the situation where a refusal of planning permission was being contemplated. Accordingly, whilst I saw no need to dwell on those matters in recommending approval of the application for reasons relating to the established use of the site. I said that if Members were of a mind to refuse planning permission based on those factors it will still be necessary to consider whether the applicant has gypsy status or other personal circumstances, and to what degree these might override other material considerations sufficient to indicate that a permanent or temporary planning permission should be granted. I said that it would also be necessary to consider whether the grant planning permission without the proposed acoustic fence.
- 1.15 Accordingly, in the event that Members did not accept my then recommendation, I recommended that the application be deferred to enable me to report the application back to Members for a decision to be made in the light of these other issues. Members voted not to accept the recommendation to approve the application, and consideration of the application was deferred so that gypsy status and personal considerations could be considered. I then sought further information for the agent so that the Council had a full picture of the issues involved when determining the application. This information is reported below.

2.0 PROPOSAL

- 2.01 This application has been amended or added to since its submission as follows.
- Firstly, the correct ownership certificate has been served on the applicant's grandmother
 - Secondly, it has been confirmed that neither the applicant nor his grandmother own the small piece of woodland adjacent to the site, as originally shown edged blue on the site location plan. A new site location plan has been submitted
 - Thirdly, the proposal to erect a permanent amenity building measuring 7m x 5m built of brick, tile and uPVC windows has been deleted from the application
 - Fourthly, a Noise Impact Assessment report has been submitted (and amended)
 - Fifthly, a quotation for noise reduction fencing has been submitted
 - Sixthly, details of the applicant's and his grandmother's personal and health circumstances have been submitted.
 - The application has been amended to propose just one caravan, and the erection of a 4m high acoustic fence alongside the motorway.
 - Further details of the applicant's gypsy status and personal circumstances have also since been received
- 2.02 The application as initially submitted is supported by a number of documents from which I draw the following information;

- No alteration to access are proposed
- Drainage will be provided by an on-site treatment plant
- Parking for 2 cars and one light goods vehicle will be provided
- New planting is envisaged
- There remains a need for 35 gypsy or traveller pitches in Swale
- The site would not individually or cumulatively be of a scale out of keeping with Painters Forstal
- No business use is proposed
- The site is not at risk from flooding
- Whilst the site is within the AONB it is of a small scale and set against the motorway which itself is not sympathetic to the AONB
- The site has been used as a caravan site for many years, and occupied until at least 2007
- The site would be occupied by the applicant, his wife and infant son, and by his grandmother
- The proposed site occupants currently have no lawful site to stay on, but have received numerous notices requiring them to move on. Two example notices have been provided to me
- The applicant works by building, landscaping and by distributing leaflets door to door and moves from one place to another.
- The applicant and his wife have never had a settled base. They now have a one year old child who has missed some inoculations due to moving around, and is unable to register with a GP
- The applicant's grandmother has significant health issues and was recently in hospital. She depends on the applicant and is in need of a settled base where she can have access to appropriate healthcare and facilities for bathing and washing clothes. Living on the roadside is compounding her health problems

2.03 New material in support of this application was contained in an updated Noise Impact Assessment report which includes the revised site layout drawing. From this report I draw the following key points;

- Only one caravan (mobile home) is now proposed, rather than three caravans as previously proposed
- The site will be levelled to approximately 2.5m below the level of the motorway and a 4m high acoustic fence installed
- It is NOT now proposed that the site will be lowered and the fence erected upon an earth bund
- The acoustic fencing will only be on the motorway side of the site and will return into the site at either end to form noise "wings" to prevent a line of sight to traffic on the motorway
- Planting will be carried out around the site boundaries and beyond the fence's "wings"
- The fabric of the caravan to be installed should be capable of noise reduction of 35dB (according to the relevant British Standard for Park Homes) but suitably insulated glazing/ventilators will also be required to ensure that this level of noise reduction is achieved
- The caravan likely to meet these noise reduction levels will be an attractive mobile home style caravan with a pitched roof, a high standard of appearance and sufficient insulation to be suitable for all year round occupation.

- Such caravans are commonly known as chalets or park homes but they are caravans (or mobile homes) in planning law terms i.e. they are transported in not more than two halves and meet the dimensions of the caravan regulations
- 2.04 In its current form the application proposes the stationing of one caravan on this remote rural site beside the M2. This caravan would be specified as insulated against external noise. The application also proposes hardsurfacing of the site, the erection of a 4m high acoustic fence, and landscape planting around the site boundaries.
- 2.05 The latest information about the gypsy status and personal circumstances of the applicant and his family is;
- The applicant's grandmother is dependent upon him and his wife for help and support
 - The applicant and his wife have a son who is 18 months old
 - The appellant's grandmother is over 70 years of age and has numerous medical issues dating back to 2002, is not able to eat properly, and was recently in hospital
 - The applicant and his wife, and his grandmother, are Irish Travellers by descent
 - They have travelled all their lives and do not intend to give up their travelling lifestyle. However, they wish to have as settled base to return to with adequate facilities and access to health care
 - The applicant makes his living from gardening work and has to move from area to area to find work, normally in Kent, around Faversham, Canterbury and Maidstone
 - The applicant and his dependants currently live in two caravans stationed in a lay-by near to Faversham but they move every few days, from one roadside location to another; Previously they lived in Tesco's car park and on an industrial estate
 - They cannot register with a GP without a settled site
 - They survive by having a generator for electricity and by collecting water from the nearest garage
- 2.06 The public consultation on the latest gypsy status information extends until 15 March and any decision on the application should await the expiry of this period.

3.0 PLANNING CONSTRAINTS

Area of Outstanding Natural Beauty KENT DOWNS

Area of Outstanding Natural Beauty Maidstone AONB directive

MOD Thurnham MOD Safeguarding Directive Thurnham

MOD Thurnham MOD Safeguarding Directive Thurnham

Thurnham Exclusion Zone Thurnham, Kent

Thurnham Exclusion Zone Thurnham, Kent

Thurnham Wind Station Thurnham WIND SAFEGUARDING

4.0 POLICY AND OTHER CONSIDERATIONS

National Planning Policy Framework (NPPF) and Planning Policy for Traveller Sites (PPTS) (Re-issued)

4.01 The national policy position comprises the National Planning Policy Framework (NPPF) and Planning Policy for Traveller Sites (PPTS). Both documents were released in 2012 but the PPTS was re-issued in August 2015 with amendments. Together they provide national guidance for Local Planning Authorities on plan making and determining planning applications for Gypsy and Traveller sites. A presumption in favour of sustainable development runs throughout both documents and this presumption is an important part of both the plan-making process and in determining planning applications. In addition there is a requirement in both documents that makes clear that Councils should set pitch targets which address the likely need for pitches over the plan period and maintain a rolling five year supply of sites which are in suitable locations and available immediately.

4.02 Whilst regard has been paid to all of the guidance as set out within the NPPF, consider that the following extracts from paragraph 7 are particularly pertinent:

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

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

4.03 In relation to rural housing the NPPF (at paragraph 55) states;

- To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. For example, where there are groups of smaller settlements, development in one village may support services in a village nearby. Local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances such as:
 - the essential need for a rural worker to live permanently at or near their place of work in the countryside; or
 - where such development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets; or
 - where the development would re-use redundant or disused buildings and lead to an enhancement to the immediate setting; or
 - the exceptional quality or innovative nature of the design of the dwelling. Such a design should:

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

4.04 In relation to conserving and enhancing the natural environment the NPPF, at paragraph 109, states;

The planning system should contribute to and enhance the natural and local environment by:

- protecting and enhancing valued landscapes, geological conservation interests and soils;
- recognising the wider benefits of ecosystem services;
- minimising impacts on biodiversity and providing net gains in biodiversity where possible, contributing to the Government's commitment to halt the overall decline in biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures;
- preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of soil, air, water or noise pollution or land instability; and
- remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate.

4.05 The NPPF prioritises the safeguarding of AONBs at paragraph 115.

Planning Policy for Traveller Sites (PPTS)

4.06 The PPTS was originally published in March 2012 but it was re-issued in August 2015 with minor changes. Whilst regard has been paid to all of the guidance as set out within the PPTS, its main aims now are:

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

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

- a. that local planning authorities should make their own assessment of need for the purposes of planning*
- b. to ensure that local planning authorities, working collaboratively, develop fair and effective strategies to meet need through the identification of land for sites*
- c. to encourage local planning authorities to plan for sites over a reasonable timescale*
- d. that plan-making and decision-taking should protect Green Belt from inappropriate development*
- e. to promote more private traveller site provision while recognising that there will always be those travellers who cannot provide their own sites*
- f. that plan-making and decision-taking should aim to reduce the number of unauthorised developments and encampments and make enforcement more effective*
- g. for local planning authorities to ensure that their Local Plan includes fair, realistic and inclusive policies*

- h. to increase the number of traveller sites in appropriate locations with planning permission, to address under provision and maintain an appropriate level of supply*
- i. to reduce tensions between settled and traveller communities in plan-making and planning decisions*
- j. to enable provision of suitable accommodation from which travellers can access education, health, welfare and employment infrastructure*
- k. for local planning authorities to have due regard to the protection of local amenity and local environment.” (para 4 PPTS)*

4.07 In terms of plan making the PPTS advice is that;

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

- a) promote peaceful and integrated co-existence between the site and the local community*
- b) promote, in collaboration with commissioners of health services, access to appropriate health services*
- c) ensure that children can attend school on a regular basis*
- d) provide a settled base that reduces the need for long-distance travelling and possible environmental damage caused by unauthorised encampment*
- e) provide for proper consideration of the effect of local environmental quality (such as noise and air quality) on the health and well-being of any travellers that may locate there or on others as a result of new development*
- f) avoid placing undue pressure on local infrastructure and services*
- g) do not locate sites in areas at high risk of flooding, including functional floodplains, given the particular vulnerability of caravans*
- h) reflect the extent to which traditional lifestyles (whereby some travellers live and work from the same location thereby omitting many travel to work journeys) can contribute to sustainability.” (para 13 PPTS)*

4.08 For sites in rural areas and the countryside the PPTS advice is that;

“When assessing the suitability of sites in rural or semi-rural settings, local planning authorities should ensure that the scale of such sites does not dominate the nearest settled community.” (para 14 PPTS)

4.09 In relation to the determination of planning applications the PPTS says that;

“Applications should be assessed and determined in accordance with the presumption in favour of sustainable development and the application of specific policies in the National Planning Policy Framework and this planning policy for traveller sites.” (para 23 PPTS)

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

- a) the existing level of local provision and need for sites*
- b) the availability (or lack) of alternative accommodation for the applicants*
- c) other personal circumstances of the applicant*
- d) that the locally specific criteria used to guide the allocation of sites in plans or which form the policy where there is no identified need for pitches/plots should be used to assess applications that may come forward on unallocated sites*

e) *that they should determine applications for sites from any travellers and not just those with local connections*

“However, as paragraph 16 [relating to Green Belts] makes clear, subject to the best interests of the child, personal circumstances and unmet need are unlikely to clearly outweigh harm to the Green Belt and any other harm so as to establish very special circumstances.” (para 24 PPTS). Members might like to note that the mini paragraph above was added in the 2015 re-issue of PPTS

“Local planning authorities should very strictly limit new traveller site development in open countryside that is away from existing settlements or outside areas allocated in the development plan. Local planning authorities should ensure that sites in rural areas respect the scale of, and do not dominate the nearest settled community, and avoid placing an undue pressure on the local infrastructure.” (para 25 PPTS). Members might like to note that the word “very” was added to this paragraph in the 2015 re-issue of PPTS.

“If a local planning authority cannot demonstrate an up-to-date 5year supply of deliverable sites, this should be a significant material consideration in any subsequent planning decision when considering applications for the grant of temporary permission. The exception to this is where the proposal is on land designated as Green Belt; sites protected under the Birds and Habitats Directives and / or sites designated as Sites of Special Scientific Interest; Local Green Space, an Area of Outstanding Natural Beauty, or within a National Park (or the Broads).” (para 27 PPTS). Members might like to note that the last sentence above was added to this paragraph in the 2015 re-issue of PPTS.

Finally, the definition of gypsies and travellers has been amended in the re-issued PPTS to remove the words “or permanently” from after the word “temporarily” in the following definition;

“Persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family’s or dependants’ educational or health needs or old age have ceased to travel temporarily, but excluding members of an organised group of travelling showpeople or circus people travelling together as as such.”

The implications for this change in definition has clouded the issue with regard to defining need. At this stage, given that the application relates to a single pitch, it is advised that the Council should consider the application in the context of the existing GTAA as set out below.

- 4.10 The Council has responded positively and quickly to the changes in the national policy position in respect of Gypsy and Traveller accommodation. The Local Development Framework Panel quickly supported the commissioning of a new Gypsy and Traveller Accommodation Assessment (GTAA), which was completed in June 2013 and identified a need for 82 pitches to be provided during the plan period (adjusted down from 85 pitches in reflection of those sites granted permanent permission whilst the document was under preparation). This need figure is incorporated within the draft Bearing Fruits Swale Borough Local Plan: Part 1 alongside a policy introducing provision for pitches on certain major development sites. An additional net 47 permanent pitches (some with personal use conditions) have also been approved up to March 2015, reducing the outstanding need to 35 pitches over the Plan period. A further number of pitches enjoy temporary permissions.

- 4.11 Shortly after publication of the GTAA in 2013 the Council began work on Part 2 of the Swale Borough Local Plan which will deal with site allocations for Gypsy and Traveller pitch provision only. This process began with a call for sites between September and December 2013, and the publication of an issues and options paper which was subject to public consultation (this finished on 25th April 2014).

Saved Policies of Swale Borough Local Plan 2008

- 4.12 Policy E1 (General Development Control Criteria) sets out standards applicable to all development, saying that it should be well sited appropriate in scale, design and appearance with a high standard of landscaping, and have safe pedestrian and vehicular access whilst avoiding unacceptable consequences in highway terms.
- 4.13 This site lies in an isolated position within the countryside where policy E6 (The Countryside) seeks to protect the quality, character and amenity of the countryside, and states that development will not be permitted outside rural settlements in the interests of countryside conservation, unless related to an exceptional need for a rural location.
- 4.14 Within Areas of Outstanding Natural Beauty policy E9 (Protecting the Quality and Character of the Borough's Landscape) gives priority to the long term protection and enhancement of the quality of the landscape, whilst having regard to the economic and social well being of their communities. Policy E9 seeks to protect the quality, character and amenity value of the wider landscape of the Borough. Within the countryside it expects development to be informed by local landscape character and quality, consider guidelines in the Council's landscape character and assessment, safeguard distinctive landscape elements, remove detracting features and minimise adverse impacts on landscape character. Protection of AONBs is a high priority in the NPPF and they are now afforded recognition in the PPTS, see below.
- 4.15 Policy E19 (Achieving High Quality Design and Distinctiveness) requires development proposals to be well designed.
- 4.16 Policy RC7 (Rural Lanes) seeks to protect the physical features and character of rural lanes, of which Homestall Road is one.
- 4.17 Policy H4 explains the Borough Council will only grant planning permission for the use of land for the stationing of homes for persons who can clearly demonstrate that they are gypsies or travelling showpersons with a genuine connection with the locality of the proposed site, in accordance with 1 and 2 below.
1. For proposals involving the establishment of public or privately owned residential gypsy or travelling showpersons sites:
 - a) there will be a proven need in the Borough for the site and for the size proposed;
 - b) the site will be located close to local services and facilities;
 - c) there will be no more than four caravans;
 - d) the site will be located close to the primary or secondary road networks
 - e) in the case of a greenfield site there is no suitable site available on previously developed land in the locality;
 - f) the site is not designated for its wildlife, historic or landscape importance;
 - g) the site should be served, or capable of being served, by mains water supply and a satisfactory means of sewage disposal and refuse collection;
 - h) there is no conflict with pedestrian or highway safety;
 - i) screening and landscaping will be provided to minimise adverse impacts;

- j) no industrial, retail, commercial, or storage activities will take place on the site.
- k) use of the site will not give rise to significant adverse impacts upon residential amenity, or agricultural or commercial use, of surrounding areas; and
- l) the land will not be in a designated flood risk area.

2. Additionally to 1, for proposals for short term stopping places:

- m) there will be a planning condition to ensure that the length of stay for each caravan will be no longer than 28 days with no return to the site within 3 months.”

4.18 This policy was criticised by the Local Plan Inspector who saw it, as a criteria based rather than site allocations policy, as inconsistent with the then Circular 01/2006 - which itself has since been superseded by PPTS and its emphasis of a five year supply of sites - and the policy can only be of limited significance to this application.

Swale Landscape Character and Biodiversity Appraisal SPD 2011

4.19 This site is within the Doddington and Newnham Dry Valleys landscape character areas as defined in the March 2011 Swale Landscape Character and Biodiversity Appraisal, areas which are seen as of high and moderate sensitivity respectively and in good condition.

Bearing Fruits 2031: 2014 Publication version of the Swale Borough Local Plan: Part 1

- 4.20 The Council's Publication version of the draft Local Plan, entitled *Bearing Fruits 2031*, was published in December 2014 and is shortly due for examination.
- 4.21 Policy CP 3 of the draft Local Plan aims to provide pitches for gypsies and travellers as part of new residential developments. Policy DM10 sets out criteria for assessing windfall gypsy site applications

Site Assessment

- 4.22 The Council's February 2014 Gypsy and Traveller Site Allocations: Issues and Options consultations document recommends a new methodology for how to assess site suitability for determining whether or not to allocate a site. Although this was primarily intended to rank potential site allocations, it was agreed by Members of the LDF Panel in June 2014 to be used as a material consideration in planning applications. Even though this is normally done in relation to the potential suitability of a fresh site I have considered this in formulating this recommendation to be sure that the recommendation is up-to-date. This assessment is a Red/Amber/Green staged approach to site suitability, with any site scoring Red in any stage not being progressed to the next stage.
- 4.23 The assessment starts with Stage 1: Availability. The site owner is in occupation of the site. Here the site scores green. This means that the site should proceed to Stage 2.
- 4.24 Stage 2: Suitability/Constraints. The site is not in a flood risk zone (assessment green); it is in an AONB but is very well concealed, hard by the M2 embankment and landscaping is possible (amber); it has very limited landscape impact (amber); it has no unacceptable impact on biodiversity (green); no dominating effect on settlements (green); no adverse impacts on heritage/archaeology (green); is not known to be contaminated (green); will not be subject to unacceptable noise or disturbance if

properly planned (amber); has adequate access (green); but is remote and not within walking distance to any significant facilities (red). The red score means that the site should not proceed to Stage 3 and will not be a candidate site for a future allocations policy. It is not a site considered to be suitable for allocation as a permanent site. I have attached the site assessment scoring sheet as an appendix to this item.

- 4.25 The proposed timetable for Part 2 of the new Local Plan included production and consultation upon a preferred options document in Summer 2014 (now completed). The adoption of Part 2 of the Local Plan is currently dependent upon the successful adoption of Part 1 of the Local Plan. Should the Local Plan Inspector find problems with Part 1 of the Local Plan, Officers are likely to suggest that all pitch provision matters be deferred to Part 2 to enable Part 2 of the Local Plan to progress independently of Part 1.

Five year supply position

- 4.26 The PPTS has since 2012 introduced a need for Council's to maintain a rolling five year supply of sites which are in suitable locations and available immediately. This is a relatively new requirement for Council's and the Council could only start attempting to meet this requirement following the commissioning and publication of the GTAA which provided the need figure and a base date. As such, the Council put measures into place to deal with the PPTS requirements very quickly, but have only recently started down the route of trying to maintain a rolling five year supply.
- 4.27 The GTAA sets out a target of 85 pitches to be provided by the year 2031, with a suggested provision of 35 pitches in the first five years (to 2018). Three pitches were approved during the course of the GTAA's production so the final target was in fact 82 pitches. Since the publication of the GTAA and up to the end of March 2015 a total of 47 permanent pitches were approved in Swale almost exclusively without an appeal, of which 33 pitches had been implemented. Evidence presented to the recent Local Plan examination shows that at the end of March 2015 the need for pitches identified from the GTAA thus stood at 82 pitches minus the 33 permanent pitches approved and implemented, including the personal permissions granted in the interim. This reduced the need to 49 pitches which, at an annualised rate of 4.6 pitches per year (23 pitches over five years) indicated that the Council has already provided a surplus of supply of 0.8 pitches over the full five year requirement. This is calculated by taking the two year annualised requirement of 9.2 pitches from the completions so far to show a current surplus of 23.8 implemented pitches over the two year requirement and already a surplus of 0.8 approved permanent pitches over the five year need after just two years. In addition to this there are a further 13 approved but unimplemented permanent pitches as at the end of March 2015, an overall surplus of 14 pitches. These mostly comprise extensions to, or more intensive use of, existing sites and are awaiting occupation. Since then six more wholly new permanent sites have been approved including two fresh pitches on a large mixed use development site at Faversham. This is a very considerable achievement and indicates the Council's positive attitude to such development in the right location.

The latest position of site provision

- 4.28 Evidence to the recent Local Plan examination was that the Council has re-interrogated the GTAA data to determine the appropriate level of pitch provision based on the new 2015 PPTS revised definition of gypsies and travellers. The data reveals that for all but unauthorised sites some two-thirds of households surveyed for the GTAA either never travel or travel not more than once a year. Overall, only 31% of respondents travel a few times a year, and 55% never travel, meaning that in Swale

the gypsy and traveller population is quite settled, slightly more so than elsewhere in the country. Many current site occupants no longer meet the new PPTS definition of having a nomadic habit of life

- 4.28 Accordingly, the need for pitches in Swale has been re-evaluated, resulting in a reduced estimate of pitch need of 61 pitches over the Plan period to 2031. Of these over 51 have already been granted permanent planning permission meaning that the outstanding need is less than 10 pitches to 2031. The Council considers that on the basis of past trends this need could easily be met from windfall proposals.
- 4.30 As a result of this analysis, the Council is suggesting through main modifications to its draft Local Plan that the future need be based on a figure of 61 pitches, leaving a need per year of less than one pitch and, that no formal pitch allocations will be needed. Policy DM10 would be revised to deal with these windfall applications and policy CP3 would be removed from the Plan. Accordingly, a Part 2 Local Plan would not be required. We await the Local Plan Inspector's endorsement of its approach.
- 4.31 However, irrespective of the question of the five year supply, the question of whether any approved and unoccupied sites are available to individual appellants is also normally taken in to account by Inspectors. Here, the evidence suggest that they may consider that sites approved as expansions of existing site are not readily available to appellants facing loss of their existing temporary site. This appears to confirm their decisions where the question of availability of alternative sites is crucial to their decision.
- 4.32 To conclude on this subject, it seems that there is no reason to see approved but unimplemented pitches as other than as part of a five year supply. Nor should potential ethnic grouping issues rule them out of consideration where this applies. However, there appears to be a question in Inspector's minds regarding whether such sites should be afforded full weight in relation to the prospects of them being suitable for a particular appellant, and whether they will wish to, or be able to, occupy such a site for reasons of ethnicity, or availability for other than families of the current site owners.
- 4.33 The revised PPTS (2015) has resulted in considerable uncertainty as it changes the planning definition of a traveller and gypsy, and therefore what number of required pitches need to be identified. The Council has addressed this by re-interrogating the GTAA data and presenting a number of options for the way forward to the Inspector at the recent Bearing Fruits Local Plan Examination. At the time of writing the Inspector has yet to confirm which option is appropriate and in the mean time it is considered appropriate to continue to consider applications in the context of the GTAA as originally drafted.
- 4.30 At a more local level the Council is a contributor to the Kent Downs AONB management unit which has recently published its second revision to the Kent Downs AONB Management Plan (2014 – 2019). This included policies SD1, SD2, SD3, SD8 and LLC1 of the Plan, which refer to the need to conserve and enhance the natural beauty of the AONB being the prime purpose of the designation, with new development respecting the area's character, quality and distinctiveness, with development that runs counter to the primary purpose of the AONB, or its distinctive landform, special characteristics or qualities being opposed.
- 4.31 The other significant issue here is the suitability of the site in terms of noise impact. The NPPG gives the following advice;
- When is noise relevant to planning?*
- Noise needs to be considered when new developments may create additional noise and when new developments would be sensitive to the prevailing acoustic*

environment. When preparing local or neighbourhood plans, or taking decisions about new development, there may also be opportunities to consider improvements to the acoustic environment.

How to determine the noise impact?

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

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

In line with the Explanatory Note of the Noise Policy Statement for England, this would include identifying whether the overall effect of the noise exposure (including the impact during the construction phase wherever applicable) is, or would be, above or below the significant observed adverse effect level and the lowest observed adverse effect level for the given situation. As noise is a complex technical issue, it may be appropriate to seek experienced specialist assistance when applying this policy.

Observed Effect Levels

- Significant observed adverse effect level: This is the level of noise exposure above which significant adverse effects on health and quality of life occur.*
- Lowest observed adverse effect level: this is the level of noise exposure above which adverse effects on health and quality of life can be detected.*
- No observed effect level: this is the level of noise exposure below which no effect at all on health or quality of life can be detected.*

How to recognise when noise could be a concern?

- At the lowest extreme, when noise is not noticeable, there is by definition no effect. As the noise exposure increases, it will cross the no observed effect level as it becomes noticeable. However, the noise has no adverse effect so long as the exposure is such that it does not cause any change in behaviour or attitude. The noise can slightly affect the acoustic character of an area but not to the extent there is a perceived change in quality of life. If the noise exposure is at this level no specific measures are required to manage the acoustic environment.*
- As the exposure increases further, it crosses the lowest observed adverse effect level boundary above which the noise starts to cause small changes in behaviour and attitude, for example, having to turn up the volume on the television or needing to speak more loudly to be heard. The noise therefore starts to have an adverse effect and consideration needs to be given to mitigating and minimising those effects (taking account of the economic and social benefits being derived from the activity causing the noise).*
- Increasing noise exposure will at some point cause the significant observed adverse effect level boundary to be crossed. Above this level the noise causes a material change in behaviour such as keeping windows closed for most of the time or avoiding certain activities during periods when the noise is present. If the exposure is above this level the planning process should be used to avoid this effect occurring, by use of appropriate mitigation such as by altering the design and layout. Such*

decisions must be made taking account of the economic and social benefit of the activity causing the noise, but it is undesirable for such exposure to be caused.

- *At the highest extreme, noise exposure would cause extensive and sustained changes in behaviour without an ability to mitigate the effect of noise. The impacts on health and quality of life are such that regardless of the benefits of the activity causing the noise, this situation should be prevented from occurring.*
- *This table summarises the noise exposure hierarchy, based on the likely average response.*

<i>Perception</i>	<i>Examples of Outcomes</i>	<i>Increasing Effect Level</i>	<i>Action</i>
<i>Not noticeable</i>	<i>No Effect</i>	<i>No Observed Effect</i>	<i>No specific measures required</i>
<i>Noticeable and not intrusive</i>	<i>Noise can be heard, but does not cause any change in behaviour or attitude. Can slightly affect the acoustic character of the area but not such that there is a perceived change in the quality of life.</i>	<i>No Observed Adverse Effect</i>	<i>No specific measures required</i>
		<i>Lowest Observed Adverse Effect Level</i>	
<i>Noticeable and intrusive</i>	<i>Noise can be heard and causes small changes in behaviour and/or attitude, e.g. turning up volume of television; speaking more loudly; where there is no alternative ventilation, having to close windows for some of the time because of the noise. Potential for some reported sleep disturbance. Affects the acoustic character of the area such that there is a perceived change in the quality of life.</i>	<i>Observed Adverse Effect</i>	<i>Mitigate and reduce to a minimum</i>
		<i>Significant Observed Adverse Effect Level</i>	
<i>Noticeable and disruptive</i>	<i>The noise causes a material change in behaviour and/or attitude, e.g. avoiding certain activities during periods of intrusion; where there is no alternative ventilation, having to keep windows closed most of the time because of the noise. Potential for sleep disturbance resulting in difficulty in getting to sleep, premature awakening and difficulty in getting back to sleep. Quality of life diminished due to change in acoustic character of the area.</i>	<i>Significant Observed Adverse Effect</i>	<i>Avoid</i>

Noticeable and very disruptive	<i>Extensive and regular changes in behaviour and/or an inability to mitigate effect of noise leading to psychological stress or physiological effects, e.g. regular sleep deprivation/awakening; loss of appetite, significant, medically definable harm, e.g. auditory and non-auditory</i>	Unacceptable Adverse Effect	Prevent
--------------------------------	---	-----------------------------	---------

How can the adverse effects of noise be mitigated?

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

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

For noise sensitive developments mitigation measures can include avoiding noisy locations; designing the development to reduce the impact of noise from the local environment; including noise barriers; and, optimising the sound insulation provided by the building envelope. Care should be taken when considering mitigation to ensure the envisaged measures do not make for an unsatisfactory development (see the guidance on design for more information).

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

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

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

5.0 LOCAL REPRESENTATIONS

- 5.01 Swale Footpaths Group notes that there is no footpath issue but that the site is close to the M2 and ask if the site is suitable for occupation.

5.02 I have received several local representations, seven from individual addresses plus a set of five similar representations sent in together all with the same format. These make the following summarised points;

- The site lies in the Kent Downs AONB which the Council has a duty to protect; caravans do not protect this nature
- The site is high on the side of the valley, and whilst currently screened, the woods are deciduous and the woodland may be subject to coppicing
- The Council has refused permission for stables nearby due to adverse impact on the AONB – this will have more impact
- The applicants have shown complete disregard for the AONB by clearing the site with bulldozers
- Trees have been illegally cleared and badgers may have been disturbed
- The site is not in a sustainable location with no nearby amenities, schools or public transport, and close to other sites that have been found to be unsuitably located
- No proper access, the junction is unsafe
- Would affect views from the footpath
- The site is alongside the M2 and extremely noisy, with a risk of air pollution
- With only a low fence in place, children could get onto the motorway and possibly cause a fatal accident
- Would put other land at risk from urbanisation
- Nearby houses are historic and listed
- No site notice was displayed for the required period (NOTE: A site notice was in fact displayed for the required period close to the site)
- The application is contrary to Government guidance
- The site is not agricultural land, but a woodland with nature conservation significance
- We do not want to have more bad behaviour

5.03 On receipt of the amended Noise Impact Assessment I re-notified local Parish Councils (Norton and Newnham) and local residents about the amendments to the application. I received the following further representations;

- Three jointly sent comments from a number of local residents suggesting that;
 - The water tap on the site is not connected to the mains
 - Foul drainage proposals are unclear
 - The submitted application form, application description, Design and Access Statement, and drawings are ambiguous or inadequate and should be revised
 - That the site is separated from the highway by a 1m wide margin
 - That cross-sectional drawings should be provided
 - The Kent Downs AONB Management Unit should be consulted
 - Parking on site should be the subject of a fresh planning application
 - Documents relating to other matters should be shown on this application file

Members received a lengthy statement covering these points shortly before the previous meeting.

- One letter querying what the reduction in the number of caravans from three to one means for the determination of the application

- A letter arguing that the proposal will be harmful to the AONB and contrary to planning policies, and arguing that the development is not justified and should not be approved. The letter also suggests that the long term use of the site has been abandoned with the caravan removed from the site many years ago
- Two letters suggesting that the writer would have expected to be consulted on the application.
- One letter suggesting that no-one has lived on the site for many years, that there has been a recent increase in permanent and non-permanent homes in this area, including a very recent unauthorised caravan encampment nearby

5.04 Local re-consultations on the appellant's most recent gypsy status and personal data, allied to anonymous local action to raise awareness of this and other applications for private gypsy sites close to this site, have resulted in a number of further representations from a wide area. These representations (twenty one in number) relate mainly to issues already reported above with emphasis on the impact of the development on the AONB. They also include comments relating to no functional need to live on the site having been demonstrated, confusion over what is being proposed, concern over water and sewerage provision, recent fly-tipping close to the site, effect on the conservation area at Newnham, precedent for others nearby sites to be approved. One writer objects to the proposed acoustic fence as being completely out of keeping with the locality.

5.05 As the publicity period regarding new gypsy status information extends until 15 March I will update members at the meeting and seeking authority for issuing the decision notice once the publicity period has expired.

6.0 CONSULTATIONS

6.01 Newnham Parish Council opposes the application on grounds similar to those raised in local representations above. They add that the site fails the current site assessment test; that there is no vehicular access to the site; that there are no 2m fences or sewage treatment on the site; and that the site does not meet policy criteria for such a site.

6.02 Norton Parish Council did not initially comment on the application. However, very shortly before the January meeting they held a meeting (on 6 January) and have written expressing serious reservations about the application in relation to the proposed 4m high acoustic fence which they consider intrusive, and with concern about how any further development of the site could or would be monitored.

6.03 Kent Highway Services do not comment on the application

6.04 The Environmental Health Manager originally requested a noise report and has considered the applicant's Noise Impact Assessment report. He notes that noise levels across the site exceed recommended levels so that mitigation is required. He notes the recommendations of the report for acoustic fencing and extra sound insulation and accepts that these measures could be effective if carried out as suggested. His one concern is whether the mitigation measures will be effective if the caravans are not permanently sited.

7.0 BACKGROUND PAPERS AND PLANS

7.01 Papers for application 15/503580/FULL and other applications mentioned above.

8.0 APPRAISAL

- 8.01 This application has brought to light the very peculiar planning status of this land. It was established in 1970 that the land had an existing right for stationing of a caravan. Planning permission was not needed other than as a vehicle for obtaining a necessary site licence. This situation seems to have then persisted right up until the latest planning permission granted in 1988. That personal permission has now run its course and new owners seek a new permission.
- 8.02 Without doubt it would be highly unusual to grant planning permission for this use at this rural location in the current policy context and I would not normally expect to recommend so. However, I had made it clear to Members that a benefit of granting planning permission is the ability of the Council to regulate the use of the site in the public interest, including a condition to require acoustic screening and to require adequate drainage and landscaping arrangements, as well as limiting the number of caravans on the site.
- 8.03 Members did not accept that recommendation, and the clear implication is that the Council will instead determine this application purely in relation to policies that apply to the site at this time. As such, my starting point for consideration of this application is the provisions of the saved policies of the Swale Borough Local Plan 2008 and the Council's published site assessment criteria for gypsy and traveller sites. Policies E6, E9 and RC7 seek to resist development in the countryside and to protect valued landscapes and rural lanes. There is no doubt that the site is not generally suitable for residential development or use as a caravan site as it is located in open countryside, well outside any defined settlement designated as suitable for residential development, and that saved policy E6 seeks to protect the wider countryside from development except in specific exceptional circumstances. It follows that the granting of planning permission for the proposal would seriously undermine the effectiveness of local rural settlement policy and thus have adverse implications for the character of the countryside, unless they satisfy at least one of the exceptions that justify a departure from the development plan.
- 8.04 Homestall Road is classified as a rural lane but given the way in which this site is set back away from the lane with intervening trees, its prominence in relation to users of the road is limited, and the site is really only noticeable if one is looking for it. Despite the aims of the policy being clear, I do not consider that the proposal to use this site for one caravan would so significantly harm its character that a refusal of planning permission on grounds of being contrary to saved policy RC7 is sustainable. Nor do I consider that the 4m tall acoustic fence will, in reality, be particularly prominent in views from the road.
- 8.05 The weight to be given to AONB landscape protection remains a strong national policy. Were this site to have a significant landscape impact that would be a clear reason for refusal of planning permission as supported by saved policy E9. However, for the reasons set out above, the site is not particularly prominent, being set down below motorway level and screened by a copse of trees in separate ownership. The site could be further landscaped but this would not reduce its impact significantly, unless it were to be hidden completely.
- 8.06 That is the normal background to a decision here, but on the basis of the applicant's evidence it is clear to me that he and his dependents do have gypsy status, and therefore that this application carries with it the need to consider other advice relating to policy for gypsy and traveller sites. The Council's own 2008 policy H4 seeks to

- exclude sites that are not well related to services and amenities, or are designated for landscape value, both of which apply here. However, that policy is of little weight having been left in the Local Plan almost by default, and when Circular 1/2006 was to be preferred. That Circular has now been superseded by PPTS (it too having since been revised) and it is this that will be the principal policy that should be looked to, along with the wider NPPF and the Council's own published site assessment criteria.
- 8.07 The NPPF seeks to protect Areas of Outstanding Natural Beauty and PPTS states that sites in open countryside away from settlements should be very* strictly controlled (* very was introduced into this sentence in August 2015). In my view this policy has three purposes which are to minimise visual harm to the countryside, ensure sites are not isolated from the settled community and, to ensure sites are sustainably located.
- 8.08 The idea that conserving the landscape and natural beauty of the AONB by introducing incompatible development and then attempting to screen it is the wrong approach. Furthermore, this approach is directly contrary to PPTS guidance which seeks greater openness and can only serve to raise the sense of social exclusion of the site occupants; hiding them away from the world. It is also true that in this case the PPTS demand for greater openness is in direct conflict with preserving the natural beauty of the AONB. However, in this case the site is not especially prominent in the landscape and further landscaping may not be critical to its impact.
- 8.09 The proposed acoustic fence has drawn sharp criticism. I have already said that I do not consider it unacceptably prominent on this site. However, without it, the noise climate on the site would arguably be unacceptable for long term habitation. As such, I do not consider that refusal on grounds of intrusion of the fence is the right reaction to this proposal, but the need for the fence adds weight to the impact of the site on the AONB, which overall I suggest is limited rather than severe.
- 8.10 Overall, I do not believe that the landscape impact of this site, with or without the acoustic fence, is overriding or that further landscaping is the solution to any objection on landscape grounds. I do not believe that this aspect of the site is sufficient, on its own, to warrant a refusal of planning permission, but in such a location where development is restricted to protect the natural beauty of the area at a national level, I can accept that any harm however small can be seen as a contributory factor to a refusal of planning permission.
- 8.11 Notwithstanding this matter, the site seems to me to be poorly located both for integration with any local community, or for a sustainable form of development. There are few facilities close to the site and any access to amenities will involve the use of private transport. Saved policy SH1 of the Local Plan identifies a settlement hierarchy for the Borough where various levels of development might be appropriate. This isolated location is not one where there is ready access to amenities. It thus fails to meet the second stage of the Council's published site assessment criteria.
- 8.12 In this regard the nature of the site is far more remotely located than one at Spade Lane close to the Medway conurbation that was subject of an appeal decision regarding a proposed gypsy or traveller site in October 2014. In that case (APP/V/2255/C/14/2220447) the Inspector considered whether the use of that site close to a major population centre with a wide range of facilities as a gypsy or traveller site constituted sustainable development. He noted that locational sustainability depends on a range of factors which are neither constant nor easy to measure with confidence. Nevertheless, he concluded that the site was "in a location where the overwhelming majority of journeys to shops, to school, to the doctor or to most other facilities and services would be undertaken by car." He added that "The distances

involved, the absence of any public transport in easy reach, the character of the lanes along which people would travel, and the unattractiveness at night, in winter or in bad weather of any short cuts provided by local PROWs, would obviate journeys on foot other than for the fittest and/or most enthusiastic of walkers. His conclusion was that the sustainability benefits of the proposed development were minimal and more than outweighed by significant and demonstrable disadvantages. I consider that similar conclusion apply with even greater force here where the site is far further from amenities and where the roads and lanes in question are also without footpaths or street lighting.

- 8.13 If further evidence were needed, there have been three recent appeal decisions relating to private gypsy and traveller sites in Elverland Lane close to the current application site in 2007, 2011 and 2012. In the 2007 appeal decision as the site then known as Tootsie Farm the Inspector commented that;

“I am also not convinced that this is a particularly sustainable location for a Gypsy site. I appreciate that Billy seems to have coped with school in Faversham on his bike and proposes to use bike and train to go to college in Canterbury. While it meets the current needs of the family it is in a relatively remote and sparsely populated location some distance from services which in the main are to be found in Faversham. However, I do not consider it so unsuitable a location as to rule it out were that the only area of concern.”

Nevertheless in January 2012 (pre PPTS), a different Inspector commenting on the same site said that;

*“As to **sustainability** the evidence strongly suggests that there are more sustainable locations for G&T development than the appeal site, which in effect adds to the scatter of residential development in the open countryside. There is no reason to doubt that the eventual allocation of sites to meet G&T pitch needs, whether within the Borough or within this area of Kent as part of a joint effort by a group of local authorities complying with their duty to cooperate, will be in more sustainable locations and circumstances than the appeal site. This has considerable weight as an objection to the grant of a permanent permission for the appeal use. On the other hand, until adequate pitch provision is made elsewhere account should be taken of the advantages of providing, even on a temporary basis, for those who lack alternative accommodation and would therefore otherwise be moving between potentially more unsatisfactory temporary locations. This point is referred to in paragraph 64 of ODPM Circular 1/2006, and in this case I consider it to balance harm to sustainability objectives in the short term.”*

Finally, at Horseshoe Farm, Elverland Lane (opposite Tootsie Farm) an Inspector in May 2012 (post original PPTS) stated that;

“19. Paragraph 11 of the PPTS requires traveller sites to be sustainable economically, socially and environmentally. The appeal site is remote from all services and facilities and is not well located in relation to any settlement so as to foster social inclusion. It is isolated, in a sparsely populated area and there is environmental harm as identified above. Although there are two other gypsy sites nearby, they are not lawful.

20. A positive factor is that the Appellant has his horse keeping and breeding business based on the land on which he lives which reduces daily travel. There are also the recognised benefits arising from having a permanent base, such as being able to access health services more readily and reducing any need to move around on unauthorised sites. But those are benefits which arise in the provision of any

permanent site and do not outweigh the disbenefits arising from the isolated location in this case.”

- 8.14 On the basis of this consistent view from recent Planning Inspectors, and bearing in mind the results of the Council's own site assessment criteria (see above) I consider that this location is too remote from services and amenities to be acceptable as a permanent gypsy or traveller site. I suggest that the limited remaining need for sites can more properly be met in far more suitable locations. I consider that the proposal fails to meet the environmental role necessary to be considered sustainable development in terms of the NPPF definition.
- 8.15 The extent of need for gypsy sites locally and the 5 year site supply issue
- 8.16 The key issue in this respect is the Council's need to demonstrate a five year supply of available and appropriate sites sufficient to meet the need within the Borough. The PPTS sets out very clearly that Local Planning Authorities should have regard to, amongst other things, the existing level of local provision and need for sites, and the availability (or lack) of alternative accommodation for the applicant.
- 8.17 The current position with site supply is that the Council has commissioned a GTAA which now provides an up-to-date assessment of the need for pitches up until the year 2031. This has quantified local future need, but a very significant number of sites have since been approved. In fact over 5 years supply of sites have been approved within the first two years with more approved subsequently. The Council's supply of sites is now running above trend meaning that the release of sites such as this one is completely unnecessary. More significantly, the remaining need for sites is small, and subject to the Local Plan Inspector accepting the Council's re-assessment of site need on the light of the revised PPTS very small, such that the need to see this site developed is minimal.
- 8.18 The applicant's own circumstances
- 8.19 The applicant has a child, and an elderly relative in poor health, both of whom would benefit from a settled base. The health information submitted does not indicate any unusual or critical health issues with the child or the grandmother. The applicant has been asked to explain his personal need and he has done so. However, the information provided is not sufficient to show any particular reason to live on this isolated site. On the contrary, a more accessible site would no doubt benefit them in terms of access to health and other services.
- 8.20 The balance between the above issues
- 8.21 I have reviewed the application on its own merits I find that it is very remote with limited impact on the natural beauty of the Kent Downs AONB, and not a site where a permanent planning permission ought to be granted on the basis of current policies. Nor is the need for sites so overwhelming that such an unsuitable site should be approved. Finally I do not consider that the applicant's personal circumstances so significant to suggest that a personal planning permission should be granted.
- 8.22 Whether a temporary permission might be appropriate if a permanent permission is not.
- 8.23 Decisions to refuse planning permission need to reflect a proper assessment of planning policies and other material considerations, and for the Council to present sound, justifiable and defensible planning reasons for refusal related to the likely impact of the proposed development. The revised PPTS (2015) explicitly states that

“If a local planning authority cannot demonstrate an up-to-date 5year supply of deliverable sites, this should be a significant material consideration in any subsequent planning decision when considering applications for the grant of temporary permission. The exception to this is where the proposal is on land designated as Green Belt; sites protected under the Birds and Habitats Directives and / or sites designated as Sites of Special Scientific Interest; Local Green Space, an Area of Outstanding Natural Beauty, or within a National Park (or the Broads).” (para 27 PPTS).

I note that the last sentence above was added to this paragraph in the 2015 re-issue of PPTS and represents an important shift in policy which is utterly relevant to the determination of this application. The situation when the application was submitted was that where there is a lack of site supply a temporary permission was a significant material consideration. This is not now the case for sites in certain designated areas including AONBs. Nor is there any lack of site supply here. Nevertheless, consideration can still be given to a temporary permission. In so doing one must look to see what benefit or reason it would have.

- 8.24 The revised PPTS now makes it very clear that personal circumstances are unlikely to clearly outweigh harm to the AONB sufficient to grant a temporary permission, even where the supply of sites is inadequate. The exception here is where the best interests of a child might indicate otherwise (see Article 3 of the United Nations Convention on the Rights of the Child (UNCRC)). It is quite clear that in taking a decision which affects children the decision maker should understand and take proper account of the best interests of the child involved. This issue also relates to Article 8 of the European Convention on Human Rights (Right to a Private and Family Life). I have made enquiries of the applicant and no special circumstances relating to his son have been revealed, either in medical or educational terms (although the son will not yet be in formal education). I appreciate that the child involved does not yet have a settled home. However, I do fear that by settling on this remote site adjacent to the motorway, on a temporary basis, that the best interests of the child will not be best served. Moreover, whilst the best interests of the child will always be a primary consideration, this does not mean that identifying their best interests will inevitably lead to a decision in conformity with those interests.
- 8.26 Even taking the best interests of the child here to have a settled base (as his parent's desire) I ask whether this can be outweighed by any combination of other factors, which individually do not outweigh that consideration. I find that the combination of significant factors including the impact of the development on policies to protect the countryside, limited harm to the AONB, and the remote location and lack of accessibility to vital social, health, and in time educational, facilities combined with the very poor noise environment on the site which can only be partly ameliorated by the proposed acoustic fence create powerful counter arguments for the need for a settled base to be met on this site. That is not to say that the need cannot or should not be met elsewhere in the Borough (or beyond) where these all factors might not be present.
- 8.27 A temporary planning permission is a useful device to allow a family time to relocate from an unacceptable site without resorting to roadside living, with the attendant health, welfare and educational challenges that brings. However, in this case the applicant is not occupying the application site and there is no question of upheaval from the site involved, which might otherwise add some weight to the question of a temporary permission.

- 8.27 The applicant's evidence of a need to live on the site for personal, health, or educational reasons is very limited. Having considered why a temporary permission might be appropriate I can find no reason to grant one, and I consider that a decision not to grant a temporary permission is proportionate to the interference with the applicant's human rights and the Council's need to consider the best interests of the child as a primary consideration. I have also had regard to the Inspector's comments in the Spade Lane appeal decision in relation to the granting of a temporary planning permission. He found that the granting of a temporary permission creates some expectation of future permanence, but he saw no realistic prospect of circumstances there changing in the near future. He noted that the site would still be in open countryside and with poor relationship to services. He also noted that harm is often greatest in early years when landscaping has not had time to establish, and that the appellant's position was not urgent. I consider that many of these factors apply to this case, reinforcing my conclusions above. I do not consider that a temporary planning permission should be granted.
- 8.28 Finally, whilst the final cost of the acoustic fence is not entirely clear, it is clear to me that the erection of a 4m tall acoustic fence would be an expensive operation. Were this to be necessary to support long term use of the site, it might be concluded that this would be reasonable. However, in order to allow only temporary use I consider that it would be excessive; but that without the fence the site would not be at all suitable even for temporary occupation. Thus adds to me conclusion that a temporary permission is not appropriate.

9.0 CONCLUSION

- 9.01 This site has a peculiar history including confirmation of established use for stationing a a caravan in 1970. It has since long been occupied as a caravan site under the benefit of personal planning permissions. No-one has lived on the site for some years and it has recently changed hands. I remain concerned that the history of the site may yet be found to be significant, but Members have rejected my recommendation to grant planning permission in order to be able to safeguard the future of the site and I am left with no alternative to considering the position with the exclusion of all references to the site's planning history.
- 9.02 On that basis, the determination of the application should be based on the provisions of the Development Plan and other considerations, and upon whether the proposal constitutes sustainable development. I have concluded that the site is remote from services and amenities, has limited harm to the AONB (partly arising through the need to include a tall acoustic fence to achieve acceptable noise levels on the site), and is not in a location where development should normally be permitted.
- 9.02 I have considered the applicant's gypsy status and the need for sites, but have concluded that site supply is well advanced and as the area is very poorly served by amenities, that limited harm to the AONB would result, and that the site does not score well enough in relation to the Council's gypsy and traveller site assessment criteria to be suitable for a permanent planning permission. I have also considered whether a personal or temporary planning permission would be appropriate and have concluded that it would not. I therefore conclude that the proposed development should not be granted planning permission.

10.0 RECOMMENDATION – REFUSE for the following reason.

REASON

Notwithstanding the Council's appreciation of the need for it to respond positively to the accommodation needs of gypsies and travellers, and the guidance in DCLG's Planning Policy for Traveller Sites (2015), the Council considers that this site is unacceptable as a gypsy or traveller site. The site is isolated in open countryside away from any social, health, educational or other amenities, and lies within the Kent Downs Area of Outstanding Natural Beauty and the siting of caravans and the associated hardsurfacing and acoustic fencing required to achieve adequate noise levels within the site will create an alien and intrusive appearance to the site which harms the character and appearance of the area. The proposal to use the site for the stationing of a caravan compromises the objectives of designation of the Area of Outstanding Natural Beauty which are the conservation and enhancement of the area's natural beauty, and is contrary to the advice in paragraph 12 of the NPPF, paragraphs 4, 23, 25 and 27 of the PPTS and to saved policies E1 and E9 of the Swale Borough Local Plan 2008. The Council has taken account of the position in terms of the supply of gypsy and traveller sites, the health issues of the applicant and his family, and considered whether a permanent or temporary planning permission should be granted. Despite appreciating the personal circumstances of the applicant's family, the Council does not consider that a permanent or temporary planning permission represents an acceptable balance between the need for gypsy and traveller sites in the Borough and the personal circumstances of the applicant's family, and the very substantial harm that occupation of the site causes to planning policy for the appropriate location of gypsy or traveller sites in terms of access to services and amenities, or on the character and appearance of the area. In taking account of all these factors the Council's considers that this proposal does not represent sustainable development, and that planning permission should be refused.

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.

This page is intentionally left blank

DEF ITEM 2 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.			
SUMMARY OF REASONS FOR RECOMMENDATION			
Proposed layout, design, scale and landscaping are considered acceptable. Amended landscaping plan (received 26 February 2016) enhances tree and shrub planting across the development.			
REASON FOR REFERRAL TO COMMITTEE			
Deferred from 11 February meeting. Parish Council and local objections.			
WARD Minster Cliffs	PARISH/TOWN Minster On Sea	COUNCIL	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 BACKGROUND

1.01 Members will recall this application from the 11 February meeting, where it was deferred for further exploration as to the suitability of the landscaping scheme, and

for comment from the applicant as to why they were not offering the roads, open spaces or site drainage for formal adoption.

1.02 The (draft) minutes of the meeting (appended) state:

“Councillor Mike Henderson moved the following motion: That the application be deferred and officers seek to improve landscaping details.

This was seconded by Councillor Mike Baldock.

Members spoke on the new motion. There was concern with the scattered landscaping which would be difficult to maintain.

Members also requested that the applicant provide a statement on its approach to maintaining the unadopted roads and sewerage system.”

1.03 Members should note appendix 1, which is a statement from the applicant in regards to the management company approach (further discussed at section 10).

2.0 DESCRIPTION OF SITE

2.01 See original report (appended).

3.0 PROPOSAL

3.01 The scheme is fully detailed at section 2.0 of the original report (appended) and, as detailed at section 9.0 of that report, officers consider it to be acceptable in all respects.

4.0 PLANNING CONSTRAINTS

4.01 See original report (appended).

5.0 POLICY AND OTHER CONSIDERATIONS

5.01 The policy context for the development is fully explored within the original report, which is attached as an appendix to this item.

5.02 Nevertheless members may wish to note policy H2 of the adopted Swale Borough Local Plan 2008, which seeks to provide housing within the built up areas of the Borough, and on previously developed land, in preference to the release of fresh sites elsewhere.

5.03 Members may also care to note that the development contributes 142 dwellings to the Council's five-year housing supply shortfall, and will consequently decrease pressure to approve schemes on potentially less suitable sites.

6.0 LOCAL REPRESENTATIONS

6.01 No further representations have been received since the last meeting. The representations received are addressed within the original report (appended).

7.0 CONSULTATIONS

- 7.01 The Kent County Council Flood Risk Officer raised questions in regards to surface water management across the site. Additional information was submitted by the applicant to clarify the reasoning and methodology, but no further response has been received from KCC.
- 7.02 Southern Water (SW) have no objections to the development further to the submission of a network capacity check, which indicates that the development will be connected to the sewer network to the north of the site – where there is sufficient capacity – and not the network to the south of the site, which serves the existing estate.
- 7.03 Kent Highways & Transportation have no objection further to receipt of amended drawings showing minor amendments to the length / position of a small number of parking spaces.

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

- 9.01 As noted within the original report the principle of development, layout, scale, design of the proposed units and parking provision are all considered to be acceptable subject to the conditions noted below. The applicant significantly changed the scheme further to comments from officers and the amended drawings are considered to show a scheme that would be a positive enhancement to the street scene and the wider area.
- 9.02 Members voted to defer the application for further consideration of the landscaping scheme, and for comment on why the open spaces, highways and drainage were not being offered for adoption. The draft minutes are noted at section 1.02 above.

Landscaping

- 9.03 As detailed in the original report: a substantial landscaping scheme is proposed, which will help to soften views of the development from Power Station Road. The layout of the frontage buildings has also been amended (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.
- 9.04 The landscaping scheme has been produced by Lloyd-Bore, who are respected landscape architects, and who have designed schemes on many local developments within recent years. An amended landscaping plan has been submitted since the previous meeting to enhance the landscaping, and provide additional tree and shrub planting beyond that which was originally proposed. The planting scheme includes native trees ("Extra Heavy Standard" size – which is 16-18cm girth) such as field

maple, horse chestnut, alder, and beech to be planted within public areas and rear gardens; shrubs including laurel, roses, geranium, and lavender also to be planted within public areas and rear gardens; and wild flower / meadow planting along the northern boundary to include yarrow, cowslip, buttercups and sorrel, amongst others.

- 9.05 There is a substantial planting strip along the western boundary to provide a “wildlife corridor” from the front to the rear of the site, linking the existing public open space on the opposite side of Power Station Road to the wildflower meadow / SUDS area along the northern site boundary and the biodiversity designation beyond that to the north.
- 9.06 Prior to the last meeting the applicant also amended the scheme to include a black metal estate rail along the eastern half of the frontage boundary (to the south of plots 104 to 112), which will be planted with Extra Heavy Standard trees on the inner boundary to provide a robust and attractive landscaped border and prevent vehicles crossing the boundary and damaging the verge.
- 9.07 Taking the above into account, and in conjunction with the site layout which provides generous front and rear gardens and a sensible open space layout, I consider that the amended / enhanced landscaping scheme will result in an attractive development that will enhance the appearance of the area and provide significant opportunities for wildlife and biodiversity enhancement (especially compared to the current condition of the site).
- 9.08 I do not consider that the Council would have any likelihood of success at appeal if the application were to be refused on landscaping grounds.
- 9.09 The developer has stated that the landscaping goes substantially beyond what has been provided at their other recent developments – including Coleshall Farm in Iwade, which I have visited on several occasions and consider to be an attractive development (albeit that some areas of landscaping are still bedding in). They have also provided a schedule of the maintenance tasks that will be carried out by the maintenance company, as detailed at 10.16 below.

Drainage

- 9.10 I would remind Members that drainage is not a matter to be considered under this reserved matters application, having been addressed by the conditions attached to the outline permission (ref. 14/500561). The matter was included in the original report for information only, due to significant local objection on this point and to assure Members that the matter was in hand.
- 9.11 Further to a sewer capacity check (carried out by Southern Water on behalf of the developer) Southern Water has no objections to foul and surface water drainage for the development. As noted above (and within the original report) the site will be connected to the sewer grid situated to the north, which has capacity to serve the development, and not to the network to the south that serves the existing dwellings off William Rigby Drive. Condition (2) of the original report has therefore been removed.
- 9.12 The applicant also provided further information as to the SUDS being employed within the development, as requested by the KCC. This information was provided to the County officers but no further comments have been received. In any instance I would note that Southern Water has no objection, and the SUDS will be maintained by the developer through a private management company (further discussed below).

- 9.13 I have no serious concerns in regards to drainage within the development, and also within the surrounding area, and would remind Members that there are no grounds for refusal on this issue and the matter does not formally fall to be considered here.

Adoption

- 9.14 There is no legal requirement for any part of the development, including highways, drainage and open spaces / landscaping, to be offered for adoption. Refusal of planning permission on such grounds would be unjustified and indefensible at appeal.
- 9.15 The developer has stated that they make use of management companies on many of their developments (including Iwade) and consider it to be a better solution than formal adoption in many instances. Residents are required to pay a nominal upkeep charge, and have a legal right to take over ownership of the management company if they do not consider that their funds are being spent effectively. This provides an effective feedback and accountability mechanism to ensure that necessary maintenance takes place as scheduled.
- 9.16 For clarification, the developer has provided a statement (appended) in regards the role of the management company:

“All roads, SUDS and communal landscaped areas (including the POS areas) within the development site will be maintained by a Management Company (MC) set up on behalf of future residents.

For clarification an MC is established for three specific reasons:

- *To manage and maintain common areas in a multi-unit development;*
- *To be legally responsible for the upkeep of communal areas; and*
- *To manage and collect individual owners financial contributions.*

The aims/objective of the MC is to promote a sensitive management approach, which protects and improves the landscape and visual amenity of the site, provides function to public open spaces and maintains the road network/SUDS areas.

Whilst under the control of PHSE [Persimmon Homes South East] specialist maintenance contractors will be appointed to maintain the communal facilities...

The management company approach would ensure what residents paid was spent on their development area and not dissipated across the whole of Kent...”

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 and, whilst I note local objections, they largely amount to concerns regarding the principle of development, which does not fall to be considered here.

10.02 The applicant has provided further information in regards to landscaping and adoption of landscaping, highways and SUDS, as requested by Members at the previous meeting. I consider these to be acceptable. There is no justification to refuse the application on such grounds.

10.03 Taking the above into account, and further to the receipt of the amended landscaping plan, I recommend that Members resolve to approve the reserved matters.

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 D; RDL-PL02; 456-ML-PL01; RDL-PL03 B; AN-PL01 B; AN-PL02 A; AN-PL03 B; HB-PL01 A; HB-PL02 B; CH-PL01 B; SU-PL01 C; SU-PL02 A; SU-PL03 B; SU-PL04; HAT-PL01 C; HAT-PL02; CA-PL01 A; CA-PL02 A; CAC-PL01 B; CAC-PL02 B; LR-PL01 D; LR-PL02 B; LR-PL03 C; LR-PL04; KL-PL01 B; LY-PL01 B; LY-PL02 C; CD-PL01 C; CD-PL02; CB-PL01 B; 456-SE-PL01 Rev A; AP-PL02 Rev C; AP-PL01 Rev A; AP-ST-PL01 A; P1 125_02 Rev B; 456-BTL-PL04 A; P.1125_04 Rev B; P.1125_01-1-1B and P.1125_01-2- B.

Reasons: For the avoidance of doubt.

(2) 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.

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 1

Management regime for road, SUDS and Landscaping at Former HBC Site, Power Station Road, Minster**Estate Management Company (EMC)**

Whilst adoption is not a material consideration for the Planning Committee to take into account in determining this application, the members have request a statement from the developer about how the roads, SUDS and common areas will be maintained after the development is completed.

This Statement therefore provides a detailed account of how Persimmon Homes South East (PHSE), seeks to maintain the road network, landscaped/POS areas and surface water drainage areas (SUDS) within the development site at the Former HBC Site, Power Station Road, Minster.

All roads, SUDS and communal landscaped areas (including the POS areas) within the development site will be maintained by a Management Company (MC) set up on behalf of future residents.

For clarification an MC is established for three specific reasons:-

- To manage and maintain common areas in a multi-unit development;
- To be legally responsible for the upkeep of communal areas; and
- To manage and collect individual owners financial contributions.

Aims and Objective

The aims/objective of the MC is to promote a sensitive management approach, which protects and improves the landscape and visual amenity value of the Site, provides function to public open spaces and maintains the road network/SUDS areas.

Whilst under the control of PHSE specialist maintenance contractors will be appointed to maintain the communal facilities.

On completion of the development the ongoing maintenance/management responsibilities would therefore passed to the residents via the Management Company.

The management company approach would ensure what residents paid was spent on their development area and not dissipated across the whole of Kent.

All residents will have a legal obligation to contribute to the estate fees for maintenance. It is the developer's intention to ensure that the management company for the development cannot be dissolved and one should always exist. The management company board will include resident representatives. Ultimately, the residents will have the legal right to control fully the management company once the development has been finished and any aftercare conditions expired.

The same model is adopted on a large number of other mature developments by PHSE to date and all operating satisfactorily.

APPENDIX 2

Planning Committee

11 February 2016

For: Councillors Mike Baldock, Cameron Beart, Bobbin, Tina Booth, Roger Clark, Richard Darby, Mark Ellen, James Hall, James Hunt, Lesley Ingham, Peter Marchington, Bryan Mulhern and Ben Stokes.

Against: Mike Henderson and Prescott.

Abstain: Mike Dendor and Sue Gent.

The motion was won.

Resolved: *That application 15/509905/FULL be refused on the grounds that the lack of retail provision was detrimental to the residential area, and would result in an unsustainable form of development.*

2.2 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		
WARD Minster Cliffs	PARISH/TOWN COUNCIL Minster On Sea	APPLICANT Persimmon Homes South East & TBH (Sheerness) Ltd AGENT Victoria Swift

The Major Projects Officer reported that the applicant had submitted a revised drainage strategy. Southern Water had looked at the strategy and had no objection to the application; condition (2) in the report could therefore be removed. Southern Water had stated that the Sustainable Drainage Systems (SUDs) were not in accordance with their adoptable standard; however, the agent advised that the SUDs were to be privately maintained.

Amended plans had been received which showed windows added to some of the flank walls. Amended plans had also been received showing the boundary treatment which included brick walls and railings. Kent County Council (KCC) Highways & Transportation raised no objection to the application subject to minor amendments to the parking layout for some of the plots, and also an additional condition to ensure that adequate cycle parking was provided. The Major Projects Officer reported that an amended layout had been received following KCC Highways & Transportation's comments. He sought delegated authority to approve the application subject to the additional condition requested by KCC Highways & Transportation, their views on the amended layout, the deletion of condition (2) and to amend condition (1) to refer to the amended drawings.

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

- 525 -

APPENDIX 2

*Planning Committee**11 February 2016*

A Member considered that, apart from the proposed trees, there was a lack of landscaping on the application site.

Councillor Mike Henderson moved an amendment: That there be further discussion with officers and the applicant to seek improvements to the landscape scheme, to include bushes and shrubs. This was seconded by Councillor Mike Baldock.

Members made the following comments: the design of the housing was bland; concerned with the unadopted roads, this could be an issue, they needed to be adopted by KCC Highways & Transportation; needed to see the amended drainage scheme before a decision could be made; history of management companies was not good; and concerned with who would maintain the landscaped areas.

In response to a question, the KCC Highways & Transportation Officer explained that developers were under no obligation to offer the roads up for adoption.

In response to questions, the Major Projects Officer reminded Members that Southern Water did not object to the application and that, as noted on page 25 of the report, the sewerage would connect to the north of the site, not the south. He confirmed that a management company would manage the SUDs and considered the landscaping would be adequate; there was a five-year condition to ensure that landscaping was maintained/repared during this time.

On being put to the vote the motion to approve the application, with the amendment, was lost.

Councillor Mike Henderson moved the following motion: That the application be deferred and officers seek to improve landscaping details.

This was seconded by Councillor Mike Baldock.

Members spoke on the new motion. There was concern with the scattered landscaping which would be difficult to maintain.

Members also requested that the applicant provide a statement on its approach to maintaining the unadopted roads and sewerage system.

Resolved: That application 15/508025/REM be deferred for officers to seek to improve landscaping details, request a statement from the applicant in respect of the roads and sewerage system not being adopted.

APPENDIX 3

Planning Committee Report
11 February 2016

ITEM 2.2

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.			

APPENDIX 3

Planning Committee Report
11 February 2016

ITEM 2.2

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

APPENDIX 3

Planning Committee Report
11 February 2016

ITEM 2.2

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

APPENDIX 3

Planning Committee Report
11 February 2016

ITEM 2.2

- 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.

APPENDIX 3

Planning Committee Report
11 February 2016

ITEM 2.2

- 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."

APPENDIX 3

Planning Committee Report
11 February 2016

ITEM 2.2

- 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).

APPENDIX 3

Planning Committee Report
11 February 2016

ITEM 2.2

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.

APPENDIX 3

Planning Committee Report
11 February 2016

ITEM 2.2

- 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 than 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

APPENDIX 3

Planning Committee Report
11 February 2016

ITEM 2.2

(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, hibemacula, 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

APPENDIX 3

Planning Committee Report
11 February 2016

ITEM 2.2

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.

APPENDIX 3

Planning Committee Report
11 February 2016

ITEM 2.2

- 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-

APPENDIX 3

Planning Committee Report
11 February 2016

ITEM 2.2

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 3

Planning Committee Report
11 February 2016

ITEM 2.2

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.

APPENDIX 3

Planning Committee Report
11 February 2016

ITEM 2.2

Planning Committee Report
11 December 2014

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/189).

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

APPENDIX 3

Planning Committee Report
11 February 2016

ITEM 2.2

Planning Committee Report
11 December 2014

(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 0.8 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.

APPENDIX 3

Planning Committee Report
11 February 2016

ITEM 2.2

Planning Committee Report
11 December 2014

- 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 1696 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.

APPENDIX 3

Planning Committee Report
11 February 2016

ITEM 2.2

Planning Committee Report
11 December 2014

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.

APPENDIX 3

Planning Committee Report
11 February 2016

ITEM 2.2

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 802738 email: planningsupport@midkent.gov.uk
 Access planning services online at: www.swale.gov.uk or submit an application via www.planningportal.gov.uk

APPENDIX 3

Planning Committee Report
11 February 2016

ITEM 2.2

- (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

APPENDIX 3

Planning Committee Report
11 February 2016

ITEM 2.2

- 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.

APPENDIX 3

Planning Committee Report
11 February 2016

ITEM 2.2

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.

APPENDIX 3

Planning Committee Report
11 February 2016

ITEM 2.2

- (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.

APPENDIX 3

Planning Committee Report
11 February 2016

ITEM 2.2

- 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.

APPENDIX 3

Planning Committee Report
11 February 2016

ITEM 2.2

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

APPENDIX 3

Planning Committee Report
11 February 2016

ITEM 2.2

**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.

PLANNING COMMITTEE – 10 MARCH 2016

PART 1

Report of the Head of Planning

PART 1

Any other reports to be considered in the public session

1.1 REFERENCE NO - 14/505440/FULL

APPLICATION PROPOSAL

Proposed mixed use development - on six parcels of land - of 215 residential apartments (use class C3), 3158 sq m of retail space (use class A1), A 308 space multi storey car park, 1713 sq.m cinema (use class D2), 2320 sq.m ground floor restaurant units (use class A3), first floor D2 use and the re-alignment of St Michael's road with amendments to the road network and the creation of a new public square in Sittingbourne Town Centre, in front of the railway station.

ADDRESS Spirit Of Sittingbourne Regeneration Site Identified On Site Location Plan (drg Number: 14.35.100 Revision PO) Sittingbourne Kent ME10 3DU

RECOMMENDATION: Approve subject to signing of Section 106 agreement, conditions as set out below and resolution of other matters as set out below.

SUMMARY OF REASONS FOR RECOMMENDATION: The Development is in accordance with Development Plan policies and would not have unacceptable planning implications.

REASON FOR REFERRAL TO COMMITTEE: To agree an amendment to draft condition (37)(cinema and restaurant operating hours) and to amend / clarify the matters delegated to officers by the Planning Committee (when the application was considered at the meeting on 16 March 2015), and to update Members on progress with key matters.

WARD St Michaels

PARISH/TOWN COUNCIL:
N/A

APPLICANT The Spirit Of Sittingbourne LLP
AGENT Mr Alastair Cracknell

MAIN REPORT

1.0 BACKGROUND

1.01 Members will recall that this development was considered at the Special Planning Committee meeting held on 16 March 2015. My report to that meeting is attached as Appendix 1. The minute of the meeting is also attached, as Appendix 2, and the resolution reads as follows:

“That application 14/505440/FULL be delegated to officers to approve subject to conditions (1) to (43) in the report; additional and amended conditions (28) and (44) as tabled; the application being referred to the Secretary of State; the Highways Agency holding objection being lifted, and to impose such further conditions as reasonably required by them and to seek the developer contribution totalling £50,000 for highway improvements to the Key Street roundabout; securing further details in the form of scaled drawings, showing the raised platform and metal enclosing feature to the

northeast corner of the public square, and any conditions required to seek further details in respect of finishing material; amended and additional plans to address the outstanding design points in the committee report; the satisfactory resolution of the position and arrangement of the drop-off area for Sittingbourne train station in consultation with KCC Highways and Network Rail amended conditions as required to refer to amended plans, and to carry out other fine-tuning of conditions as required; and a Section 106 Agreement, to include items as set out in the report and as tabled in the letter from Spirit of Sittingbourne LLP, has been entered into.”

- 1.02 Since the meeting progress has been made to address the matters delegated to officers, notably:
- (i) Highways England (formerly the Highways Agency) have withdrawn their holding objection, and the S106 agreement will include a contribution of £50, 000 towards improvements to the Key Street junction of the A2 with the A249 (which forms part of the strategic road network);
 - (ii) The Department for Communities and Local Government have written to advise that the Secretary of State does not wish to call the application in;
 - (iii) The S106 is being negotiated and the applicant’s lawyers have provided a first draft;
 - (iv) The applicant has instructed architects to produce amended plans to address the “*outstanding design points in the Committee report*” and which are referred to in the Committee resolution.
- 1.03 The application is being reported back to Committee now in order, and as set out above, to agree an amendment to draft condition (37)(cinema and restaurant operating hours) and to amend / clarify the matters delegated to officers by the Planning Committee (when the application was considered at the meeting on 16 March 2015).

2.0 CONSULTATION RESPONSES (UPDATE)

- 2.01 The comments received since the application as first reported to Committee from Highways England, Kent County Council (with respect to developer contributions) and the Council’s Environmental Protection Team Leader are dealt with elsewhere in the report.
- 2.02 Two new consultation responses have also been received from third parties since the application was first reported to Planning Committee. New issues (in addition to those summarised in the original Committee report) are raised as follows:
- Concern is expressed that existing car parks in the town centre may be closed before a new car park is provided; if this happens, there would be an adverse impact on the shopping environment in the High Street.

3.0 APPRAISAL

- 3.01 **Condition (37)** – the wording of the condition in the report Members considered in March 2015 was as follows:

“The use of the cinema and restaurants (both within Block A and Block B) hereby permitted shall be restricted to the hours of 0700 to 2400 on any day.

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

3.02 It has subsequently been advised that the prospective cinema operator requires later opening hours, until 0300.

3.03 The applicant has provided a letter that clarifies what is sought and provides a justification for it. An extract reads as follows:

"I understand that the present permitted hours run between 07:00 and 24:00 on any day. Although we would expect that, our normal operating hours would fall between these hours. There will be occasions when we would consider it appropriate to open outside of these times.

For example, many cinemas operate late show performances on Friday and Saturday nights. These shows will often start between 11pm and midnight. If the feature is a long running film, for example the recent Star Wars and James Bond movies, these are close to three hours in length. This then leads to a finish time of towards 3am.

It would not be expected that during weekday evenings, that movies would run after midnight, however we would like the flexibility to participate in opening late show previews. Again, Star Wars is a good example where moviegoers across the UK went to special screening at one minute past midnight on Friday mornings. The fans see the kudos in being the first to see the latest releases!

We fully understand that, as licensees, we have an obligation to ensure that our audiences respect the neighbourhood and local community and we would react to any complaints or issues caused by any late running that occurred at the cinema.

In light of this information, may I please request that the cinema permitted hours are extended on a regular basis to 3am following Friday and Saturday evening screenings and that, on no more than 12 occasions per year, that the cinema be permitted to open until 3am following any other day of the week (excluding Sundays)."

3.04 Members will note the proximity of the proposed cinema and restaurants to the existing dwellings on Station Street, which will face the rear of the cinema and restaurants. This part of the development is known as Site 4 and Members will note paragraphs 1.14 to 1.18 of the original report – where this site is described – and paragraphs 2.22 to 2.30 – where the development proposed on Site 4 is explained (see Appendix 1).

3.05 Condition (37) was imposed in order to prevent the operation of the cinema and restaurants at night from potentially impacting unacceptably on residential amenity.

3.06 I have very carefully considered the potential implications of the proposed late opening for residential amenity.

3.07 I have also consulted the Environmental Protection Team Leader, and an extract from his initial response reads as follows:

"As you may recall, my initial concern was the possibility of up to a couple of hundred people exiting the cinema at anti-social hours perhaps affecting Station Street residents. It now appears that this is a common feature of many cinemas, especially at the weekend and particularly when long 'blockbuster' films are shown. It is common for these films to be screened from 23.00/24.00 onwards.

Coupled with the fact that I am told there are some licensed premises nearby that are open at these sorts of times and potentially generating anti-social noise, the effect of such numbers would be reduced. Consequently, I raise no objection to this proposal.”

- 3.08 He subsequently provided a further response, following correspondence about whether a planning condition (s) should be imposed in respect of the number of screens able to operate after midnight and / or potentially limiting the number of people that could visit the cinema after midnight:

“Your latest thoughts seem to make perfect sense. The clinching fact from my perspective is the location of the exit, being away from residential properties. I agree that it is highly unlikely that all these screens would be open at once at these hours.

An attempt to impose any condition restricting numbers I agree would be unenforceable, therefore I have no problems with your latest thoughts.”

- 3.09 In the light of the above, and noting that the entrance / exit to the cinema will be on the south-eastern corner of the building – and therefore not adjacent to existing dwellings – I consider that it is acceptable to amend the proposed operating hours for the cinema. As set out below, conditions (45) and (46) will govern the operation of the cinema, which will be able to operate until 03.00 on any Friday night / early Saturday morning and on any Saturday / early Sunday morning, but will be restricted to a maximum of twelve 03.00 finishes on Sunday to Thursday evenings in any year.
- 3.10 With regard to the **Section 106 Agreement**, Members will note the paragraphs in the original Committee report (namely 9.61 to 9.69 and 7.15 to 7.18) that deal with this.
- 3.11 The contributions sought for opens space and wheeled bins remain unchanged (see Paragraphs 7.17 and 7.18 respectively of the original report). The monitoring fee will be **£23,847.68**.
- 3.12 With regard to the contributions sought by Kent County Council, initially £282,614 had been sought (as set out at Paragraph 7.16 of the original Committee report). However, KCC have re-considered their requirements as a result of this scheme and now seek as total of **£190,175.09** to be divided between:
- Sittingbourne Hub project (£73,269.17);
 - Primary education (£56,663.04);
 - Secondary education (£56,635.20); and
 - Youth Services (£3,607.68)
- 3.13 In addition, authority is sought to add an additional item, namely a footpath from the eastern end of the proposed multi-storey car park to the High Street, between Numbers 48 and 50. The path would be designed and implemented by the Council, but paid for by the developer. The current estimate of cost is **£64,818.83**.
- 3.14 With regard to other aspects of the Section 106 agreement where there is an update since the original Committee report, as reported verbally at the Committee in March 2015, a Travel Plan is not required.
- 3.15 With regard to “claw-back”, see Paragraph 9.67(i) of the original report. This related to a possible payment, if the profit margin on the development exceeded an agreed threshold, to be spent on off-site affordable housing provision. I understand that potential “claw-back” of surplus profit is to be dealt with under the Development

Agreement between the Council and the developer. As such, a “claw-back” mechanism will not be included in the Section 106 agreement.

- 3.16 With regard to the proposals for **‘public realm’** at Site 4 - which includes the proposed square in front of the entrance to the railway station – as set out in the extract from the minute of the meeting on 16th March 2015 (see Paragraph 1.01 above), authority has been delegated to officers to secure “...*further details in the form of scaled drawings, showing the raised platform and metal enclosing feature to the north-east corner of the public square...*” The applicant would like this matter to be dealt with by planning condition instead. I consider that this is reasonable, and condition (12) below has been amended accordingly.
- 3.17 As set out at Paragraph 1.02 (iv) above, and further to the original Committee resolution, I am awaiting the formal submission of **amended plans to address the outstanding design points**. However, the applicant has submitted plans for informal comment and has identified some other changes that they would like to make to the proposals, particularly for the apartments proposed on Sites 1, 2 and 3.
- 3.18 With regard to Sites 1, 2 and 3, delegated authority is sought to agree amendments – at such time as amended plans are formally submitted – to:
- (i) The amount and disposition of car parking provision, including the omission of visitor car parking to the front of Site 1;
 - (ii) The mix of 1- and 2-bedroom apartments;
 - (iii) The floor areas of the apartments proposed; and
 - (iv) Changes to the number of apartments proposed.
- 3.19 In due course, draft condition (2) below – and those other conditions that refer to specific drawings - will need to be updated to refer to the new plan numbers as a result of these amendments.
- 3.20 The design of the **passenger drop-off area for Sittingbourne train station** was one of the matters delegated to officers to resolve, in conjunction with Network Rail and KCC Highways and Transportation. Discussions are on-going with both organisations, and the passenger drop-off area will now be provided as part of the re-configuration of the existing Network Rail car parking area just to the east of the railway station, and outside the site boundary for this planning application.
- 3.21 The delivery of this area by the developer will be secured as part of the land agreements with Network Rail and South east trains under the land swap, rather than being tied into the planning permission.

4.0 CONCLUSION

- 4.01 I consider that the amendments described above – namely to planning conditions (including additional ones), Section 106 items, arrangements for Public Realm on Site 4, the apartments on Sites 1, 2 and 3 and the passenger drop-off area for train station passengers – are acceptable.
- 4.02 The proposed development is acceptable, and as set out above, Members’ authority is sought to resolve the outstanding points and to enter into the Section 106 Agreement.

- 5.0 RECOMMENDATION** – that planning permission be granted subject to conditions as set out below, the negotiation of the Section 106 agreement (including the updates set out above) and the agreement of amended drawings to address the design points,

including delegation to agree reasonable amendments to conditions and the wording of the Section 106 agreement as required.

CONDITIONS

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

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

- 2) The development hereby approved shall be carried out in accordance with the following approved drawings:

General	14.25.101 P0; PBA highway drawings: 27744_5502_011 A (Pages 1 and 2), _011 A (Site 3), _011 B (Site 4), _011 A (Site 5), _011 A (Site 6), /016.
Site 1	14.35.110 P3, .111 P2, .112 P2, .113 P2
Site 2	14.35.120 P2, .121 P2, .122 P2, .123 P2
Site 3	14.35.130 P2, .131 P2, .132 P2, .133 P2
Site 4	13003B_101 H, _102 E, _103 F, _104 C, _105 B, _106 B, _108 C, _110 F
Site 5	13003C-102 Rev F, -106, -107, _108 Rev A, _109 rev A, -110 rev A.
Site 6	13003A_102 Rev D, _103 Rev B, -104 Rev C, _105 Rev A, _106 Rev B, _107 Rev A, _108, _109

Reasons: In the interests of proper planning and for the avoidance of doubt.

Pre Commencement

- (3) No development shall take place until a Construction and Environmental Method Statement has been submitted to and approved in writing by the Local Planning Authority. *The approved Statement shall be adhered to throughout the construction period.* This shall include details relating to:
 - (i) The control of noise and vibration emissions from construction activities including groundwork and the formation of infrastructure, along with arrangements to monitor noise emissions from the development site during the construction phase;
 - (ii) The loading and unloading and storage of plant and materials on site;
 - (iii) The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
 - (iv) The control and suppression of noise including arrangements to monitor dust emissions from the development site during the construction phase;
 - (v) Measures for controlling pollution/sedimentation and responding to any spillages/incidents during the construction phase;

- (vi) The control of surface water drainage from parking and hard-standing areas including the design and construction of oil interceptors (including during the operational phase);
- (vii) The use if any of impervious bases and impervious bund walls for the storage of oils, fuels or chemicals on-site;
- (viii) The location and size of temporary parking and details of operatives and construction vehicle loading, off-loading and turning and personal, operatives and visitor parking; and
- (ix) The timing of the proposed works to the public highway that will directly affect traffic movements and/or require traffic management measures, which shall be programmed such that no works take place during the month of December and the first week of January and over the Easter long weekend.

Reasons: To ensure the development does not prejudice conditions of residential amenity and highway safety and convenience through adverse levels of noise and disturbance during construction.

- (4) No development shall take place on each site until full details of the method of disposal of foul and surface waters – to be drained using SUDS systems unless demonstrated not to be feasible, and to ensure that there is no surface water drainage on to the public highway - have been submitted to and approved by the Local Planning Authority for that site. The approved details shall then be implemented before the first use of the development hereby permitted on that site.

Reasons: In order to prevent pollution of water supplies, in the interests of sustainable drainage, and to ensure that surface water does not discharge on to the public highway.

- (5) Notwithstanding the proposed phasing as set out on Phasing Plan V2, a phasing plan for the delivery of the six sites and the associated highway works shall be submitted to and approved in writing by the Local Planning Authority before any development is commenced. The development shall then be implemented strictly in accordance with the approved phasing scheme.

Reason: In the interests of ensuring that the development is carried out in a co-ordinated manner.

- (6) No development shall take place on any of the six sites, 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 for the particular site which has been submitted to and approved in writing by the Local Planning Authority.

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

- (7) No development shall take place on a particular site until full details of both hard and soft landscape works for that particular site 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 (which shall include indigenous and berry-bearing species), noting species, plant sizes and numbers where appropriate, size of tree pits, measures to prevent tree vandalism, trellis / wiring system for climbing plants on the multi-storey car park, means of enclosure, hard surfacing materials, and an implementation programme.

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

- (8) Notwithstanding the details set out in the ‘Ecological Enhancement Proposals (February 2015)’ draft document, full details of proposed ecological enhancements shall be submitted to, and approved in writing by, the Local Planning Authority for each site before development is commenced. The agreed measures shall then be implemented in full for that site before it is first used / occupied. The agreed measures shall be retained in perpetuity.

Reason: In the interests of protecting and enhancing biodiversity.

- (9) No development shall take place until details of the lighting columns, the type and luminance of the lighting units with glare shields and details of lux levels both inside and outside the site have been submitted to and approved in writing by the Local Planning Authority. The development shall then be implemented in full accordance with the approved details.

Reasons: In the interests of residential amenity and minimising disturbance to bats.

- (10) No development on Sites 1, 2 or 3 shall commence until such time as a minimum of 55 temporary car parking spaces have been provided and are available for public use on Site 6. This provision shall be in accordance with details that shall first have been submitted to and approved in writing by the Local Planning Authority, and shall be retained until such time as the multi-storey car park on Site 4 is completed and open to the general public.

Reason: In the interests of ensuring that sufficient public car parking provision is available in Sittingbourne.

- (11) No development on Site 4 shall commence, until any necessary Traffic Regulation Orders to allow two-way traffic movements on Station Street, to the south of Site 4, and the High Street and West Street, to the south-west of Site 4 have been made and any highway works required as a consequence have been fully implemented.

Reasons: In the interests of highway safety.

- (12) No development shall be commenced on Sites 4 or 5 until a detailed scheme setting out full details of the raised platform and metal enclosing feature to the north-east corner of the public square, paving, street lighting, bins, seating and signage for those sites has been submitted and approved in writing by the Local Planning Authority

Reasons: In the interests of visual amenity.

- 13) Prior to the commencement of development on Sites 1, 2, 3 or 4, details of the external finishing materials to be used on that particular site shall be submitted to and approved in writing by the Local Planning Authority and the construction on that particular site shall then be implemented in accordance with the approved details.

Reason: In the interest of visual amenity.

- 14) No development shall take place until a remediation strategy that includes the following components to deal with the risks associated with contamination of the site shall each be 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 scheme, 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. The results of the site investigation and the detailed risk assessment referred to in (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
 4. A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these components require the express written consent of the local planning authority. The scheme shall be implemented as approved.

Reasons: To protect groundwater which is highly vulnerable at this site due to the Principle Aquifer and being situated within a source protection zone 1. There is also a requirement to comply with the NPPF, paragraph 109 states that the planning system should contribute to and enhance the natural and local environment by preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of water pollution.

- (15) No occupation of any part of the permitted development shall take place until a verification report demonstrating completion of works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved, in writing, by the local planning authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include any plan (a “long-term monitoring and maintenance plan”) for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan. The long-term monitoring and maintenance plan shall be implemented as approved.

Reasons: To protect groundwater and comply with NPPF.

- (16) No development shall 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 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

Reasons: In the interests of residential amenity.

- (17) No development shall take place on the sites for which noise mitigation is required (namely Sites 1,2, 3 and 4) until a noise mitigation scheme of measures has been submitted to and approved in writing by the Local Planning Authority. The approved measures shall then be incorporated in the development and retained in perpetuity.

Reason: In the interests of ensuring that unacceptable noise impacts do not result from the development.

- (18) Adequate precautions - in accordance with a scheme of measures that shall first have been submitted to, and approved in writing by, the Local Planning Authority - shall be taken during the period of demolition and construction to prevent the deposit of mud and/or other debris on the public highway.

Reason: In the interests of highway safety and convenience.

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

Reason: To safeguard existing trees to be retained and to ensure a satisfactory setting and external appearance to the development.

- (20) Notwithstanding the information set out in the ‘Sustainability Report’ and the ‘Energy Statement’, details of the package of on-site renewable energy generating measures to be incorporated in the development and the other sustainable design and construction measures proposed for the development hereby approved shall be submitted to and approved by the Local Planning Authority before any part of the development is commenced. And the agreed measures shall be fully implemented for each of the buildings before the particular building is first used. The installed measures shall then be retained in perpetuity.

Reason: In the interests of maximising the use of on-site renewable energy and sustainable development.

- (21) Details of the proposed refuse and recycling storage arrangements for each of the buildings hereby approved shall be submitted to and approved by the Local Planning Authority before the development is commenced, and the agreed provision shall be retained in perpetuity unless otherwise agreed in writing by the Local Planning Authority.

Reasons: In the interests of visual and residential amenity and to encourage recycling.

- (22) Details in the form of cross-sectional drawings showing the existing Ordnance Survey Datum heights through each of the six sites (or such other information as may be agreed to by the Local Planning Authority) and of the proposed site levels shall be submitted to and approved in writing by the Local Planning Authority before work commences and the development on each of the six sites shall be completed strictly in accordance with the approved levels.

Reasons: In order to secure a satisfactory form of development having regard to the sloping nature of the sites

- (23) During construction provision shall be made on each of the sites, to the satisfaction of the Local Planning Authority, to accommodate operatives' and construction vehicles loading, off-loading or turning on the site.

Reasons: In the interests of highway safety and residential amenity.

- (24) Prior to any of the works commencing, details of parking for site personnel / operatives / visitors, on each of the sites, 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.

Reasons: In the interests of highway safety.

- (25) The proposed 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, driveway gradients, car parking and street furniture for each site shall be laid out and constructed in accordance with details that shall first have been submitted to and approved by the Local Planning Authority.

Reason: In the interests of highway safety and public amenity.

- (26) Prior to first residential occupation of Site 1 (shown on drawing number 14.35.110 P3), the pedestrian - cycle link from St Michael's Road to Laburnum Place, between the two development blocks on Site 1, shall be provided in accordance with full details that shall first have been agreed in writing by the Local Planning Authority.

Reason: In the interests of encouraging sustainable transport.

- (27) None of the developments hereby approved shall be first occupied until details of covered cycle parking for that site have been submitted to and approved in writing by the Local Planning Authority. The space and the shelters shall then be retained for the purpose of cycle parking in perpetuity.

Reason: In the interests of encouraging the use of non-car modes of travel.

Post Commencement:

- (28) The retail floorspace hereby approved on Site 6 shall not be sub-divided into more than four individual retail units. Each individual retail unit shall be a minimum of 510 square metres gross floorspace.

Reasons: In order to protect the vitality and viability of Sittingbourne town centre and other centres.

- (29) The development on Sites 5 and 6 shall be finished using facing materials as specified on the relevant drawings hereby approved.

Reason: In the interest of visual amenity.

- (30) 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.

Reasons: The site is located in a highly sensitive location with regards to groundwater in that it is underlain by a principal aquifer and located in Source Protection Zone 1. To ensure any possible land contamination related to historic site activities is addressed in line with current planning guidance on sustainable development.

- (31) No mechanical ventilation, filtration equipment, air conditioning, heating, ventilation or refrigeration equipment shall be installed on the buildings hereby approved on Site 4 until full details of its design, siting, discharge points and predicted acoustic performance have been submitted to and approved by the Local Planning Authority.

Reason: To safeguard the amenities of nearby residential properties.

- (32) 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.

Reasons: The discharge of clean roof water to ground is acceptable within Source Protection Zone 1 provided that all roof water down-pipes are sealed against pollutants entering the system from surface run-off, effluent disposal or other forms of discharge. The method of discharge must not create new pathways for pollutants to groundwater or mobilise contaminants already in the ground.

- (33) 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.

Reasons: Unless appropriate managed piling on land affected by contamination may introduce pathways by which contamination can penetrate and pollute the aquifer.

- (34) The cinema building (Part of Block A) on Site 4 (shown on drawing 13003B_110 F) hereby approved shall be used for the purpose of leisure and assembly falling within Use Class D2 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended).

Reasons: In the interests of the amenities of the area and highway safety and convenience.

- (35) No construction work in connection with the development shall take place on any Sunday or Bank Holiday, nor on any other day except between the following times:

Monday to Friday 0730 – 1900 hours, Saturdays 0730 – 1300 hours unless in association with an emergency or with the prior written approval of the Local Planning Authority.

Reason: In the interests of residential amenity.

- (36) 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 0900-1700hours unless in association with an emergency or with the written approval of the Local Planning Authority.

Reason: In the interests of residential amenity.

- (37) The use of the restaurants (both within Block A and Block B) hereby permitted shall be restricted to the hours of 0700 to 2400 on any day.

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

- (38) The use of the retail units, on Site 6, hereby permitted shall be restricted to the hours of 7 am to 11pm on weekdays and Saturdays, and 1000 to 1700 on Sundays.

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

- (39) All hard and soft landscape works shall be carried out in accordance with the approved details. The works approved for each site shall be carried out prior to the first beneficial occupation of any part of the development on that particular site 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.

- (40) Upon completion of the approved landscaping scheme for each site (and the street tree scheme for St Michael's Road), any trees or shrubs that are removed, dying, being severely damaged or becoming seriously diseased within ten 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 the next planting season, unless otherwise agreed.

Reason: In the interests of the visual amenities of the area, and in recognition of the important role of tree and shrub planting in this development.

- (41) The trees shown on the plans hereby approved as "existing trees to be retained" shall be retained and maintained. Any trees removed, dying, being severely damaged or becoming seriously diseased within ten years of the date of this permission shall be replaced with trees or shrubs of such size and species as may be agreed with the Local Planning Authority.

Reason: In the interests of visual amenity.

- (42) The multi-storey car park (MCP) hereby approved shall not be first used until a scheme of street tree planting for St Michael’s Road - on the section between the MCP and the junction with Crown Quay Lane – has been submitted to and approved in writing by the Local Planning Authority and the agreed tree planting has been completed.

Reason: In the interests of visual amenity.

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

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.

- (44) Notwithstanding the provisions of the Town & Country Planning (Use Classes) Order 1987 (as amended) (or an Order revoking or re-enacting that Order) no more than 50% of the retail floorspace hereby approved on Site 6, shall be used for open comparison sales. The remaining retail floorspace shall be used for the sale of the following goods: furniture; carpets and flooring coverings; DIY; gardening and leisure; car and cycle products and accessories; pets and pet accessories; homeware and soft furnishings; home textiles; electrical goods; convenience goods and domestic appliances.

Reason: To protect the viability and vitality of Sittingbourne town centre and other centres

- (45) The use of the cinema (within Block A on Site 4) hereby permitted shall be restricted to the hours of 0700 to 0300 on any Friday (early Saturday morning) or Saturday (early Sunday morning) and on all other days the cinema shall close at 2400, except on twelve occasions per annum – records of which shall be made available to the Local Planning Authority on request – when the cinema will be permitted to operate until 0300.

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

- (46) The premises shall be used for the purpose of a cinema and for no other purpose, including any other purposes in Class D2 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended).

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

COUNCIL’S APPROACH:

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

and the application can then be amended and determined in accordance with statutory timescales.

In this case the application was found to be acceptable, and presented to Members with a recommendation to approve subject to resolution of outstanding issues.

INFORMATIVES

- 1) As the construction of the development may affect breeding birds, which are protected under the Wildlife and Countryside Act, all works must either be carried out outside the bird breeding season (March to August inclusive) or in conjunction with an ecologist.
- 2) The applicant should enter into formal agreements with Southern Water in respect of providing the necessary sewerage infrastructure and connection to the water supply in order to service the development. Please contact Southern Water, Sparrowgrove House, Sparrowgrove, Otterbourne, Hampshire, SO21 2SW. www.southernwater.co.uk.
- 3) Traffic Regulation Orders for converting parts of Station Street and West Street to two-way traffic, revisions to parking bays and proposed banned manoeuvres will need to be concluded before the planning consent can be implemented.
- 4) Stopping-up Orders of various areas of highway have not yet been confirmed and will be essential before the planning permission can be implemented.
- 5) 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.
- 6) Planning permission does not convey any approval for construction of works within the highway for which a statutory licence must be obtained. Applicants should contact Kent County Council - Highways and Transportation (web: www.kent.gov.uk/roads_and_transport.aspx or telephone: 03000 418181) in order to obtain the necessary Application Pack.

Case Officer: James Wilson

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.

APPENDICES

Appendix 1 – report to Planning Committee on 16 March 2015

Appendix 2 – minute of meeting on 16 March 2015

APPENDIX 1

Special Meeting of Planning Committee – 16 March 2015

SPECIAL MEETING OF PLANNING COMMITTEE – 16 MARCH 2015

Report of the Head of Planning

REFERENCE NO - 14/505440/FULL			
APPLICATION PROPOSAL Proposed mixed use development - on six parcels of land - of 215 residential apartments (use class C3), 3158 sq m of retail space (use class A1), a 308 space multi storey car park, 1713 sq.m cinema (use class D2), 2320 sq.m ground floor restaurant units (use class A3), first floor D2 use and the re-alignment of St Michael's Road with amendments to the road network and the creation of a new public square in Sittingbourne Town Centre, in front of the railway station.			
ADDRESS Spirit Of Sittingbourne Regeneration Site Identified On Site Location Plan (drg Number: 14.35.100 Revision PO) Sittingbourne Kent ME10 3DU			
RECOMMENDATION – GRANT OF PLANNING PERMISSION subject to conditions as set out below, the signing of a suitably-worded s106 agreement, amended plans and additional plans and documents to address the unresolved issues as described in this report, the Highways Agency and Kent Highways Services raising no objection and further conditions as requested by them, additional information in respect of the retail implications and additional conditions if required; and referral to the Secretary of State.			
SUMMARY OF REASONS FOR RECOMMENDATION/REASONS FOR REFUSAL See conclusion at 10.0 to 10.4 below.			
REASON FOR REFERRAL TO COMMITTEE: significance, third party objections and requirements for a Section 106 Agreement			
WARD St Michaels and Chalkwell	PARISH/TOWN COUNCIL	APPLICANT The Spirit Of Sittingbourne LLP AGENT Mr Alastair Cracknell	
DECISION DUE DATE 26/02/15	PUBLICITY EXPIRY DATE 6/03/15	OFFICER SITE VISIT DATE: Various during December 2014 to March 2015	
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites). The six sites and adjoining land have considerable planning history and I consider that the following warrants specific mention:			
App No	Proposal	Decision	Date
SW/13/0635	2A and 2B Frederick Street (rear of Site 1) – planning permission granted for conversion into five flats, including demolition of outbuildings. Not implemented. Rear of Site 1.	Permission granted	5/9/2013
SW/95/0712	Wingate Court and Anselm Close, West Street / Ufton Lane (adjacent Site 1) – a development of 64 dwellings - the flat block facing West Street has a ridge height of 16 metres and an eaves height of 11.4 metres. Now implemented. Adjacent to Site 1.	Permission granted	19/4/1996
SW/11/0159	Mixed use development, including a supermarket (of 6682 square metres) and housing, on former papermill site and wharf site. Note proximity of main site to Sites 2, 3 and 6 of proposed development. Only the supermarket element has been implemented to date.	Outline planning permission granted – partly implemented	8/2/2012

APPENDIX 1

Special Meeting of Planning Committee – 16 March 2015

		with supermarket constructed.	
SW/10/1415	Tesco Spenhill. Part of proposed wider re-development of town centre and land at Milton Creek together with SW/10/1419 and SW/10/1420. The scheme as amended envisaged approximately 2000 square metres of retail space in the form of two extensions to the northern side of the Forum. On parts of Sites 4 and 5.	Members resolved to approve, but application subsequently withdrawn.	28/5/2013
SW/10/1419	To the north-east of Site 6. Retail development including a 13,420 square-metre supermarket and 8,545 square metres of comparison retail floor space on land at Milton Creek, north of Eurolink Way.	Members resolved to approve, but application subsequently withdrawn.	28/5/2013
SW/10/1420	Pedestrian and cycle bridge over Eurolink Way, to connect developments proposed under SW/10/1415 and SW/10/1419. To the north of Site 5.	Outline planning permission granted	12/7/2011
SW/98/0212	Sittingbourne Retail Park, opposite Site 6, planning permission granted for retail units and a restaurant. Various subsequent permissions have also been granted, including for two further restaurants.	Permission granted.	29/9/1998
SW/80/0050	Princes Street Depot – Site 6 – development of a new depot building with a total floor area of 3164 square metres. The permission was implemented and the building on Site 6 remains in situ.	Permission granted.	25/3/1980
SW/96/0512	Permission to remove decked car park and extend The Forum to provide 1388 square metres of additional retail space. Adjacent Sites 4 and 5.	Permission granted.	18/12/1998
SW/06/0618	20 flats on land at Church Street, Sittingbourne. Now built, and which extends to a height of approximately 13 metres where it faces Site 2.	Permission granted.	29/6/2006
SW/03/0754	Permission for use of part of Forum car park for a Friday market.	Permission granted.	18/8/2003

APPENDIX 1

Special Meeting of Planning Committee – 16 March 2015

MAIN REPORT**1.0 DESCRIPTION OF SITE**

- 1.01 The 'report summary' set out at the start of this report includes a broad description of the proposed development, including the fact that the development is proposed across six sites. Taking each site in turn, the current uses and other key features of the six parcels of land are as follows:
- 1.02 *Site 1* - this parcel of land – which broadly equates to the Cockleshell Walk public car park - measures 0.36 hectares (or 0.89 acres). The site - which accommodates 'circa 102 car parking spaces - is predominantly hard surfaced and features a fall of approximately two metres from the southern end (close to the junction of West Street and St Michael's Road, the A2) and the northern point (the grassed area just south of the railway lines).
- 1.03 The site measures 158 metres from north to south and has a typical width of 30 metres. To the rear (west), it adjoins the rear gardens of dwellings on the east side of Frederick Street and three properties on Labumum Place (namely numbers 40, 39 and 38). This housing is two-storey terraced. At the southern end, the site adjoins the car sales / motorbike dealer, Sittingbourne Service Station, and Swale Cabs taxi business (86, West Street), which feature several single storey buildings. Members will also note the outbuilding just behind the south-west corner of the site.
- 1.04 To the south-east, Members will note the part four-storey housing, Wingate Court, which extends to a ridge height of 16 metres (with the eaves to the front measuring 11.4 metres).
- 1.05 There is an existing public path (not a formal public right of way) running through the northern part of the site, and connecting the area to the town centre and, to the west / north-west, to Charlotte Street and the proposed housing on the former paper mill site (see SW/11/0159, described above).
- 1.06 On Pages 23 and 24 of the Design and Access Statement, the applicant sets out the key features of the site and surrounds graphically, and with photos showing some key features.
- 1.07 *Site 2* - this parcel of land measures 0.32 hectares (or 0.78 acres) – with typical dimensions of 86 metres (east to west) by 36 metres (north to south) - and is the Spring Street public car park and a wooded area immediately to the west (approximately 18 metres by 43 metres), and which is described and analysed in the applicant's Arboricultural Survey. The land provides public car parking for 72 vehicles. The vehicular access (also an exit) is from St Michael's Road, on the south side, with a second vehicular exit point on the east elevation, opposite the Water Palace Chinese restaurant. The site is characterised by distinct changes in levels, including – according to the applicant – a fall of approximately three metres from east to west.
- 1.08 Immediately to the north is the railway, which sits on an embankment that is intermittently wooded in this vicinity. To the south are a mix of building forms sat close to St Michael's Road with a range of residential and non-residential uses (such as ISP educational use) and ranging in height from single storey (the Holy Trinity Parish Hall) to the 4.5 storey apartments facing the south-east corner of Site 2.

APPENDIX 1

Special Meeting of Planning Committee – 16 March 2015

- 1.09 On Pages 25 and 26 of the Design and Access Statement, the applicant sets out the key features of the site and surrounds graphically, and with photos showing some key features.
- 1.10 *Site 3* - this parcel of land measures 0.35 hectares (or 0.87 acres) – measuring a maximum of 76 (east to west) by a maximum of 66 metres (north to south) - and occupies the majority of an island of land enclosed by public roads, Milton Road to the north, Dover Street to the south and St Michael's Road to the south-west; the Fountain Street cul-de-sac cuts through the site. Much of the land parcel is hard surfaced and in commercial use, as a car rental business, while the southern part of the site is grassed and features a single, substantial tree. Three existing buildings would be removed to accommodate the proposed development. Two further substantial trees are located on the northern boundary and are prominent features of Milton Road.
- 1.11 There are north-south and east-west (via Fountain Street) pedestrian routes across the site. Although the site is not characterised by particular changes in levels, Members will note that Milton Road is at a lower level than the site and that St Michael's Road is also lower lying than the adjoining part of this land parcel.
- 1.12 Members will note that the site immediately adjoins the Water Palace Chinese restaurant (to the north-west) and the Fountain Public House and the commercial property, 35 Station Street, to the east. The former has a residential address, 52a Dover Street, at upper levels.
- 1.13 On Pages 27 and 28 of the Design and Access Statement, the applicant sets out the key features of the site and surrounds graphically, and with photos showing some key features.
- 1.14 *Site 4* - this parcel of land measures 1.08 hectares (or 2.66 acres), and measures a maximum of 120 metres from east to west and 134 metres from north to south. The predominant land uses are public car parking – 30 spaces immediately in front of the railway station and 64 spaces that form part of The Forum car park – public highway, St Michael's Road (including the large roundabout) and a stretch of Station Street that provides access to the public car parking; the area also features taxi ranks and several bus stops. Members will note that some of The Forum car parking (known as the Tesco car park) falls outside the application site and although the access to it will be affected, 98 spaces will be retained.
- 1.15 The Forum car park is also used for a market on Fridays, the planning permission for which I refer to above, and the proposed re-development of this area would necessitate its re-location.
- 1.16 The site is not characterised by changes in level and features only a limited number of trees and very limited grassed / shrub planting areas. As with each of the six sites, the implications for existing trees are set out in the applicant's Arboricultural Survey (October 2014).
- 1.17 This site occupies a key location, being the arrival / departure area for the railway station and a hub for public transport generally, including buses and taxis; the site adjoins retail, pub / restaurant and other commercial uses (and limited residential) to south, east and west. Some of these existing buildings are substantial, including The Forum (a maximum of approximately ten metres in height, where it adjoins Site 4) and Wilkinsons (approximately 15 metres tall, where it adjoins Site 4).

APPENDIX 1

Special Meeting of Planning Committee – 16 March 2015

- 1.18 On Pages 29 and 30 of the Design and Access Statement, the applicant sets out the key features of the site and surrounds graphically, and with photos showing some key features.
- 1.19 Site 5 - this parcel of land measures 0.44 (or 1.08 acres), measuring a maximum of 148 metres along its frontage with St Michael's Road and a maximum of 40 metres from north to south (at the eastern end, where the multi-storey car park is proposed). The Station Street car park (22 spaces) would be re-developed and a section of the existing Station Street would be removed, together with a line of trees fronting St Michael's Road and some larger trees immediately adjoining the northern elevation of The Forum. The submitted details suggest that one of the two large trees, described as Zelkova, on the land adjacent to St Michael's Road would be retained, but 'T12', closest to the proposed multi-storey car park, would be removed.
- 1.20 The existing pedestrian access to the northern side of The Forum would be retained.
- 1.21 On Pages 31 and 32 of the Design and Access Statement, the applicant sets out the key features of the site and surrounds graphically, and with photos showing some key features.
- 1.22 Site 6 – this parcel of land measures 1.044 hectares (or 2.5 acres) – with maximum dimensions of 94 metres (north to south) by 166 metres (east to west) - and is known as the Princes Street Depot. The land is currently used by Biffa as a waste transfer centre, and has two buildings on it together with some hard-standing. As set out in the Arboricultural Survey, much of the site boundary with both Milton Road and Eurolink Way is enclosed by tree and shrub growth of various species and with a height of approximately seven metres.
- 1.23 The 'Existing Site Plan' (13003A_101 revision A) shows some variations in site level, with these typically between just over 14 metres AOD and just under 12 metres AOD. This plan also shows that the single vehicular access point is from Eurolink Way, opposite the service entrance to the Sittingbourne Retail Park.
- 1.24 The site adjoins the railway station (immediately to the south) and to the west and north lie retail land uses, respectively the Morrisons supermarket and the Sittingbourne Retail Park. There is a difference in levels of approximately two metres between the track level (15.5 metres) and the southern part of the site (13.5 metres).
- 1.25 On Pages 33 and 34 of the Design and Access Statement, the applicant sets out the key features of the site and surrounds graphically, and with photos showing some key features.
- 1.26 The relative positions of the six sites to one and other are shown, among other places, on the 'Proposed Masterplan' (14.35.101 revision P0).
- 1.27 Members will note that, according to the Transport Assessment (November 2014), a total of 260 car parking spaces will be removed to accommodate the proposed development. In addition, the 30 Network Rail car parking spaces immediately in front of the station would also be removed.
- 1.28 The application sites are located in Chalkwell Ward (Sites 1, 2 and 6) and St Michael's Ward (Sites 3, 4 and 5).

APPENDIX 1

Special Meeting of Planning Committee – 16 March 2015

2.0 PROPOSAL

2.01 As noted above, the planning application is described as follows:

"Proposed mixed use development - on six parcels of land - of 215 residential apartments (use class C3), 3158 square metres of retail space (use class A1), a 308 space multi-storey car park, 1713 square metres cinema (use class D2), 2320 square metres ground floor restaurant units (use class A3), first-floor D2 use and the realignment of St Michael's Road with amendments to the road network and the creation of a new public square in Sittingbourne Town Centre, in front of the railway station."

2.02 The various supporting documents, which I introduce below, give the full detail about what is proposed, and in the following paragraphs I set out what is envisaged on a site-by-site basis.

2.03 *Site 1* – this land parcel would be re-developed to provide 62 apartments in a mix of one and two-bedroom dwellings. As set out on Page 62 of the Design and Access Statement, there would be 21 one-bedroom and 41 two-bedroom dwellings and these would range in size from 48 to 55 square metres GIFA (gross internal floor area) for the one-bedroom units and from 63 to 74 square metres (GIFA) for the two-bedroom dwellings

2.04 The dwellings, which would be spread across two blocks and would address Michael's Road, would have 37 car parking spaces (which equates to 0.60 spaces per dwelling). This does not include the nine on-street spaces. This parking, which would be located outside the red edge site boundary, would be interspersed with street trees. As illustrated on the 'Proposed Ground Floor Plan' (14.35.110 revision P3), this would be predominantly at the rear of the buildings, though Members will note that nine spaces are shown just to the north of the northernmost apartment block (which would be the smaller of the two), served by an existing access from St Michael's Road. A total of three disabled car parking spaces are shown. The applicant is committed to providing one cycle parking space per dwellings for this site, and sites 2 and 3. So 62 spaces will provided, and Members will note the condition to secure this below.

2.05 The main vehicular access would be slightly to the north of the existing access to the public car park, between the northern and southern blocks of apartments.

2.06 The 'Proposed Ground Floor Plan' drawing also shows that existing vehicular access for some of the dwellings on the east side of Frederick Street (which face Site 1) – and for refuse collection – is included in the proposed design. No public car parking would be provided on Site 1 though.

2.07 The larger, southern block would have a footprint of 76 metres – parallel to St Michael's Road – by 14.6 metres, which includes a 5.6 metres rear projection for the lift columns and stairwells. The main part of the upper floors (not the stairwells) would have a deeper projection, over-hanging the rear car parking.

APPENDIX 1

Special Meeting of Planning Committee – 16 March 2015

- 2.08 The block, which would be flat-roofed, would measure a maximum of 12.4 metres in height (compared to the ridge height of the adjacent Wingate Court, which is 16 metres). It would be divided between 12 distinct sections and have four main doors on the front and a further four on the rear. All of the upper-floor apartments – 36 in total – would have balconies on the St Michael's Road elevation. The eight ground-floor units would have terraced areas facing the road frontage, served by eight further doors.
- 2.09 The main living areas for all 44 apartments in this block would face St Michael's Road, while the rear facing windows would serve bedrooms, bathrooms and the stairwells.
- 2.10 The smaller, northern block would have a footprint of 38 metres – addressing St Michael's Road - by nine metres in depth, with the lift stairwell projecting by a further 5.8 metres. The block would accommodate 18 apartments. The southern part of the building would follow the same front and rear alignment as the southern block, but the northern part would project slightly to the east, broadly following the line of St Michael's Road, and would be less deep.
- 2.11 Two main doors are shown to the front – together with two further doors to paved areas also at the front – and three further doors at the rear. The 14 upper-floor apartments would have balconies facing St Michael's Road, while two of the eight ground-floor units would have paved areas as mentioned above.
- 2.12 The height of this block would be consistent with the southern block, with the height ranging between 12.2 metres and 12 metres. Similarly, and as with the southern block, the building would have six distinct sections, breaking-up the bulk of the elevation.
- 2.13 *Site 2* – this land parcel would be re-developed to provide 88 apartments in a mix of one and two-bedroom dwellings. As set out on Page 62 of the Design and Access Statement, there would be 48 one-bedroom and 40 two-bedroom dwellings and these would range in size from 51 to 52 square metres GIFA (gross internal floor area) for the one-bedroom units and all of the two-bedroom dwellings would be 69 square metres GIFA.
- 2.14 As shown on the 'Proposed Ground Floor Plan' (14.35.120 revision P1), the block would address St Michael's Road, but would not be perpendicular to it. Instead, it would be slanted to the south-west. The ground floor level would be raised up from the public road, with steps leading to four main entrances. The line of the frontage would also be stepped, with four discernible sections, each with two dwellings fronting St Michael's Road. The front of the building would measure approximately 70 metres and the projection from front to rear, at ground floor level, would be a maximum of 15.6 metres.
- 2.15 Members will note that car parking for 46 cars (including three disabled bays, and which equates to 0.52 spaces per dwelling) is to be provided to the rear, and some of this provision would be in the form of under-croft spaces. 88 cycle parking spaces are to be provided.
- 2.16 No public car parking would be provided on the site.

APPENDIX 1

Special Meeting of Planning Committee – 16 March 2015

- 2.17 The building would accommodate 8 apartments on the ground floor (each with an outdoor sitting area), and 16 on each of the first, second, third and fourth floors, with 8 apartments on the fifth and sixth floors. The upper floor dwellings would each have a balcony. The building – which would be flat-roofed – would extend to a maximum height of 22.2 metres, at the south-west corner, where it would be seven storey and where the prevailing ground level is at its lowest. The eastern end of the development would be five-storey, and the height where the building faces Dover Street, opposite the Water Palace, would be 15 metres.
- 2.18 Members will note that some of the existing trees on the site would be removed to accommodate the building and associated car parking and that street-trees are proposed along the front of the site and on the corner, turning into Dover Street.
- 2.19 Site 3 – would re-developed to provide 65 apartments (each of which would either have a balcony or – at ground-floor level – a paved outdoor space), consisting of 51 one-bedroom units and 14 two-bedroom units. Car parking – totalling 26 spaces, including two disabled spaces, and which equates to 0.4 spaces per dwelling – is proposed at the front, off Fountain Street, and at the rear, towards Milton Road. 65 cycle parking spaces will be provided.
- 2.20 The footprint would measure a maximum of 69 metres, from east to west, by a maximum of 16 metres, from north to south.
- 2.21 The building, which would be part four- (at the western end, facing Site 2) and part five-storey (at the eastern), would have a maximum height of 14.2 metres, and would be flat-roofed.
- 2.22 Site 4 – the area immediately to the south of the Railway Station would be re-developed, with the highway network re-configured – to accommodate a public square, a block comprising five restaurants and seven cinema screens (known as Block A) and a second building (Block B), which would accommodate two restaurants at ground floor and space (585 square metres) on the first floor for a further bar / restaurant (Unit 9). Members will note condition (11) below, which is required in order to provide two-way vehicular access to the site, via Station Street and West Street, for taxis and service vehicles. The inter-relationship between this development and the existing buildings in the vicinity (all of which would be retained) is shown on drawing 13003B_110 Revision B, 'Proposed Site Plan'. Pages 72 to 81 of the Design and Access Statement deal, in detail, with Site 4.
- 2.23 Members will note that, among other changes, the alignment and design of St Michael's Road would be significantly altered in order to accommodate this new development. In particular, the existing roundabout would be removed and replaced with a set of traffic signals, while a new roundabout would be constructed just to the south-east of the station entrance.
- 2.24 It is also worth noting that – although 64 car parking space will be removed – some of the existing car parking would be retained, namely 97 spaces as shown on drawing 13003B_110 Revision F.
- 2.25 Block A would, as noted above, accommodate five restaurant units at ground floor – with a combined floor area of 1844 square metres – and some ancillary areas, including the entrance (described as Unit 6) for the cinema use, which is on the upper floors. The building footprint would measure 82 metres in length, aligned approximately from north to south, and 29 metres from front to rear, aligned

APPENDIX 1

Special Meeting of Planning Committee – 16 March 2015

approximately east to west, at the southern end. At the northern end, Unit 1 (which faces the railway station) would be 25 metres in depth.

- 2.26 At the upper levels (described as 'Ground Cinema Level' and 'Projection Level') the seven cinema screens would range in size from 72 seats (Screen 7) to 255 seats (Screen 1). An external terrace area, at the south-east corner of the 'Ground Cinema Level' is also proposed. The cinema would have a total floor area of 2952 square metres.
- 2.27 Block A would be flat-roofed and measure 16.6 metres at the southern end and 18.6 metres at the northern end, facing the railway station. The Block would sit a minimum of nine metres to the east of the facing buildings on Station Street, namely 25 to 29, Station Street, which is a three-storey building with a shop at ground floor. The gap between the two buildings would, however, typically be 16 metres.
- 2.28 Block B, which would be sited just to the east of Block A and which would enclose the southern side of the proposed square would have a footprint with maximum dimensions of 22.2 metres (north to south) and 31.6 metres (east to west). The building would be flat-roofed and measure 11 metres in height.
- 2.29 The proposed public square would be a key component of the re-development of Site 4 and indeed the entire re-development, and would extend east from the front of Block A) (Unit 1) for a distance of 32 metres to the proposed 'landscaped seating and sculptural form' (which would provide raised seating and a landscaped enclosure for the eastern side of the square). The north-south dimension of the square would be a maximum of 31.2 metres, from the front (north) elevation of Block B to the pedestrian crossing point on St Michael's Road in front of the railway station.
- 2.30 Tree planting for Site 4 is shown indicatively on the submitted plans and is explained in the Design and Access Statement and in the Landscape Report (October 2014).
- 2.31 Site 5, which adjoins the eastern side of Site 4 just to the east of the east elevation of Block B, would accommodate a hard surfaced area of public realm, including some street trees, a new bus lay-by and a pedestrian link (minimum width approximately 2.5 metres) between Blocks A and B and the proposed square and the proposed multi-storey car park, which is proposed immediately to the north of the eastern end of The Forum (in particular, the unit that accommodates the Tesco supermarket).
- 2.32 The area linking the MSC to Site 4, which includes an extended service yard for The Forum, would measure 84 metres by 22 metres (north to south). Members will note that the two mature trees on the St Michael's Road frontage are shown to be retained.
- 2.34 The multi-storey car park would accommodate 308 spaces, which would be divided across the five levels as follows:
- 2.34.1 32 spaces on the ground floor consisting of seven disabled spaces, seven parent / child spaces, eight 'car charging spaces', ten and other spaces. Two waiting bays and facilities for bikes and motor bikes are also proposed.
- 2.34.2 69 spaces (including three disabled spaces) are proposed on each of the first, second, third and fourth floors. 276 spaces in total, including 12 disabled spaces.
- 2.34.3 The proposal does not include any cycle parking spaces.

APPENDIX 1

Special Meeting of Planning Committee – 16 March 2015

- 2.35 The building would have a footprint – approximately rectangular – measuring 38 metres from north to south at the western end and 36.6 metres at the eastern end, and 58.2 metres in length, fronting St Michael's Road. The vehicular entrance would be on the eastern end, at the southern end of the elevation; there would be pedestrian entrances on the east elevation and on the west elevation, at the north-west corner of the building.
- 2.36 The west elevation of the building would adjoin The Forum and covered pedestrian access, measuring 3.3 metres in width, into the shopping centre would be provided, allowing direct covered access from MSC and for pedestrians coming from Site 4 or elsewhere.
- 2.37 The building, the northern elevation of which would sit immediately on the rear of the pavement to St Michael's Road, would be flat-roofed and extend to a height of 17.4 metres at the north-east corner (though part of the east elevation would extend to 18.8 metres, or 32 metres AOD) and 16.2 metres at the north-west corner.
- 2.38 Site 6 - the existing buildings would be cleared and replaced with two single-storey buildings to provide a total of 3158 square metres of retail space (gross internal), to accommodate four large-format retail units.
- 2.39 105 car parking spaces are proposed - including seven disabled spaces – and these would be located to the front and side (east) of larger building [to accommodate Units 1 (929 square metres), 2 (696 square metres) and 3 (510 square metres)] and in front (to the west) of Unit 4, a detached building measuring 1021 square metres.
- 2.40 The proposal for Site 6 does not include provision of cycle parking
- 2.41 Servicing areas and staff parking are proposed along the southern end of the site, to the rear of the two buildings.
- 2.42 The larger building - which would be aligned parallel to the southern site boundary and would extend close to the west site boundary, with Milton Road – would measure 73 metres in length (east to west) and 45.4 metres from north to south.
- 2.43 The smaller building, Unit 4, would have a square footprint, measuring 33 metres along each elevation. The rear (east) elevation has been amended to improve the appearance of the building in views from Eurolink Way.
- 2.44 The buildings would have a typical height of 8.6 metres, with the canopy at six metres.
- 2.45 The buildings would be designed to accommodate the future provision of mezzanine floors.
- 2.46 The landscaping details are limited at this stage, and the plans and Arboricultural Survey suggest that the existing perimeter planting will be removed and that new tree planting could be provided to parts of the site boundary and intermittently within the car park.
- 2.47 The vehicular access position would remain as existing, and a pedestrian access would be provided from Milton Road.

APPENDIX 1

Special Meeting of Planning Committee – 16 March 2015

2.48 The application is supported by a suite of documents that includes the following:

- Design and Access Statement (February 2015);
- Planning Statement (January 2015);
- Transport Assessment (November 2014);
- Daylight Report – Site 1 (January 2015);
- Daylight Report – Site 2 (January 2015);
- Daylight Report – Site 3 (February 2015);
- Daylight Report – Site 4 (November 2014)
- Sustainability Report (January 2015);
- Statement of Community Involvement (SCI)(February 2015)
- Energy Statement (January 2015);
- Economic Benefits Statement (EBS)(January 2015);
- Ecological Appraisal (October 2014)
- Ecological Enhancement Proposals (DRAFT)(February 2015);
- Arboricultural Survey (October 2014);
- Heritage Statement (October 2014);
- Landscape Report (October 2014);
- Bat Inspection Survey Results (November 2014);
- Desktop Contamination Assessment (February 2015);
- Viability Report (4 December 2014);
- Development Appraisal (December 2014);
- Landscape and Visual Impact Assessment (October 2014);
- Retail Impact Assessment (including sequential assessment)(October 2014);
- Noise Impact Assessment (October 2014);
- Air Quality Assessment (October 2014); and
- Flood Risk Assessment

2.49 The applicant has provided a table summarising the parking situation, existing and proposed, and it is attached as Appendix 1.

3.0 SUMMARY INFORMATION

	Existing	Proposed	Change (+/-)
Site Area (ha)	Total of 3.48 hectares (or 8.6 acres). See above for site-by-site split.	As existing.	0
Approximate Building Height (m)	There are no buildings on Sites 1, 2, 4 and 5. The buildings on Sites 3 and 6 are two- and single-storey respectively.	See full details above.	NA
No. of Storeys	Applies only to Sites 3 and 6 – see above.	Maximum of seven (on Site 2), but see details above.	Maximum of +7, on Site 2.

APPENDIX 1

Special Meeting of Planning Committee – 16 March 2015

Gross Floor Area	2704 square metres on Plots 3 and 6 only.	17, 605 square metres in total	14901 square metres
Parking Spaces	See appraisal at 9.49 to 9.54 below.	308 (in the MSC); 50 (Site 1); 46 (Site 2); 26 (Site 3); 97 (retained adjacent to Site 4) and 105 (Site 6). In total: <u>510</u> commercial spaces and <u>122</u> residential. Grand total of <u>632</u> car parking spaces.	See appraisal at 9.49 to 9.54 below.
No. of Residential Units	0	215 1- and 2-bedroom apartments, See above for split between Sites 1, 2 and 3.	+ 215
No. of Affordable Units	0	0	0

4.0 PLANNING CONSTRAINTS

- 4.1 *Listed Buildings / Non-designated Heritage Assets* – there are none of either within any of the six sites; the submitted Heritage Statement deals with the listed buildings and non-designated assets in the vicinity of the six sites;
- 4.2 *Conservation Area* (there is a statutory duty to preserve or enhance the significance of heritage assets under the Planning (Listed Buildings & Conservation Areas) Act 1990). None of the application site is located in a Conservation Area (CA), but Members may well be aware that much of Sittingbourne High Street is designated as a CA.
- 4.3 TPO – no trees covered by Tree Preservation Orders would be affected by any of the development proposed on the six sites. There would though be significant potential implications for trees and Members will note the submitted ‘Arboricultural Survey (October 2014)’, which deals with the issue in detail. Members will also note the corresponding section of the ‘Appraisal’ below.
- 4.4 Air Quality Management Areas (AQMAs) – Members will note that there are two designated AQMAs in the vicinity of the development sites, namely on East Street (to the east of Sittingbourne town centre) and on St Paul’s Street (to the north-west of the town centre).

APPENDIX 1

Special Meeting of Planning Committee – 16 March 2015

- 4.5 Flood Zones – all six sites are located within the Environment Agency designated Flood Zone 1, meaning that there is a low risk of flooding from rivers or the sea. This issue is though considered further in the 'Appraisal' below.
- 4.6 The Core Shopping Area (CSA) (Policy B3 of the Swale Borough Local Plan 2008) and the Secondary Shopping Area (also Policy B3) are set out on Inset Map (Sheet 2B) of the SBLP 2008. Members will note that CSA includes both sides of the High Street running east from the junction with Station Street, all the units in The Forum, Wilkinsons' frontage with Station Street and the entrance facing north, towards the railway station.
- 4.7 Members will also note the areas identified as Secondary Shopping Area (SSA), notably High Street west of the junction with Station Street and part of West Street, as far as the junction with Dover Street.
- 4.8 Allocated Site – part or all of each of the six sites, with the exception of Site 2, are allocated in the adopted SBLP 2008. Members will also note that the emerging Local Plan, namely Bearing Fruits 2031 (Publication Version, 2014), includes Policy Regen 1, which addresses the prospective regeneration of the 'central Sittingbourne area', which includes the six sites the subject of this planning application. Members will note, among other things, the plan at Figure 6.7.1, which shows an earlier version of the layout for which planning permission is now sought. The text of the policy – taken from Pages 160 and 161 of the Plan – is set out in full below. I deal fully with allocated sites in section five below.
- 5.0 POLICY AND OTHER CONSIDERATIONS
- 5.01 Members will note that the application documents deal with national and local planning policies in both the Design and Access Statement (pages 36 and 37) and the Planning Statement (page 10 onwards).
- 5.02 National Planning Policy Framework (NPPF)(2012)
- 5.021 The following paragraphs are considered to be of particular relevance to this development.
- 5.022 The NPPF has at its core the presumption in favour of sustainable development, and there are, it is suggested, three dimensions to this term: economic, social and environmental.
- 5.023 Paragraph 7 suggests the following roles for the planning system:
- *"An economic role – contributing to building a strong, responsive and competitive economy...*
 - *A social role – supporting strong, vibrant and healthy communities...; and*
 - *An environmental role – contributing to protecting and enhancing our natural, built and historic environment."*
- 5.024 Paragraph 9 states that *"...pursuing sustainable development involves seeking positive improvements in the quality of the built, natural and historic environment, as well as in people's quality of life... "*

APPENDIX 1

Special Meeting of Planning Committee – 16 March 2015

- 5.025 The NPPF (see Paragraph 12) *"...does not change the statutory status of the development plan as the starting point for decision making...development that accords with an up-to-date Local Plan [in this case, the saved policies of the Swale Borough Local Plan 2008] should be approved, and...development that conflicts should be refused unless material considerations indicate otherwise."*
- 5.026 Paragraph 14 states that *"at the heart of the NPPF is the presumption in favour of sustainable development...for decision-taking this means: approving development proposals that accord with the development plan without delay..."*
- 5.027 Paragraph 17 states that the *"...conservation of heritage assets in a manner appropriate to their significance so that they can be enjoyed for their contribution to the quality of life of this and future generations..."* is a core planning principle *"which should underpin decision taking"*.
- 5.028 Paragraph 18 states that *"the Government is committed to ensuring economic growth in order to create jobs and prosperity, building on the country's inherent strengths, and to meet the twin challenges of global competition and of a low carbon future."*
- 5.029 Paragraph 24 states that a sequential test should be applied to planning applications for main town centre uses [which include retail] that are not in an existing centre and are not in accordance with an up-to-date Local Plan. As noted above, a dedicated report has been submitted in support of the application.
- 5.0210 Paragraph 26 requires the provision of an impact assessment where more than 2500 square metres of retail or office space is proposed outside of town centre and where the development would not accord with an up-to-date Local Plan. And Paragraph 27 advises that where an application fails the sequential test or is likely to have an adverse impact on town centre vitality and viability or planned investment it should be refused.
- 5.0211 Paragraph 47 sets out, among other things, the need for the Local Planning Authority to meet the *"full, objectively assessed needs for market and affordable housing..."* in their area and the need to *"identify and update annually a supply of specific deliverable sites sufficient to provide five years' worth of housing against their housing requirements with an additional buffer of 5%..."*
- 5.0212 Paragraph 49 stipulates, among other things, that *"housing applications should be considered in the context of the presumption in favour of sustainable development."*
- 5.0213 Paragraph 50 sets out criteria to aid the delivery of *"...a wide choice of high quality homes, widen opportunities for home ownership and create sustainable, inclusive and mixed communities..."*
- 5.0214 Paragraphs 56 to 68 address 'requiring good design', and Paragraph 56 asserts that *"Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people."*
- 5.0215 Paragraph 61 states: *"...requiring good design goes beyond aesthetic considerations. Therefore...decisions should address the connections between people and places and the integration of new development into the natural, built and historic environment."*

APPENDIX 1

Special Meeting of Planning Committee – 16 March 2015

- 5.0216 Paragraph 63 asserts that *"...great weight should be given to outstanding or innovative designs which help raise the standard of design more generally in an area."*
- 5.0217 Paragraph 69 planning decisions should aim to create places that are safe and accessible and promote meetings between members of the community who might not otherwise come into contact with each other.
- 5.0218 Paragraph 73 deals with high quality open spaces and opportunities for sport and recreation, and Local Plan policies for their provision should be based on robust and up-to-date assessment of the need for them.
- 5.0219 Paragraph 93 refers to the key role that planning plays in, among other things, *"...supporting the delivery of renewable and low carbon energy and associated infrastructure. This is central to the economic, social and environmental dimensions of sustainable development."*
- 5.0220 Paragraph 96, 2nd bullet states that in determining planning applications, local planning authorities should *"take account of landform, layout, building orientation, massing and landscaping to minimise energy consumption"*.
- 5.0221 Paragraph 100 stipulates that *"Inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk, but where development is necessary making it safe without increasing flood risk elsewhere."*
- 5.0222 At Paragraph 109 it states, among other things, that *"...the planning system should contribute to and enhance the natural and local environment by...minimising impacts on biodiversity and delivering net gains in biodiversity where possible."*
- 5.0223 Paragraph 125 deals with light pollution and advises that *"...decisions should limit the impact of light pollution...on local amenity, intrinsically dark landscapes and nature conservation."*
- 5.0224 Paragraphs 126 to 141 deal with 'conserving and enhancing the historic environment'.
- 5.0225 Paragraph 129 requires local planning authorities to *"identify and assess the significance of any heritage asset that may be affected (including by development affecting the setting of a heritage asset) and to take this assessment into account when considering the impact of a proposal on a heritage asset, to avoid or minimise conflict between the heritage asset's conservation and any aspect of the proposal."*
- 5.0226 Paragraphs 132 and 134 sets out that *"where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use."*
- 5.0227 Paragraphs 186 and 187 relate to decision taking and require, among other things, local planning authorities to approach the matter *"in a positive way"* and to *"look for solutions rather than problems"*.

APPENDIX 1

Special Meeting of Planning Committee – 16 March 2015

5.0228 The determination of applications is covered at Paragraphs 196 to 198, and Paragraph 197 instructs local planning authorities to "...apply the presumption in favour of sustainable development."

5.0229 The use of 'planning conditions and obligations' is addressed at Paragraphs 203 to 206. To a large extent, these paragraphs advocate the approach set out in the Community Infrastructure Levy (CIL) Regulations (2010), and in particular, Regulation 122 (2), and the NPPG guidance on the use of conditions in planning permissions.

5.0230 Members will note that Paragraph 204 states the following:

*"Planning Obligations should only be sought where they meet all of the following tests:
 _ Necessary to make the development acceptable in planning terms;
 _ Directly related to the development; and
 _ Fairly and reasonably related in scale and kind to the development."*

5.0231 However, Paragraph 205 adds a new onus on taking account of changes in market conditions and being "...sufficiently flexible to prevent planned development from stalling."

5.0233 Paragraph 216 advises that decision takers can also give weight to relevant policies in emerging plans according to:

- the stage of preparation;
- the extent to which there are unresolved objections; and
- the degree of consistency between the emerging plan to the policies in the NPPF.

5.03 The National Planning Practice Guidance (NPPG) sets out national planning guidance on a number of topics, and I make specific reference to the guidance on retail and town centre vitality and viability in the appraisal section below.

5.04 Swale Borough Local Plan (2008)

5.041 The following policies of the SBLP (2008) have been 'saved' and relate specifically to one or more of the six sites and are considered to be relevant here:

5.042 Sites 1 to 5 inclusive fall within Area Action Plan 7, Sittingbourne Town Centre, which in turn requires proposals to comply with Policy B27 and the requirement for a Masterplan (which was subsequently adopted, and Members will note paragraph 5.061 below). Among other things, AAP7 states the objective of

"...expanding Sittingbourne's role as a retail, business, cultural, community, education and civic centre for multi-purpose visits."

5.043 Site 6 is located in Area Action Plan 8. AAP8 covers land adjoining AAP7 to the north, and extending up to and across the head of Milton Creek to Mill Way and Milton Regis. Like AAP7, the action plan refers to the need for Masterplan, and to comply with Policy B27 and is focused on the delivery of significant urban regeneration, clearly aimed at the creation of a new district on under-utilised land to the north of the town centre. Housing, retail and leisure are among the potential new land uses referred to.

APPENDIX 1

Special Meeting of Planning Committee – 16 March 2015

- 5.044 As mentioned above, Policy B27 is also pertinent. The policy – which covers parts of Sites 4 and 6, and all of Site 5 – allocates land for 'retail, leisure and residential development' with the aim, among other things, of *"the new retail and leisure development to the north of the railway is integrated with the town centre.."*
- 5.045 Part of Site 1 is covered by Policy H5 (1).39, which allocates the southern part of the site and the commercial use adjoining to the south for a total of 18 dwellings; with 50% to be affordable. The total area of the allocation is 0.22 hectares.
- 5.046 Policy E18 – Area of High Townscape Value – adjoins Site 1 – and includes land at Ufton Lane and London Road. The supporting text – see Page 49 – *"...encourages a high standard of design"*.
- 5.047 Part of Site 3 is covered by Policy H5 (1).33, which envisages 12 dwellings on 0.23 hectares, and their provision as 100% affordable dwellings.
- 5.048 Policy B14 (new employment sites) applies to parts of Sites 4 and 5.
- 5.049 Members will note, as referred at paragraph 4.6 above, the relationship between the Core Shopping Area (Policy B3) and Sites 4 and 5. I also note the relationship between the boundary of the Secondary Shopping Area (Policy B3) in West Street and Site 1.
- 5.0410 Members will note that the conservation areas, which are addressed by Policy E15, include Sittingbourne High Street. The extent of which is set out in the submitted Heritage Statement (October 2014) and on Page 38 of the Design and Access Statement (February 2015).
- 5.0411 The following policies from the SBLP 2008 are also applicable: SP1, SP2, SP3, SP4, SP6 and SP7 (strategic policies), TG1 (Thames Gateway), E1 (general development criteria), E10 (trees and hedges), E11 (biodiversity), E12 (biodiversity sites), E14 (development affecting listed buildings), E19 (high quality design), B1 (retaining employment), B2 (providing new employment), B4 (new retail development), H2 (providing for new housing), H3 (affordable housing), H5 (specific housing allocations, particular parts of which are referenced above), H6 (housing within existing built-up areas), U1 (servicing development), U3 (renewable energy), T1 (safe access to development), T2 (highway improvements), T3 (parking for new developments), T4 (cyclists and pedestrians), T5 (public transport), T6 (maximising the use of railways...), T7 (town centre parking), C2 (new housing and provision of community services), and C3 (open space and new housing).
- 5.0412 Members will note that Policy T7 (town centre parking) requires, among other things, *"...the Borough Council to maintain an adequate level of car parking within town centre areas."*
- 5.05 Bearing Fruits 2031 (Publication Version, 2014)
- 5.051 This emerging Local Plan follows a number of stages of consultation, and is likely to be submitted for independent examination later in 2015 before adoption either late in 2015 or early 2016.

APPENDIX 1

Special Meeting of Planning Committee – 16 March 2015

5.052 Further to Paragraph 4.8 above, Policy Regen 1 is the main policy pertaining to Sittingbourne town centre and brings forward those elements of previous policy (notably from AAP7, AAP8 and B27 of the adopted Local Plan, see Paragraphs 5.042, 5.043 and 5.044 above) which are still relevant and is in accordance with the NPPF. Consequently, there are not expected to be significant unresolved objections to this policy and significant weight should be applied to this policy, which reads as follows:

"A regeneration area for central Sittingbourne, including its town centre, is shown on the [Proposals Map](#). Within this area proposals which support the objective of consolidating and expanding Sittingbourne's position as the main retail, business, cultural, community and civic centre for the Borough, will be permitted.

A. Development within the area will proceed in accordance with, or complement, a master plan to be prepared to support the development agreement between the regeneration partners and will accord with the key objectives of:

- 1. Providing additional comparison retail space and uses which provide greater vitality, viability, diversity and activity;*
- 2. Supporting the creation of a station square and bus train interchange with associated improvements to the station itself;*
- 3. Providing for a cinema and performance venue within the town centre area identified in Policy DM2;*
- 4. Providing for a redeveloped and enhanced civic quarter focused on Central Avenue, Roman Square and Avenue of Remembrance to include civic offices and services, health centre, housing and further education facilities;*
- 5. Reducing the visual dominance of St Michael's Road through traffic calming and environmental enhancement;*
- 6. Providing for suitable car parking that will support existing and new uses and be in accordance with an overall parking strategy for the centre;*
- 7. An integrated landscape strategy for the area as a whole that secures improvements in the public realm, green spaces and the pedestrian environment. Proposals will implement a green grid structure with street tree planting in key streets;*
- 8. An Health Impact Assessment to enable an integrated approach to be adopted across the regeneration area in accordance with Policy CP4; and*
- 9. Redeveloping sites predominantly for housing in the eastern and western gateways to the regeneration area, especially at Cockleshell Walk, Fountain Street, West Street, Dover Street and East Street, as identified by the Strategic Housing Land Availability Assessment, or at other suitable sites which are in accordance with Policy CP3.*

B. All development proposals will:

- 1. Accord with Policies DM1 and DM2 to maintain and enhance the retail offer of the primary shopping areas, whilst introducing uses there and elsewhere within the town centre which achieve greater vitality, viability and diversity of services and facilities, alongside buildings of architectural excellence. Where town centre vitality and viability is not harmed, other sites able to achieve similar objectives will be permitted within the regeneration area defined by this policy;*
- 2. Maintain or enhance key non-retail uses which underpin the retail and community functions of the town centre for both day and night time economy;*
- 3. Provide for residential development of suitable type and scale above commercial premises, or as part of mixed use developments, or on other suitable sites;*
- 4. Maintain and increase office floorspace provision above commercial premises within the town centre area, or where sites are not available, within the regeneration area;*

APPENDIX 1

Special Meeting of Planning Committee – 16 March 2015

- 5. Redevelop visually poor areas with buildings of innovative and sensitive design to create new townscape areas, which are of sustainable design and construction in accordance with Policy DM20;
- 6. Retain, enhance and create new open spaces and green spaces which should include tree planting (including street trees);
- 7. Provide public spaces, squares and public art, alongside improved lighting and street furniture; and
- 8. Improve north south links to facilities north of the railway and Eurolink Way via Milton Road and Crown Quay Lane."

5.053 Members will also note the supporting text on Pages 156 (paragraph 6.7.24 onwards) to 159 of Bearing Fruits.

5.054 The following policies are also relevant: **ST1** (delivering sustainable development in Swale), **ST3** (settlement strategy), **ST4** (meeting development targets), **ST5** (strategy for the Sittingbourne area), **CP3** (delivering housing), **CP4** (requiring good design), **CP5** (health and wellbeing), **CP6** (community facilities and services), **CP7** (natural environment and green infrastructure), **DM1** (town centre vitality and viability), **DM2** (town centre uses), **DM6** (managing transport demand), **DM7** (vehicle parking), **DM8** (affordable housing – 10% requirement in Sittingbourne town), **DM10** (gypsy and traveller sites), **DM14** (general development criteria), **DM17** (open space), **DM19** (sustainable design and construction), **DM20** (renewable and low carbon energy), and **DM21** (water, flooding and drainage).

5.056 The strategy for Sittingbourne (Policy **ST5**) is obviously of particular importance here and Members will note that it reads as follows

"Within the Sittingbourne area, the town is the principal urban centre and focus for the main concentration of developments in and adjacent to the town. Development proposals will, as appropriate:

1. Increase the supply and quality of employment provision at 'Existing Strategic Employment Sites' or at allocations or within the town centre regeneration area where the need for office floorspace can be additionally met. Unanticipated needs that cannot be met at these or other existing employment sites, will be permitted at locations close to the A249 in accordance with Local Plan policies;

- 2. Ensure the vitality of Sittingbourne town centre, as appropriate, by:*
- a. enhancing its retail offer and attractiveness to secure local spending and jobs, securing improved spaces, better north-south links and buildings of architectural excellence;*
 - b. providing a wider range of services, including transport, education, health, leisure and cultural facilities;*
 - c. enhancing secondary areas of the town within West Street, Dover Street, Cockleshell Walk and East Street;*
 - d. enhancing local character, heritage and the built environment, working with the grain and focus of the A2 or aiding the rediscovery of Milton Creek;*
 - e. safeguarding and expanding the network of urban green space and street trees; and*
 - f. adding to the mix of uses within the town centre to increase its vitality and viability.*

APPENDIX 1

Special Meeting of Planning Committee – 16 March 2015

3. *Support, as required, improved connections to the A249 and M2 from west Sittingbourne and the completion of the Sittingbourne Northern Relief Road to the A2;*
 4. *Provide housing/mixed uses within the Sittingbourne town centre regeneration or other sites within urban and village confines, or where indicated by proposed allocations;*
 5. *Create, where appropriate, mixed use and healthy communities and address disparities and housing market variances between communities north and south of the A2 through high quality design, new facilities and new jobs as appropriate;*
 6. *Maintain the individual character and separation of important local countryside gaps around Sittingbourne and to the east of Rainham in accordance with Policy DM25;*
 7. *Reduce levels of deprivation in the most deprived wards and facilitate as required, increased capacity in infrastructure and services;*
 8. *Manage recreational pressures arising from development proposals to safeguard international biodiversity sites and, where possible, achieve net gains in biodiversity and natural/semi-natural greenspace at development sites, especially within allocations to the north west and east of the town and Milton Creek;*
 9. *Include assessments of noise and other disturbances to enable control of any adverse effects on wintering SPA birds on Milton Creek, The Swale SPA and the Swale Ramsar site.*
 10. *Improve the condition and quality of landscapes in the area, especially those in poor condition and ensure that development is appropriate to landscape character and quality, especially within landscape designations and areas with low or moderate capacity to accommodate change;*
 11. *Avoid the loss of high quality agricultural land in accordance with Policy DM31;*
 12. *Are consistent with local air quality action plans for Newington High Street, St. Paul's and East Street;*
 13. *Conserve and enhance the historic and special interests of the town, coast, its rural area and landscapes; and*
 14. *Are appropriate to the level of risk from climate change, flooding and coastal change, especially where subject to Policy DM 23 on Coastal Change Management."*
- 5.057 Members will also note two of the paragraphs (from page 56) that support Policy ST5, and these read as follows:

"4.3.41 The Council is now part of a development partnership with the group 'Spirit of Sittingbourne' which is set to deliver further regeneration in and around the town centre. Economic conditions and changing priorities have necessitated a scaling back and a re-focus of attention on the main town centre and Policy Regen 1 has redefined the boundaries to the regeneration area for a mix of retail, leisure, civic facilities and new housing. Within the town centre boundary, the Council will bring greater flexibility to the consideration of uses at the outer edges of the primary

APPENDIX 1

Special Meeting of Planning Committee – 16 March 2015

shopping area and in the secondary shopping area to take advantage of opportunities that may arise during this time of economic difficulty for the centre.

4.3.42 To promote sustainable transport we are focusing on improving the quality of bus journeys, in particular the accessibility and facilities for passengers in central Sittingbourne. Within the town centre, major proposals will provide a central focus for bus and rail services in the vicinity of the station, which has been boosted by the award of £2.5M the South East Local Economic Partnership local growth fund.

Central Sittingbourne regeneration will also contribute to improvements to the highway network and traffic management within the town centre. A bus quality partnership will aim to improve public transport conditions and services at the town and in its centre, alongside additional routes to new developments and better walking and cycling routes."

5.058 In support of Policy DM8 on affordable housing, Members will note that Paragraph 7.3.7 of the preamble to it, includes the following:

"Viability is most affected by unfavourable economic circumstances in the housing market areas of Sheppey, Sittingbourne and Iwade and hence a lower percentage [10%] of affordable housing will be sought in these areas compared to other areas of the Borough [30% in Faversham and 40% in all other rural areas]."

5.06 Supplementary Planning Documents:

5.061 Sittingbourne Town Centre and Milton Creek (Adopted September 2010)

5.062 The document has chapters dealing with discrete areas within the town centre and adjoining areas, and in this instance the Western Gateway (page 80 onwards – relates to Sites 1 and 2), Town Centre Core and Station Gateway (page 62 onwards – relates to Sites 3, 4, 5 and 6), and Milton Creek (page 74 onwards – also relates to Site 6).

5.063 The SPD also gives advice on topics such as sustainable design and construction (see Chapter 7, 'the Green Charter'), landscaping (including the value of introducing semi-mature street trees into existing streets) and treatment of public realm (pages 59 and 60), and 'density, grain, height and scale' (pages 49 to 51).

5.07 The SPD 'Developer Contributions' (2009): Members will note not only the sections setting out the developer contributions that should generally be sought in respect of housing development, but also the Council's approach to dealing with applications where the financial viability of a proposed development has a bearing on the capacity of the development to support the payment of contributions and / or the provision of a percentage of affordable housing. In particular, Members will note Paragraphs 8.2 to 8.6.

5.08 Interim Guidance Note 1 – Residential Parking (November 2008): on Page 7, the document encourages Local Planning Authorities to develop parking policies "...offering the opportunity to provide a range of solutions, including developments with low or even zero parking provision." The guidance table for residential parking suggests that in town centres the provision should be a maximum of 1 space per dwelling.

APPENDIX 1

Special Meeting of Planning Committee – 16 March 2015

6.0 LOCAL REPRESENTATIONS

6.01 The application was initially advertised by the posting of nine site notice and an advertisement in a local paper and the direct consultation of 813 addresses in the vicinity of the six development sites.

6.02 In response to this consultation, the following representations were received:

FORTY-EIGHT (from FORTY-FIVE addresses) objections, including one received via the local Member of Parliament:

The issues raised are summarised as follows:

- The changes to the highway layout – including the removal of the roundabout by the railway station and the construction of a traffic-light controlled junction – will cause additional traffic congestion (particularly when the M2 is closed or when rail replacement buses are in operation) and could worsen emergency service's response times;
- Significant amounts of new development will also add to traffic congestion;
- Northern Relief Road should be completed before any of this development first operates;
- The car parks to be re-developed are needed particularly for users of amenities close to them – such as doctors' surgeries;
- Plans need to re-considered and commuters put first, particularly by not reducing long-stay car parking provision and drop-off areas at the station, which may prove to be inadequate;
- Loss of short-stay car parking is short sighted;
- Location of the multi-storey car park (MSC) would add to traffic congestion;
- Loss of several surface level parks will add to demand at other town centre car parks, and deprive west end of town of car parking;
- Council could make better use of the money they plan to spend on the Multi-Storey Car Park (MSC) – for example, to purchase and re-develop derelict land elsewhere in Sittingbourne;
- MSCs can be dangerous and unpleasant – this one is likely to be too cramped and with too few spaces;
- MSC should be priced for long-stay use;
- The existing bus facilities and the temporary ones should not be reduced;
- May not be sufficient space for taxis;
- Insufficient provision for cyclists;
- Concern is expressed about the proposed closure of St Michael's Road, which *"needs to be kept open as an essential throughfare..."*;
- Timing of consultation is cynical attempt to *"bury"* the proposals *"in Christmas trade and holidays"*;
- Location of the 'plaza' is inappropriate (and appears to be too big), and will be subject to traffic pollution – air and noise – and may attract uses that would *"not be a positive contribution..."*;
- Level of consultation is insufficient [the posting of nine site notice, advertisement in local press and 813 letters sent to people living / businesses close to development sites] and residents should have received paper copies of plans;
- Pre-application community engagement was not of sufficient quality;
- Not enough time is given for people to consider all the submitted documents;
- Concern is expressed about implications for existing High Street retailers;
- *"Regeneration of the Forum is unacceptable"*;

APPENDIX 1

Special Meeting of Planning Committee – 16 March 2015

- Proposed retail development is not needed and will contribute to the on-going 'cynical strangling of the High Street' and will 'all but the independent shops';
- Regeneration should not be at the expense of existing High Street or Sittingbourne Retail Park (SRP)retailers;
- Existing housing development adjacent to the Morrisons supermarket [for which planning permission was granted under reference SW/11/0159] should be completed – and other vacant sites such as the Bell Centre re-developed - *before* further housing development is brought forward
- Sittingbourne economy will be damaged as shoppers will go to other destinations where car parking spaces can be guaranteed, and new development may become a "white elephant";
- A different mix of new development would be more appropriate;
- Housing is not a primary feature of town centres;
- Proposed development does not reflect wishes of local people; and
- Councillors should listen to local people's concerns;
- Application must be judged on planning merits only;
- Council has already "*wasted Council tax money on aborted plans and agreements*" to regenerate the town;
- Social and economic benefits are questioned;
- Should the development be located elsewhere in the town – perhaps north of the railway lines;
- Development is unlikely to improve people's perceptions of Sittingbourne
- Aquifer under some of the sites could be adversely impacted by development;
- Gas and water infrastructure could be damaged by development;
- Existing noise pollution will be exacerbated;
- The views of the Design Panel [who considered the proposals at the pre-application stage] have not been fully addressed;
- The Transport Assessment contains "*glaring errors*", particularly in respect of existing car parking provision and its assessment of the roads in the vicinity of the SRP, which are under-pinned by a "*flawed traffic assessment*";
- Size of cinema is "excessive" and location is wrong;
- Elements of the scheme may not be properly accessible for elderly, children or mobility impaired;
- Large amount of plans and supporting documents are difficult for the lay person to fully understand;
- If the weekly market is relocated, some stall holders may be deterred from operating in Sittingbourne;
- The attempt to regenerate the town is applauded

Specific Concerns about Proposed Apartments

- Car parking provision for the proposed apartments may be insufficient (also described as "*totally unrealistic*"), and based on '*naïve*' assumptions about car ownership – adding to existing car parking problems in the area;
- Would the bus stop in front of Site 1 be re-located?
- Narrowing the carriageway in front of Site 1 could result in traffic flow problems;
- Dwellings in Frederick Street and Labumum Place will be over-shadowed by development on Site 1 – "*would lose a substantial amount of morning sunlight and daylight all year round*";
- Apartments will over-look existing dwellings – "*both in gardens as well as kitchens and bedrooms*";
- How will refuse bins be serviced?
- Television reception may be harmed;

APPENDIX 1

Special Meeting of Planning Committee – 16 March 2015

- Construction process may harm residential amenity and impact on the structure of nearby dwellings;
- Is a four-storey development [on Site 1] appropriate / consistent with previous local planning decisions?
- Scale and design of development on Sites 1 and 2 is "totally out of keeping with surrounding properties";
- Surprised a building of such size is being considered for Site 1;
- Pile driving could damage existing dwellings;
- Development will result in the area being "vastly over-populated";
- Arrangements for rear access to facing dwellings in Frederick Street need to be clarified;
- Housing may soon resemble "a poorly maintained slum"

6.03 Councillor Truelove, who is one of the ward councillors for the Chalkwell Ward, has submitted a detailed consultation response, which includes the following:

This application, which is said to be going to the Planning Committee of Swale Borough Council in March, will require members to set aside any corporate and political ambitions to take the Spirit of Sittingbourne project forward and to consider the planning issues alone. In that endeavour, members will want to pay particular attention to the views of the public, notwithstanding the somewhat understated approach to gleaning those views. Members should also consult the professional views offered by the South East Design Panel in August 2014. I have requested that planning officers make these latter views available to members in their reports prior to the planning meeting. It is also the case that opposition members on the planning committee will want to set aside party objections to the business case for this project and like majority group members focus only on the planning issues. The public may think it untoward if opinions and votes are only offered on party political lines.

I would like to offer views on 6 elements in the application.

1. As a Borough representative for people currently living in the vicinity of the Cockleshell Walk and Spring Street car parks, I can only say that the residential developments proposed for these two sites will have a severe adverse effect on my residents. The properties, varying in size from 4 storeys to 7 storeys will overshadow properties in Frederick Street to an unacceptable degree. This has been very well expressed by residents from that area in other submissions. In terms of design the properties will not fit in with the immediate environment. The impact will be incongruous. I am far from convinced that these developments will be accompanied by sufficient footpaths to allow for pleasant and comfortable access around this part of the town. The effect of 215 new households in this area will add substantially to the heavy traffic flows through this part of the town. I am not totally convinced either that the access to the rear of Frederick Street will really be protected.

2. The developments at Cockleshell Walk and Spring Street will have an impact on car parking systems around the town. The loss of these facilities is said to be compensated by the use of a new Multi storey car park. I frankly doubt whether this will be seen as a convenient alternative, either by commuters or by town centre users, especially those wanting to access services at the west end of the town. Close to the existing Cockleshell Walk Car park, there are two GP surgeries, a dentist, a Catholic Church, an Islamic centre and a range of shops. There will also be a Lidl Supermarket in the near future. None of those wanting to reach these services will see the Multi

APPENDIX 1

Special Meeting of Planning Committee – 16 March 2015

Storey, positioned as it is intended to be, as an alternative. Close by to Cockleshell Walk are two areas of Residents' Parking, initiated by the Borough Council, one in the Frederick Street area and one involving Burley Road, Rock Road, Epps Road and Ufton Lane to the south of the London Road. It was always the intention that the impact of Residents Parking in these streets would be alleviated by the greater use of Cockleshell Walk and with this in mind funding was used to upgrade and improve the car park there. The outcome of residential development will be to push short term visitors into this whole area, blocking up the roads that have Residents Parking schemes and thus reducing the value of the schemes to over 500 local properties.

3. The principal claim behind this application is that it will create a new attractive and vibrant centre to the town, embracing the area from the Railway station to the High Street. A key part of this claim is the public open space near to both the station and to St Michaels Road. It is a worthy vision and with further thought it may well be realised. However, as it stands, I do not believe it achieves this aim. The public square is far too close to the heavy traffic on the St Michaels Road. The routes available from the station to the High Street are not comfortable or pleasant. I really doubt whether the desire to create a sense of place and connectivity can be achieved whilst such a large proportion of east west Sittingbourne traffic is using St Michaels Road.

4. Apart from the problems which I believe commuters are going to experience with long stay parking, I also have to say that the arrangements for dropping off and picking up train users are likely to be grossly inadequate and will lend to considerable irritation amongst a large section of our community.

5. From a wider perspective, I believe that Sittingbourne needs to make much better use of its underused and under developed land. There is derelict and wasted land all around the town. That is why it is bizarre to be using land that is being used for functional car parking for residential development. With this in mind, I welcome the use of land for the 4 Retail units to the north of the station. However, it also has to be said, that because of poor to non-existent connectivity, this will have little economic impact on the town, other than to most likely draw footfall away from the existing High Street. For a variety of reasons, I cannot accept the argument that this development plan will increase footfall in the High Street.

6. I appreciate that the aim of this investment is to improve the economic potential of Sittingbourne. I am afraid I am not convinced that this is the case. I understand that the granting of planning permission could accelerate the process of drawing in investment capital and the pursuit of a partner operator for the cinema. There has to be doubts about the market for a Multi-screen cinema and for the long term commitment of a reliable operator. To make sense of this first stage of the Spirit of Sittingbourne project, a much more comprehensive plan for the existing High Street needs to be brought forward.

I am therefore objecting to this current application in its present form on the following grounds

- (a) The residential developments at Cockleshell Walk and Spring Street impose unacceptable restraints on the amenity and lifestyle of existing residential properties in the area;*
- (b) The application will result in a reduction of quality in the town's car parking services;*
- (c) The plan does not achieve the intended improvement in the sense of place and connectivity in the town centre because of the intimidating presence of St Michaels Road traffic and the poor connections to the High Street;*

APPENDIX 1

Special Meeting of Planning Committee – 16 March 2015

- (d) *The application will present particular problems for rail users and their families;*
 (e) *The economic benefits of the development are asserted but not substantiated. There is too little focus on the development of the existing High Street and parts of the development may prove not to be as deliverable as claimed in the application."*

In addition a petition containing 34 names / addresses has been received in opposition to the proposed development. The reasons for objecting are included in the above summary. Members will note that some of the signatories have also objected individually.

6.04 FIVE letters of support (including letters from Kent Invicta Chamber of Commerce and Locate in Kent) have been received, and the issues raised are summarised as follows:

- The proposal will bring great benefits (including for "retail and social life") to Sittingbourne and the surrounding areas, especially for future generations;
- The development will bring new employment, both locally and linked to other major developments in north Kent;
- Development will improve perceptions of Sittingbourne;
- The new dwellings will place the heart back into the town centre and benefit all categories of residents;
- Understands concerns about road layout (especially for lorries), but notes that the NRR has reduced traffic flow on St Michael's Road and that competing the road through to Bapchild, it will be further reduced. Closure of M2 would cause congestion;
- Benefits of the cinema and retail would outweigh occasional traffic congestion;
- Is there a need for the new shops?
- Will sufficient car parking be provided?
- Local people and businesses will benefit;
- Pleasing to see that "Swale are doing something proactive and positive to bring us back on the map";
- Transport hub centred on the station will be enhanced;
- Have the changes to the highway layout been "well thought through", both in terms of impacts during the construction period and for the long-term?

6.05 FIFTEEN letters making observations have been received, and these are summarised as follows:

6.051 A letter on behalf of DS Smith Paper Ltd:

Refers to DS Smith-owned land between Sites 1 and 2, and expresses view that this scheme should not interfere with access to their land; "*no objection provided the existing track will be retained within the overall masterplan*"

6.052 A letter from Chalkwell coach hire and bus tours making comments summarised as follows:

- Implications for bus network have not been understood;
- Scheme prioritises walking and cycling but gives no prominence to buses;
- No thought to need to improve bus provision as the area is developed;
- Proposed bus stop only has space for two buses and may not allow room for buses to overtake – consequently buses may back-up on to St Michael's Road;

APPENDIX 1

Special Meeting of Planning Committee – 16 March 2015

- Layout may result in more buses using the High Street;
- Will the new bus stop near the proposed roundabout cause a blockage for large vehicles using St Michael's Road?
- Mobility impaired customers may be disadvantaged by loss of 'bus area' in front of the station;
- Scheme may increase potential conflict between pedestrians and vehicles;
- 'Kiss and ride' at the station could increase due to development and add to conflict with bus traffic;
- Does scheme allow sufficient space for rail replacement buses to operate efficiently / conveniently from the station?
- New bus stops need to be high quality;
- Amended plans should be provided to address these issues.

6.053 Sittingbourne Retail Park make the following comments:

- Support applicant's objective of "*regeneration including SBC's depot site off Eurolink Way [Site 6]*";
- However, have highway concerns and look forward to discussing with applicant.

6.054 TWELVE other letters have also been received and comments made are summarised as follows:

- Very supportive of cinema, retail provision, consolidation of car parking into the MSC;
- Concern about changes to road layout – will areas in front of Station and Site (Cockleshell Walk car park) operate satisfactorily, particularly for HGVs and given proposed traffic lights and small roundabout in front of Station?
- Will the A2 through Sittingbourne continue to exist and, if so, will it be two-way?
- Concern about traffic management across whole scheme;
- Insufficient provision for bus and train users (including the lack of an entrance to the northern side of the railway station, from Site 6);
- Uncertainty about specific bus stop provision;
- Concern about pedestrian links from MSC to High Street facilities and between all the sites and the town centre;
- Local infrastructure (including GP surgeries, schools) may not be able to cope with the number of new residents;
- Missed opportunity to build new roads between new housing sites and St Michael's Road;
- Air quality is likely to deteriorate as a result of the development;
- Will there be sufficient car parking, including for users of Trinity Hall (opposite Site 2)?
- What age group are flats intended for? Will a 24-7 care manager be provided?
- What provision will the development make for sustainable design and construction, including rain water harvesting
- Are retailers lined-up for the units on Site 6? If so, which ones?
- Concern that during construction period, particularly for the MSC, existing shops could lose business as customers may be deterred by disruption / lack of car parking space;
- MSC should be located to the north of the railway line, not as proposed;
- Perceived lack of car parking may deter potential users of Sittingbourne town centre;
- If retailers lose custom, they should be compensated;

APPENDIX 1

Special Meeting of Planning Committee – 16 March 2015

- Has an "impact study" been done to establish how the vitality and viability of the High Street might be affected? [Members will note that the application is accompanied by a Retail Impact Assessment];
 - MSC should be built in first phase;
 - Insufficient car parking for proposed apartments;
 - Not clear about the order / phasing of the parts of the development;
 - Concerned that all six parts of the development may not be implemented;
- 6.06 Following the receipt of amended plans and additional plans / documents, further consultation with third parties was carried out (with a closing date of 6 March), and responses as summarised below have been received.
- 6.061 TWO further letters of objection have been received, as of 5 March. The issues raised are as summarised as at Paragraph 6.02 above with new issues raised as follows: the plans have not been amended significantly, and our initial concerns remain.

7.0 CONSULTATIONS

- 7.01 English Heritage raise no objection; they note the relationship to the High Street Conservation Area (and the concentration of listed buildings there) but consider that:

"...the proposed development is unlikely to have a major effect on the setting of the Conservation Area and the listed buildings within the town."

AND:

"...this application does still present opportunities for enhancement of the historic core of the town, such as improvements to the permeability and north-south connections. We suggest that you should also seek to ensure that the proposed development reflects the identity of local surroundings and materials and reinforces local distinctiveness, all in accordance with Section 7 of the NPPF [namely paragraphs 56 to 68 about 'requiring good design']."

- 7.02 South East Trains have raised concerns about the scheme, which are as follows:

- *"The proposed disabled parking is not accepted or the loss of the cycle parking from this location, which would conflict with pedestrian access to and from the car park*
- *Road entry / exit was to be closed off and changed to rear of car park with new widened entrance, which must cater for road/rail vehicles accessing the Permanent Way access point to the train tracks.*
- *More parking spaces incorporated at the area from current council owned land*
- *The proposed location of the drop off area is not accepted or convenient to passengers*
- *Yet to see clear details of the interchange outside the station entrance area and the green area discussed*
- *More station land appears to being taken at the front for the development than envisaged*
- *Pavement area immediately outside the station to be widened 600m but not detailed on plans*
- *Walking route out of car park to be gradient compliant "*

APPENDIX 1

Special Meeting of Planning Committee – 16 March 2015

- 7.021 The points are being considered by the applicant and I will update Members at the meeting.
- 7.03 Network Rail raises no objection: "*Network Rail supports the proposed development in principle, subject to the number of station car parking spaces not being reduced and access to the car park being re-directed... [AND] South Eastern Trains, the Train Operating Company...support Network Rail's position.*"
- 7.04 The Council's Climate Change Officer has commented on the initial submission and, subsequently, on the amended Sustainability Report and Energy Statement (both dated January 2015), and although she has no fundamental objection to any part of the proposals, amended documents to address her detailed queries are awaited. I deal with these matters in the 'Appraisal' section below, and hope to be able to update Members at the meeting.
- 7.05 The Highways Agency (HA) have a holding objection to the application, which relates to the possible adverse impact of additional traffic arising from the development on the A249, specifically traffic flow and road safety on the junction with the A2 at Key Street. The HA consider that a financial contribution should be made by the applicant towards a scheme of improvements to this junction. I discuss this issue below (at Paragraph 9.48), and hope to be able to update Members at the meeting.
- 7.06 Kent Highways Services have been closely involved in negotiations (both prior to the planning application being submitted and since the submission) with the applicant and their highway consultants about the proposed development and its potential implications for traffic flow and road safety on the local highway network.
- 7.061 Although KHS "*...do not object to the principle of the scheme*", they do have "*significant issues...that still need to be resolved and therefore...register a holding objection...*" They go on to raise detailed points in respect of each of the six development sites and the highway network in the vicinity of them as well as a number of general matters. It is important that all of the matters raised by KHS are properly addressed at this stage, and I hope to be able to update Members on this issue at the meeting.
- 7.07.1 Kent Police raises no objection. They note that the applicant discussed the proposals with them at the pre-application stage, and that the Design and Access Statement deals specifically with crime prevention and refers to Secure by Design.
- 7.08 Sittingbourne Society object to the application and their comments are summarised as follows:
- In general, the proposals are "*the best of many different schemes we have seen in the past*". However, they raise concerns as follows:
 - Discrepancies between application and public consultation documents – in job forecasts; leisure visitor numbers; and car parking demand;
 - Concerns about changes to highway layout, particularly in front of the Station and in front of Site 1;
 - Errors in applicant's car parking analysis and limited amount of additional car parking provision;

APPENDIX 1

Special Meeting of Planning Committee – 16 March 2015

- Phasing of work is critical – multi-storey car park should be provided first and the highway works should proceed construction of any buildings;
 - Seems to be little in the development that will benefit the High Street;
 - Transport Assessment is based on “*false assumptions*”; and
 - “*Unacceptable levels of air pollution*” could occur at certain times, particularly in the vicinity of the public square.
- 7.081 In response to re-consultation on the amended / additional information, the Sittingbourne Society have provided a further consultation response, which notes that issues in the ‘Stage 1 Road Safety Audit’ “echo concerns raised” by them (see above). Members should not be expected to make a decision on the application until all highway safety points have been addressed.
- 7.09 Following receipt of the amended EBS and SCI, the Economic Development Manager has commented on the application and is supportive of it, stating that the development “*should bring a number of economic benefits to the town*”. Attention is also drawn to the following:
- Direct creation of 330 full time equivalent (FTE) construction jobs
 - Direct creation of an estimated 230 FTE jobs in the operation of the commercial premises;
 - Improve the non-food retail and leisure offer, clawing back trade;
 - Increased footfall to the ‘local centre’; and
 - Introduction of new ‘economically active’ population into the town.
- 7.10 The Council’s Environmental Health Manager raises no objection subject to conditions, having considered the potential implications of the development in respect of air quality, land contamination and noise, in particular. I have recommended a number of conditions below as requested by him.
- 7.11 Kent County Council Ecology raise no objection to the application, but they suggest that the scheme needs to be amended in respect of tree retention and ecological enhancements. I discuss these points in the ‘Appraisal’ below.
- 7.12 Natural England have not been consulted on this application, because of the nature and location of the proposed development (all of which would be outside the statutory consultation zone).
- 7.13 The Environment Agency raises no objection, subject to the imposition of planning conditions in respect of ground /groundwater contamination, infiltration of surface water and piling design. Members will note that these conditions are included below.
- 7.14 Southern Water – raise no objection subject to a condition in respect of foul and surface water drainage details being agreed before development is commenced and two corresponding informatives. These are all set out below.

APPENDIX 1

Special Meeting of Planning Committee – 16 March 2015

- 7.15 Housing Services have responded to consultation. They recognise that there is a need for all types and tenures of affordable housing across the Borough, and therefore would normally request the delivery of 30% affordable housing (as required by Policy H3 of the adopted Local Plan) as part of this development. However, they understand that the viability of the development may well not allow for this provision and, in particular, that it may not be possible to provide any affordable housing at all in this instance.
- 7.16 Kent County Council (Developer Contributions) have requested a total contribution of £282, 614 to be spent on a combination of contribution towards primary school places, land for a new primary school, secondary school places, adult education, "youth" services, libraries, and social services. They also requested that the affordable housing element includes four wheelchair accessible dwellings
- 7.17 The Council's Green Spaces Manager raises no objection, and has requested a contribution of £861.80 per dwelling, amounting to a total of £185, 287. This would be used to improve the quality and capacity of existing park and play facilities at town centre sites.
- 7.18 The Council's Senior Contracts and Monitoring Officer has commented on the wheelie bin requirement for the Sites 1, 2 and 3, and states:
- "We like to allow one 1100 litre bin for refuse and one 1100 litre bin for recycling per 4 units, regardless of bedroom numbers, if space allows. The cost for an 1100 litre bin is £435.37." The total amount required would be £47,019.*
- 7.19 The Council's Head of Service Delivery has provided a response which provides comments in respect of 'taxi provision', 'parking provision' and 'highway layout'.
- 7.191 In respect of implications for public car parking, he comments as follows:
- "Public parking provision for the regeneration proposals is detailed in the Sittingbourne Town Centre Car Parking Strategy with the proposed multi storey car park providing the short stay parking capacity and Crown Quay Lane and Albany Road car parks changed to long stay car parks to meet long stay parking demand. In order to meet parking demand it is important that development of the existing car parks does not commence until the multi storey car park is completed and operational.*
- I have some concerns regarding the level of provision for residential parking for the proposed development of 0.7spaces/dwelling. The immediate area adjoining the residential development is covered by a residents parking zone which would restrict residents of the proposed development from parking in these roads. However, if parking provision within the development does not meet demand then residents of the proposed development may park in the Chalkwell Road area adding to the parking problems for existing residents."*
- 7.192 In respect of taxis, he comments as follows:
- "It is important to maintain at least the existing number of taxi rank spaces outside Sittingbourne Rail Station in order to meet demand. The current station rank can accommodate ten taxis.*

APPENDIX 1

Special Meeting of Planning Committee – 16 March 2015

The location of the rank immediately outside the station entrance is excellent and there appears to be a provision for ten taxis shown on drawing 14.35.101. However, with a total length of the taxi rank at 50m this is only allowing 5m/taxi which seems very tight and between 5.5m and 6m should be allowed for each vehicle making the total length required of 55 to 60m. Can the space provided be increased to a length of at least 55m?

The drawings show the taxi rank at the rear of The Forum retained but the detail in this area is not clear. The existing arrangement that can accommodate 12 taxis should be retained. In addition it would be good if provision could be made in the dead end section of Station Street to accommodate a feeder rank."

7.193 In respect of the proposed changes to the highway layout, he comments as follows:

"I assume that Kent Highways will be commenting on the highway proposals for the development, however, there are some aspects of the proposals that will impact on the environmental enhancement works and layby parking provision previously carried out by the Borough Council.

With Station Street being made into a two-way road it will be necessary to widen the carriageway which will require the removal of the layby alongside the public house in the first section of the road. This is not shown on the application drawings. Also as the High Street is closed to traffic on Saturdays the section of West Street from Park Road to Station Street would also need to be made two-way again with associated changes to the paving and layby parking to widen the carriageway.

Kent Highways would also need to be consulted regarding the changes that would then be necessary to the Park Road/West Street junction."

7.20 Health and Safety Executive have 'no comments to make' on the application. Members will also note that the application has been subjected to a PADHI+ assessment, which confirms that there is no objection from a health and safety point of view.

7.21 Kent County Council Archaeology raises no objection subject to the imposition of a condition requiring the implementation of a programme of archaeological work.

7.22 Medway Council raise no objection.

7.23 Maidstone Borough Council were consulted about the planning application, but have not responded.

8.0 BACKGROUND PAPERS AND PLANS

8.1 As noted above, the application is supported by a full set of detailed plans and a list of documents, as described at Paragraph 2.48 above.

APPENDIX 1

Special Meeting of Planning Committee – 16 March 2015

9.0 APPRAISAL

Principle of Development

- 9.01 As explained above, this application proposes the re-development of six sites spread across Sittingbourne Town Centre and locations immediately to the north and west. The sites are all brownfield land and all fall within the defined built-up area. Furthermore, the proposed uses are all – as noted above – amongst those proposed for the anticipated re-development of Sittingbourne under the adopted Local Plan (see 5.04 above – in particular, see AAP7 and AAP8), the subsequently-adopted SPD Masterplan for Sittingbourne (see 5.06 above), and in the emerging Local Plan, Bearing Fruits (see 5.05 above). The latter is arguably the key document in this regard – despite not having been formally adopted – and Members will note that the wording of the two key policies in this context, namely **Regen 1**, which sets out the Council's vision for the regeneration of central Sittingbourne (see 5.052) and **ST5** (see 5.062), which sets the context for this regeneration, including Sittingbourne's key role as the main urban centre in the Borough and as a potential location for mixed use regeneration, including – among other things – new housing, retail and leisure uses.
- 9.02 It is clear that both policies are informed by the requirements of the NPPF (see 5.02 above) generally and, in particular, in respect of the need to deliver sustainable economic development. Members will note that Paragraphs 7 and 14 of the NPPF make this a clear priority. It seems to me, furthermore, that the proposed re-development will amount to an important early step towards delivering the strong, responsive economic that the NPPF seeks at a local level, and it is hoped that it can be a catalyst for subsequent waves of regeneration across the town and indeed the Borough.
- 9.03 This economic regeneration must be balanced against social and environmental considerations, and certainly must not be at their expense. With regard to the former, Members will have noted above the significant employment benefits that are likely to stem directly and indirectly from both the construction of the development and its subsequent operation. From an environmental point of view, it is important to note the proximity of the development sites to the town's central public transport facilities, which are centred on the railway station and to main shopping and civic amenities, which are clustered along the High Street and in adjoining areas (such as Central Avenue). As such, the location of the six development parcels must be considered to be highly sustainable; not only will existing facilities benefit from the provision of the proposed mix of uses (for example, the public transport operators will benefit from new customers), but the proposed development will enjoy easy pedestrian and cycle access to the town's amenities.
- 9.04 It is also worth emphasising that, in accordance with both **Regen 1** and **ST5**, the development will regenerate three sites on the western gateway to the town (namely, Sites 1, 2 and 3). Members will note the relevant passage in **Regen 1**, which reads as follows:

"Redeveloping sites predominantly for housing in the eastern and western gateways to the regeneration area, especially at Cockleshell Walk, Fountain Street, West Street, Dover Street and East Street..."

APPENDIX 1

Special Meeting of Planning Committee – 16 March 2015

- 9.05 I consider the regeneration of these areas to be a key benefit of this development and, although mindful of the objections to the planning application, particularly the cluster of responses from residents of Frederick Street and Laburnum Place, that following the re-development of these sites, there will be a significant improvement in terms of their visual appearance and the general perceptions of them.
- 9.06 With all of the above in mind, I conclude that the proposed development is acceptable in principle. The following discussion appraises the development in terms of the acceptability or otherwise of the details.

Implications for town centre vitality and viability, and general retail impacts

- 9.07 A key issue here is the impact of the proposed retail development component of the scheme on the vitality and viability of the existing town centre, notably the implications for the High Street and The Forum as retail areas. I fully describe the proposed retail at 2.38 to 2.47 above, but in summary Members will note that a total of 3158 square metres of retail space (gross internal) is proposed in the form two buildings which would accommodate a total of four large format units for the sale of 'comparison' goods (ie not supermarket type retailing, which is known as 'convenience' retail).
- 9.08 For comparison, Members will note that the supermarket on the land immediately to the west of Site 6 (as approved under SW/11/0159) has a gross internal floor area of 6682 square metres.
- 9.09 To assist with the assessment of these implications, the Council has instructed specialist retail consultants to appraise the Retail Impact Assessment submitted by the applicants. The following discussion reflects both the views of our consultants and my own professional opinion.
- 9.10 Site 6 is not allocated for any particular form of development in the Swale Borough Local Plan 2008. Members will though note that Policy Regen 1 of Bearing Fruits 2014 envisages a range of uses, including retail. Furthermore, I have concluded that the proposed redevelopment would comply with Policy B1 of the Local Plan in terms of employment development. The retail element of the proposal must be assessed on its own merits, having regard to the policies of the Development Plan together with relevant Government guidance – in particular, the relevant paragraphs in the NPPF (including Paragraphs 24, 26 and 27, which I refer to above, and Annex 2) and the corresponding guidance in the NPPG.
- 9.11 In order to properly consider the merits of the scheme, it is appropriate at the outset to consider whether the development amounts to an edge of centre or out of centre development. This will set the policy context in which the site should be considered.
- 9.12 Edge of centre locations are defined in the SBLP as locations "within easy walking distance of a town centre". A more refined definition is provided in Annex 2 to the NPPF, which states that for retail purposes, edge of centre is:

"a location that is well connected to and within easy walking distance (i.e..up to 300 metres) of the primary shopping area. For all other main town centre uses, this is likely to be within 300 metres of a town centre boundary. In determining whether a site falls within the definition of edge-of-centre, account should be taken of local circumstances. For example, local topography will affect pedestrians' perceptions of

APPENDIX 1

Special Meeting of Planning Committee – 16 March 2015

easy walking distance from the centre. Other considerations include barriers, such as crossing major roads and car parks, the attractiveness and perceived safety of the route and the strength of attraction and size of the town centre. A site will not be well connected to a centre where it is physically separated from it by a barrier such as a major road, railway line or river and there is no existing or proposed pedestrian route which provides safe and convenient access to the centre."

- 9.13 The proposed retail floor-space falls just beyond 300 metres from the town centre, and north of the rail line, and as such it must be considered to be out of centre.
- 9.14 The key issues for Members to consider in respect of the retail element of this scheme are:
 - 1) Are there any preferable sites located elsewhere in Sittingbourne?
 - 2) Would the proposal have a significant detrimental impact on the existing edge of centre/town centre stores?
 - 3) Would the proposal have a detrimental impact on the vitality and viability of the core shopping area of Sittingbourne town centre;
 - 4) Would the proposal prejudice the implementation of the development set out in the Sittingbourne Town Centre and Milton Creek SPD or the corresponding development envisaged under Regen 1 and ST5 of Bearing Fruits;
- 9.15 The applicants have considered a range of alternative sites, including the Forum Centre and adjacent land, the Bell Centre, land in East Street (numbers 39 to 49 – former bus depot site) and the former Focus Site at West Street (which is now being re-developed as a Lidl supermarket). They conclude, for various reasons, that these sites are either not suitable or available, or are not sequentially preferable to the application site. I do not intend to repeat their reasoning here – the Retail Impact Assessment is available for Members to view should they so wish, and I fully concur with their conclusion.
- 9.16 With regard to (2) above, I conclude, like our retail consultant, that the forecast levels of trade diversion and impact on the retail catchment area would not be 'significantly adverse'.
- 9.17 With regard to (3) above, this important issue is considered in detail in our retail consultant's report and the key conclusions are as follows:

"Against this background we conclude that the proposed retail scheme will, depending on the tenant mix and the extent to which it attracts new retailers to the town centre:

 - 1) Help to 'claw back' some shopping trips and comparison goods retail expenditure that is currently 'leaking' out of the town and Borough to larger stores and shopping facilities in neighbouring centres (e.g. Canterbury and Maidstone);*
 - 2) Have the potential to generate linked trips, increased footfall and expenditure across the town centre, to the benefit of existing shops, businesses and facilities;*
 - 3) Increase customer choice and competition to the benefit of existing shoppers to Sittingbourne, as well as attracting some shoppers and visitors who do not currently visit the town centre; and*

APPENDIX 1

Special Meeting of Planning Committee – 16 March 2015

4) Help to increase Sittingbourne Town Centre's market share of comparison goods shopping in the face of strong competition from other neighbouring centres and stores, as well as the growing threat of internet shopping."

- 9.18 It is my view, in the light of the report from our retail consultants, that the retail provision proposed here will not materially weaken the prospects of re-development coming forward on other sites in and around the town centre. Instead, it has the potential – in conjunction with the other components of this development – to act as a catalyst for such regeneration, sending out a positive signal that the area is an attractive and viable place for inward investment and improving general perceptions of Sittingbourne. I am also mindful that the proposed cinema and restaurants in particular could result in significantly increased footfall on the High Street, with obvious potential benefits for its vitality and viability. However, it is possible that the retail space proposed could have an adverse impact on the vitality and viability of the core shopping areas, and I have sought further justification from the applicants, particularly in respect of the potential migration of existing retailers from High Street units to the new development, and also in respect of the possible use of mezzanine floors to increase the amount of retail space provided on Site 6. I expect to have this information before the meeting, and will update Members, including in respect of the possible need for additional planning conditions.

Visual Impact / Urban Design / Tree and Landscaping Implications

- 9.19 These issues are critical to the success or otherwise of the proposed development. Accordingly, the application is supported by a Design and Access Statement, a Landscape Report, and Arboricultural Survey and other supporting documents all of which, among other things, make the case for the development in terms of how the buildings (and, importantly, the spaces they will create and the existing ones that will be re-defined by them) will look and function and how they might impact upon existing buildings and land uses.
- 9.20 As with all aspects of the planning application, the process of developing the scheme began well before the submission of the planning application in November 2014. A key aspect of the pre-application stage was the assessment of an earlier version of the development now proposed by the South East Regional Design Panel, in August 2014. Their full letter is attached as Appendix 2 to this report. Members will note, in addition, that their summary of the Panel's findings reads as follows:

"The Panel applauds the Council's commitment to regenerating Sittingbourne and commends the vision it shares with its development partners. The aim of providing new leisure uses to complement the High Street whilst also boosting the town centre population is surely the right one. We also welcome the long-held ambition to improve the setting of the railway station and transform the experience of arriving in the town.

APPENDIX 1

Special Meeting of Planning Committee – 16 March 2015

Regrettably, however, we have strong concerns about the effectiveness of the proposed strategy. We think that without a more radical approach, the traffic on St Michaels Road will still be an intimidating presence and we have doubts about the attractiveness of the walking routes between the station, the car park and the High Street. We wonder if there is too much public space, and we fear that too much is resting on the future of third-party land (the Tesco car park) for the project to succeed from the start. We also have doubts about some aspects of the housing, although we recognise the architectural development is still at an early stage.

We recognise the long gestation of the project and the creative thinking, not least the architectural input, evident in the emerging design. However, we recommend that the team steps back to re-examine the fundamental design moves - how people will walk around the area, the relationship of the built form to the character of Sittingbourne and how the public realm will be used and enjoyed - to ensure that the key structural elements of the town are in the right place. Combined with the commitment to intensification and the infilling of gap sites, we believe a positive outcome can be achieved."

- 9.21 Members will also note that the Design and Access Statement includes a section – on Pages 40 to 54 dedicated to 'design development', and this is invaluable in terms of understanding the process through which the proposals have been developed into the scheme now before Members.
- 9.22 I will evaluate the quality of the proposed development in terms of visual appearance / urban design on a site-by-site basis.
- 9.23 *Site 1* – the development which I describe at 2.03 to 2.12 above is the result of considerable design evolution, including the introduction of street trees to the front, which are now integrated into the St Michael's Road carriageway – which would be reduced to a single (4.8-metre-wide) lane of traffic to increase the space available for the tree planting and to improve the environment for residents of the dwellings and pedestrians. As described above, the development on this site is now in two blocks. The buildings also feature a number of design elements that will break-up the bulk of the buildings, to avoid creating a monolithic appearance.
- 9.24 I am mindful of the predominantly residential character of the area and that it includes a mix of building heights and styles, and consider that the proposed buildings on Site 1 will complement this mix, being of an appropriate scale and siting. The quality of the architectural treatment and landscaping will arguably be such that the development will enhance the character and appearance of the area.
- 9.25 *Site 2* – Members will note the description of development at paragraphs 2.13 to 2.18 above. The character of this site is quite different from that of Site 1 on account of its distinct topography, the proximity to the railway (immediately to the north) and the substantial buildings that face the site, immediately to the south. Consequently, the proposed development is also quite different: a more substantial building is proposed, with the higher part of the building on the western end of the site and the slightly less substantial part of the building at the eastern end, facing Dover Street. The building does though share some architectural features with that proposed on Site 1, and this – together with the use of street trees at the front – will help to create a sense that the blocks are part to a wider regeneration scheme.

APPENDIX 1

Special Meeting of Planning Committee – 16 March 2015

- 9.26 Although the building will be of a height that is not typical of Sittingbourne, I do not consider that it will necessarily have an unacceptable impact upon the character and appearance of the area. I am, however, seeking improvements to the design of both flank elevations, because they are currently rather bland. I am particularly concerned about the flank elevation that would face Dover Street, because it will be a prominent part of the street-scene. I will update Members at the meeting.
- 9.27 *Site 3* - Members will note the description of development at paragraphs 2.19 to 2.21 above. I note that the proposed building would feature a variety of facing materials and that the scale of the elevations is broken-up by a combination of the fact that parts of the front and rear elevation are recessed and that there is a variation in storey heights between the four-storey element at the Dover Street end and the five-storey component at the eastern end, adjacent to the Fountain Public House. Subject to the retention of the mature tree to the front and one of the large trees at the rear, and additional landscape planting, I consider that the proposed building is acceptable in urban design terms.
- 9.28 I am though awaiting amended plans to address a number of minor matters relating to this parcel of development.
- 9.29 *Site 4* – the proposed development is described at Paragraphs 2.22 to 2.30 above, and is arguably the key part of the entire scheme, given that includes the cinema building, restaurants and significant changes to the road and car parking layout in order to provide a new public square.
- 9.30 The introduction of these elements has the potential to deliver important improvements to the appearance and functionality of this key part of the town centre, replacing the current car-dominated arrangement (where pedestrians are forced to endure an environment that lacks legibility and is generally unpleasant to pass through). I consider that this development will significantly improve this situation, providing a substantial place dedicated to pedestrians and significantly improving the appearance of the area - by introducing two new buildings, a planned scheme of hard and soft landscaping, and clearer, more direct pedestrian links between the railway station, the main bus stops and the High Street.
- 9.31 However, significant concerns remain, notably in respect of the links to the High Street (from the southern side of Site 4), which rely upon land outside the application site (and the Council's control) and which are currently relatively illegible and do not encourage pedestrian use. Secondly, I consider that the area between the rear of the cinema building (Block A) and the facing buildings on Station Street is not currently designed to a sufficient standard. The applicant has amended the rear elevation of Block A, which helps slightly by introducing more windows among other changes. However, the area requires further attention in order to ensure that the layout of the area works as well as possible; in particular, the landscaping and surface treatment proposed needs to be improved. Thirdly, the supporting documents suggest an intention to deal with the hard and soft landscaping of the public square and other parts of this site to a high standard. However, the information provided to date is insufficient to demonstrate that this will genuinely be the case.
- 9.32 The Council is working – in parallel with assessing this application - to address the issue of the quality of the pedestrian links to the High Street (outside the application site), including working with the land owner in an effort to secure the removal of the toilet block, which currently blocks one of these connections, and the re-positioning of the bus shelter in the High Street immediately to the south of the toilet block, which

APPENDIX 1

Special Meeting of Planning Committee – 16 March 2015

also makes the pedestrian link less user-friendly. I do not propose that the resolution of these matters or other improvements to pedestrian links be tied to this planning application, but am of the view that every effort should be made to ensure that the quality of these pedestrian links is maximised and the improvements are delivered in parallel with this re-development, in the event that planning permission is granted.

- 9.33 With regard to the two other matters raised in 9.32, I am awaiting additional and amended details and hope to be able to update Members at the meeting.
- 9.34 *Site 5* - the development has been amended to address initial concerns and would be as described at 2.31 to 2.37 above. In particular, the cladding on the three elevations that will be visible from public vantage points – notably St Michael's Road – would now be a mix of timber 'cladding planks' and mesh cladding; and the apparent bulk of the west elevation would be further broken-up by a substantial glazed section. In a similar way, the east elevation – which includes the vehicular entrance to the building – would also feature a section of climbing plants on wires. Members will also note the tree planting that is proposed adjacent to the east elevation and in the area between the MSC and Site 4.
- 9.35 Whilst an MSC will typically be a substantial building and they can frequently be somewhat bland and imposing in appearance, all reasonable measures need to be incorporated in the design, and tree planting maximised, in order to minimise adverse visual impacts. In this instance, I consider that the range of facing materials proposed and the above-mentioned tree planting, together with the possible retention of one of the two mature existing trees, are all helpful in this regard. However, I remain concerned that the development proposed, which would range in height from 16.2 to 18.8 metres, would be likely to have a very pronounced and adverse visual impact on what is a prominent route through the town (as well as being quite close to the railway line). I consider that the situation could be enhanced if street trees (the use of which is advocated in the SPD Masterplan adopted for the town, see 5.061 to 5.063 above) were introduced to one or both of the pavements / verges along St Michael's Road, between the eastern end of the MSC and the Crown Quay Lane junction. I will raise this important issue with the applicant and update Members at the meeting.
- 9.36 *Site 6* – the proposed re-development of this site is described at paragraphs 2.38 to 2.47 above. The layout and architectural treatment of the buildings are considered to be complementary to the retail development on adjacent sites. The latter will give a high-quality, modern appearance. However, it is important that the development is complemented by appropriate soft landscaping. Part of the solution is to retain the existing perimeter planting (particular to Milton Road) and to augment it with new perimeter planting to Eurolink Way (in addition to that proposed within the car park). The amended layout plan acknowledges the former point, but the drawing needs to be amended to strengthen this commitment and to add indicative planting along Eurolink Way. I am concerned that the proposed access arrangements, while sensibly designed to encourage access on foot and to link with the existing pedestrian crossing to Milton Road, will result in the removal of much of the existing vegetation fronting Milton Road. To ensure that this area has a pleasant, well-landscaped appearance, it is important that as much as possible of the existing vegetation is retained and that the new tree planting is to a high standard. I hope to have amended plans addressing these points to present at the meeting.

APPENDIX 1

Special Meeting of Planning Committee – 16 March 2015

Residential Amenity

- 9.37 I consider that only the developments on Sites 1, 2, 3 and 4 give rise to potentially material impacts on residential amenity; Sites 5 and 6 would not adjoin, or be sited close to, existing dwellings, and as such they are not included in this part of the appraisal. I will consider the potential impacts arising from Sites 1 to 4 on a site-by-site basis.
- 9.38 *Site 1* – many of the objections to this application (which are summarised above at paragraphs 6.02, 6.04 and 6.05) relate to the proposed re-development of this site, and much of the concern relates to the implications for residential amenity as a result of loss of light and sunlight, over-looking and the idea that the development could be oppressive. Generally, these concerns are raised by residents of Frederick Street and Laburnum Place, which both adjoin Site 1. I have carefully considered these issues and, among other things, had regard to the study submitted with the planning application that deals specifically with the implications of the two buildings for daylight, sunlight and over-shadowing of adjacent dwellings, namely the 'Daylight Report – Site 1 (January 2015)'. I am also mindful of the design development process (described in the Design and Access Statement) that has culminated in the scheme now before Members, and note the description of the layout on Page 63 of that document. I note, in particular, that each of the apartments would be set out with the living space at the front with balconies / ground floor amenity space facing St Michael's Road (rather towards the dwellings at the rear).
- 9.39 I also note that the main rear elevation of the southern block would be 30 metres from the typical rear elevation line of the facing dwellings, in Frederick Street. The block has, as described above, four lift / stairwells, which each project further to the rear (see paragraph 2.07 above). I agree with the applicant's assessment that this is an acceptable arrangement in terms of residential amenity, both for existing residents of the area and for the prospective residents of this block.
- 9.40 With regard to the northern block, the relationship with Frederick Street would be very similar to that of the southern block and, accordingly, I consider it to be acceptable. However, this block would be located much closer to the short terrace of dwellings at Laburnum Place, numbers 40 to 38. The applicant has amended the scheme, by re-aligning the proposed positions of some of windows at upper floors in an attempt to alleviate potential over-looking, whilst this is helpful it does not address the anticipated adverse impact that would result from the proximity of the building to Laburnum Place as a result of its bulk. I consider that the northern section of the block needs to be reduced slightly in terms of the proposed footprint, and have requested an amended plan showing this. I will update Members at the meeting.
- 9.41 *Site 2* – the dwellings proposed on this site would face a mix of residential and non-residential uses that lie on the southern side of St Michael's Road. The block is set well away, however, from the dwellings at Frederick Street and Laburnum Place that I refer to above. The minimum separation between the proposed flats and the existing ones that would face it would be 12 metres (at the eastern end of the site frontage). I also note that the new block would not be perpendicular to the road frontage, which reduces the scope for over-looking. I consider that this relationship would be acceptable, and that the building would be acceptable overall in terms of potential implications for residential amenity.

APPENDIX 1

Special Meeting of Planning Committee – 16 March 2015

- 9.42 *Site 3* – the proposed building would be sited alongside several existing buildings. These are generally in commercial use. I am though concerned that the residential unit on the upper floors of the Chinese restaurant building could be significantly overlooked by a number of the rear (towards Milton Road) facing dwellings at the western end of the proposed flat block. The applicant has already amended the proposal (angling a number of windows to reduce direct over-looking) in an attempt to address this, but further amendment is required. I will update Members at the meeting.
- 9.43 *Site 4* - the rear elevation of Block A (cinema and restaurants) would face the existing buildings on the western side of Station Street. The mix of existing uses includes a number of flats at upper floors (ie on the first and second floors). The level of light, sun-light and outlook enjoyed by east-facing rooms to these units would clearly be affected by the development of the proposed cinema building (which I describe at Paragraphs 2.25 to 2.27 above), which at the closest point (where Unit 4 faces the northern end of the terrace at Station Street) would be separated by 11.5 metres. Elsewhere the separation is typically 16 metres. As noted above (at Paragraph 2.48), the application includes a 'Daylight Report' dedicated to the development on Site 4. The report, which also includes an assessment of the implications for sun-light and over-shadowing levels, concludes that while there would be a "noticeable...reduction in day-lighting" and "a reduction in the number of probable sunlight hours", the reductions would be below the thresholds in the BRE guidelines. With this in mind, I conclude that the impacts would fall within acceptable limits, and certainly do not necessitate the re-positioning of the building or a reduction to its massing.

Noise / Air Quality

- 9.44 The proposed development has the potential to impact adversely on existing communities in the vicinity of the six sites as a consequence of noise, both during the construction period and as a result of the on-going operation of the finished developments. The application therefore gives careful regard to these possibilities in the Noise Impact Assessment submitted in support of it. As noted above, the The Environmental Health Manager has considered this issue, and concludes that, provided appropriate conditions are put in place, there will not be unacceptable impacts as a result of noise. Members will note that conditions are recommended below to ensure that the proposed mitigation (see Pages 18 and 19 of the above-mentioned report) is incorporated in the development, that construction hours and the hours when piling can take place are controlled and that the operating hours for the cinema and the restaurants are all properly controlled.
- 9.45 The application is supported, as noted above, by an Air Quality Assessment. This has been scrutinised by The Environmental Health Manager, who while mindful of the existence of two AQMAs in the vicinity of the six proposed development sites and of the fact that there are a number of other substantial developments proposed in the Sittingbourne area concludes that "...I have no objections to the proposal from an air quality perspective."

Highways

- 9.46 This development has the potential to have highway implications both for the strategic (trunk road / motorway) network, which are the responsibility of the Highways Agency (HA), and on the local road system, which is maintained by Kent Highways Services (KHS).

APPENDIX 1

Special Meeting of Planning Committee – 16 March 2015

- 9.42 *Site 3* – the proposed building would be sited alongside several existing buildings. These are generally in commercial use. I am though concerned that the residential unit on the upper floors of the Chinese restaurant building could be significantly overlooked by a number of the rear (towards Milton Road) facing dwellings at the western end of the proposed flat block. The applicant has already amended the proposal (angling a number of windows to reduce direct over-looking) in an attempt to address this, but further amendment is required. I will update Members at the meeting.
- 9.43 *Site 4* - the rear elevation of Block A (cinema and restaurants) would face the existing buildings on the western side of Station Street. The mix of existing uses includes a number of flats at upper floors (ie on the first and second floors). The level of light, sun-light and outlook enjoyed by east-facing rooms to these units would clearly be affected by the development of the proposed cinema building (which I describe at Paragraphs 2.25 to 2.27 above), which at the closest point (where Unit 4 faces the northern end of the terrace at Station Street) would be separated by 11.5 metres. Elsewhere the separation is typically 16 metres. As noted above (at Paragraph 2.48), the application includes a 'Daylight Report' dedicated to the development on Site 4. The report, which also includes an assessment of the implications for sun-light and over-shadowing levels, concludes that while there would be a "*noticeable...reduction in day-lighting*" and "*a reduction in the number of probable sunlight hours*", the reductions would be below the thresholds in the BRE guidelines. With this in mind, I conclude that the impacts would fall within acceptable limits, and certainly do not necessitate the re-positioning of the building or a reduction to its massing.

Noise / Air Quality

- 9.44 The proposed development has the potential to impact adversely on existing communities in the vicinity of the six sites as a consequence of noise, both during the construction period and as a result of the on-going operation of the finished developments. The application therefore gives careful regard to these possibilities in the Noise Impact Assessment submitted in support of it. As noted above, the The Environmental Health Manager has considered this issue, and concludes that, provided appropriate conditions are put in place, there will not be unacceptable impacts as a result of noise. Members will note that conditions are recommended below to ensure that the proposed mitigation (see Pages 18 and 19 of the above-mentioned report) is incorporated in the development, that construction hours and the hours when piling can take place are controlled and that the operating hours for the cinema and the restaurants are all properly controlled.
- 9.45 The application is supported, as noted above, by an Air Quality Assessment. This has been scrutinised by The Environmental Health Manager, who while mindful of the existence of two AQMAs in the vicinity of the six proposed development sites and of the fact that there are a number of other substantial developments proposed in the Sittingbourne area concludes that "*...I have no objections to the proposal from an air quality perspective.*"

Highways

- 9.46 This development has the potential to have highway implications both for the strategic (trunk road / motorway) network, which are the responsibility of the Highways Agency (HA), and on the local road system, which is maintained by Kent Highways Services (KHS).

APPENDIX 1

Special Meeting of Planning Committee – 16 March 2015

- 9.47 With regard to the local road network, and as mentioned at Paragraphs 7.06 and 7.061 above, KHS have been closely involved with the development of the scheme now before Members, and as also mentioned above, while they support the principle of what is proposed, there are a number of detailed points that still need to be addressed in order for them to be able to lift their holding objection. The applicant's highway consultants are, I understand, preparing further amended plans and I will update Members at the meeting.
- 9.48 With regard to the strategic network, Members will appreciate that for Sittingbourne this refers to the A249 (to the west of the town) and the M2 (to the south). Members will also note the comments of the HA at Paragraph 7.05 above. Their concern that the development could result in a modest adverse impact on the operation of the A249 junction with the A2 at Key Street has resulted in the submission of a holding objection. A limited scheme of improvements to the roundabout their will address this issue, and KHS already have a draft scheme in mind to deal with this and to accommodate any other additional traffic at the junction as a result of the various other developments proposed in the Sittingbourne area in the draft Local Plan, Bearing Fruits 2031. I understand that once agreement has been reached with the HA as to what proportion of the estimated £350, 000 total cost of this project should be attributed to the current planning application and the applicant has agreed to pay this amount, the holding objection will be lifted. I hope to be able to update Members at the meeting.

Public Parking

- 9.49 This application would, if approved, have pronounced implications for the public car parking provision in and around the town centre, and as set out above the two public car parks at Cockleshell Walk (Site 1) and Spring Street (Site 2), see paragraphs 1.02 and 1.07 above respectively, would be re-developed. In addition, the development of Site 4 would result in the loss of a further 64 public car parking spaces (see paragraph 1.14 above). On Site 5, the 22 existing spaces would be removed to accommodate the proposed Multi-storey car park. Amounting to 260 car parking spaces in total. In addition, the station front car parking, 30 long-stay spaces belonging to Network Rail, would be removed and replaced with spaces in the St Michael's Road car park. As noted above, a statement dealing with car parking has been provided by the applicant and it is attached to this report as Appendix 1.
- 9.50 As described at paragraph 2.34 onwards, the application includes the provision of a multi-storey car park, which would have 308 car parking spaces.
- 9.51 I am mindful that neither KHS or The Head of Service Delivery (see paragraph 7.19 above) object to the idea of replacing the existing car parks as described above with a single MSC to be located on Site 5. The MSC would be located in a position accessible to the High Street, the railway station and other town centre amenities as well as to the development proposed on other five sites, but particularly to the cinema / restaurants and square proposed on Site 4. It is also worth emphasising that the development proposed on Sites 1 to 4 and Site 6 would benefit from very good pedestrian access to the train station and bus stops in the town centre. As such, public transport is readily available as an alternative to using a car and parking in one of the town centre car parks.
- 9.52 Although as noted above (see paragraph 6.0 onwards) a number of the objections to this planning application relate to the implications for the location and amount of public car parking that will be available in and around the town centre, and it is clear

APPENDIX 1

Special Meeting of Planning Committee – 16 March 2015

that there will be a degree of disruption and inconvenience for some people who are used to using the car parks that are to be re-developed (particularly Site 1), I am firmly of the view that the proposed new car parking provision will be sufficient in terms of the number of spaces proposed and in terms of the location of the MSC, and in accordance with Policy T7 of the adopted Local Plan (which I refer to at paragraph 5.0412 above). In reaching this view, I have given weight to the very sustainable town centre location of the development proposed. Furthermore, the potential adverse impact that will be experienced by some current users of the car park on Site 1 is certainly not sufficient in my view to justify the amendment of the proposed development, to include some public car parking, for that site.

- 9.53 I discuss the proposed phasing of the development below, but specifically with regard to car parking there is clearly a need for the MSC to be delivered as an early phase of the proposed development, and Members will note the submitted phasing plan on Page 42 of the Design and Access Statement and that the intention is to deliver the MSC as part of Phase 1.2 (the same phase as the housing on Sites 1 and 3 and the highway works in Site 4 (in front of the train station). This suggests that the Cockleshell Walk construction would start, necessitating the closure of that public car park, before the opening of the MSC. I understand that analysis, in the 'Sittingbourne Town Centre Car Parking Strategy', of the current and historical usage of this public car park suggests that to off-set this lost capacity in the period before the provision of the MSC, 55 temporary public car parking spaces would need to be provided. The applicant accepts the need to make this provision, and intends to provide it in the form of a temporary car park on part of Site 6, needed to cope with peak demand for long stay parking. I have included a condition below to ensure that is made available before the car park on Cockleshell Walk is closed.

Private Parking

- 9.54 The amount of car parking proposed for the three residential sites is set out at paragraphs 2.04, 2.15 and 2.19 above. I am mindful that the level of provision is relatively low, at less than one space per dwelling, but this development differs from many housing schemes in the Borough in that it will benefit from a highly sustainable location, close to main public transport facilities and range of shops and other services typical of a town centre location. I also note that KHS raise no objection to the level of car parking proposed for the three residential sites and that it would accord with the relevant guidance, namely 'Interim Guidance Note 1 – Residential Parking (November 2008)', which I refer to at 5.08 above. I consider that the proposed level of car parking for Sites 1, 2 and 3 is acceptable.

Sustainable Design and Construction

- 9.55 The application is accompanied by a 'Sustainability Report' and an 'Energy Statement' and these, together with the section of the Design and Access Statement dealing with Energy Efficiency (see Page 88), set out the applicant's vision in terms of ensuring that the development is genuinely sustainable both in terms of its design and construction.
- 9.56 The Design and Access Statement explains that: "*Code for Sustainable Homes and BREEAM will not be achieved by virtue of viability reasons, however the applicant is committed to creating a development that minimises its impact upon the natural environment.*"

APPENDIX 1

Special Meeting of Planning Committee – 16 March 2015

- 9.57 As noted at Paragraph 5.063 above, the SPD Masterplan for Sittingbourne includes a chapter devoted to sustainable design and construction. The SPD seeks (at 7.3 of the Green Charter) to achieve a “*minimum of Code Level 4*” for housing and BREEAM “*at least excellent*” for non-residential development, unless compelling “*practicality or viability grounds*” are presented to justify building to a lower standard. As such, it is disappointing that the applicant is not proposing to build any of the development to any level of the BREEAM or Code for Sustainable Homes standards. However, the viability document submitted with the application shows that this standard cannot be achieved in this instance.
- 9.58 Members will also have noted, at paragraph 7.04 above, the comments of the Climate Change Officer, who has no fundamental objection to any part of the proposals. Amendments have though been requested to the reports referred to at paragraph 9.55 above, and I will update Members at the meeting.
- 9.59 Members will also note the condition below that requires the submission and approval of package of sustainable design and construction measures.

Archaeology

- 9.60 Members will note that the County Archaeological Officer raises no objection, subject to the imposition of standard condition AR1, requiring that no development takes place until an agreed programme of archaeological works - in accordance with an agreed written specification and timetable - has been implemented. Such a condition is included below.

Developer Contributions / Section 106 Agreement

- 9.61 The application is supported by a Viability Report, which appraises the likely development costs and the revenues expected to be generated by the six parcels of development. The Council has instructed independent consultants to evaluate the Viability Report and a final report has now been received.
- 9.62 The report concludes that the development is “technically non-viable” even without factoring in the developer contributions that would normally be sought for a development of this type and scale, namely the contributions sought by KCC and Swale Borough Council. As discussed above (at paragraph 9.48), a contribution may also need to be made to the improvement of the Key Street roundabout.
- 9.63 The following paragraph from the report’s conclusion is key:
- “I can advise (based on my appraisal analysis) that if one were to include these s106 costs, the actual developer profit reduces to circa 12% on GDV and therefore it could be suggested that these additional costs render the scheme non-deliverable. It is really a question for the developer as to when the scheme becomes non-deliverable (i.e. to what level must developer profit reduce for the Applicant to say that they cannot proceed?). In technical terms, these s106 contributions cannot be viably afforded.”*
- 9.64 The report goes on to advise that if a requirement for affordable housing at either 30% (adopted Local Plan) or 10% (Bearing Fruits publication draft) were to be imposed the developer profit reduces to 4.2% on Gross Development Value or 10.2% on GDV respectively. Members will note that both figures are well below the standard 20% profit margin that is the accepted minimum percentage required in order for a development to be considered viable.

APPENDIX 1

Special Meeting of Planning Committee – 16 March 2015

- 9.65 I conclude that the development viability would not support the payment of developer contributions or the provision of a percentage of the housing as "affordable".
- 9.66 However, in this case the developer has indicated a willingness to make the provision of a proportion of the developer contributions. Negotiations are continuing and I seek delegated authority in consultation with the Chair of Planning and the relevant Ward members to agree a s106 on this basis.
- 9.67 I also seek delegated authority to incorporate the following other matters into the s106 agreement: (i) a claw-back mechanism for deferred contributions on completion of the residential development; (ii) s278 agreement for works to public highway; (iii) travel plan; and local labour and apprenticeship measures, which I discuss below.
- 9.68 With regard to use of local labour, I consider that the legal agreement should include clauses to require that reasonable endeavours are used to achieve the use of 50% labour from Kent during construction phase, with 20% from Swale; 10% supply chain contractors from Swale; and for the operational phase, the use of 60% local labour from Kent with 30% from Swale. There should also be quarterly monitoring during construction phase, changing to annual from end user occupation.
- 9.69 With regard to the provision of apprenticeship places, five should be provided during the construction phase, plus providing apprenticeship placements for relevant local work-based training providers for instance, Swale Skills Centre and Carillion Training Centre.

Phasing

- 9.70 As mentioned above, the application is accompanied by a phasing plan and Members will note that the applicant wishes to implement the development of the six parcels in four phases as follows: the first substantive phase (1.2) would include the housing on Sites 1 and 3, highway works in front of the railway station and the multi-storey car park; the second phase (1.3) for Site 4, the cinema / restaurants and public square; third phase (1.4) the large format retail units; and finally the fourth phase (1.5) the housing on Site 2.
- 9.71 I consider that this phasing plan is reasonable. However, it may be possible for the cinema, restaurants and public square to be provided earlier in the overall programme, rather than it being provided after the development of two of the three housing sites. I have therefore suggested condition (5) below in order to accommodate this possibility. In addition, the applicant may wish to make other changes to the phasing and the condition provides a mechanism for the Council to control this.

Flood Risk

- 9.72 As noted at Paragraph 4.5 above, all six of the development sites are in Flood Zone 1, meaning that there is a low risk of tidal and river flooding. As set out at Paragraph 7.13 above, the Environment Agency raise no objection, having noted the low flood risk. Members will also note that a drainage condition, to cover foul and surface water implications, is included below.

APPENDIX 1

Special Meeting of Planning Committee – 16 March 2015

Ecology

- 9.73 KCC Ecology agree with the applicant's conclusion that there is limited potential to impact upon protected species, and no additional information is required in this regard.
- 9.74 Members will have noted above that the application is supported by an Ecological Appraisal and a report setting out the proposed measures to preserve existing ecology and, where possible, enhance it on each of the six proposed development sites. As also noted above, KCC Ecology raise no objection, though they did suggest that the proposed package of ecological enhancements (dated February 2015) needs to be improved and that the application could be amended to increase the proportion of the existing trees are retained. The details submitted have been amended, including changes to the proposal for Site 6, and I consider that the measures proposed (which include bat and bird boxes on four of the six sites, and the use of native tree species throughout) are acceptable. Condition (8) is though included below to control the detail of the proposed measures, to ensure that the agreed measures are provided before the relevant part of the development is first occupied / used and to ensure that the measures are retained in perpetuity.
- 9.75 A further condition, number (9) below, is recommended to ensure that the scheme of external lighting is designed and implemented in a manner that minimises potential impacts on bats.
- 9.76 I have also considered the potential for the scheme to impact upon the Swale Special Protection Area (SPA), Site of Special Scientific Interest (SSSI) and Special Area of Conservation (SAC), which all relate to the ecological value of the Swale waterway and adjoining land. This issue was considered by the applicant, who concluded that there would be a very slight increase (0.1%) in the number of recreational visits to the designated areas and that the "...recreational impact is likely to negligible." KCC Ecology agree with this conclusion and consider that no additional information is required to address the issue. I therefore conclude that there will not be a material impact on these designated areas and, among other things, that an Appropriate Assessment is not required.

Other Matters, including re-location of the Friday market and of waste transfer use from Site 6

- 9.77 In parallel with bringing forward this planning application, consideration is given by my colleagues to the re-location of the existing market, which currently takes place on a Friday, and to the re-location of the waste transfer operation from Site 6 to a location elsewhere in the Sittingbourne area.
- 9.78 I understand that the proposal is to re-locate the market to the High Street (between the Central Avenue junction and the Station Street junction) and that the market could operate on both Fridays and Saturdays. The Council's Town Centre Regeneration Officer is working closely with stall holders and town centre retailers on this project. Bringing the market to the High Street could be seen as a benefit.
- 9.79 With regard to the waste transfer activity on Site 6, I understand that the operator has secured the use of an alternative site.

APPENDIX 1

Special Meeting of Planning Committee – 16 March 2015

10.0 CONCLUSION

- 10.1 Members will have noted above that this substantial application includes development on six separate parcels of land. A mix of residential and commercial uses, comprising a cinema, restaurants a multi-storey car park and four large format retail units is proposed. A full description of the proposal is given at paragraphs 2.0 to 2.48 above.
- 10.2 The national and local planning policy context are set out at 5.0 to 5.08 above, and Members will note, among other things, the relevant policies in both the adopted Local Plan and in the emerging Bearing Fruits 2031, Publication Version (see, in particular, Policy Regen 1 at paragraph 5.052 above) and the advice in the SPD for Sittingbourne Town Centre (see paragraphs 5.061 to 5.063 above).
- 10.3 Members will also note the consultation responses as set out above at 7.0 to 7.24 above, which have obviously contributed significantly to my appraisal of the material considerations, which is set out at paragraphs 9.0 to 9.81 above. Members will note that I have considered the material considerations under the following headings: principle (paragraphs 9.01 to 9.06), retail impacts (9.07 to 9.18), visual impact / urban design (9.19 to 9.36), residential development (9.37 to 9.43), noise / air quality (9.44 and 9.45), highways (9.46 to 9.48), parking (9.49 to 9.54), sustainable design and construction (9.55 to 9.59), archaeology (9.60), development contributions / s106 (9.61 to 9.69), phasing (9.70 to 9.71), flood risk (9.72), ecology (9.73 to 9.76), and other issues (9.77 to 9.79). I also note the various responses received from third parties, which are set out in section 6 and which include a large number of objections as well comments in support and a number of observations neither in opposition or expressing support.
- 10.4 I have taken a rounded view of all of the above and conclude that the development proposed is acceptable, and indeed that the development is likely to result in substantial benefits in terms of job creation, inward investment in Sittingbourne, the capture or retail and leisure custom that would otherwise go outside the Borough, and improvements in general perceptions on the town. Accordingly, and subject to the outstanding points that I identify above being satisfactorily addressed, I recommend that planning permission should be granted.
- 11.0 **RECOMMENDATION – GRANT PERMISSION** subject to conditions as set out below, the signing of a suitably-worded s106 agreement, amended plans and additional plans and documents to address the unresolved issues as described above, the Highways Agency and Kent Highways Services raising no objection and further conditions as requested by them, additional information in respect of the retail implications and additional conditions if required; and referral to the Secretary of State. Delegation is sought in accordance with paragraph 9.68 above, conditions as set out below and further conditions as required.

CONDITIONS to include

- 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.

APPENDIX 1

Special Meeting of Planning Committee – 16 March 2015

- 2) The development hereby approved shall be carried out in accordance with the following approved drawings:

General	14.25.101 P0; PBA highway drawings: 27744_5502_011 A (Pages 1 and 2), _011 A (Site 3), _011 B (Site 4), _011 A (Site 5), _011 A (Site 6), /016.
Site 1	14.35.110 P3, .111 P2, .112 P2, .113 P2
Site 2	14.35.120 P2, .121 P2, .122 P2, .123 P2
Site 3	14.35.130 P2, .131 P2, .132 P2, .133 P2
Site 4	13003B_101 H, _102 E, _103 F, _104 C, _105 B, _106 B, _108 C, _110 F
Site 5	13003C-102 Rev F, -106, -107, _108 Rev A, _109 rev A, -110 rev A.
Site 6	13003A_102 Rev D, _103 Rev B, -104 Rev C, _105 Rev A, _106 Rev B, _107 Rev A, _108, _109

Reasons: In the interests of proper planning and for the avoidance of doubt.

Pre Commencement

- (3) No development shall take place until a Construction and Environmental Method Statement has been submitted to and approved in writing by the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period. This shall include details relating to:
- (i) The control of noise and vibration emissions from construction activities including groundwork and the formation of infrastructure, along with arrangements to monitor noise emissions from the development site during the construction phase;
 - (ii) The loading and unloading and storage of plant and materials on site;
 - (iii) The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
 - (iv) The control and suppression of noise including arrangements to monitor dust emissions from the development site during the construction phase;
 - (v) Measures for controlling pollution/sedimentation and responding to any spillages/incidents during the construction phase;
 - (vi) The control of surface water drainage from parking and hard-standing areas including the design and construction of oil interceptors (including during the operational phase);
 - (vii) The use if any of impervious bases and impervious bund walls for the storage of oils, fuels or chemicals on-site;
 - (viii) The location and size of temporary parking and details of operatives and construction vehicle loading, off-loading and turning and personal, operatives and visitor parking; and
 - (ix) The timing of the proposed works to the public highway that will directly affect traffic movements and/or require traffic management

APPENDIX 1

Special Meeting of Planning Committee – 16 March 2015

measures, which shall be programmed such that no works take place during the month of December and the first week of January and over the Easter long weekend.

Reasons: To ensure the development does not prejudice conditions of residential amenity and highway safety and convenience through adverse levels of noise and disturbance during construction.

- (4) No development shall take place on each site until full details of the method of disposal of foul and surface waters – to be drained using SUDS systems unless demonstrated not to be feasible, and to ensure that there is no surface water drainage on to the public highway - have been submitted to and approved by the Local Planning Authority for that site. The approved details shall then be implemented before the first use of the development hereby permitted on that site.

Reasons: In order to prevent pollution of water supplies, in the interests of sustainable drainage, and to ensure that surface water does not discharge on to the public highway.

- (5) Notwithstanding the proposed phasing as set out on Phasing Plan V2, a phasing plan for the delivery of the six sites and the associated highway works shall be submitted to and approved in writing by the Local Planning Authority before any development is commenced. The development shall then be implemented strictly in accordance with the approved phasing scheme.

Reason: In the interests of ensuring that the development is carried out in a co-ordinated manner.

- (6) No development shall take place on any of the six sites, 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 for the particular site which has been submitted to and approved in writing by the Local Planning Authority.

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

- (7) No development shall take place on a particular site until full details of both hard and soft landscape works for that particular site 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 (which shall include indigenous and berry-bearing species), noting species, plant sizes and numbers where appropriate, size of tree pits, measures to prevent tree vandalism, trellis / wiring system for climbing plants on the multi-storey car park, means of enclosure, hard surfacing materials, and an implementation programme.

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

APPENDIX 1

Special Meeting of Planning Committee – 16 March 2015

- (8) Notwithstanding the details set out in the 'Ecological Enhancement Proposals (February 2015)' draft document, full details of proposed ecological enhancements shall be submitted to, and approved in writing by, the Local Planning Authority for each site before development is commenced. The agreed measures shall then be implemented in full for that site before it is first used / occupied. The agreed measures shall be retained in perpetuity.

Reason: In the interests of protecting and enhancing biodiversity.

- (9) No development shall take place until details of the lighting columns, the type and luminance of the lighting units with glare shields and details of lux levels both inside and outside the site have been submitted to and approved in writing by the Local Planning Authority. The development shall then be implemented in full accordance with the approved details.

Reasons: In the interests of residential amenity and minimising disturbance to bats.

- (10) No development on Sites 1, 2 or 3 shall commence until such time as a minimum of 55 temporary car parking spaces have been provided and are available for public use on Site 6. This provision shall be in accordance with details that shall first have been submitted to and approved in writing by the Local Planning Authority, and shall be retained until such time as the multi-storey car park on Site 4 is completed and open to the general public.

Reason: In the interests of ensuring that sufficient public car parking provision is available in Sittingbourne.

- (11) No development on Site 4 shall commence, until any necessary Traffic Regulation Orders to allow two-way traffic movements on Station Street, to the south of Site 4, and the High Street and West Street, to the south-west of Site 4 have been made and any highway works required as a consequence have been fully implemented.

Reasons: In the interests of highway safety.

- (12) No development shall be commence on Sites 4 or 5 until a detailed scheme setting out full details of paving, street lighting, bins, seating and signage for those sites has been submitted and approved in writing by the Local Planning Authority

Reasons: In the interests of visual amenity.

- 13) Prior to the commencement of development on Sites 1, 2, 3 or 4, details of the external finishing materials to be used on that particular site shall be submitted to and approved in writing by the Local Planning Authority and the construction on that particular site shall then be implemented in accordance with the approved details.

Reason: In the interest of visual amenity.

- 14) No development shall take place until a remediation strategy that includes the following components to deal with the risks associated with contamination of the site shall each be submitted to and approved, in writing, by the local planning authority:
 1. A preliminary risk assessment which has identified:

APPENDIX 1

Special Meeting of Planning Committee – 16 March 2015

- § 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 scheme, 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. The results of the site investigation and the detailed risk assessment referred to in (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
4. A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these components require the express written consent of the local planning authority. The scheme shall be implemented as approved.

Reasons: To protect groundwater which is highly vulnerable at this site due to the Principle Aquifer and being situated within a source protection zone 1. There is also a requirement to to comply with the NPPF, paragraph 109 states that the planning system should contribute to and enhance the natural and local environment by preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of water pollution.

- (15) No occupation of any part of the permitted development shall take place until a verification report demonstrating completion of works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved, in writing, by the local planning authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include any plan (a "long-term monitoring and maintenance plan") for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan. The long-term monitoring and maintenance plan shall be implemented as approved.

Reasons: To protect groundwater and comply with NPPF.

- (16) No development shall 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 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

Reasons: In the interests of residential amenity.

- (17) No development shall take place on the sites for which noise mitigation is required (namely Sites 1,2, 3 and 4) until a noise mitigation scheme of measures has been submitted to and approved in writing by the Local Planning Authority. The approved measures shall then be incorporated in the development and retained in perpetuity.

APPENDIX 1

Special Meeting of Planning Committee – 16 March 2015

Reason: In the interests of ensuring that unacceptable noise impacts do not result from the development.

- (18) Adequate precautions - in accordance with a scheme of measures that shall first have been submitted to, and approved in writing by, the Local Planning Authority - shall be taken during the period of demolition and construction to prevent the deposit of mud and/or other debris on the public highway.

Reason: In the interests of highway safety and convenience.

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

Reason: To safeguard existing trees to be retained and to ensure a satisfactory setting and external appearance to the development.

- (20) Notwithstanding the information set out in the 'Sustainability Report' and the 'Energy Statement', details of the package of on-site renewable energy generating measures to be incorporated in the development and the other sustainable design and construction measures proposed for the development hereby approved shall be submitted to and approved by the Local Planning Authority before any part of the development is commenced. And the agreed measures shall be fully implemented for each of the buildings before the particular building is first used. The installed measures shall then be retained in perpetuity.

Reason: In the interests of maximising the use of on-site renewable energy and sustainable development.

- (21) Details of the proposed refuse and recycling storage arrangements for each of the buildings hereby approved shall be submitted to and approved by the Local Planning Authority before the development is commenced, and the agreed provision shall be retained in perpetuity unless otherwise agreed in writing by the Local Planning Authority.

Reasons: In the interests of visual and residential amenity and to encourage recycling.

- (22) Details in the form of cross-sectional drawings showing the existing Ordnance Survey Datum heights through each of the six sites (or such other information as may be agreed to by the Local Planning Authority) and of the proposed site levels shall be submitted to and approved in writing by the Local Planning Authority before work commences and the development on each of the six sites shall be completed strictly in accordance with the approved levels.

Reasons: In order to secure a satisfactory form of development having regard to the sloping nature of the sites

APPENDIX 1

Special Meeting of Planning Committee – 16 March 2015

- (23) During construction provision shall be made on each of the sites, to the satisfaction of the Local Planning Authority, to accommodate operatives' and construction vehicles loading, off-loading or turning on the site.

Reasons: In the interests of highway safety and residential amenity.

- (24) Prior to any of the works commencing, details of parking for site personnel / operatives / visitors, on each of the sites, 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.

Reasons: In the interests of highway safety.

- (25) The proposed 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, driveway gradients, car parking and street furniture for each site shall be laid out and constructed in accordance with details that shall first have been submitted to and approved by the Local Planning Authority.

Reason: In the interests of highway safety and public amenity.

- (26) Prior to first residential occupation of Site 1 (shown on drawing number 14.35.110 P3), the pedestrian - cycle link from St Michael's Road to Laburnum Place, between the two development blocks on Site 1, shall be provided in accordance with full details that shall first have been agreed in writing by the Local Planning Authority.

Reason: In the interests of encouraging sustainable transport.

- (27) None of the developments hereby approved shall be first occupied until details of covered cycle parking for that site have been submitted to and approved in writing by the Local Planning Authority. The space and the shelters shall then be retained for the purpose of cycle parking in perpetuity.

Reason: In the interests of encouraging the use of non-car modes of travel.

Post Commencement:

- (28) The four retail units hereby approved shall not be sub-divided, and shall not be less than 510 square metres (Unit 3), 696 square metres (Unit 2), 929 square metres (Unit 1) and 1021 square metres (Unit 4) in floor area.

Reasons: In order to reduce the potential for the intensification of use of the site and in the interests of protecting the vitality and viability of Sittingbourne High Street.

- (29) The development on Sites 5 and 6 shall be finished using facing materials as specified on the relevant drawings hereby approved.

Reason: In the interest of visual amenity.

APPENDIX 1

Special Meeting of Planning Committee – 16 March 2015

- (30) 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.

Reasons: The site is located in a highly sensitive location with regards to groundwater in that it is underlain by a principal aquifer and located in Source Protection Zone 1. To ensure any possible land contamination related to historic site activities is addressed in line with current planning guidance on sustainable development.

- (31) No mechanical ventilation, filtration equipment, air conditioning, heating, ventilation or refrigeration equipment shall be installed on the buildings hereby approved on Site 4 until full details of its design, siting, discharge points and predicted acoustic performance have been submitted to and approved by the Local Planning Authority.

Reason: To safeguard the amenities of nearby residential properties.

- (32) 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.

Reasons: The discharge of clean roof water to ground is acceptable within Source Protection Zone 1 provided that all roof water down-pipes are sealed against pollutants entering the system from surface run-off, effluent disposal or other forms of discharge. The method of discharge must not create new pathways for pollutants to groundwater or mobilise contaminants already in the ground.

- (33) 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.

Reasons: Unless appropriate managed piling on land affected by contamination may introduce pathways by which contamination can penetrate and pollute the aquifer.

- (34) The cinema building (Part of Block A) on Site 4 (shown on drawing 13003B_110 F) hereby approved shall be used for the purpose of leisure and assembly falling within Use Class D2 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended).

Reasons: In the interests of the amenities of the area and highway safety and convenience.

APPENDIX 1

Special Meeting of Planning Committee – 16 March 2015

- (35) No construction work in connection with the development shall take place on any Sunday or Bank Holiday, nor on any other day except between the following times:

Monday to Friday 0730 – 1900 hours, Saturdays 0730 – 1300 hours unless in association with an emergency or with the prior written approval of the Local Planning Authority.

Reason: In the interests of residential amenity.

- (36) 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 0900-1700hours unless in association with an emergency or with the written approval of the Local Planning Authority.

Reason: In the interests of residential amenity.

- (37) The use of the cinema and restaurants (both within Block A and Block B) hereby permitted shall be restricted to the hours of 0700 to 2400 on any day.

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

- (38) The use of the retail units, on Site 6, hereby permitted shall be restricted to the hours of 7 am to 11pm on weekdays and Saturdays, and 1000 to 1700 on Sundays.

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

- (39) All hard and soft landscape works shall be carried out in accordance with the approved details. The works approved for each site shall be carried out prior to the first beneficial occupation of any part of the development on that particular site 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.

- (40) Upon completion of the approved landscaping scheme for each site (and the street tree scheme for St Michael's Road), any trees or shrubs that are removed, dying, being severely damaged or becoming seriously diseased within ten 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 the next planting season, unless otherwise agreed.

Reason: In the interests of the visual amenities of the area, and in recognition of the important role of tree and shrub planting in this development.

- (41) The trees shown on the plans hereby approved as "existing trees to be retained" shall be retained and maintained. Any trees removed, dying, being severely damaged or becoming seriously diseased within ten years of the date of this permission shall be replaced with trees or shrubs of such size and species as may be agreed with the Local Planning Authority.

Reason: In the interests of visual amenity.

APPENDIX 1

Special Meeting of Planning Committee – 16 March 2015

- (42) The multi-storey car park (MCP) hereby approved shall not be first used until a scheme of street tree planting for St Michael's Road - on the section between the MCP and the junction with Crown Quay Lane – has been submitted to and approved in writing by the Local Planning Authority and the agreed tree planting has been completed.

Reason: In the interests of visual amenity.

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

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.

COUNCIL'S APPROACH:

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

In this case the application was found to be acceptable, and presented to Members with a recommendation to approve subject to resolution of outstanding issues.

INFORMATIVES

- 1) As the construction of the development may affect breeding birds, which are protected under the Wildlife and Countryside Act, all works must either be carried out outside the bird breeding season (March to August inclusive) or in conjunction with an ecologist.
- 2) The applicant should enter into formal agreements with Southern Water in respect of providing the necessary sewerage infrastructure and connection to the water supply in order to service the development. Please contact Southern Water, Sparrowgrove House, Sparrowgrove, Otterbourne, Hampshire, SO21 2SW. www.southernwater.co.uk.
- 3) Traffic Regulation Orders for converting parts of Station Street and West Street to two-way traffic, revisions to parking bays and proposed banned manoeuvres will need to be concluded before the planning consent can be implemented.
- 4) Stopping-up Orders of various areas of highway have not yet been confirmed and will be essential before the planning permission can be implemented.

APPENDIX 1

Special Meeting of Planning Committee – 16 March 2015

- 5) 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.
- 6) Planning permission does not convey any approval for construction of works within the highway for which a statutory licence must be obtained. Applicants should contact Kent County Council - Highways and Transportation (web: www.kent.gov.uk/roads_and_transport.aspx or telephone: 03000 418181) in order to obtain the necessary Application Pack.

Case Officer: James Wilson

- 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 1 – Car Parking Statement

APPENDIX 2– South East Regional Design Panel – letter dated 18 August 2014

APPENDIX 1

Special Meeting of Planning Committee – 16 March 2015

APPENDIX 1

Spirit of Sittingbourne

Parking Arrangements

(1) Current Car Parking*

Location	Spaces	Type		Disabled	Parent	Cycle	M/bike
Cockleshell	102		LS	6	0	0	0
Spring Street	72		LS	0	0	0	0
Forum	162	SS		6	0	2	4
Station Street	22	SS		2	0	0	0
Station Forecourt (Network Rail)	30		LS	5	0	106	(Incl)
St. Michael's Road E [^]	107		LS	1	0	0	0
Total	495	184	312	20	0	108	4+

*Correct at 02 March 2015 (Jeff Kitson, Parking Services)

[^] Not in planning application area

(2) Proposed Replacement Car Parking

Location	Spaces	Type		Disabled	Parent	Cycle	M/bike
Site 4 Station change (Network Rail)	43		LS	5	-	106	(Incl)
Site 5 MSCP**	308	SS		19	7	0	0
Forum	98	SS		6	0	2	4
St. Michael's Road E [^]	83		LS	1	0	0	0
Total	532	406	126	31	7	108	4+

** Size allows Swale the option to possibly determine a mixed arrangement of SS & LS parking, if future circumstances require

[^] Not in planning application area

(3) Proposed Overall Regeneration Car Parking

Location	Spaces	Type		Disabled	Parent	Cycle	M/bike
Site 1	36	(Resi)		3	-	62	0
Site 2	46	(Resi)		3	-	88	0
Site 3	26	(Resi)		0	-	65	0
Site 4 Station change	43		LS	5	-	106	(Incl)
Site 5 MSCP	308	SS		19	7	0	0
Site 6 ^{^^}	105	SS		7	-	0	
Forum	98	SS		6	0	2	4
St. Michael's Road E [^]	83		LS	1	0	0	0
Total	745	511	126	44	7	323	4+

^{^^} Location for 55 temporary transition public car parking spaces during construction of MSCP

[^] Not in planning application area

Site 4 Station Change: 2 overall gain after changes 41 lost (30 from Forecourt, 11 from within c/park)

43 provided (11 within car park, 32 within St. Michael's c/park)

(Only 24 actually lost from existing St.M c/park layout)

St. Michael's Car Park: Reconfiguration of spaces as part of land swap arrangements with Network Rail / South Eastern

APPENDIX 1

Special Meeting of Planning Committee – 16 March 2015

APPENDIX 2

South East Regional **Design Panel**

Mr Alastair Cracknell
Quinn Estates
77 Bekesbourne Lane
Littlebourne
Canterbury
Kent, CT3 1UZ

Tel: +44(0)1634 401186 Fax: +44(0)1634 403302

the architecture centre
Historic Dockyard
Chatham
Kent
ME4 4TZ

Email: info@kentarchitecture.co.uk
www.architecturecentre.org

18 August 2014

Dear Mr Cracknell

SPIRIT OF SITTINGBOURNE (Phase one)

Thank you for asking the Regional Panel Swale to review the new masterplan for the centre of Sittingbourne. Panel members visited the site before their meeting on 11 August and were grateful for Guy Hollaway's presentation of the proposals. It was also helpful to understand the planning context from Jim Wilson of Swale Borough Council.

SUMMARY

The Panel applauds the Council's commitment to regenerating Sittingbourne and commends the vision it shares with its development partners. The aim of providing new leisure uses to complement the High Street whilst also boosting the town centre population is surely the right one. We also welcome the long-held ambition to improve the setting of the railway station and transform the experience of arriving in the town.

Regrettably however, we have strong concerns about the effectiveness of the proposed strategy. We think that without a more radical approach, the traffic on St Michaels Road will still be an intimidating presence and we have doubts about the attractiveness of the walking routes between the station, the car park and the High Street. We wonder if there is too much public space, and we fear that too much is resting on the future of third party land (the Tesco car park) for the project to succeed from the start. We also have doubts about some aspects of the housing, although we recognise the architectural development is still at an early stage.

We recognise the long gestation of the project and the creative thinking, not least the architectural input, evident in the emerging design. However, we recommend that the team steps back to re-examine the fundamental design moves - how people will walk around the area, the relationship of the built form to the character of Sittingbourne and how the public realm will be used and enjoyed - to ensure that the key structural

767-472 Spirit of Sittingbourne



APPENDIX 1

Special Meeting of Planning Committee – 16 March 2015

APPENDIX 2

elements of the town are in the right place. Combined with the commitment to intensification and the infilling of gap sites, we believe a positive outcome can be achieved.

We expand on these points below.

BACKGROUND

Sittingbourne is one of Kent's oldest market towns and deserves to be better known. It is however underperforming economically and Swale Council has long-held ambitions for its regeneration. A bridge across the railway line to Milton Creek remains a long-term aim, improving connections with the town centre.

The Swale local plan was adopted in 2008 and a masterplan for the centre of Sittingbourne (the Sittingbourne and Milton Creek Supplementary Planning Document) was adopted in 2010. A new local plan, Bearing Fruits, is in preparation. The current proposals have been prepared as a joint venture between the Council and its development partners, Quinn Estates and Cathedral Group. A second phase of the plan (not the subject of this review) will include the redevelopment of Swale House and the library area to the south of the High Street.

A multidisciplinary design team has been put together under the direction of Guy Hollaway Architects. The Panel has been asked to review the first six sites that together make up the Spirit of Sittingbourne project.

VISION AND PRINCIPLES

We fully support the ambition for intensifying the town centre as a stimulus to commerce and as a way of strengthening the community. A strategy based on leisure uses to complement the High Street shops and boost the evening economy appears sound. In terms of the overall economic impact, it is important that there should be a demonstrable net gain, given the very substantial investment in buildings and public realm. The local authority's dual roles as planning authority and enabler will be critical to ensuring that the plan delivers the maximum benefit. We also see a creative role for the highway authority in helping to solve a difficult environmental challenge.

The distinctive physical characteristics of Sittingbourne seem to have been underplayed in the current thinking – the qualities of the long, ancient high street and pattern of yards and passages leading from it. The Spirit of Sittingbourne project needs to be seen as an overall vision for the town, drawing on its heritage, its spatial qualities and the present uses. If it has not already been done, we think an audit of land uses and some simple techniques like figureground plans, showing the present and proposed footprint of the town's buildings would inform the refinement of the design proposals. A study of historic maps would be a useful resource.

The plan should have a temporal dimension, making it clear which elements will be long-term fixes (the station, the road layout, the housing and perhaps the parking arrangements) and which may be more transient, such as the commercial buildings.

797-672 Spirit of Sittingbourne

2



APPENDIX 1

Special Meeting of Planning Committee – 16 March 2015

APPENDIX 2

The plan should anticipate future changes and be able to accommodate them, but without depending on them taking place.

There is an opportunity to draw on the excellent policy development work from recent years, albeit some of it reflects a different economic climate. This consideration of earlier urban studies would strengthen the current proposals.

MOVEMENT AND CONNECTIONS

The present walk between the railway station and the High Street is dispiriting and the team is right to give it priority. An important measure of success will be increased footfall through the new commercial development and onto the High Street.

There are two formidable obstacles; heavy and fast-moving traffic on St Michaels Road which currently is intimidating for pedestrians, and the uninviting and obscure paths to and from the High Street. We do not underestimate the challenge of overcoming these problems but we are not convinced by the proposed arrangements, even with wider pavements and a controlled crossing in front of the station. The team needs to work with partners including Kent Highways to reduce or at very least slow down the traffic on St Michaels Road. There is a need for a much more inviting and legible network of footpaths, not all of which need to be wide or formal. Passages and alleys are one of the delights of Sittingbourne.

We regret that Station Street has been downgraded into a service road, when it could be a lively and inviting route to the High Street. The proposed route to and from the multi-storey car park is overly dependent on the opening hours of the Forum Centre and alternative desire lines, such as to the High Street and to the station should be taken into account. We understand that other sites have been considered, but we wonder whether the multi-storey is in the best place to serve the whole of the town centre.

We see a strong case for a movement framework for Sittingbourne, which needs to look beyond the red line of a planning application and should probably be led by the public authorities. The emphasis should be on walking but the cycle network should also be given prominence, not least as an attractor for the new residents in the town.

Removing the gyratory and reverting to two-way traffic may reduce vehicle speeds and travel distances; the calming effect that would help the residential property that fronts it.

We think it important to preserve the options of a northern station entrance as well as a pedestrian bridge over the railway line, which should be safeguarded in any consent for the 'big box' retail units on site six.

LAYOUT

We see a problem in the treatment of fronts and backs, especially in the cinema and restaurant block, but also in the adjacent lozenge-plan building. We recognise the need for efficient servicing but we wonder if the orientation of the restaurants might be

707-472 Spirit of Sittingbourne

3



APPENDIX 1

Special Meeting of Planning Committee – 16 March 2015

APPENDIX 2

reversed, with west-facing restaurants spilling out onto the public realm along Station Street, with servicing from the east.

We believe there is scope for further intensification through development of small parcels on infill sites, perhaps to mask off the backs of the High Street buildings or to tighten the form of the newer roads.

PUBLIC SPACE

St Michael's Road was designed to remove traffic from the High Street and has punched holes in the urban fabric resulting in awkward leftover spaces. The new development offers the chance to heal the scars.

The new square in front of the station seems to be almost on a city scale, rather than that of a country town; a smaller space might function better. The space needs to work on its own terms and not be dependent on the treatment of the edges, but its northeast corner needs to be well screened against traffic noise (perhaps with a wall, or even small pavilions). We welcome the intention to incorporate the weekly market within the public realm proposals.

THE RESIDENTIAL SITES

We recognise the early design stage of the residential proposals but would encourage greater consideration of the design of each individual unit, to ensure that both as individual homes and as apartment buildings, they offer the highest achievable quality of life.

At Site 1 we are concerned about the poor aspect of the ground floor flats, both at the front and the rear. Getting an appropriate relationship with Frederick Street will be important but from our visit we anticipate that the site should be able to accommodate flats up to four storeys. Circulation and especially easy walking into town for all residents in the area will be important.

We recognise the difficulties of accommodating the existing rear access rights to the Frederick Street properties but are unconvinced by the current shared access proposal, which raises concerns about quality and public safety. We question the desire to present the building as a continuous block along the road and suggest that bringing the cores through to the front and/or placing ground floor unit entrance doors on this side might provide more interest and activation to this street.

We recognise the design challenges in providing street level accommodation, particularly with bedrooms on this frontage and encourage the design team to look at ways of defining defensible space as a buffer and of using the site levels to give more separation between the footways and the private units.

Site 2 is quieter and well screened from the railway. We are not persuaded by the angling of the blocks and wonder whether there are other ways of eliminating north facing, single aspect units. We think that there could be a more direct relationship to the

767-472 Split of Sittingbourne

4



APPENDIX 1

Special Meeting of Planning Committee – 16 March 2015

APPENDIX 2

orthogonal plots and frontages of the buildings across the road. We see no difficulty in accommodating blocks of up to seven storeys but we note from the plans that some flats seem to be overlooked by their immediate neighbours. We are also concerned by the lack of definition of private amenity space for ground floor units and question whether a more efficient site plan could give rise to some communal amenity space.

We agree with the architect that Site 3 may be the hardest to resolve, largely due to the legacy of highways design. We think it would benefit from a simpler plan that might be more efficient, even with an extra core added. We are concerned that serving ten units per floor from one core could lead to security concerns and lack of sense of community. Again, we wonder whether ground floor units could have individual front doors. If this section of St Michael's Road is to become a proper street the development needs to engage positively with the buildings around it.

OTHER CONSIDERATIONS

We commend the ambition to have active uses above the shops, such as a gym or a nightclub. An element of the leisure development might possibly be higher, to include other uses such as residential.

We welcome the early and careful consideration being given to of the façades of the leisure buildings. It is important that the material and aesthetic choices complement and reference the local character so that the contemporary design is rooted in Sittingbourne, rather than imposing a generic multiplex and chain restaurant development on the town.

The "big box" retail units have not been designed yet and although the site will be well screened, the size of the buildings mean that their siting, profile and design will be important. Thought should be given to the path to Milton Road, to improve the connection to the town centre.

We would advise caution in the use of a greenwall as part of the car park exterior. Capital and maintenance costs will be high and its impact and longevity compromised in this location. Climbers may be a more effective long-term treatment.

We appreciate the opportunity to comment at an early stage on this most important project. We would be glad to review the project again as it is taken forward. 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 Guy Hollaway, Guy Hollaway Architects
767-472 Spire of Sittingbourne

5



APPENDIX 2

PLANNING COMMITTEE

MINUTES of the Meeting held in the Council Chamber, Swale House, East Street, Sittingbourne, Kent, ME10 3HT on Monday, 16 March 2015 from 7.00 - 8.25 pm.

PRESENT: Councillors Barnicott (Chairman), Sylvia Bennett, Andy Booth, Derek Conway, Adrian Crowther, June Garrad, Sue Gent, Harrison (substitute for Councillor Mark Ellen), Mike Henderson, Lesley Ingham, Peter Marchington, Martin McCusker (substitute for Councillor Mick Constable), Bryan Mulhern (Vice-Chairman), Prescott, Ben Stokes, Ghlin Whelan and Tony Winckless.

OFFICERS PRESENT: Peter Bell, Emma Eisinger, James Freeman, Joanne Hammond, Libby McCutcheon and Jim Wilson (Swale Borough Council) and Ruth Goudie (Kent County Council).

ALSO IN ATTENDANCE: Councillors Monique Bonney, Lloyd Bowen, Bowles, Mike Cosgrove, David Jones, Gerry Lewin, Adam Tolhurst, Roger Truelove, Mike Whiting and John Wright.

APOLOGIES: Councillors Mick Constable and Mark Ellen.

562 DECLARATIONS OF INTEREST

No interests were declared.

563 REPORT OF THE HEAD OF PLANNING

REFERENCE NO - 14/505440/FULL		
APPLICATION PROPOSAL Proposed mixed use development - on six parcels of land - of 215 residential apartments (use class C3), 3158 sq m of retail space (use class A1), a 308 space multi storey car park, 1713 sq.m cinema (use class D2), 2320 sq.m ground floor restaurant units (use class A3), first floor D2 use and the re-alignment of St Michael's Road with amendments to the road network and the creation of a new public square in Sittingbourne Town Centre, in front of the railway station.		
ADDRESS Spirit Of Sittingbourne Regeneration Site Identified On Site Location Plan (drg Number: 14.35.100 Revision PO) Sittingbourne Kent ME10 3DU		
WARD St Michaels and Chalkwell	PARISH/TOWN COUNCIL	APPLICANT The Spirit Of Sittingbourne LLP AGENT Mr Alastair Cracknell

The Major Projects Officer outlined the application and provided an overview of the six sites included within the proposal. He reported that Chalkwell Coach Hire had provided further comments which he summarised. He advised that the applicant had addressed these concerns by providing a swept path analysis, which demonstrated that there was sufficient space within the site to cater for longer buses. Kent Police have advised that they do not wish to add to their initial comments. He advised that 25 further letters have been received from third parties, and 2 further objections.

Maidstone Borough Council had raised no objection to the proposal and 22 further letters of support had been received, including from Trenport Investments, Swale Skills Centre and

APPENDIX 2*Planning Committee**16 March 2015*

Queen Elizabeth's Grammar School raising new issues, which he summarised. One further representation had been received making general observations.

The Major Projects Officer advised that with regard to Developer Contributions, and further to Paragraphs 7.16 to 7.18 on Page 31 and the relevant section of the appraisal, paragraphs 9.61 to 9.69, on pages 44 and 45, the applicant had provided a statement which was tabled.

With regard to the proposed retail floor-space and the potential implications for town centre vitality and viability, and further to Paragraphs 9.07 to 9.18, on pages 34 to 36, the applicant had provided a 'Supporting Statement' in order to justify the approval of the proposed retail space without restrictive conditions, other than condition (28) on Page 53 of the report. The Major Projects Officer considered that a further planning condition was required to control the type of retail permitted on the site and that the wording of condition (28) required amendment. He referred Members to the tabled paper setting out an amended condition (28) and additional condition (44).

The Major Projects Officer reported that an amended Landscape Report, six additional landscape plans, and further amended plans had been received. These plans sought to address a number of points about the architecture and urban design of the developments and the implications for residential amenity. He considered that many of the points raised had not been addressed but the applicant had submitted an explanatory statement, which sought to explain their response to the requested amendments and this response was tabled.

Further to paragraph 9.58, the applicant advised that additional information would not be submitted in respect of sustainable design and construction and energy use. The Major Projects Officer considered that this was disappointing but referred Members to condition (20) which would allow the Council to ensure that each of the six developments incorporated an acceptable package of sustainable design and construction measures.

The Major Projects Officer reported that Kent County Council (KCC) Highways have provided further comments, which were tabled, and had concluded that, if the matters outlined in the letter could be addressed during the detail design, no objection would be raised to the application. Further to the tabled comments from KCC Highways, he drew attention to condition (26) which required the provision of the cycle link through Site 1. With regard to the other points set out in the KCC Highways letter, he advised that these could be dealt with under the s278 agreement that the applicant would require in order to carry out works to the public highway. KCC Highways have also advised that a Travel Plan was not required and the Major Projects Officer therefore recommended that this was not included in the Section 106 Agreement.

The Major Projects Officer referred to the drop-off area in front of station, and advised that the current informal arrangements would not be replicated under these proposals. However, it would be necessary for the development to make provision for passengers to be dropped off and picked-up close to the station entrance. This provision, which would be made on land at the eastern end of the station frontage adjacent to the proposed roundabout, had not yet been designed to a specification agreeable to KCC Highways and Network Rail. As such, the Major Projects Officer sought delegated authority to agree a solution acceptable to these bodies and the Council.

The Major Projects Officer reported that with regard to the implications for the strategic road network, the Highways Agency continued to maintain their holding objection but they had advised that they expected to withdraw it within the next few days and replace it with conditions.

APPENDIX 2*Planning Committee**16 March 2015*

The Major Projects Officer advised that the Green Spaces Manager had provided further justification for the contribution sought, explaining that it was in-line with the adopted Supplementary Planning Document on developer contributions, and consistent with the amount sought on other recent housing developments. The Head of Service Delivery confirmed that the amended plans addressed the issues raised and he had no further comments.

The Major Projects Officer advised that contrary to Page One of the committee report, application SW/13/0635 had been implemented. He reported that the application included some information about the planted framework and seating area to be provided at the north-eastern corner of the public square. However, he sought delegated authority to secure further details in the form of scaled drawings, showing the raised platform and metal enclosing feature to the northeast corner of the public square, and any conditions required to seek further details in respect of finishing material. He further advised that the cycle parking for Site 4 would consist of provision for 10 cycles on five hoops; details to be agreed pursuant to the hard and soft landscaping condition, which was in addition to the existing provision of 106 cycles at the station.

A letter had been received from the Member of Parliament for Sittingbourne and Sheppey in support of the application which the Major Projects Officer summarised.

Further to Paragraph 6.053 of the report, the planning agent for Sittingbourne Retail Park had commented on the proposals, and his note was tabled. The Major Projects Officer summarised the note and advised that he considered that the points were satisfactorily dealt with by conditions, including the retail conditions now proposed.

With regard to the implications for public car parking provision and, in particular, the loss of spaces from Sites 1, 2, 4 (and the adjoining Tesco car park) and 5, the applicant has undertaken a count of the existing spaces on those sites. This concluded that that the four locations provide a total of 385 spaces, 27 spaces more than the corresponding number in the committee report which was based on Council data. He advised that 98 spaces of the Tesco car park would be retained, giving a total loss of 287 spaces, if this new information was used. However, this would be more than offset by the proposed provision in the multi-storey car park, where 308 spaces would be provided and he considered that the implications for public car parking provision were acceptable.

The Major Projects Officer advised that he sought delegation to approve the application subject to the conditions as outlined on the tabled paper.

The Chairman moved the officer recommendation for approval, which was seconded by Councillor Bryan Mulhern.

Mrs Barbara Cooper, representing KCC, spoke in support of the application.

Mr Hogben, an objector, spoke against the application.

Mr Quinn, the applicant, spoke in support of the application.

The Ward Member made the following comments: the residential developments proposed for Cocksleshell Walk and Spring Street would lead to unacceptable intrusion and overlooking which would affect the quality of life of residents in Frederick Street; to make comparisons with Wingate Court was spurious; removal of car parking for businesses in London Road and West Street would be detrimental; Members need to carefully read the strong objections raised by members of the public; concern regarding the lack of drop-off area at the station; Design Panel report was critical of design and land use; there were too

APPENDIX 2*Planning Committee**16 March 2015*

many loose ends; a detailed response from the applicant which had been tabled was unacceptable; concern about the Highways Agency not removing their holding direction; and this should not be considered based on corporate ambition but on planning grounds.

Visiting Members made the following comments: extensive report; first chance for Sittingbourne to move forward; this was a serious developer with financial backing; owe it to the people of Sittingbourne; this was a large application that had been dealt with fairly; the Planning Team had worked assiduously; the gains were significant for Swale and Kent; need to assess it on balance; this would secure Sittingbourne's future; some aspects of the proposal should be welcomed but parts were still full of holes and missing information; the application should have been considered in sites – not as one large application; was not the last chance, more important to get it right; there were serious transport and parking implications; objections from the public had been received and should be noted; and the application should be deferred to gather further information.

The Chairman congratulated the Planning Team for a detailed report and for the hard work they had put into the application process.

A Ward Member, who was also a Member of the Planning Committee, made the following comments: residents of Frederick Street had raised strong concerns regarding overlooking, especially as their properties were two-storey Victorian terraces, which would be overlooked by four-storey flats; inadequate car parking arrangements and the impact on neighbouring roads which were already difficult to park in; consultation process was fundamentally flawed; South East Design Panel's comments had not been addressed; the developer did not have a good track record in Swale as they had failed to complete the Sittingbourne Mill site, next to Morrisons; Condition 47 did not guarantee that the site will be completed, only that it will commence within three years; where would all the extra visitors going to park, especially as Albany Road and Crown Quay Lane car parks were being reallocated to long-term parking; and the report mentions the completion of the Northern Relief Road, which was contrary to the recent advice received from KCC Highways.

A Ward Member, who was also a Member of the Planning Committee, made the following comments: concerned that less than one parking space per property was inadequate, but recognised that this was in-line with Government policy and KCC Highways had raised no objection; and welcome the chance to see the proposals come to fruition.

A Ward Member, who was also a Member of the Planning Committee, made the following comments: this was an exciting time and an historic evening; endorse the application; and there would be challenges ahead with such a large-scale project.

Members of the Planning Committee made the following comments: need to view it as a single application; Sittingbourne needs this kind of development; have walked site and fully believe it would work; there are problems remaining and it was important to get them right before agreeing the proposals; more objections had been raised which had not been addressed; there were nine items on the tabled response from the applicant which had still not been answered; concerned regarding the impact on Sheerness and Faversham; concerned that north of Sittingbourne would become totally gridlocked; congratulate design team and officers; welcome proposals regarding solar panels and ask that any further suitable spaces for solar panels be explored; urge officers to ensure that the green spaces and tree and shrub planting was implemented; high quality materials and good attention to detail; would have a positive impact on Sheerness and Faversham; was unacceptable that the developers were not meeting the Council's policy on 30% affordable housing provision; the Council was handing the developers land and paying for the multi-storey car park but not receiving social housing in return; this was a once in a lifetime opportunity; a lot of people would shop locally; unacceptable to have so many tabled papers; discussion should

APPENDIX 2

Planning Committee

16 March 2015

be based on planning grounds; there were a number of outstanding issues; local people desperately need social housing; concerned about the number of delegations to officers; and the application should be deferred.

The Head of Planning advised that the delegations to officers related to very detailed issues in an advanced state of resolution and if any significant concerns arose it would be reported back to the Planning Committee.

In accordance with Council Procedure Rule No. 20 a recorded vote was requested and voting was as follows:

For: Councillors Richard Bamcott, Sylvia Bennett, Andy Booth, Derek Conway, Adrian Crowther, June Garrad, Sue Gent, Lesley Ingham, Peter Marchington, Bryan Mulhern, Colin Prescott and Ben Stokes. Total equals 12.

Against: Councillors Angela Harrison, Mike Henderson, Martin McCusker, Ghlin Whelan and Tony Winckless. Total equals 5.

The motion was therefore agreed.

RESOLVED: That application 14/505440/FULL be delegated to officers to approve subject to conditions (1) to (43) in the report; additional and amended conditions (28) and (44) as tabled; the application being referred to the Secretary of State; the Highways Agency holding objection being lifted, and to impose such further conditions as reasonably required by them and to seek the developer contribution totalling £50,000 for highway improvements to the Key Street roundabout; securing further details in the form of scaled drawings, showing the raised platform and metal enclosing feature to the northeast corner of the public square, and any conditions required to seek further details in respect of finishing material; amended and additional plans to address the outstanding design points in the committee report; the satisfactory resolution of the position and arrangement of the drop-off area for Sittingbourne train station in consultation with KCC Highways and Network Rail; amended conditions as required to refer to amended plans, and to carry out other fine-tuning of conditions as required; and a Section 106 Agreement, to include items as set out in the report and as tabled in the letter from Spirit of Sittingbourne LLP, has been entered into.

Chairman

Copies of this document are available on the Council website <http://www.swale.gov.uk/dso/>. If you would like hard copies or alternative versions (i.e. large print, audio, different language) we will do our best to accommodate your request please contact Swale Borough Council at Swale House, East Street, Sittingbourne, Kent, ME10 3HT or telephone the Customer Service Centre 01795 417850.

All Minutes are draft until agreed at the next meeting of the Committee/Panel

PLANNING COMMITTEE – 10 MARCH 2016

PART 2

Report of the Head of Planning

PART 2

Applications for which **PERMISSION** is recommended

2.1 REFERENCE NO - 15/507023/FULL			
APPLICATION PROPOSAL			
Retention of chicken sheds, associated outbuildings, storage and toilet/kitchenette facility. Ancillary to personal agricultural/leisure use.			
ADDRESS Dukes Shaw, Bexon Lane, Bredgar, Kent, ME9 8HG			
RECOMMENDATION - APPROVE			
WARD West Downs	PARISH/TOWN COUNCIL Bredgar	APPLICANT Mr Peter Eastland AGENT	
DECISION DUE DATE 10/11/15	PUBLICITY EXPIRY DATE 16/10/15		
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):			
App No	Proposal	Decision	Date
SW/14/0573	Change of use from woodland to woodland with leisure including erection of associated outbuildings	Withdrawn by applicant	03.08.15

1.0 DESCRIPTION OF SITE

- 1.01 This small application site comprises a very narrow band of mainly deciduous woodland located within the countryside and the Kent Downs Area of Outstanding Natural Beauty. The site is bounded to the east and west by farm land, but shows signs of previous commercial uses, perhaps quarrying, with varying levels and some scrap metal evident amongst undergrowth, both of which the applicant is gradually clearing. A two-storey detached dwelling house is located on the opposite side of Bexon Lane to the south of the site, and the long-established Bexon Lane scout activity site is located to the west of this neighbouring dwelling.
- 1.02 The site is situated between the M2 to the north (which it abuts), and Bexon Lane to the south where it has a gated access from. The site contains several unauthorised buildings located close to the M2, but due to the woodland vegetation, these buildings are shielded from public views.
- 1.03 The buildings include a greenhouse, a chicken shed/run, a feed store and attached wood store, a storage building with kitchenette with composting WC, an outdoor covered seating and cooking area, and a pond (bathtub). The buildings are all sited within a fenced enclosure at the far northern (motorway) end of the site and made mainly of timber and corrugated metal roof. Rainwater is collected from roofs for irrigation and refreshments.

- 1.04 A small caravan was recently stationed on the site, but this has subsequently more recently been removed and does not form part of the application.

2.0 PROPOSAL

- 2.01 The proposal is a retrospective application which seeks planning permission for the retention of the existing buildings for personal agricultural and leisure use.
- 2.02 The applicant does not propose any external and internal alterations, or to extend any of the existing buildings. The proposal refers solely to the retention of the existing buildings for agricultural and leisure use.
- 2.03 The existing gate, fences, driveway and woodland will remain without alterations on site. New fencing and gates might be established without planning permission depending on their height.

3.0 PLANNING CONSTRAINTS

Area of Outstanding Natural Beauty KENT DOWNS

Area of Outstanding Natural Beauty Maidstone AONB directive

4.0 POLICY AND OTHER CONSIDERATIONS

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

- 4.01 The National Planning Policy Framework (NPPF) was published in 2012 and re-issued in August 2015 with amendments. The NPPF provides national guidance for Local Planning Authorities on plan making and determining planning applications which may affect the natural environment. A presumption in favour of sustainable development runs throughout the document and is an important part of the plan-making process and in determining planning applications.
- 4.02 The National Planning Practice Guidance (NPPG) was issued as a web-based resource in 2014 and is intended to assist practitioners with regard to the interpretation of legislation in an easily and understandable way. The NPPG provides guidance on how Local Planning Authorities should assess applications which affects the natural environment.
- 4.03 Regard has been had to all the guidance set out within the NPPF and NPPG. In relation to developments within protected landscape areas, Paragraph 115, Section 11 of NPPF are particularly pertinent. Paragraph 115 states that:

“Great weight should be given to conserving landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to landscape and scenic beauty. The conservation of wildlife and cultural heritage are important considerations in all these areas, and should be given great weight in National Parks and the Broads.”

Swale Borough Local Plan 2008

- 4.04 Saved policy E1 (General Development Criteria) sets out standards applicable to all developments, seeking that they should be well sited, appropriate in scale, design and appearance with a high standard of landscaping, and have safe pedestrian and vehicular access whilst avoiding unacceptable consequences in highway terms.
- 4.05 The application site lies within the countryside. As such saved policy E6 (The Countryside) is particularly relevant to the current planning application. Policy E6 seeks to protect the quality, character and amenity of the countryside, and states that development will not be permitted outside rural settlements in the interests of countryside conservation, unless it relates to an exceptional need for a rural location.
- 4.06 Policy E9 (Protecting the Quality and Character of the Borough's Landscape) seeks to protect, conserve or enhance the areas of high landscape value within the Borough. It states that:

“Within the countryside and rural settlements, the Borough Council will expect development proposals to:

- a. be informed by and sympathetic to local landscape character and quality;*
- b. consider the guidelines contained in the Council's Landscape Character Assessment and Guidelines Supplementary Planning Document, so as to contribute to the restoration, creation, reinforcement and conservation, as appropriate, of the landscape likely to be affected;*
- c. safeguard or enhance landscape elements that contribute to the distinctiveness of the locality or the Borough;*
- d. remove features which detract from the character of the landscape; and*
- e. minimise the adverse impacts of development upon landscape character.”*

Supplementary Planning Document (SPD)

- 4.07 The Swale Landscape Character and Biodiversity Appraisal SPD (2011) seeks to support landscape and other policies of the Swale Borough Local Plan 2008. The SPD states that there is a need to retain pattern and diversity in the landscape of the Borough to ensure that character and local distinctiveness are maintained. The Borough Council needs to ensure that landscapes are visually satisfying, and give enjoyment to those who visit them and those who live and work in them. The SPD states that the document should be analysed to gain an impression of whether development would be appropriate and, if so, how it might be accommodated within the landscape and mitigated sensitively.

5.0 LOCAL REPRESENTATIONS

Swale Footpaths Group

- 5.01 The Swale Footpaths Group states that there are public rights of way just outside the site, though neither should be affected by the application.

6.0 CONSULTATIONS

- 6.01 Bredgar Parish Council states that this is a revised version of an application that was objected to by the Parish Council in 2014. With respect to this application, the Parish Council objects to the proposal based on the following reasons:

1. The character of the long established woodland is being lost and the proposed structures do not appear to be of a quality fitting for the AONB;
 2. The dates given on the application indicate that the development took place in May 2009. However, this date is inconsistent with the observations of the Parish Council and the Swale Borough Council.
 3. The Parish Council is not aware of any “general acceptance of some outbuildings assurance” as referred to in section 5 of the application form; they seek clarification on this point.
 4. In relation to section 13 of the application form – Biodiversity and Geological Conservation: the Parish Council wonders if a survey has been conducted to support the assertion in part (a) that no protected or priority species are present on the site. Turning to part (b) of section 13, the answer given appears incorrect, as the site is part of an area designated as AONB;
 5. There is concern that the property may be used for unauthorised residential purposes, or should be site be abandoned at some point, constituting further deterioration to the appearance of the woodland, and the designated AONB.
- 6.02 In general, the Parish Council objects to the proposal in respect to the potential detriment to the AONB and the inconsistencies in the application. They have suggested that a site inspection would be appropriate.

7.0 APPRAISAL

- 7.01 The site is located outside any built-up area boundary and within the Kent Downs Area of Outstanding Natural Beauty (AONB), where the principle of development is normally restricted, as described in the Swale Borough Local Plan 2008. On this basis, the main considerations in determining this planning application are related to whether the proposal would impact on the AONB and rural amenity.
- 7.02 Both Section 11 of the NPPF and Policy E9 of the Swale Borough Local Plan 2008 state that proposals should protect or enhance the natural environment, be appropriate to the landscape likely to be affected, and where possible mitigate adverse impacts it may cause on the landscape and biodiversity. The development, subject to this appraisal, is located within the AONB, and therefore should demonstrate minimal impact possible on the local natural environment.
- 7.03 The buildings situated on the site are small units, that host agricultural and leisure related uses, such as raised beds, horticulture, chicken sheds, storage and cooking areas. There is also a small kitchenette with WC that serves as a support building to the owner when he is on site.
- 7.04 Because of the location, scale and size of the buildings, and the existing woodland around these buildings, they cannot be seen from public views or rights of way. Bredgar Parish Council has stated in their consultation response that they have some concerns regarding the design of the existing buildings. In my view, I do not consider the design of the buildings to be of great concern, as they cannot be seen from the street due to the existing woodland. Additionally, I consider the buildings are of simple rustic design, and adequate as ancillary buildings for agricultural and leisure use.

- 7.05 In general I believe that the existing buildings are appropriate to the local environment. They are suitable for the location and therefore I do not consider them harmful for overall visual amenity and positive qualities and values of the AONB. As such, the proposal complies with Policy E9 of the Swale Borough Local Plan 2008, Swale Landscape Character and Biodiversity Appraisal SPD, and Para. 115 and 116 of the NPPF.
- 7.06 The majority of the use proposed appears to be for horticulture and woodland management, with related structures. The additional leisure use as proposed would not normally be permitted in Areas of Outstanding Natural Beauty, but due to its particular context, in which the site and surrounded areas show an established agricultural use, I do not consider that the proposal would significantly affect the AONB. However, to enable the situation to be kept under review I suggest that a temporary planning permission is appropriate and that a condition should be included in order to mitigate potential risks to the local environment.
- 7.07 In general, I consider that the agricultural and leisure use of the site and the buildings are appropriate to the locality. I do not consider that the proposal would have a negative impact on rural amenity.
- 7.08 In order to ensure that the no residential use would be established on the site and that the existing kitchenette should not be used as a residential building, a condition is recommended below, to safeguard the site for solely agricultural and leisure uses in accordance with Policy E6.

8.0 CONCLUSION

- 8.01 The application is considered to be in accordance with the Paragraph 115 and 116 of NPPF with regard to developments within Areas of Outstanding Natural Beauty.
- 8.02 Overall, the proposal is considered to be in accordance with Policies E9 and Swale Landscape Character and Biodiversity Appraisal SPD (2011) as it does not result in harmful impact on the local landscape.
- 8.03 The proposal is also considered to have minimal impact on rural amenity with regards to Policies E1 and E6 of the Swale Borough Council Local Plan 2008. A condition to exclude residential use is recommended and on this basis I recommend that planning permission should be granted for a temporary period of 3 years.

9.0 RECOMMENDATION – GRANT Subject to the following conditions:

CONDITIONS

- (1) The use of the buildings hereby permitted shall cease and the site restored to its previous condition on or before three years from the date this permission relates.

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

- (2) No building hereby permitted shall be occupied at any time for residential purposes or as a single dwellinghouse in Class C3 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended).

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

The Council's approach to this application:

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

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

In this instance:

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

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

2.2 REFERENCE NO - 15/510505/FULL			
APPLICATION PROPOSAL Construction of a new community centre with adjoining changing room facilities and associated landscaping works			
ADDRESS Land North East Of Barley House Great Easthall Way Sittingbourne Kent ME10 3TF			
RECOMMENDATION Approve, subject to the comments of Southern Water Services and the resolution of the ecology issue raised by KCC Ecology (closing date 14/3/16)			
SUMMARY OF REASONS FOR RECOMMENDATION The proposal would provide a dedicated community centre within the wider Great Easthall housing development which would be appropriately sited, of an acceptable design and would not impact unacceptably on either residential or highway amenities.			
REASON FOR REFERRAL TO COMMITTEE The application has been submitted by Swale Borough Council			
WARD Murston	PARISH/TOWN COUNCIL	APPLICANT Swale Borough Council AGENT BBM Sustainable Design	
DECISION DUE DATE 09/03/16	PUBLICITY EXPIRY DATE 09/03/16		
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):			
App No	Proposal	Decision	Date
SW/02/1180	Residential development, employment development, open space and supporting facilities	Approved	16/07/2004
This application granted outline planning permission for development at Great Easthall. Members will be aware that, since the grant of the outline permission as summarised above there have been numerous approvals of reserved matters for housing and development of the wider site has been underway for a number of years, and approximately 500 dwellings have been completed to-date out of an eventual total of approximately 800 dwellings.			

MAIN REPORT

1.0 DESCRIPTION OF SITE

- 1.01 The application site currently comprises an area of undeveloped land close to the north eastern boundary of the wider Great East Hall residential development. The shape of the site is broadly rectangular measuring approximately 60m x 55m. The site is bounded to the west, south west and south by Great Easthall Way with undeveloped land immediately to the north and east.
- 1.02 The plot is a largely flat open grassed area with a raised bund, approximately 0.5m – 1m in height close to the boundary with Great Easthall Way. There are a number of small trees and shrubs along the outer perimeter of the site.
- 1.03 Residential dwellings face the site to the south (Barley House and No.s 2, 4 and 6 Great Easthall Way).
- 1.04 The masterplan for the site (approved pursuant to SW/02/1180) envisages Neighbourhood Centre uses on the land, including the provision of a Community Hall.

2.0 PROPOSAL

- 2.01 This application seeks planning permission for the erection of a community centre building and associated vehicle access, parking and landscaping.
- 2.02 The proposed community centre comprises a single storey building located towards the south east of the application site. Access is proposed from Great Easthall Way to the west with parking provision in the north of the site. An area of soft landscaping is proposed to the west of the proposed community centre.
- 2.03 The building will be comprised of two separate areas with a staggered elevation and varying roof heights. The larger section will be comprised of a main hall, foyer and associated w.c. and storage facilities. The smaller section will be comprised of sports changing facilities. A canopy covering a section of the terrace and the cycle storage area is proposed on the western side of the building.
- 2.04 The building measures approximately 34m in width (including the covered canopy area) and ranges between 13m and 11.5m in depth due to the staggered frontage proposed. The building is largely flat roofed and measures between 3.5m and 4.2m in height. Two timber clad roof dormers are proposed which add a further 3m in height on top of the flat roof. The building will have a meadow grass roof.
- 2.05 The external walls of the building will be wrapped in vertical cladding of coppiced sweet chestnut. This will range between 4.4m and 5m in height and as such will form a parapet.

3.0 PLANNING CONSTRAINTS

4.0 POLICY AND OTHER CONSIDERATIONS

- 4.01 The National Planning Policy Framework (NPPF) seeks to support and encourage prosperous and healthy communities. Paragraph 70 states that planning authorities should act positively in regards to *“provision and use of shared space, community facilities (such as local shops, meeting places, sports venues, cultural buildings, public houses and places of worship) and other local services to enhance the sustainability of communities and residential environments.”*
- 4.02 The National Planning Practice Guidance (NPPG) also supports community development and the provision of new community services and facilities in general.
- 4.03 Policy C1 of the adopted Swale Borough Local Plan 2008 states the following:
“The Borough Council will grant planning permission for new or improved community services and facilities. Additionally, where proposals would meet an identified local need in an accessible location, it will permit development proposals that will help maximise the use of existing public and private community services and facilities, including those that would make them available for wider public use, in locations where shortfalls in local public provision could be met.”
- 4.04 Policies E1, E19 and T3 are also relevant to this application.

5.0 LOCAL REPRESENTATIONS

- 5.01 The application has been advertised by way of letter to immediate neighbours and display of a site notice close to the application site. No responses have been received.

6.0 CONSULTATIONS

- 6.01 **KCC Highways and Transportation** raised no objection subject to conditions relating to on site details of parking for site personnel / operatives / visitors; provision for construction vehicles; precautions to guard against mud on the highway; access details; the retention of the parking space and turning areas; and that the use shall not be commenced before adequate space for cycle storage has been laid out.
- 6.02 The Council's **Environmental Protection Team Leader** raised no objection subject to conditions relating to construction hours. Further to this I have verbally discussed the hours of use of the premises and have included these as a condition.
- 6.03 **Natural England** *"advises your authority that the proposal, if undertaken in strict accordance with the details submitted, is not likely to have a significant effect on the interest features for which The Swale SPA/Ramsar has been classified. In addition Natural England is satisfied that the proposed development.... will not damage or destroy the interest features for which The Swale SSSI has been notified."*
- 6.04 **KCC SUDs** recommend that if the Local Planning Authority is minded to grant permission then conditions relating to a sustainable surface water drainage scheme will be required.
- 6.05 **KCC Public Rights of Way Officer** raised no objection, noting that PROW ZU16 passes *"...adjacent to the site to the south"*.
- 6.06 **KCC Ecology** state that *"Due to the size of the proposed development site, the fact that the boundaries will be maintained and by reviewing existing survey data from the adjacent planning applications we agree that there is no requirement for a specific bat activity survey or breeding bird survey to be carried out as part of this planning application."*

However the proposed development will result in a loss of suitable reptile habitat and as such there is a need for a reptile survey to be carried out. As the survey was carried out in July 2015 it's disappointing that the reptile survey was not carried out last year.

As detailed above the presence of protected species are a material consideration within the planning system and all surveys should be carried out prior to determination of the planning application. Until the surveys are carried out SBC have no understanding if reptiles are present and if they are present there is a need for the following to be considered:

- What the population size is*
- What size of receptor site is required*
- Can the reptiles be retained within the proposed development site of if an offsite receptor site is required.*

We advise SBC that the recommended survey must be carried out prior to determination of the planning application."

I have forwarded these details to the agent and am awaiting a response which I will send onto KCC Ecology. I will update Members accordingly at the meeting regarding this issue.

Further to the above, details relating to lighting and further to the reptile survey, details relating to ecological enhancements have been requested by KCC Ecology.

- 6.07 **Southern Water** – I am currently awaiting a response and will update Members at the meeting.

7.0 BACKGROUND PAPERS AND PLANS

- 7.01 Application papers and correspondence relating to application reference 15/510505/FULL.

8.0 APPRAISAL

Principle of Development

- 8.01 The provision of a community centre to serve the wider Great Easthall housing development formed part of the adopted Development Brief Review for the site and has long been envisaged as forming part of the wider estate. The application is also in compliance with Policy C1 of the adopted Swale Borough Local Plan 2008 and the aims of the NPPF. I therefore consider, that subject to compliance with other relevant Development Management policies, that the proposal is acceptable in principle.

Visual Impact

- 8.02 The proposal now being considered has been subject to detailed pre application advice whereby the Council's Design and Conservation Consultant commented on the scheme before formal submission of the application. The staggered elevation, vertical cladding, green roof and prominent roof structures will all combine to add variety and interest to the building and the result in my view will be the creation of a building of acceptable design.
- 8.03 On site planting and landscaping is proposed and an indicative landscaping plan has been submitted with the application. When approaching the existing housing development along Great Easthall Way the site is prominently located. Boundary planting is proposed in addition to on site landscaping and much of the success of the integration of the community centre into this landscape will be a well considered landscape scheme. Due to this, the landscaping condition suggested below will ensure that a robust and appropriate landscaping scheme is implemented in order to best integrate the community centre into its environment.

Residential Amenity

- 8.04 The closest residential properties to the application site are those situated on the opposite side of Great Easthall Way. These properties are between 27m – 30m away from the proposed community centre. Due to this distance and the height of the community centre I believe that the proposal would not be unacceptably overbearing for these residents. I have also discussed the issue of hours of use with the Council's Environmental Protection Manager. To attempt to ensure that the

potential impact upon residential amenities is not unacceptable, I have recommended a relevant condition below.

Other Matters

- 9.04 I have consulted with KCC Highway, KCC SUDs, KCC Public Rights of Way Officer and Natural England who have all raised no objection to the application. Various conditions have been recommended if the Council is minded to approve the application. I have included all these conditions below and therefore consider that the proposal would be acceptable in relation to the above.
- 9.05 KCC Ecology were also consulted and requested that a reptile survey is carried out prior to determination of the planning application. I have forwarded these details onto the agent and am awaiting a response. Once received I will forward onto KCC Ecology and will update Members of the Biodiversity Officer's further comments at the meeting. Details regarding any possible future lighting have been included by way of a condition however, details of ecological enhancements have been recommended once the reptile survey has been completed. Due to this, I have made reference to any further conditions that are required (see condition 19) and again, will update Members at the meeting as to the exact wording of these conditions.

9.0 CONCLUSION

- 9.01 In overall terms, taking into account the above assessment and subject to outstanding issues relating to ecology, I believe that the proposal would provide a dedicated community centre within the wider Great Easthall housing development which would be appropriately sited, of an acceptable design and would not impact unacceptably on either residential or highway amenities. I recommend that planning permission be granted.

10.0 RECOMMENDATION – GRANT Subject to the comments of Southern Water Services and the resolution of the ecology issue as raised by KCC Ecology and to the following conditions:

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

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

- 2) The development hereby permitted shall take place in complete compliance with the following drawings: P-001 A and P-002 A (received 15/2/2016) and P-100, Rev A; P-101, P-102 and P-103 (received 12th January 2016); and 616853/CIV/001 A and /CIV/004.

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

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

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

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

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

- 5) During construction provision shall be made on the site, to accommodate operatives' and construction vehicles loading, off-loading or turning on the site to the satisfaction of the Local Planning Authority.

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

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

Reason: In the interests of amenity and road safety.

- 7) The access details shown on the approved plans shall be completed to the satisfaction of the Local Planning Authority prior to the commencement of any other works authorised by this permission, the occupation of any buildings hereby approved, the use of the site being commenced, and the access shall thereafter be maintained.

Reason: In the interests of highway safety.

- 8) The area shown on the submitted layout as vehicle parking and turning space shall be provided, surfaced and drained to the satisfaction of the Local Planning Authority before the use is commenced or the premises occupied, and shall be retained for the use of the occupiers of, and visitors to, the premises, and no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order), shall be carried out on that area of land so shown or in such a position as to preclude vehicular access to this reserved parking space.

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

- 9) No building shall be occupied or the approved use commenced until space has been laid out within the site in accordance with the submitted details 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.

- 10) 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 (including for the 'green roof'), noting species (which

shall be native species and of a type that will encourage wildlife and biodiversity,), plant sizes and numbers where appropriate, means of enclosure, hard surfacing materials, and an implementation programme.

Reason: In the interests of the visual amenities of the area and encouraging wildlife and biodiversity, and to ensure that such matters are agreed before work is commenced.

- 11) 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.

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

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

- 13) Development shall not begin until a detailed sustainable surface water drainage scheme for the site has been submitted to (and approved in writing by) the local planning authority. The detailed drainage scheme shall demonstrate that the surface water generated by this development (for all rainfall durations and intensities up to and including the climate change adjusted critical 100yr storm) can be accommodated and disposed of without increase to on or off site flood risk. Any discharge to the public surface water sewer shall be agreed in advance in writing with the local planning authority and Southern Water.

Reason: To ensure that the principles of sustainable drainage are incorporated into this proposal.

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

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

Reason: To ensure ongoing efficacy of the drainage provisions.

- 15) The use of the premises hereby approved shall be restricted to the hours of 7am to 10pm Sundays to Thursdays (inclusive); and 7am to midnight on Fridays and Saturdays.

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

- 16) No floodlighting, security lighting or other external lighting shall be installed or operated at the site, other than in accordance with details that have first been submitted to and agreed in writing by the Local Planning Authority. These details shall include:
- A statement of why lighting is required, the proposed frequency of the use and the hours of illumination.
 - A site plan showing the area to be lit relative to the surrounding area, indicating parking or access arrangements where appropriate, and highlighting any significant existing or proposed landscape or boundary features.
 - Details of the number, location and height of the lighting columns or other fixtures.
 - The type, number, mounting height and alignment of the luminaries.
 - The beam angles and upwards waste light ratio for each light.
 - An isolux diagram showing the predicted illuminance levels at critical locations on the boundary of the site and where the site abuts residential properties.

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

- 17) No external storage of parts, equipment, raw materials or products shall take place within the site.

Reason: In the interests of visual amenity.

- 18) The premises shall be used for the purpose of a public hall and sports changing facilities and for no other purpose, including any other purposes in Class D1 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended).

Reason: In the interests of residential amenities.

- 19) Any other conditions recommended by consultees.

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.

This page is intentionally left blank

2.3 REFERENCE NO - 16/501079/FULL		
APPLICATION PROPOSAL Replace front door and front windows, repaint front elevation and window sills.		
ADDRESS 17 Orchard Place Faversham Kent ME13 8AP		
RECOMMENDATION - APPROVE - SUBJECT TO: no contrary representations being received (consultation period ends 11/03/16)		
REASON FOR REFERRAL TO COMMITTEE Applicant is an employee of Swale Borough Council		
WARD Abbey	PARISH/TOWN COUNCIL Faversham Town	APPLICANT Mr Ross McCardle
DECISION DUE DATE 30/03/16	PUBLICITY EXPIRY DATE 11/03/16	

1.0 DESCRIPTION OF SITE

- 1.01 17 Orchard Place is a C19th cottage located within the Faversham conservation area and is subject to an Article 4(2) Direction. The property is a two storey mid-terraced dwelling built of brick, that fronts directly onto the street.
- 1.02 Orchard Place is a typical Victorian residential street featuring traditional terraced dwellings, all two storeys high, built of yellow brick. This property differs from its neighbours as the front elevation has been painted.
- 1.03 The property has since been altered and currently features uPVC windows and a uPVC front door which are not consistent with the previous style of the house. Together with the rendering of the front elevation, these alterations have not respected the original character of the building.

2.0 PROPOSAL

- 2.01 This application seeks permission to replace the front door and front windows, together with repainting the front elevation and window sills.
- 2.02 The existing white uPVC door would be replaced with a composite door from the Phoenix Doors Essex Range. It would have four panels of which the upper two would be plain opaque glazed. The proposed door would be coloured either green, blue or slate grey.
- 2.03 All of the windows on the front elevation of the property, namely one window at ground floor level and one at first floor would be replaced under this application. The existing white multi-pane uPVC windows would be replaced with four pane sash uPVC windows with vertical glazing bars.
- 2.04 The rendered front elevation currently features a cream/beige colour with black window sills. This would be repainted in a subtle cream together with the window sills repainted to match the door.
- 2.05 The applicant has explained the application with the following summarised points:
 - The existing windows and door are of a poor quality uPVC

- The front windows only allow the topmost fanlight section to be opened and would not allow escape in the event of a fire
- There are only 2 incidences of timber windows remaining in the street
- Timber would be the preferred option but the cost is prohibitive and there is damp along the front wall
- The proposed composite door would have four panels which are more suitable to Victorian terraces and coloured doors are a common feature of Faversham

3.0 PLANNING CONSTRAINTS

Article 4 Faversham Conservation Area

Article 4 Swale Article 4 directive

Conservation Area Faversham

4.0 POLICY AND OTHER CONSIDERATIONS

The National Planning Policy Framework (NPPF)

National Planning Practice Guidance (NPPG)

Development Plan: Saved policies E1 (General Development Criteria) E15 (Conservation Area) E19 (Design Criteria) of the Swale Borough Local Plan 2008

Supplementary Planning Documents: Supplementary Planning Guidance entitled “Conservation Areas”

5.0 LOCAL REPRESENTATIONS

- 5.01 No representations have been received. However the closing date for representations is 11 March and Members will be updated at the meeting.

6.0 CONSULTATIONS

- 6.01 Faversham Town Council’s comments have not yet been received. Members will be updated at the meeting.

7.0 BACKGROUND PAPERS AND PLANS

- 7.01 Application papers and drawings referring to application reference 16/501079/FULL

8.0 APPRAISAL

- 8.01 I consider the key issue in this case is whether the proposal meets the aims and objectives of the Article 4(2) Direction in preventing development that does not preserve or enhance the special character or appearance of the conservation area.
- 8.02 Saved policy E15 of the Swale Borough Local Plan 2008 states that for an application within a conservation area to succeed, it must be demonstrated that the proposal will “preserve or enhance” the character and appearance of the area. I would contend that the application does just that, in removing some windows which are not aesthetically pleasing with ones which are of a design and appearance more suitable for both the property and the area.

8.03 I always encourage the use of timber for replacement windows in a conservation area, but in this case the applicant is very keen to use uPVC, and I believe that the proposal is worthy of support for the following reasons:

- The present windows are not original, appropriate to the style of the property, or aesthetically pleasing and they detract from the character and appearance of the property and the street scene
- The proposed replacements are of a more appropriate design with regard to the age, style and character of the property
- The proposal satisfies the requirement to 'preserve or enhance' the character and appearance of the conservation area
- Policy E15 also states that one of its objectives should be to "remove features that detract from the character of the area and reinstate those that would enhance it". The proposed windows, albeit in UPVC, are clearly, by their traditional configuration, an improvement on the existing windows which, are completely out of character with this traditional building.

8.04 The proposal would also involve the repainting of the rendered front elevation. I consider that the applicant has carefully considered the use of suitable colours and recommend the application be approved.

8.05 The applicant sought pre-application advice regarding the proposed composite door. Although the Council would ideally prefer traditional materials to be used, in this case the original wooden door has been previously replaced with a uPVC door and I therefore consider the replacement composite door which seeks to be more suitable to the property would enhance the appearance of the conservation area.

8.06 I also note an appeal that was allowed in 2009 at 8 Newton Road, Faversham (SW/07/1173), see copy of decision attached as an appendix to this report. This application to replace existing inappropriate louvre windows at the front of the property with uPVC sash double glazed units was refused by the Council on the grounds that it would result in a poorer design than the current windows, undermining the aims and objectives of the Article 4(2) Direction. However, the Inspector concluded that the existing windows were out of character with the area and their replacement would enhance the appearance of the conservation area due to their more appropriate subdivision format which was more in keeping with the character of the area. Since then, the Council has been very successful in defending refusals where the replacement windows have been poorer than those that exist, which is the opposite of the case here.

8.07 I would therefore suggest that to replace the existing windows and door, albeit in uPVC but with better designed units, will be an improvement to this property and the area in terms of design and appearance, complying with the requirements of policy E15, making the proposal acceptable. I would not expect to be successful at appeal if this application were to be refused.

9.0 CONCLUSION

9.01 As stated above, I am of the opinion that this proposal would enhance the character and appearance of the conservation area, in accordance with Policy E15. I therefore recommend that permission should be granted, subject to the conditions below and

that no fresh material planning issues being raised in any representations received prior to the closing date of 11 March 2016.

10.0 RECOMMENDATION – GRANT Subject to the following conditions

CONDITIONS

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

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

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

Reasons: In the interest of preserving or enhancing the character and appearance of the conservation 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 acceptable as submitted and no further assistance was required

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

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

APPENDIX 1



Appeal Decision

Site visit made on 9 January 2009

by Sheila Holden
BSc MSc CEng MICE MRTPI FIHT

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

The Planning Inspectorate
4/11 Esgle Wing
Temple Quay House
2 The Square
Temple Quay
Bristol BS1 6PN

☎ 0117 372 6372
email: enquiries@pils.gst.gov.uk

Decision date:
26 January 2009

Appeal Ref: APP/V2255/A/2084649
8 Newton Road, Faversham, Kent ME13 8DY

- 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 Paula Symonds against the decision of Swale Borough Council.
- The application Ref SW/07/1173, dated 4 October 2007, was refused by notice dated 13 March 2008.
- The development proposed is replacement of existing single pane louvre windows at front of property with UPVC box sash double glazed units.

Decision

1. I allow the appeal and grant planning permission for the replacement of existing single pane louvre windows at front of property with UPVC box sash double glazed units at 8 Newton Road, Faversham, Kent ME13 8DY in accordance with the application Ref: SW/07/1173, dated 4 October 2007, subject to the following conditions:
 - 1) The development hereby permitted shall be begun before the expiration of three years from the date of this decision.
 - 2) No development shall take place until full details of the proposed box sash double glazed units have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

Main Issue

2. The main issue is whether the replacement windows would preserve or enhance the character or appearance of the Faversham Conservation Area.

Reasons

3. 8 Newton Road is one half of a pair of Victorian semi-detached properties within a group of three sited in a prominent site close within the Faversham Conservation Area and close to the town centre. Other properties of a similar era can also be seen along this stretch of road. Most of these properties, which are constructed of local yellow stock bricks under slate roofs, have retained their original features, including their wooden sash windows. However, No 8 differs from its neighbours as it has been painted and its roof has concrete tiles. It has also lost its original windows which have been replaced with metal

SWALE BOROUGH COUNCIL

28 JAN 2009

APPENDIX 1

Appeal Decision APP/V2255/A/2084649

- ones with large single panes of glass with small louvered openings at the top. I note that there is a difference of view about the physical condition of what remains of the original window frames, although photographic evidence from the appellant appeared to indicate that they are poor, at least in part. On my site visit I saw that the arched tops have been replaced by a façade in front of the windows.
4. In my view the lack of vertical and horizontal sub-division of these windows, particularly the largest section of the ground floor bay window, is incongruous in this setting and detrimental to the character and appearance of the conservation area. In these circumstances I consider their replacement with appropriately designed UPVC box sash windows would provide an opportunity to re-introduce the vertical and horizontal subdivision of the windows. This would ensure that the appearance of the building is more in keeping with its neighbours than it is at present. On my site visit I also saw that an example window has been installed, albeit unauthorised. In my view this illustrated the benefits of sub-dividing the otherwise large expanse of glass.
 5. I appreciate that this part of the Faversham Conservation Area is covered by an Article 4(2) Direction which seeks to prevent further erosion of the special character of the area through unsympathetic alterations. I understand that the Council would ideally prefer traditional materials to be used and accept that UPVC has a different appearance to that of wood. However, in this case the original wooden frames have been lost and the existing windows are out of character with others within this group of properties. For these reasons I conclude that their replacement with carefully proportioned UPVC which seeks to replicate the form of those in the adjoining houses would enhance the appearance of the Conservation Area. It would therefore comply with Policies QL1 and QL6 of the Kent and Medway Structure Plan and Policies E1, E15 and E19 of the Swale Borough Local Plan (2008) all of which seek to ensure that development respects its setting, particularly in historic environments.
 6. I will allow the appeal subject to conditions. In addition to the standard time limit I have imposed a condition requiring full details of the proposed windows to be approved by the Council prior to their installation in the interests of the appearance of the building itself and the Faversham Conservation Area.

Sheila Holden
INSPECTOR

2.4 REFERENCE NO - 16/500288/FULL			
APPLICATION PROPOSAL Conversion of existing integral garage to dining room			
ADDRESS Aylesbury Cottage 41A Horselees Road Boughton Under Blean Kent ME13 9TE			
RECOMMENDATION - APPROVE			
REASON FOR REFERRAL TO COMMITTEE Parish Council objection			
WARD Boughton & Courtenay	PARISH/TOWN COUNCIL Dunkirk	APPLICANT Mr G Blandford & Miss E Ward AGENT Jason Davies Architectural Services	
DECISION DUE DATE 11/03/16	PUBLICITY EXPIRY DATE 22/02/16		
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):			
App No	Proposal	Decision	Date
SW/08/0989	Demolition of existing property and erection of 8 new semi-detached dwellings, with integral garages and associated gardens and landscaping	Granted	05/02/08

1.0 DESCRIPTION OF SITE

- 1.01 Aylesbury Cottage is a three- bedroom brick built semi-detached dwelling with an integral garage located in the built up area boundary of Boughton. The property is one of a row of eight dwellings that were granted planning permission in 2008.
- 1.02 The property has access directly off Horselees Road by way of a driveway. There is now hardstanding to the full width of the property frontage (over 6m) providing off road parking for two cars. To the rear is private amenity space.
- 1.03 The application site is characterised by residential properties, mainly detached and semi-detached dwellings with off-street parking and landscaped gardens to the front of properties. On the other side of the road, the properties are mainly terraced homes with small front gardens.
- 1.04 The original planning permission contains a condition (number (6)) that states that the areas shown as garages shall be kept available for such use and that no development should preclude vehicular access to the garages. The grounds for the condition were amenity and preventing on-street parking and inconvenience to road users Hence this application to install a wall and window where the garage door currently stands is necessary..

2.0 PROPOSAL

- 2.01 This application seeks permission for the conversion of the existing integral garage to a habitable room.

- 2.02 The existing integral garage measures 2.6 metres wide x 5.5 metres in length. The external garage door would be removed and replaced with a new window constructed of brown UPVC. The external walls below the new window would be constructed of a brick plinth to match the existing brickwork.
- 2.03 The proposed garage conversion would provide additional ground floor space in the kitchen to accommodate a dining room. An internal wall separating the kitchen and integral garage would be removed.
- 2.04 Two off-road parking spaces would remain in front of the garage. The area of hardstanding measures 6.6m x 6.4m.

3.0 PLANNING CONSTRAINTS

None

4.0 POLICY AND OTHER CONSIDERATIONS

The National Planning Policy Framework (NPPF)
 National Planning Practice Guidance (NPPG)
 Development Plan: Saved policies E1 (General Development Criteria) E19 (Design Criteria) E24 (Extensions & Alterations) and T3 (Vehicle Parking on New Developments) of the Swale Borough Local Plan 2008.
 Supplementary Planning Documents (SPD): Supplementary Planning Guidance entitled “Designing an Extension – A Guide for Householders”. The Council’s SPD on extension and alterations explains that “Extensions or conversion of garages to extra accommodation, which reduce available parking space and increase parking on roads is not likely to be acceptable. Nor is the provision of all car parking in the front garden a suitable alternative as the position is unlikely to be suitable for a garage and will create a poor appearance in the streetscene.”

5.0 LOCAL REPRESENTATIONS

None

6.0 CONSULTATIONS

- 6.01 Dunkirk Parish Council objects to the application, referring to the history of the original planning application, to their original concerns over the sizes of the proposed garages as being too small, and stating;

“Currently all residents of this development park on the brick paved driveways and do not put their cars in their garages.

“The (sic) cannot park elsewhere as Horselees Rd is narrow and the other side is a continuous row of houses without garages where all residents car parking is, and has been for many years, on the road. Many modern vehicles cannot make use of any garage with a width of 2.6m; if the car can get in and out, the occupant cannot open the doors sufficiently to get in or out of the vehicle. KCC Highways considered 2.9m as the minimum in 2008. The inadequacies of the integral garages that were given consent is obvious to all who walk along Horselees Rod

“Whilst we have much sympathy with the residents of these properties we are concerned that once one conversion has been granted then most of the others in the development will make similar applications. The footprint of the houses is such that none can accommodate more than two normal vehicles on their driveways. Visitors and tradesmen already need to find spaces wherever they can.” Horselees Road is narrow and on the other side, all resident parking is on the street where properties do not have a garage.”

The Parish Council has sent its own photographs of the parking problems in the area.

7.0 BACKGROUND PAPERS AND PLANS

7.01 Application papers and drawings referring to application reference 16/500288/FULL

8.0 APPRAISAL

8.01 The main considerations in the determination of this planning application concern the impact that the loss of the garage as a parking space would have upon the character and appearance of the streetscene.

8.02 The proposed conversion would result in the loss of one garage. The question then is what impact will that have on the streetscene and on parking provision at the property. The entire frontage of the property is now hardsurfaced, whereas originally some soft landscaping was indicated, with one parking space in front of the garage. The hardstanding to the front now provides off-road parking for two cars which is what the current parking standard for a three bedroom dwelling in a village location requires (see IGN3 from KCC). Parking spaces should normally be 2.5m wide, although between walls it is recommended by Kent Highways that this width should be enlarged to 2.7m. Here the area in front of the garage is 6.6m wide which more than complies with this guidance. The approval of this application is not likely to result in any erosion of soft landscaping to the front of the property, as can sometimes be the case with garage conversions. Therefore I do not consider that the proposal would be likely lead to new parking or visual amenity problems in the area as cars can already be expected to be parked across the entire frontage of the property on the existing hardstanding.

8.03 The parking provision available to the applicants will be the same two spaces as originally approved, and I do not consider that it would result in additional on-street parking potential due to the driveway for the property being adequate for the parking needs of the property. Nor do I find that the conversion of this garage will negatively affect the streetscene as the property’s entire frontage is already paved over and used for parking.

8.04 Although granting permission for this application could encourage others to do the same, I do not consider this to be a reason for refusal. Each application should be considered on its own merits.

8.05 The application does introduce a window facing the highway in place of the existing garage door. The size and design of this window is in keeping with the other front windows and as such, I consider that the proposal is acceptable in relation to its impact upon neighbouring amenities.

9.0 CONCLUSION

9.01 This application for the conversion of an existing integral garage to a habitable room is considered acceptable and I therefore recommend that permission be granted.

10.0 RECOMMENDATION – GRANT Subject to the following conditions:

CONDITIONS

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

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

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

Reasons: In the interests of visual amenity

Council’s approach to the application

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

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

In this instance:

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

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

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

2.5 REFERENCE NO - 15/506115/FULL			
APPLICATION PROPOSAL One new 4 bedroom detached dwelling to replace existing 3 bedroom dwelling			
ADDRESS The Chimes Beach Approach Warden Kent ME12 4NJ			
RECOMMENDATION - Approve			
SUMMARY OF REASONS FOR RECOMMENDATION The site is within the built up area boundary where the principle of residential development is accepted and would in my view not give rise to serious concerns regarding visual or residential amenities or cause unacceptable harm to the streetscene.			
REASON FOR REFERRAL TO COMMITTEE Called in by Cllr Nissanga			
WARD Warden	Leysdown &	PARISH/TOWN Warden	COUNCIL APPLICANT Mr N Armstrong AGENT Oakwell Design Ltd
DECISION DUE DATE 02/10/2015	PUBLICITY EXPIRY DATE 04/09/15		
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):			
App No	Proposal	Decision	Date
None Relevant			

MAIN REPORT

1.0 DESCRIPTION OF SITE

- 1.01 The application site, known as The Chimes, is located on the southern side of Beach Approach, a residential street within the built up area of Warden Bay. The site currently contains a chalet bungalow in a poor state of repair, measuring 6m in width by 9.5m in depth. The building is located some 4m away from the front boundary of the site. There is an existing close boarded fence along the site’s side and rear boundaries.
- 1.02 The streetscene is mixed with a variety of dwelling types including bungalows, chalet bungalows and two storey dwellings. The Beeches, located adjacent to the application site contains a single storey dwelling with a garage. The property at number 23 Beach Approach, on the opposite side to the west, contains a two-storey semi-detached dwelling with an attached garage.

2.0 PROPOSAL

- 2.01 The application seeks planning permission to demolish the existing chalet bungalow and replace it with a two storey 4-bedroom house. The new building will be set back into the site from the existing building’s footprint which will create a more consistent building line with the adjacent properties.
- 2.02 The footprint of the proposed dwelling is 9.3m in width and 11.5m in depth. The property has been designed with a mixture of pitched roofs and a catslide roof. The eaves height will be limited to 2.7m in the catslide element of the property and 5.4m

elsewhere. The ridge height will be 7.8m, an increase of 2.2m above the existing ridgeline. The property will have a projecting element on the front elevation and a pitched roof dormer window on the catslide roof.

- 2.03 The proposed property will be set 1.35m in from the common boundary with The Beeches, although the boundary is set on a slight angle and as such at the rear the property will be 1m away from the common boundary with this neighbouring property. The proposal will be 1.12m from the common boundary with No.23.
- 2.04 The new proposal includes a garage and a driveway in front of the property, a landscaped front garden is indicated on the proposed plans as forming the remainder of the frontage. To the rear is private amenity space measuring 11m in width and 20m in depth.
- 2.05 The external materials of the proposed dwelling will be yellow / pale brown facing bricks, hung tiles, painted render and a slate roof.

3.0 PLANNING CONSTRAINTS

N/A

4.0 POLICY AND OTHER CONSIDERATIONS

The National Planning Policy Framework (NPPF)

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

Development Plan

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

5.0 LOCAL REPRESENTATIONS

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

- Proposed design and materials are not in keeping with the surrounding area;
- Proposed building is too large for the plot;
- Overlooking, loss of privacy and overshadowing of neighbouring properties;
- Have had assurances from the planning department in the past that the site would be redeveloped as a bungalow;
- Too near to side boundary meaning that scaffolding can not be erected;
- The proposal will create a wind funnel;
- Asbestos in existing building.

6.0 CONSULTATIONS

6.01 **Natural England (NE)** raises no objection.

6.02 The Council's **Environmental Protection Manager** recommends an hours of construction condition and a condition relating to a programme for a suppression of dust. A condition relating to asbestos removal is also suggested but as this is dealt with under separate Legislation I have not included it.

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

- Cllr Ingham: *"Although I don't like the idea of this house and think its to [sic] big, I cant find any planning reason to go against it ,but I am worried about the asbestos, can we put a condition in that an asbestos safety [sic] certificate is produced when it has been removed."*
- Cllr Nissanga: *"I have visited the place and disagreed with your comments and would like to call it into Planning Committee."*

Mr & Mrs Barry Cox, both are Disabled.

*Listed below is the material planning considerations that I have come across.
Loss of privacy and over looking - Over shadowing/loss of light. Overlooking of neighbouring properties and avoid invasion of privacy of neighbours.*

Design and Access Statement to reassure the council that the extent of the proposed physical spacing between the new development and existing buildings would ensure that there are significant overshadowing issues to be considered. This is something you should double check yourself against the site measurements.

Concerns about specific windows in the proposed development.

Points of objections the responsibilities of the council under the Human Rights Act, in particular Protocol 1, Article 1. A person has the right to peaceful enjoyment of all their possessions, which includes the home and other land. Additionally, Article 8 of the Human Rights Act states that a person has the

substantive right to respect for their private and family life. Therefore encompasses not only the home but also the surroundings.”

7.0 BACKGROUND PAPERS AND PLANS

- 7.01 Application papers and correspondence relating to planning reference 15/506115/FULL.

8.0 APPRAISAL

In my view the key considerations in the determination of this application are as follows:

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

Principle of Development

- 8.01 The application site lies within the built up area boundary where the erection of new dwellings is acceptable in principle in accordance with both locally and nationally adopted policies. This application proposes a replacement dwelling. As such I consider that the principle of residential development is firmly established upon this site.

Residential Amenity

- 8.02 Concerns regarding unacceptable impact upon residential amenities including overshadowing, loss of privacy and unacceptable overlooking have been expressed by neighbouring occupiers in their representations.
- 8.03 It is firstly taken into consideration that the rear elevation of the proposed dwelling is approximately 40m away from the dwelling to the rear, No.30 Seaview Gardens. This is almost double the minimum distance of 21m that the Council would usually expect and therefore I take the view that the proposal is acceptable in this regard. Although the property will be of a larger scale than what currently exists on the site, I take into consideration that the neighbouring bungalow, The Beeches, on the flank elevation facing towards the application site only has one high level window and an external door. As such, I do not consider that the proposal would cause unacceptable loss of light to this property. On the opposite side, No.23 has an attached garage between the main property and the application site. As such I do not consider that loss of light or overshadowing would be unacceptable in this case. Furthermore I note that the property will be built along a very similar building line to the adjacent properties and as such the impact upon the rear private amenity space of the adjacent dwelling in terms of overshadowing will be extremely limited.
- 8.04 One window is proposed in the side elevation facing towards No.23, however, this would serve an en-suite and as such would be expected to be obscure glazed. However, to ensure the privacy of neighbouring occupiers I have included a condition which requires this window to be obscured before occupation of the dwelling.
- 8.05 I also note objections received regarding the overlooking of the adjacent rear garden and the property on the opposite side of the highway. I firstly take into account that the existing bungalow on the site has a rear facing window at first floor level. As such, elevated rearward views from the property as it currently exists could be

obtained. Therefore, rear views, examples of which are common place in a residential context such as this would not in my opinion amount to a reason for refusal. Furthermore, the proposed property, at the closest distance would be 20m away from properties on the opposite side of the highway, which again represents a relationship that is common. As such, I consider that overlooking of properties on the north side of Beach Approach would not be unacceptable.

- 8.06 In overall terms, based upon the above assessment, I consider that the proposal would not have a significantly detrimental impact upon residential amenities of surrounding properties.

Visual Amenity and Streetscene

- 8.07 The streetscene is mixed with bungalows, chalet bungalows and two storey dwellings present. The application site is flanked by a bungalow and a two storey dwelling. As such, in my view, the introduction of a two storey dwelling into this plot would not be out of keeping with the surrounding streetscene and would sit comfortably in the context of the newer properties on Beach Approach (e.g. No.23), which are also two storey dwellings. Furthermore, I also note that the existing bungalow is set forward of the two adjacent properties. The proposed dwelling will be set back in the site to follow the approximate building line of the two properties flanking the application site which will in my view assist in integrating the property into the streetscene.
- 8.08 In terms of design, the proposed dwelling incorporates pitched roofs and also a catslide roof. There is no dominant style of property in the vicinity and as such the dwelling of the design proposed is in my view acceptable. The proposed materials, including facing brickwork, hung tiles, render and a slate roof will also in my opinion not look out of keeping in this varied streetscene.
- 8.09 Due to the mixed nature of the streetscene, properties within the vicinity are varying distances from side boundaries. In this case, the flank walls of the proposed property achieve a distance of 1.35m from the common boundary with 'The Beeches' and 1.12m from the common boundary with No.23. In this case I believe that the distances proposed are large enough to prevent a terracing effect from being created due to the loss of space between buildings. I also take into account that the neighbouring dwelling to the east (The Beeches) is a detached bungalow and as such it is difficult to envisage that a terracing effect could occur. Therefore I am of the opinion that the proposal would protect the character of the streetscene.

Parking Provision

- 8.10 The application proposes an integral garage and a driveway in front of this measuring 5m in width, 7.4m in depth at its deepest point and 5.4m in depth at its shortest point. As such the driveway would be of a sufficient size to park two vehicles. When this is considered together with the garage I consider that there would be adequate parking provision proposed for this development. Although the proposed driveway would be in front of the dwelling, there are numerous instances of frontage parking in the surrounding area. I also note that planting is proposed to the front and side boundaries which will help to partially screen the vehicles from public vantage points. To ensure the parking arrangement remains acceptable I have included a condition which retains the use of the garage for parking and requires details of soft landscaping to be submitted and agreed by the Council before development commences. On this basis I take the view that parking has been acceptably dealt with in this proposal.

Impact upon SPA and Ramsar Sites

- 8.11 Although Natural England provided their consultation response before developer contributions were a requirement, I have for completeness set out a Habitat Regulations Assessment below. This confirms that whilst mitigation could be provided by way of developer contributions, this is not considered appropriate for developments under 10 dwellings. The cost of mitigation will be met by developer contributions on developments over 10 dwellings. In view of this it is not considered that the development will have a harmful impact on the special interests of the SPA and Ramsar sites.

Other Matters

- 8.12 The issue of asbestos has been raised in regards to the existing property and during the course of this application the Council's Environmental Protection Manager has been consulted. A condition has been suggested regarding the removal of asbestos from the existing dwelling, however, this is not dealt with through the planning process and is covered by separate legislation.
- 8.13 An objection has also been raised on the grounds that there has been previous confirmation that the site would not be redeveloped as a two storey dwelling. I do not know of any such restriction and have been provided with no evidence of one. In any case, the proposal has to be considered on its own merits. An objection relating to access rights over the boundary during the construction phase has also been raised. In response to this, the proposal is entirely contained within the application site. If rights of access are required then this is a private matter between neighbouring occupiers. Finally, regarding the objection that the proposal will create a wind tunnel, the erection of a single two storey house further back on the site than the existing is unlikely to give rise to such an effect that it would amount to a material consideration to be afforded significant weight here.

9.0 CONCLUSION

- 9.01 The principle of residential development is firmly established by the existing dwelling on the site and its location within the built up area boundary. Although local concerns have been raised regarding the introduction of a two storey dwelling into this location, I am of the opinion that this will not be out of keeping, especially considering the two storey units in situ immediately to the west of the application site. I also consider that by constructing the property along a very similar building line to the two adjacent properties this would limit any overbearing impact or loss of privacy to neighbouring occupiers.
- 9.02 In overall terms I consider that the application site is large enough to support a dwelling of this size with adequate parking provision and a generous amount of private amenity space. I consider that on this basis and subject to the conditions below, the scheme is acceptable and recommend that planning permission be granted.

10.0 RECOMMENDATION – GRANT - subject to the following conditions:

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

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

- (2) 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.

Reason: In the interest of visual amenity.

- (3) The development hereby permitted shall not be carried out otherwise than in complete accordance with the following drawings: PL02; PL03; PL04 and PL05.

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

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

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

- (5) No development shall take place until full details of both hard and soft landscape works, have been submitted to and approved in writing by the Local Planning Authority. These details shall include existing trees, shrubs and other features, planting schedules of plants, noting species (which shall be native species and of a type that will encourage wildlife and biodiversity,), plant sizes and numbers where appropriate, means of enclosure, hard surfacing materials, and an implementation programme.

Reason: In the interests of the visual amenities of the area and encouraging wildlife and biodiversity, and to ensure that such matters are agreed before work is commenced.

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

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

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

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

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

access thereto; such land and access thereto shall be provided prior to the occupation of the dwelling hereby permitted.

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

- (9) The garage hereby approved shall be kept available for the parking of vehicles and no permanent development, whether permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking or re-enacting that Order) or not, shall be carried out on the land or in such a position as to preclude vehicular access thereto.

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

- (10) No development shall 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 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.

- (11) No construction work in connection with the development shall take place on any Sunday or Bank Holiday, nor on any other day except between the following times:

Monday to Friday 0730 – 1900 hours, Saturdays 0730 – 1300 hours unless in association with an emergency or with the prior written approval of the Local Planning Authority.

Reason: In the interests of residential amenity.

- (12) Before the development hereby permitted is first used, the proposed ensuite window in the first floor flank (south-west) elevation of the new dwelling shall be obscure glazed and shall subsequently be maintained as such.

Reason: To prevent overlooking of adjoining properties and to safeguard the privacy of neighbouring occupiers.

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

Reason: In the interests of highway safety and convenience.

Habitats Regulations Assessment

This HRA has been undertaken without information provided by the applicant. The application site is located approximately 4.5km north of The Swale Special Protection Area (SPA) and Ramsar site and 12.2km east of Medway Estuary and Marshes Special Protection Area and Ramsar site both of which are European designated sites afforded protection under the Conservation of Habitats and Species Regulations 2010 as amended (the Habitat Regulations).

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

In considering the European site interest, Natural England advises the Council that it should have regard to any potential impacts that the proposal may have. Regulations 61 and 62 of the Habitat Regulations require a Habitat Regulations Assessment. NE also advises that the proposal is not necessary for the management of the European sites and that subject to a financial contribution to strategic mitigation, the proposal is unlikely to have significant effects on these sites and can therefore be screened out from any requirement for further assessment. It goes on to state that when recording the HRA the Council should refer to the following information to justify its conclusions regarding the likelihood of significant effects; financial contributions should be made to the Thames, Medway and Swale Estuaries Strategic Access Management and Monitoring (SAMM) Strategy in accordance with the recommendations of the North Kent Environmental Planning Group (NKEPG); the strategic mitigation will need to be in place before the dwellings are occupied.

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

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

schemes in the fullness of time and that the tariff amount will take account of and compensate for the cumulative impacts of the smaller residential schemes such as this application, on the features of interest of the SPA in order to secure the long term strategic mitigation required. Swale Council is of the opinion that when the tariff is formulated it will encapsulate the time period when this application was determined in order that the individual and cumulative impacts of this scheme will be mitigated for.

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

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

The Council's approach to this application:

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

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

In this instance:

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

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

2.6 REFERENCE NO - 15/503652/FULL, 15/503656/LBC and 15/503659/ADV		
APPLICATION PROPOSAL Change of use from A1 to A1, A3 and B1. Alterations to shopfront. Internal alterations, creation of new staircase and removal of existing, one window to rear to be removed. Advertisement consent for 1x fascia sign to front of shop.		
ADDRESS 5 Market Street, Faversham, Kent, ME13 7AH		
RECOMMENDATION – APPROVE, subject to receipt of satisfactorily amended drawings		
SUMMARY OF REASONS FOR RECOMMENDATION: <ul style="list-style-type: none"> • No significant impact of change of use; • Significant improvement through restoration of a dilapidated Grade II listed building; • Positive impact on conservation area. 		
REASON FOR REFERRAL TO COMMITTEE <ul style="list-style-type: none"> • Town Council objection 		
WARD Abbey	PARISH/TOWN COUNCIL Faversham Town	APPLICANT Mr Oc Yan
DECISION DUE DATE 27/07/15	PUBLICITY EXPIRY DATE 14/07/15	

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

1.0 DESCRIPTION OF SITE

- 1.01 This property is on the northern side of Market Street, which is a pedestrianised street, to the west of its intersection with Preston Street. Adjacent to the east is the Swan café, and to the west a retail shop. Facing the site across the street are a framing shop and an optician’s. To the rear is a small garden, and beyond the site’s boundary lies the Royal Cinema with a car parking area to the east. The application site is within Faversham’s built up Area, Core Shopping Area and the Faversham conservation area.
- 1.02 The building subject to the application is Grade II listed. It is currently vacant and its lawful use is A1 (shops) use. The existing façade comprises a larger glass panel to the right, adjacent to the shop entrance, and two smaller glass panes in the more modern left-hand half of the facade. The first floor has three sash windows and there are two small dormers on the front roof slope. The rear elevation comprises existing windows at both ground and first floor levels and a flat roofed single storey extension. There is also a chimney and a rear access at first floor level, with a single dormer window above.

2.0 PROPOSAL

Full and LBC Applications (15/503652/FULL and 15/503656/LBC)

- 2.01 The proposal involves the change of use from the current A1 (shops) use of the site to A1 (shops and A3 (restaurants and cafes) uses on the ground floor, and on the first floor, B1 (business) use. It is sought to establish a tea lounge in the building, selling cake, tea and coffee, as well as selling Asian teapots. A tea demonstration

room is also proposed. The proposed change of use would require a number of internal and external alterations, as outlined below.

2.02 The proposal includes the restoration of the shopfront (including windows, tiles, decoration) and would involve the following:

- At the ground floor level, the reduction of window space on the left-hand side, in order to create space for a second door for access to the first floor. The current windows on the left side of the façade measure 1.3m and 1.6m in width, and are both 2.3m in height. They are proposed to be replaced with a single 1.7m wide and 2.3m high window pane, to match the more traditional style of the existing panel on the right. A new door would be located adjacent to the western external wall, also adjacent to the new window pane. It will match the existing one in style and materials.
- The three existing façade windows at first floor level are proposed to be replaced with windows to match the existing style and materials.
- Similarly, the two existing dormer windows at second floor level are also proposed to be replaced to match the existing style and materials.
- At the rear of the building it is proposed to replace an existing window, with a more appropriate unit.
- A new wooden frame glass roof over the existing door and window, to the rear elevation.
- Internally, it is proposed to demolish the existing and create a new staircase, new counter, floor and cupboards.
- Renew wall and ceiling work.
- At the front of the shop would be the tea lounge area with tables and chairs, with a service counter; and adjacent tea room towards the back of the building, together with a unisex toilet and washing facilities.

2.03 The first floor is proposed to comprise two offices in B1 use. The second floor is proposed to be used for storage and staff facilities.

Advertisement Consent (15/503659/ADV)

2.04 This aspect of the proposal includes the installation of a new fascia sign, measuring 7m in width and 0.68m in height. The sign is proposed to be located on the existing façade of the building, above the ground level shop windows, and would be of coated plywood and wooden panels. Illumination would be provided by a slim light concealed behind a moulding.

Ambiguities in Submitted Drawings

2.05 There are some ambiguities in the drawings submitted with the application. The applicant has therefore been requested to amend these appropriately, and approval of the proposals is recommended on the basis that the amendments are done before the applications are determined.

3.0 PLANNING CONSTRAINTS

- Listed building- Grade II
Listed Buildings MBC and SBC Ref Number: 138/SW
Description: G II THE SWAN, 6 Market Street, Faversham, ME13 7AH (the listing covers 5, 5A and 6, Market Street)]

- Faversham conservation area (statutory duty to preserve or enhance the significance of heritage assets under the Planning (Listed Buildings & Conservation Areas) Act 1990)
- Core Shopping Area
- Built Up Area Boundary

4.0 POLICY AND OTHER CONSIDERATIONS

The National Planning Policy Framework (NPPF): Paragraphs 131, 132 and 137

National Planning Practice Guidance (NPPG)

Swale Borough Local Plan 2008 saved policies:

- Policy SP1: Sustainable Development
- Policy SP3: Economy
- Policy B3: Maintaining and Enhancing Vitality and Viability of the Town Centres
- Policy FAV1: The Faversham and Rest of Swale Planning Area
- Policy AAP1: Faversham Town Centre
- Policy E1: General Development Criteria
- Policy E14: Development Involving Listed Buildings
- Policy E15: Development Affecting a Conservation Area
- Policy E23: New Shopfronts, Signs and Advertisements

Supplementary Planning Guidance (SPG):

- The Design of Shop Fronts, Signs and Advertisements;
- Listed Buildings – A Guide for Owners and Occupiers; and
- Conservation Areas.

5.0 LOCAL REPRESENTATIONS

Full Application (15/503652/FULL)

- 5.01 The proposals have been advertised by the display of a site notice. Neighbour notification letters regarding the applications have been sent to the occupiers and owners in the immediate vicinity.
- 5.02 Five objections have been received to the change of use application. The issues raised include:
- The proposal would result in the creation of a predictable monoculture by allowing a change from A1 to A1, A3 and B1. This would be harmful to the fabric of the town centre.
 - Market saturation as there are already many businesses of this type in what is a very small area.
 - Retail space should be protected, replacing one with A3 use is detrimental to the core trading business of the town.

Listed Building Consent (15/503656/LBC) and Advertisement Consent (15/503659/ADV) Applications

- 5.03 No objections have been received to the applications for listed building consent and advertisement consent.

6.0 CONSULTATIONS

6.01 Faversham Town Council has objected to the proposal (all three applications) for the following reasons:

- No design and access statement or heritage statement has been submitted, making it difficult to judge the impact of the proposed change of use.

NOTE: A Design and Access Statement has been submitted

- The site is in the core shopping area.
- The area is already well provided with cafes and restaurants.
- It is not clear from the application that any A1 use will be retained on the site.

6.02 Historic England have been consulted on the listed building consent application, and have stated that the application should be determined in accordance with national and local policy guidance, and on the basis of expert conservation advice.

7.0 BACKGROUND PAPERS AND PLANS

7.01 Application papers submitted with applications Ref 15/503652/FULL, 15/503656/LBC and 15/503659/ADV

8.0 APPRAISAL

8.01 The main issues to consider in relation to this proposal, including the Full, Listed Building Consent and Advertisement Consent applications are as follows:

- Impact of proposed change of use
- Impact on listed building
- Impact on conservation area
- Impact on amenity and highway safety

These are discussed in turn below, together with the relevant policies and guidance.

8.02 The starting point here must be the saved policies of the Swale Borough Local Plan 2008 and other material considerations.

Change of Use

8.03 The proposal involves the change of use from A1(shops) to A1 and A3 (Restaurants and cafés) and B1(Business - offices). The saved policies relevant to assessing this aspect of the proposal include SP1, SP3, B3, FAV1 and AAP1.

8.04 Policy SP1 (Sustainable Development) promotes, among others, the efficient use of previously developed land to provide for sustainable economic growth to support efficient and diverse business sectors. It also supports high quality design. The proposal accords with this policy as it is seeking to change the use of an existing building, and would improve the diversity of town centre uses in Faversham.

8.05 Policy SP3 (Economy) seeks to support local companies to grow and develop, as well as improving the economic, social and cultural standing of the Borough's town centres by supporting mixed-use developments. I consider the proposal to be in accordance with this policy. It is important to note that the building is currently vacant and in disrepair, which is an important factor in the planning balance. The change of use and restoration of the building will contribute to improving the standing of the

town centre and re-establish the use of the building for a viable business and retail space.

8.06 Policy B3 (Maintaining and Enhancing Vitality and Viability of the Town Centres) seeks that in terms of proposals within the Core Shopping Area, non-retail uses be permitted only when they meet the following criteria:

- *enhance the primary retail function of the area by adding to the mix of uses in the town centre area as a whole and increase its overall vitality and viability;*
- *provide a service or facility for residents or visitors currently lacking or under-represented in the town centre area;*
- *could not otherwise successfully trade within the secondary shopping area;*
- *do not result in a significant loss of retail floorspace;*
- *do not lead to a concentration of non-retail frontage; and*
- *do not result in the loss or erosion of a non-retail use that underpins the functioning, vitality and viability of the town centre.*

8.07 The proposal will contribute to the mix of uses in the town centre by retaining some of the current A1 use as well as by providing a mix of uses on site with the addition of the A3 and B1 uses. While there would be some loss of A1 use, an element of retail use will be maintained on site and combined with A3 and B1 uses which would make the proposed use of the building viable. The retail frontage will be partially retained and is considered acceptable in this instance, when weighed against the benefits of the restoration of a listed building which will occur as part of this proposal. The building is currently vacant and in need of restoration, failing to make a positive contribution to the overall vitality of the town centre. The proposal is therefore considered to be in accordance with Policy B3. Importantly, this is a small unit with no rear servicing provision, which would be less of a loss of the vital retail character of the town than a larger, more flexible or more prominent building.

8.08 Policy FAV1 (The Faversham and Rest of Swale Planning Area) emphasises the importance of the conservation of the historic environment and the role of the market town to support its own local needs. It also seeks to safeguard and enhance the diversity of Faversham's small-scale historic character, as well as to support and diversify the services and activities which enhance the economic health of Faversham town centre. Additionally, Policy AAP1 (Faversham Town Centre) refers to the Area Action Plan designated for Faversham town centre. It states that Council seeks to promote a strong and diverse local economy in the town centre, and will support proposals that:

- *conserve and enhance the architectural and historic fabric of the centre;*
- *retain and enhance the lively, distinctive, wide-ranging and traditional mix of activities in the shopping streets;*
- *retain and/or add to the range of services considered important to the health of the town;*
- *widen the range of activities and facilities available for residents and tourists in the town;*
- *make appropriate use of the floorspace on upper floors for new housing and/or businesses; and*
- *maintain or improve the range and diversity of employment sites and uses.*

8.9 As outlined above, it is considered that given the fact that the building is in disrepair and currently vacant, the proposal would be an improvement in terms of the provision of diverse services in the town centre. It would also result in an improvement of the public realm within the conservation area through the proposed improvements to the

listed building, which is currently in disrepair. The proposal therefore accords with Policies FAV1 and AAP1.

- 8.10 The applicant has submitted a Design & Access statement which clearly outlines the proposed change of use and the retention of A1 use on the ground floor, with offices above. Therefore some A1 use will be retained on site, while at the same time restoring a listed building back to its full potential. Without the restoration of the listed building, I consider that the balance of considerations would be much closer.
- 8.11 Overall therefore, and on balance, I consider that the proposed change of use is acceptable and in accordance with the policies and guidance outlined above. It will bring a vacant building, currently in need of restoration, back into a viable town centre use, while at the same time restoring the listed building and therefore making significant improvements in the town centre. Due to the small size of the unit in question, I do not consider the partial loss of A1 area to be unacceptable on this occasion.

Impact on a Listed Building

- 8.12 Paragraphs 131, 132 and 137 of the NPPF highlight the significance of heritage assets, the importance of their preservation and enhancement, and the opportunities for new development to make a positive contribution to local character and distinctiveness. Local policy and guidance on dealing with listed buildings is contained in Policy E14 and the Council's Listed Buildings SPG. Policy E14 seeks that any development affecting a listed building preserves the building's special architectural interest and its setting. The policy seeks that this include paying special attention to design, including scale, materials, situation and detailing; the desirability of removing unsightly or negative features or restoring/reinstating historic features.
- 8.13 The proposal is considered to be in accordance with this policy as it will result in the repair and overall reinstatement of the building subject to this application. Namely, on the façade this would include the maintenance of the stall risers, the reinstatement of pilasters, console brackets, colonnettes and decorative carved work. These works would be a very positive contribution in the restoration of the building's façade.
- 8.14 The Council's Listed Buildings SPG recommends the following:
- Windows and other detailing - characteristic detailing should be retained; whenever possible, existing windows should be repaired. However, where a replacement is required, then purpose-made windows, using the exact style and materials to the original, should be made.
 - Any alteration or repairs to external elevations should respect existing materials and match them in texture, quality and colour. Every effort should be made to retain facing brickwork.
 - Existing openings should not be widened or heightened.
 - Existing doors should be retained. Design of new doors should be appropriate to the character of the building.
 - Shopfronts of merit – every effort should be made to retain them.
 - Interiors – features of interest should be respected and left in situ wherever possible.
- 8.15 The proposal will accord with this guidance as it will retain and reinstate characteristic detailing. The proposed restoration on the left hand side of the shop front would be a significant conservation gain and is given significant weight in assessing the change of use application. The separate access to the upper floors is

also an improvement which will encourage the more active use of the building as a whole. I have recommended conditions at the end of this report, to ensure that joinery details are supplied; and that the cornices to the two dormer windows on the front elevation, which have been removed recently, are reinstated to a detail approved by the Council.

Impact on Conservation Area

- 8.16 Policy E15 relates to impact on conservation areas. It seeks that development should preserve or enhance all features that contribute positively to the conservation area's special character and appearance. Special attention needs to be paid to the use of detail and materials, surfaces and land use. The policy also states that features that detract from the character of the area should be removed, and those that would enhance it – reinstated.
- 8.17 The Council's Conservation Area SPG seeks that:
- Any alterations to external elevations should respect existing materials, match them in texture and colour.
 - Windows – shape and size should be retained.
 - External and internal features should be retained.
 - Old shopfronts should be retained.

The proposal will be in accordance with Policy E15 and the SPG because, as outlined above, the listed building, which is currently in disrepair, will be reinstated, with important features preserved and the old shopfront will be improved by reinstating characteristic features.

Shopfront and Sign (Impact on amenity and highway safety)

- 8.18 The proposed installation of a fascia sign is considered against the relevant Local Plan Policies E14, E15 and E23. Policies E14 and 15 have been discussed above. Additionally, Policy E23 seeks that development involving advertisements should 'respond positively to the character of the building and its locality, cause no harm to amenity, or compromise highway safety'.
- 8.19 The proposed sign will be sympathetic to the character of the local area and the building itself. It will retain the layout of the shopfront by being of the same size and in the same location as the existing sign currently on the building. It will be of sympathetic materials, i.e. wood and will complement the other improvements proposed to the façade of the building. The sign would be illuminated by a small LED strip in a timber moulding beneath the roller shutter fascia panel. This seems to be entirely appropriate for the circumstances. The proposed sign would therefore be in accordance with policies E14, E15 and E23.
- 8.20 Additionally, the Design of Shopfronts, Signs and Advertisements SPD seeks that the following be taken into consideration when assessing proposals for signs and advertisements:
- The scale and character with the building;
 - Good standard of design;
 - Amenity and highway safety; and
 - Impact on listed buildings and conservation areas.

- 8.21 As outlined above, it is considered that the proposed sign, within the wider scheme of refurbishing the building itself, would fit the scale and character of the building and would be of a good standard of design. It would not impact on local amenity or highway safety, and would be sympathetic to the building itself and the local area.
- 8.22 In conclusion, the proposal complies with Swale Borough Local Plan saved policies E14, E15 and E23. It also accords with provisions of the Design of Shopfronts, Signs and Advertisements SPG and the Conservation Areas SPG. On this basis, it is recommended that this aspect of the proposal be approved, subject to the conditions included below.

9.0 CONCLUSION

- 9.01 It is considered that the proposal, comprising all three applications, accords with national and local policy and guidance, for the following reasons:
- The building subject to the applications is currently vacant and in disrepair, therefore does not positively contribute to the local area and conservation area.
 - The property concerned is a small one with no rear service access. It is not located in an area already dominated by non-retail uses. It would add a new dimension to the uses in this part of central Faversham.
 - The change of use and restoration of the building will contribute to improving the standing of the town centre and re-establish the use of the building for a viable business and retail space. The proposal will also contribute to the mix of uses in the town centre, completely without losing the current A1 use of the building.
 - The proposal will have a positive effect both on the listed building itself, and on the conservation area in the locality.
 - The shopfront and sign aspect of the proposal will be sympathetic to the character of the local area and the building itself, without impacting on amenity or highway safety.
- 9.02 On this basis, it is considered that the proposal is in accordance with the NPPF and its guidance; and accords with the relevant saved policies of the Swale Borough Local Plan 2008. Compliance with the three relevant SPG documents has also been achieved, namely: the Design of Shop Fronts, Signs and Advertisements; Listed Buildings – A Guide for Owners and Occupiers; and Conservation Areas. It is therefore recommended that the planning permission, listed building consent and advertisement consent applications be approved, subject to the conditions outlined below.

10.0 RECOMMENDATION – Approve, subject to satisfactory amended plans and to the following conditions:

FULL APPLICATION CONDITIONS

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

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

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

Reasons: In the interests of residential amenity.

- (3) The development shall be in accordance with the approved drawings as follows:

D00-3 – ‘Counter Details’, POO-04 – ‘Proposal GF Plan’, D00-4 – ‘Details Elevation’, POO-05 – ‘Proposal FF Plan’, POO-06 – ‘Proposal SF Plan’, POO-07 – ‘Existing and Proposal Front Elevation’, POO-8-1 – ‘Rear Existing and Proposal Elevation’, POO-09 – ‘Proposal Staircase Section’, and POO-10 – ‘Proposal Staircase Section’.

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

- (4) The alterations to the shopfront and the reinstatement of the cornices to the two dormer windows on the front elevation, which have recently been removed, shall be completed before the approved use commences.

Reasons: In the interest of the special architectural or historic interest of the listed building.

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.

LISTED BUILDING CONSENT 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 materials to be used in the alterations hereby permitted shall match those on the existing building in terms of type, colour and texture.

Reasons: In the interest of the special architectural or historic interest of the listed building.

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

Reasons: In the interest of the special architectural or historic interest of the listed building.

- (4) Detailed drawings at a suggested scale of 1:20 and 1:1 of the proposed alterations to the shopfront, including stall risers, doors, pilasters, console brackets, colonnettes and decorative carved work shall be submitted and approved by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reasons: In the interest of the special architectural or historic interest of the listed building.

- (5) Detailed drawings at a suggested scale of 1:5 of all new external and internal joinery work, including new doors, windows, cornices to dormer windows and the new shopfront including stall risers, pilasters and console brackets 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 the special architectural or historic interest of the listed building.

- (6) Notwithstanding the details shown on drawing POO-10, constructional details at a scale of 1:5 of the proposed glazed roof, including the eaves detail, shall be submitted 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 the special architectural or historic interest of the listed building.

- (7) Details of the soil vent stack to serve the proposed second floor toilet shall be submitted 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 the special architectural or historic interest of the listed building.

- (8) All new plasterwork on ceilings and external walls shall be finished in lime plaster and no cement or Gypsum plaster shall be used therein.

Reasons: In the interest of the special architectural or historic interest of the listed building.

- (9) Full details of any proposed ventilation ducts, fans and extract grilles 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 the special architectural or historic interest of the listed building.

- (10) No radiators, light fittings, pipework, vents, ducts, flues, meter boxes, alarm boxes, ductwork or other appendages (except fittings in the bathroom and kitchen) shall be fixed to the interior or exterior of the part of the listed building the subject of this consent without the prior written consent of the Local Planning Authority.

Reasons: In the interest of the special architectural or historic interest of the listed building.

- (11) No development shall take place until details of external finishes and colours have been submitted to and approved by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reasons: In the interest of the special architectural or historic interest of the listed building.

- (12) All rainwater goods to be used as part of the development hereby permitted shall be of cast iron unless otherwise agreed in writing by the Local Planning Authority.

Reasons: In the interest of the special architectural or historic interest of the listed building.

- (13) Before the work commences on site, a fully detailed scheme shall be submitted to the Local Planning Authority to indicate how all of the original structural components of the building will be retained, repaired or restored. The scheme shall also illustrate how the existing cladding can be retained and how the wall studding will be fully exposed internally. No work of any description shall take place on site until such a scheme has been approved in writing and the scheme shall be implemented as approved.

Reasons: In the interest of the special architectural or historic interest of the listed building.

ADVERTISEMENT CONSENT CONDITIONS

- (1) No advertisement is to be displayed without the permission of the owner of the site or any other person with an interest in the site entitled to grant permission.
- (2) No advertisement shall be sited or displayed so as to:
- (a) endanger persons using any highway, railway, waterway, dock, harbour or aerodrome (civil or military);
 - (b) obscure, or hinder the ready interpretation of, any traffic sign, railway signal or aid to navigation by water or air; or
 - (c) hinder the operation of any device used for the purpose of security or surveillance or for measuring the speed of any vehicle.
- (3) Any advertisement displayed, and any site used for the display of advertisements, shall be maintained in a condition that does not impair the visual amenity of the site.
- (4) Any structure or hoarding erected or used principally for the purpose of displaying advertisements shall be maintained in a condition that does not endanger the public.

- (5) Where an advertisement is required under these Regulations to be removed, the site shall be left in a condition that does not endanger the public or impair visual amenity.

Reasons: In accordance with the provisions of Regulation 2(1) of the Town and Country Planning (Control of Advertisement) (England) Regulations 2007.

- (6) The sign shall not be illuminated except during the hours that the premises to which it relates are open for business.

Reasons: In the interests of visual amenity.

NB For full details of all papers submitted with these applications 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.

2.7 REFERENCE NO - 15/510564/FULL			
APPLICATION PROPOSAL Demolition of garage/workshop; Construction of two-storey side and single-storey rear extensions, front porch and alterations to front fenestration			
ADDRESS 6 Meadow Rise Iwade Kent ME9 8SB			
RECOMMENDATION – APPROVE SUBJECT TO THE RECEIPT OF AMENDED DRAWINGS			
SUMMARY OF REASONS FOR RECOMMENDATION Subject to the receipt of amended drawings, the proposal would not give rise to unacceptable harm to residential or visual amenities or highway safety or convenience.			
REASON FOR REFERRAL TO COMMITTEE Objection received from Parish Council			
WARD Bobbing, Iwade & Lower Halstow	PARISH/TOWN Iwade	COUNCIL	APPLICANT Mr P Seitz AGENT John Childs And Associates
DECISION DUE DATE 17/02/16	PUBLICITY EXPIRY DATE 04/02/16		

1.0 DESCRIPTION OF SITE

1.01 6 Meadow Rise is a modern semi-detached property with the off road parking for at least two vehicles to the front of the property. The property benefits from an open lawn to the front and an enclosed garden to the rear. To the side of the property stands a substantial single storey garage/workshop building.

2.0 PROPOSAL

2.01 This application seeks permission to demolish the existing garage/workshop and construct a two-storey side and single-storey rear extension, front porch with alterations to front fenestration.

2.02 The two storey side extension would extend from the side elevation of the host property by 3.30m and would be approximately 6.8m deep. A covered area and office to the rear of the dwelling would be removed and the single storey element of the proposed development erected in its place, projecting no further to the rear (2.5m rear of the main body of the dwelling). A porch to the front elevation is also proposed, measuring 1.2m deep and 2.7m wide, with a pitched roof.

2.03 This proposal will create an additional sitting room to the side and a breakfast room leading from the existing kitchen to the rear (incorporating the office area). The first floor will have an additional bedroom with en suite facilities.

2.04 The boundary of the site is at an angle to the dwelling, and therefore whilst at the front of the elevation of the extension there would be a gap of 2m between the proposed extension and the side boundary, to the rear this gap would narrow to less than a metre.

3.0 PLANNING POLICY

- 3.01 The National Planning Policy Framework (NPPF) and the National Planning Practice Guidance (NPPG) are relevant in terms of encouraging good design standards and minimising the potential impacts of any development upon the amenity of neighbouring residents.
- 3.02 The adopted Swale Borough Local Plan 2008 echoes a similar sentiment, and saved policies E1, E19, E24 in particular encourage the provision of high-quality development and minimising potential amenity impacts for local residents.
- 3.03 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.
- 3.04 The Council’s adopted Supplementary Planning Guidance (SPG) entitled “Designing an Extension” is also relevant, and provides general design guidance. The SPG remains a material consideration, having been through a formal review and adoption process.

4.0 LOCAL REPRESENTATIONS

- 4.01 No local representations have been received.

5.0 CONSULTATIONS

- 5.01 Iwade Parish Council raises objection and comment as follows:

The Parish Council objects to this application on the following grounds:

- a) Loss of parking spaces.*
- b) Visual impact on the existing street scene; although this is not necessarily a negative comment.*

6.0 BACKGROUND PAPERS AND PLANS

Application papers and drawings referring to the application reference 15/510564/FULL.

7.0 APPRAISAL

- 7.01 The key considerations in this case are whether the proposal is acceptable in terms of design and impact on visual amenity, and impact on residential amenity.

Design and visual amenity

- 7.02 The design of the proposed extension is, in my view, not acceptable as submitted. The SPG requires first floor side extensions to be set down from the ridge of the roof of the dwelling, and to be set back from the front elevation of the dwelling, in order that they are viewed as a subordinate structure to the original dwelling and that their bulk and scale is minimised. Neither of these design features have been utilised here, and the proposed extension would in my view appear as a bulky addition to the dwelling.

- 7.03 I would not consider this to amount to a reason for refusal, if the two storey extension was set in by two metres from the boundary, as also required by the SPG. The purpose of this, in areas of well spaced detached or semi-detached dwellings, is to retain a sense of openness and to prevent a “terracing effect”, harmful to the character and appearance of the streetscene. In this case, whilst the extension would be 2m from the side boundary at the front, due to the angled nature of the boundary, this space narrows to less than a metre at the rear. This would lead, in my opinion, to a harmful loss of openness between the dwelling the subject of the application and the neighbouring property which, if repeated elsewhere in the streetscene, would give rise to significant harm to the character and appearance of the area.
- 7.04 I have previously requested that the application be amended to address this issue. The plans have not though been amended, and the agent has provided the following response:
- “..from the principle elevation we will have approximately 2.26m from the boundary to the front corner of the extension. I have also added a dotted blue line to demonstrate that if number 8 were to construct a two storey extension and adhere to your 2m policy, there would still be approximately 4.26m separation to the principle elevations. Because of this separation and the unique plot position we strongly feel that the openness will still be retained along with the character of the street and because there will be no physical or visual link then there will be no terracing affect either. At its narrowest point and in the scenario that number 8 does extend in future, the gap between the two dwellings will still be a good 3.2m. I trust this satisfies to the council that, although there is a set policy in place, the application should be taken on its own merits also.”*
- 7.05 In short, the agent considers that as there would be a 2m space to the boundary at the front of the site, the proposal should be considered acceptable. I do not agree, and am firmly of the view that this proposal would cause demonstrable harm to the character and appearance of the streetscene.
- 7.06 I have requested that the plans be amended in accordance with the SPG and my recommendation for approval is wholly on the basis that these amendments are received. I will update Members at the Meeting as to whether appropriately amended drawings have been received.

Impact on residential amenity

- 7.07 The proposed porch is acceptable and would not harm the amenities of occupiers of adjacent dwellings. Equally the single storey element of the proposals would not project further than the existing, and would in any case comply with the limit of 3m rear projection as set out in the SPG. I do not consider that it would harm residential amenity.
- 7.08 The proposed two storey element of the scheme would be separated from the adjacent dwelling by a minimum of 4m, and would not project beyond the rear of that dwelling. Due to the angle of the properties relative to each other, it would be set forward of the adjacent dwelling by approximately 1m, but at this point would be in excess of 6m from the adjacent dwelling. As such, I do not consider that it would cause demonstrable harm to residential amenity.

Highways impact

7.09 The existing garage falls well short of the minimum internal dimensions set by KCC Highways and Transportation, and in my view is not capable of being used for parking of a vehicle. As such, its demolition would not represent the loss of a parking space, and the parking arrangements at the site are unlikely to change. There is already off street parking for two vehicles at the site, which is the requirement for a property of this size. I do not consider that the proposal would give rise to an increase in on street parking, nor do I consider that the provision of all of the parking to the front of the dwelling is objectionable in this instance.

8.0 CONCLUSION

8.01 Subject to the receipt of appropriately amended drawings relating to the two storey side extension, I consider that the proposed development would be acceptable. I will update Members at the Meeting regarding this, but on this basis I recommend that planning permission is granted.

10.0 RECOMMENDATION - GRANT Subject to the receipt of amended drawings and the following conditions:

CONDITIONS

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

Reasons: In pursuance of Section 91 of the Town and Country Planning Act 1900 as amended by the Planning and Compulsory Purchase Act 2004.

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

Reasons: In the interests of visual amenity.

The Council's approach to this application:

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

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

In this instance:

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

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

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

2.8 REFERENCE NO - SW/14/0530			
APPLICATION PROPOSAL Siting of two mobile homes with associated utility blocks, with parking for cars and two touring caravans for gypsy family and erection of stables.			
ADDRESS The Barn Yard, Land Adjoining Blackthorne Lodge, Greyhound Road, Minster, Sheerness, Kent, ME12 3SP			
RECOMMENDATION Grant temporary permission for a year to enable the applicant to find alternative accommodation.			
SUMMARY OF REASONS FOR RECOMMENDATION The site is not suitable for permanent residential use, but the Council is not yet able to direct the applicant to available alternative sites.			
REASON FOR REFERRAL TO COMMITTEE Parish Council objection.			
WARD Sheppey Central	PARISH/TOWN Minster On Sea	COUNCIL	APPLICANT Mrs Patience Brazil AGENT Mr Martin Foad
DECISION DUE DATE 20 June 2014	PUBLICITY EXPIRY DATE 26 May 2014		
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):			
App No	Proposal	Decision	Date
14/504681/FULL	Change of use of land to gypsy residential site for the stationing of two static caravans, two tourers, one day room. (Ramblin Rose)	Granted	14.01.2016
Members will recall this application from the December meeting, where it was agreed to allow use of the current site for a further year to enable time for the applicant to find alternative accommodation. This is a result of the Council's long-held position that Greyhound Road is unsuitable for permanent accommodation by virtue of its remote location.			
15/503278/FULL	Change of use of land to gypsy residential site for the stationing of two static caravans, two tourers, one day room. (Blackthorne Lodge)	Granted	17.12.2015
Members may also recall this application from the November meeting last year, where a further year was agreed for the same reasons as above.			
15/502191/FULL	Change of use of land to gypsy residential site for the stationing of two static caravans, two tourers, one day room. (The Hawthorns)	Granted	17.12.2015
As above.			
15/502237/FULL	Change of use of land to gypsy residential site for the stationing of two static caravans, two tourers, one day room. (The Peartree)	Granted	17.12.2015
As above.			

MAIN REPORT

1.0 DESCRIPTION OF SITE

- 1.01 The Barn Yard is a gypsy site situated on Greyhound Road to the east of Minster and west of Brambledown. It is roughly L-shaped, sits on the southern end of the road, and measures approximately 45m wide x 62m deep. It is largely covered in shingle and contains 2 static caravans, 2 tourers and a wooden utility building. A timber fence runs along the front boundary.
- 1.02 The site sits immediately to the east of Blackthorne Lodge, and to the rear of an existing barn / stable building at the southern end of the road. Two static caravans have been erected along the western site boundary.
- 1.03 Prior to occupation by the applicant in 2014 the land was an open field that had, in the past been used for grazing in association with the existing barn / stables.

2.0 PROPOSAL

- 2.01 The application seeks permission for use of the land as a residential gypsy site, including the stationing of 2 static caravans, parking for 2 touring caravans, and the erection of 2 utility buildings / dayroom.
- 2.02 The application also proposes the erection of a stable building to the side of the existing barn and stables. This will measure approximately 9.3m wide x 4m deep x 3.3m high to the ridge, and will be of a standard design with an overhanging roof to the front. The covering letter states:

“Each site will have a modern mobile home with an associated utility block and services. The sites will also have their own allocated parking areas which will be surfaced in reclaimed road planings / scalplings. Drainage from the accommodation will go to a sealed cesspool...

The utility blocks, as indicated, will be constructed from facing yellow stock brickwork and black stained / painted boarding, with Eternit slates to the roof and standard timber joinery for the doors and windows.”

- 2.03 The applicant, Mrs Brazil, is from a local gypsy family that is known to officers, and has lived within Swale for many years. Her parents live on the adjacent site (Blackthorne Lodge) and the application site will be occupied by the applicant and her family on plot 1, and her sister on plot 2.

3.0 SUMMARY INFORMATION

	Existing
Site Area (ha)	0.44 (1.08 acres)
No. of static caravans	2
No. of touring caravans	2

4.0 PLANNING CONSTRAINTS

4.01 None.

5.0 POLICY AND OTHER CONSIDERATIONS

National Planning Policy Framework (NPPF) and Planning Policy for Traveller Sites (PPTS) (Re-issued)

5.01 The national policy position comprises the National Planning Policy Framework (NPPF) and Planning Policy for Traveller Sites (PPTS). Both documents were released in 2012 but the PPTS was re-issued in August 2015 with amendments. Together they provide national guidance for Local Planning Authorities on plan making and determining planning applications for Gypsy and Traveller sites. A presumption in favour of sustainable development runs throughout both documents and this presumption is an important part of both the plan-making process and in determining planning applications. In addition there is a requirement in both documents that makes clear that Councils should set pitch targets which address the likely need for pitches over the plan period and maintain a rolling five year supply of sites which are in suitable locations and available immediately.

5.02 Whilst regard has been paid to all of the guidance as set out within the NPPF, consider that the following extracts from paragraph 7 are particularly pertinent:

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

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

5.03 In relation to rural housing the NPPF (at paragraph 55) states;

- *“To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. For example, where there are groups of smaller settlements, development in one village may support services in a village nearby. Local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances such as:*
 - *the essential need for a rural worker to live permanently at or near their place of work in the countryside; or*
 - *where such development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets; or*

- *where the development would re-use redundant or disused buildings and lead to an enhancement to the immediate setting; or*
- *the exceptional quality or innovative nature of the design of the dwelling. Such a design should:*
 - *be truly outstanding or innovative, helping to raise standards of design more generally in rural areas;*
 - *reflect the highest standards in architecture;*
 - *significantly enhance its immediate setting; and*
 - *be sensitive to the defining characteristics of the local area.”*

5.04 In relation to conserving and enhancing the natural environment the NPPF, at paragraph 109, states;

“The planning system should contribute to and enhance the natural and local environment by:

- *protecting and enhancing valued landscapes, geological conservation interests and soils;*
- *recognising the wider benefits of ecosystem services;*
- *minimising impacts on biodiversity and providing net gains in biodiversity where possible, contributing to the Government’s commitment to halt the overall decline in biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures;*
- *preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of soil, air, water or noise pollution or land instability; and*
- *remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate.”*

Planning Policy for Traveller Sites (PPTS)

5.05 The PPTS was originally published in March 2012 but it was re-issued in August 2015 with minor changes. Whilst regard has been paid to all of the guidance as set out within the PPTS, its main aims now are:

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

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

- a. *that local planning authorities should make their own assessment of need for the purposes of planning*
- b. *to ensure that local planning authorities, working collaboratively, develop fair and effective strategies to meet need through the identification of land for sites*
- c. *to encourage local planning authorities to plan for sites over a reasonable timescale*
- d. *that plan-making and decision-taking should protect Green Belt from inappropriate development*
- e. *to promote more private traveller site provision while recognising that there will always be those travellers who cannot provide their own sites*
- f. *that plan-making and decision-taking should aim to reduce the number of unauthorised developments and encampments and make enforcement more effective*
- g. *for local planning authorities to ensure that their Local Plan includes fair, realistic and inclusive policies*

- h. to increase the number of traveller sites in appropriate locations with planning permission, to address under provision and maintain an appropriate level of supply*
- i. to reduce tensions between settled and traveller communities in plan-making and planning decisions*
- j. to enable provision of suitable accommodation from which travellers can access education, health, welfare and employment infrastructure*
- k. for local planning authorities to have due regard to the protection of local amenity and local environment.” (para 4 PPTS)*

5.07 In terms of plan making the PPTS advice is that;

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

- a) promote peaceful and integrated co-existence between the site and the local community*
- b) promote, in collaboration with commissioners of health services, access to appropriate health services*
- c) ensure that children can attend school on a regular basis*
- d) provide a settled base that reduces the need for long-distance travelling and possible environmental damage caused by unauthorised encampment*
- e) provide for proper consideration of the effect of local environmental quality (such as noise and air quality) on the health and well-being of any travellers that may locate there or on others as a result of new development*
- f) avoid placing undue pressure on local infrastructure and services*
- g) do not locate sites in areas at high risk of flooding, including functional floodplains, given the particular vulnerability of caravans*
- h) reflect the extent to which traditional lifestyles (whereby some travellers live and work from the same location thereby omitting many travel to work journeys) can contribute to sustainability.” (para 13 PPTS)*

5.08 For sites in rural areas and the countryside the PPTS advice is that;

“When assessing the suitability of sites in rural or semi-rural settings, local planning authorities should ensure that the scale of such sites does not dominate the nearest settled community.” (para 14 PPTS)

5.09 In relation to the determination of planning applications the PPTS says that;

“Applications should be assessed and determined in accordance with the presumption in favour of sustainable development and the application of specific policies in the National Planning Policy Framework and this planning policy for traveller sites.” (para 23 PPTS)

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

- a) the existing level of local provision and need for sites*
- b) the availability (or lack) of alternative accommodation for the applicants*
- c) other personal circumstances of the applicant*
- d) that the locally specific criteria used to guide the allocation of sites in plans or which form the policy where there is no identified need for pitches/plots should be used to assess applications that may come forward on unallocated sites*

e) *that they should determine applications for sites from any travellers and not just those with local connections”*

“However, as paragraph 16 [relating to Green Belts] makes clear, subject to the best interests of the child, personal circumstances and unmet need are unlikely to clearly outweigh harm to the Green Belt and any other harm so as to establish very special circumstances.” (para 24 PPTS). (This mini paragraph was added in the 2015 re-issue of PPTS.)

“Local planning authorities should very strictly limit new traveller site development in open countryside that is away from existing settlements or outside areas allocated in the development plan. Local planning authorities should ensure that sites in rural areas respect the scale of, and do not dominate the nearest settled community, and avoid placing an undue pressure on the local infrastructure.” (para 25 PPTS). (The word “very” was added to this paragraph in the 2015 re-issue of PPTS.)

“If a local planning authority cannot demonstrate an up-to-date 5year supply of deliverable sites, this should be a significant material consideration in any subsequent planning decision when considering applications for the grant of temporary permission. The exception to this is where the proposal is on land designated as Green Belt; sites protected under the Birds and Habitats Directives and / or sites designated as Sites of Special Scientific Interest; Local Green Space, an Area of Outstanding Natural Beauty, or within a National Park (or the Broads).” (para 27 PPTS). Members might like to note that the last sentence above was added to this paragraph in the 2015 re-issue of PPTS.

- 5.10 Finally, the definition of gypsies and travellers has been amended in the re-issued PPTS to remove the words “or permanently” from after the word “temporarily” in the following definition;

“Persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family’s or dependants’ educational or health needs or old age have ceased to travel temporarily, but excluding members of an organised group of travelling showpeople or circus people travelling together as such.”

Saved Policies of Swale Borough Local Plan 2008

- 5.11 Policy E1 (General Development Control Criteria) sets out standards applicable to all development, saying that it should be well sited appropriate in scale, design and appearance with a high standard of landscaping, and have safe pedestrian and vehicular access whilst avoiding unacceptable consequences in highway terms.
- 5.12 This site lies in an isolated position within the countryside where policy E6 (The Countryside) seeks to protect the quality, character and amenity of the countryside, and states that development will not be permitted outside rural settlements in the interests of countryside conservation, unless related to an exceptional need for a rural location.
- 5.13 Within the countryside, and outside of designated landscape areas such as AONBs, policy E9 (Protecting the Quality and Character of the Borough’s Landscape) expects development to be informed by local landscape character and quality, consider guidelines in the Council’s landscape character and assessment, safeguard distinctive landscape elements, remove detracting features and minimise adverse impacts on landscape character.

- 5.14 Policy E19 (Achieving High Quality Design and Distinctiveness) requires development proposals to be well designed.
- 5.15 Policy H4 explains the Borough Council will only grant planning permission for the use of land for the stationing of homes for persons who can clearly demonstrate that they are gypsies or travelling showpersons with a genuine connection with the locality of the proposed site, in accordance with 1 and 2 below.
1. For proposals involving the establishment of public or privately owned residential gypsy or travelling showpersons sites:
 - a) there will be a proven need in the Borough for the site and for the size proposed;
 - b) the site will be located close to local services and facilities;
 - c) there will be no more than four caravans;
 - d) the site will be located close to the primary or secondary road networks
 - e) in the case of a greenfield site there is no suitable site available on previously developed land in the locality;
 - f) the site is not designated for its wildlife, historic or landscape importance;
 - g) the site should be served, or capable of being served, by mains water supply and a satisfactory means of sewage disposal and refuse collection;
 - h) there is no conflict with pedestrian or highway safety;
 - i) screening and landscaping will be provided to minimise adverse impacts;
 - j) no industrial, retail, commercial, or storage activities will take place on the site.
 - k) use of the site will not give rise to significant adverse impacts upon residential amenity, or agricultural or commercial use, of surrounding areas; and
 - l) the land will not be in a designated flood risk area.
 2. Additionally to 1, for proposals for short term stopping places:
 - m) there will be a planning condition to ensure that the length of stay for each caravan will be no longer than 28 days with no return to the site within 3 months.”

- 5.16 This policy was criticised by the Local Plan Inspector who saw it, as a criteria based rather than site allocations policy, as inconsistent with the then Circular 01/2006 - which itself has since been superseded by PPTS and its emphasis of a five year supply of sites - and the policy can only be of limited significance to this application.

Bearing Fruits 2031: 2014 Examination version of the Swale Borough Local Plan

- 5.17 The Council's Examination version of the draft Local Plan, entitled *Bearing Fruits 2031*, was published in December 2014 and was examined in November and December 2015. 5.25 below provides further commentary on this.
- 5.18 Policy CP 3 of the draft Local Plan aims to provide pitches for gypsies and travellers as part of new residential developments, and policy DM10 sets out criteria for assessing windfall gypsy site applications.

Site Assessment

- 5.19 The Council's February 2014 Gypsy and Traveller Site Allocations: Issues and Options consultations document recommends a new methodology for how to assess site suitability for determining whether or not to allocate a site. Although this was primarily intended to rank potential site allocations, it was agreed by Members of the LDF Panel in June 2014 to be used as a material consideration in planning applications. Even though this is normally done in relation to the potential suitability of a fresh site, given that this application is largely retrospective I have considered it in formulating this recommendation to be sure that the recommendation is up-to-date. This assessment is a Red/Amber/Green staged approach to site suitability, with any site scoring Red in any stage not being progressed to the next stage.
- 5.20 The red scores mean that the site should not proceed to Stage 3 and will not be a candidate site for a future allocations policy. The Barnyard (and, indeed, many of the other sites along Greyhound Road) scores red in a number of categories, including domination of nearest settled community; site access; and access to facilities. It is therefore not considered suitable as a permanent site – this has been the Council's stance in regards to all gypsy and traveller applications along Greyhound Road for a number of years.

Five year supply position

- 5.21 The PPTS has since 2012 introduced a need for Council's to maintain a rolling five year supply of sites which are in suitable locations and available immediately. This is a relatively new requirement for Council's and the Council could only start attempting to meet this requirement following the commissioning and publication of the GTAA which provided the need figure and a base date. As such, the Council put measures into place to deal with the PPTS requirements very quickly, but have only recently started down the route of trying to maintain a rolling five year supply.
- 5.22 The GTAA sets out a target of 85 pitches to be provided by the year 2031, with a suggested provision of 35 pitches in the first five years (to 2018). Three pitches were approved during the course of the GTAA's production so the final target was in fact 82 pitches. Since the publication of the GTAA and up to the end of March 2015 a total of 47 permanent pitches have been approved in Swale almost exclusively without an appeal, of which 33 pitches had been implemented. Evidence to be presented to the Local Plan examination later this year shows that at the end of March 2015 the need for pitches identified from the GTAA thus stood at 82 pitches minus the 33 permanent pitches approved and implemented, including the personal permissions granted in the interim. This reduced the need to 49 pitches which, at an annualised rate of 4.6 pitches per year (23 pitches over five years) indicated that the Council has already provided a surplus of supply of 0.8 pitches over the full five year requirement. This is calculated by taking the two year annualised requirement of 9.2 pitches from the completions so far to show a current surplus of 23.8 implemented pitches over the two year requirement and already a surplus of 0.8 approved permanent pitches over the five year need after just two years. In addition to this there are a further 13 approved but unimplemented permanent pitches as at the end of March 2015, an overall surplus of 14 pitches. These mostly comprise extensions to, or more intensive use of, existing sites and are awaiting occupation. Since then two more wholly new permanent sites have been approved at Eastchurch and Newington. Planning permission for a further two fresh pitches is awaiting only the completion of a Section 106 Agreement on a large mixed use development site at Faversham. This is a very considerable achievement and indicates the Council's positive attitude to such development in the right location.

Furthermore, the likelihood of significant pitch provision as part of major new mixed use developments is a key feature of the emerging Local Plan and we will shortly see if that policy forms part of the final Plan.

The latest position of site provision

- 5.23 Evidence to the current Local Plan examination is that the Council has re-interrogated the GTAA to determine the appropriate level of pitch provision based on the new 2015 PPTS revised definition of gypsies and travellers. The data reveals that for all but unauthorised sites some two-thirds of households surveyed for the GTAA either never travel or travel not more than once a year. Overall, only 31% of respondents travel a few times a year, and 55% never travel, meaning that in Swale the gypsy and traveller population is quite settled, slightly more so than elsewhere in the country. Many current site occupants no longer meet the new PPTS definition of having a nomadic habit of life
- 5.24 Accordingly, the need for pitches in Swale has been re-evaluated, resulting in a reduced estimate of pitch need of 61 pitches over the Plan period to 2031. Of these 51 have already been granted permanent planning permission meaning that the outstanding need is just 10 pitches to 2031. The Council considers that on the basis of past trends this need could easily be met from windfall proposals.
- 5.25 As a result of this analysis, the Council is suggesting through main modifications to its draft Local Plan that the future need be based on a figure of 61 pitches, leaving a need per year of 0.7 pitches and, that no formal pitch allocations will be needed. Policy DM10 would be revised to deal with these windfall applications and policy CP3 would be removed from the Plan. Accordingly, a Part 2 Local Plan would not be required. The Local Plan Inspector endorsed this approach at the Inquiry sitting in November this year. Full, formal, acceptance of this stance relies upon a further round of public consultation, but based on the representations received up to this point it is not envisaged that there will be a significant deviation.
- 5.26 However, irrespective of the question of the five year supply, the question of whether any approved and unoccupied sites are available to individual appellants is also normally taken in to account by Inspectors. Here, the evidence suggest that they may consider that sites approved as expansions of existing site are not readily available to appellants facing loss of their existing temporary site. This appears to confirm their decisions where the question of availability of alternative sites is crucial to their decision.
- 5.27 To conclude on this subject, it seems that there is no reason to see approved but unimplemented pitches as other than as part of a five year supply. Nor should potential ethnic grouping issues rule them out of consideration where this applies. However, there appears to be a question in Inspector's minds regarding whether such sites should be afforded full weight in relation to the prospects of them being suitable for a particular appellant, and whether they will wish to, or be able to, occupy such a site for reasons of ethnicity, or availability for other than families of the current site owners.
- 5.28 The revised PPTS (2015) has resulted in considerable uncertainty as it changes the planning definition of a traveller and gypsy, and therefore what number of required pitches need to be identified. The Council has addressed this by re-interrogating the GTAA data and presenting a number of options for the way forward to the Inspector at the current Bearing Fruits Local Plan Examination. At the time of writing the Inspector has yet to consider or decide which option is appropriate and in the mean time it is

considered appropriate to continue to consider applications in the context of the GTAA as originally drafted.

6.0 LOCAL REPRESENTATIONS

6.01 The application was advertised by way of a site notice, and letters to local residents.

6.02 Two letters of objection have been submitted by local residents, commenting:

- The scale of sites on Greyhound Road now dominates the settled community;
- Work has already been carried out on site;
- The site is within a flood plain [NB: the site is outside of the flood zone];
- Planning permission was previously refused for a dwelling and smallholding on the site [NB: this relates to an enforcement case where a caravan was being lived in by a single person, who did not claim gypsy / traveller status, and without any justification of agricultural need];
- Gypsies and Travellers are treated differently to the settled population; and
- The Council will not listen to local concerns *“as you have never done so in the past.”*

6.03 The Brambledown Resident’s Association objects on the following summarised grounds:

- There has been an established pattern of unauthorised sites on Greyhound Road;
- The number of pitches has formed one large site, with further surrounding land available for more expansion;
- Cumulative, dominating impact on settled community;
- The Woodlands Lodge appeal decision sets a precedent for refusing permission here; and
- Planning enforcement action has been slow to respond.

6.04 No other representations received.

7.0 CONSULTATIONS

7.01 Minster Parish Council objects strongly on the following summarised grounds:

- Impact on the character and amenity value of the countryside;
- Remote, unsustainable location;
- Domination of nearby settled community; and
- History of planning breaches.

A full copy of the Parish Council’s objection is appended to this report.

7.02 Southern Water has no objections, but advises that the Environment Agency should be consulted with regard to the use of soakaways and septic tanks.

7.03 No other representations received.

8.0 BACKGROUND PAPERS AND PLANS

8.01 Of particular relevance is the appeal for Woodlands Lodge, another gypsy / traveller site also on Greyhound Road, under ENF/13/0036 and APP/V2255/C/13/2208507.

8.02 An enforcement notice was served on 14 October 2013 in respect of the applicant having moved on to the site unlawfully. The breach alleged within the notice was *“without planning permission, the material change of use of the land to land used as a caravan site for the stationing of caravans/ mobile homes used residentially, including the erection of a utility building(s) and the laying of hard-surfacing”* at land now known as Woodland Lodge, Brambledown, Greyhound Road, Minster.

8.03 The appeal was allowed – largely on the personal circumstances of the applicant, but also as the Council could not identify other sites to which the applicant could relocate – and with the Inspector commenting (at paras. 41 and 43 of the decision):

“In terms of the site’s location, it is remote and lacks access to local facilities. It is unsuitable and unsustainable for a caravan site. Added to that is the harm caused by the development to the character and appearance of the surrounding area. That harm cannot be overcome by landscape planting. Accordingly, the development conflicts with LP Policies E1 and E6, and advice contained in paragraphs 11 and 23 of the PPTS, because of the harmful environmental impact. I attach substantial weight to these findings.

On balance, however, taking all of these considerations into account, I conclude that the identified harm that arises from the development outweighs my findings on the positive aspects of the development. On this basis, a permanent permission should not be granted at this time.”

8.04 Members will also recall applications for The Hawthorns, The Peartree, and Blackthorn Lodge, which were considered at the meeting on 17 December, and Ramblin Rose, which was considered at the meeting on 14 January, where Members agreed to grant permission for a further year to allow current residents time to find alternative accommodation.

9.0 APPRAISAL

9.01 This scheme differs somewhat from the previous applications noted above in that it has not previously been granted permission, and while the application is retrospective, it effectively amounts to an application for a fresh site. That notwithstanding, however, the circumstances and considerations are the same as for the previous applications for the neighbouring sites.

9.02 The PPTS suggests that local planning authorities should have due regard to the protection of local amenity and local environment and ensure that traveller sites are sustainable economically, socially and environmentally. The PPTS makes it clear that *“applications should be assessed and determined in accordance with the presumption in favour of sustainable development and the application of specific policies in the National Planning Policy Framework and this planning policy for traveller sites.”*

9.03 The PPTS goes on to say that *“Local planning authorities should very strictly limit new traveller site development in open countryside that is away from existing settlements or outside areas allocated in the development plan. Local planning authorities should ensure that sites in rural areas respect the scale of, and do not dominate the nearest settled community, and avoid placing an undue pressure on the local infrastructure.”* It is worth noting that the word “very” was added to this paragraph in the 2015 re-issue of PPTS which implies to me that whilst there is still no outright ban on approving sites in open countryside, there is a need to give greater weight to the harm that sites such as this one can do to the character of open countryside.

- 9.04 The proliferation of sites on Greyhound Road has caused some harm to the character and appearance of the street scene and the wider countryside. An area of woodland has been removed to make room for the various plots and, as a result, a number of the sites are prominent in views from the Lower Road and give rise to a harsh urbanised appearance that is contrary to the rural character of the area. I am not convinced that landscaping entirely mitigates this harm.
- 9.05 The number of sites on Greyhound Road has also reached a point at which they dominate the local settled community at Brambledown and the small unmade local roads nearby.
- 9.06 The unsuitability of the location along with the harm caused, as set out above, is a clear indication that permanent planning permission should not be granted. The Inspector's decision on the Woodlands Lodge appeal (as above) supports this assertion, and provides a clear steer for the Council.
- 9.07 However - I consider that there has been a significant change in relevant considerations since the first grant of temporary permission for pitches on Greyhound Road in 2008 (The Hawthorns, SW/08/0579), with a very strong growth in the number of permanent permitted pitches within the Borough, and the evolution of the Council's policy approach to gypsy and traveller sites.
- 9.08 I understand that at the end of the 2014/2015 annual monitoring year 47 permanent gypsy and traveller sites had been permitted. According to the strictest supply calculation, that represents a more than five year supply of sites in just two years, with approval of more windfall sites likely. As such, I see no overriding need for sites that suggests that a site with such clear environmental and sustainability objections should be approved on a permanent basis. Any re-calculation of need following the re-issue of PPTS can only reduce the need figure, but that is an argument that I do not feel needs to be given weight here.
- 9.09 This situation may improve still further with new sites coming forward through windfall applications. However, there is not yet a set of currently genuinely available sites for this applicant to relocate to, and it is unlikely that there will be in the immediate future. This suggests that more time than initially thought is required to see the future of the applicant resolved and further clarification on gypsy and traveller policy would be established through National Planning Policy Guidance and the adoption of the Local Plan.
- 9.10 This suggests that there is a need to grant further temporary permissions for the existing sites along Greyhound Road, including the current application site, to enable the applicants to find alternative accommodation.
- 9.11 I therefore recommend that temporary permission, for a period of 1 year, be granted, which will give time for the applicants to investigate alternative accommodation and for the Council to continue to review its position in regards to the supply of sites.
- 9.12 I consider that the Council's position is not strong enough in terms of being able to direct the applicant to alternative sites at this time to justify an outright refusal of permission if an appeal were to be submitted. In this regard I would revisit the previous Inspector's decision, as above, in which the Inspector comments "*I find that in the immediate future, the prospects of finding an affordable, acceptable and suitable alternative site with planning permission in the Borough appear limited.*"

- 9.13 Refusal of planning permission here would be an infringement of the applicant's rights under Article 8 of the European Convention of Human Rights. To a lesser extent so too is the grant of permission for only one year. However that infringement would, in my opinion, be proportionate and necessary in the public interest to avoid permanent harm to the countryside and landscape, which is supported by the above local and national policies.

10.0 CONCLUSION

- 10.01 The application seeks permanent residential use of the site by two gypsy families. The Council has long held the view, which has been supported at appeal, that the site is not suitable for permanent accommodation, and the Council has now effectively met its 5-year supply target, but at this stage we are unable to direct the applicant to available alternative pitches.
- 10.02 Taking the above into account I recommend that temporary permission be granted for a period of 1 year to allow time for the applicant to find suitable alternative site.

11.0 RECOMMENDATION – GRANT Subject to the following conditions:

- (1) The use hereby permitted shall be for a limited period being the period of one year from the date of this decision. At the end of this period the use hereby permitted shall cease, all caravans, buildings, structures, materials and equipment brought on to, or erected on the land, or works undertaken to it in connection with the use shall be removed, and the land restored to its condition before the development took place.

Reasons: As permission has only been granted in recognition of the particular circumstances of the case, having regard to the lack of alternative, available sites elsewhere within the Borough, in accordance with DCLG Planning Policy for Traveller Sites.

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

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

- (3) No more than two touring caravans shall be stationed on the site at any one time.

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

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

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

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

Reasons: In the interests of preventing light pollution.

- (6) The access details shown on the approved plans shall be maintained in accordance with these details.

Reasons: In the interests of highway safety and convenience.

- (7) The areas shown on the submitted layout as vehicle parking spaces shall be retained for the use of the occupiers of, and visitors to, the premises, and no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order), shall be carried out on that area of land so shown or in such a position as to preclude vehicular access to these reserved parking spaces.

Reasons: To ensure the use does not prejudice conditions of highway safety and in accordance with Policy T3 of the Swale Borough Local Plan 2008.

The Council’s approach to this application

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

Offering pre-application advice.

Where possible, suggesting solutions to secure a successful outcome.

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

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

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

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

APPENDIX 1

M.P.C. comments

3

adjoining Blackthorne Lodge, Greyhound Road, Minster ME12 3SP **STRONGEST OBJECTION** on the following grounds: -

- i. The proposals contradict Swale Borough Council Local Plan policy E6 (the Countryside) which dictates that the quality and character and amenity value of the countryside of the Borough will be protected and where possible enhanced.

The application sites lie within the countryside, outside any recognised built up area, as defined in the Swale Borough Local Plan 2008, where policy RC4 for rural restraint applies. The proposals would amount to visually intrusive development which would fail to protect the countryside for its own sake because of their prominent location within a rural area, lack of site screening and the harsh urban appearance of the mobile homes, buildings and hard landscaping presenting as harmful to on the character and appearance of the surrounding countryside and do not guarantee environmental sustainability by protecting the rural landscape from development.

This also goes against the Government's new Planning Policy for Travellers which instructs local planning authorities to strictly limit new traveller site development in open countryside that is away from existing settlements or outside areas allocated in the development plan.

- ii. In line with the Government's new Planning Policy for Traveller Sites which is now law and supersedes the Core Strategy which is only in draft form and subservient to current legislation, local planning authorities have a duty to ensure that gypsy and traveller sites are sustainable; economically, socially and environmentally.

The site is remotely located from shops, services, public transport and amenities. There is no pedestrian access and road access is from the A2500 Lower Road, a de-restricted road which is well known for its safety issues having suffered two fatalities within 100 metres of the access to the unmade track known as Greyhound Road. There are no employment opportunities available locally. The site cannot be considered to be sustainable or suitable for gypsy and traveller accommodation or indeed ANY residential accommodation.

Approval would also contradict Swale Borough Council's Local Plan policy E1 (General Development Criteria) which sets out standards applicable to all development, saying that it should be well sited appropriate in scale, design and appearance with a high standard of landscaping, and have safe pedestrian and vehicular access whilst avoiding unacceptable consequences in highway terms. Furthermore, the overall need for gypsy and traveller site accommodation in the Borough is outweighed by the harm arising from the unsustainable location of this site and as such planning permission should be refused.

- iii. Policy C of the Government's new Planning Policy for Traveller Sites makes it clear that when assessing the suitability of sites in rural areas and the countryside that local planning authorities should ensure that the scale of such sites does not dominate the nearest settled community.

The cumulative effect of this and the adjacent sites on the existing community at Brambledown, in terms of their overall scale and the effect of this insidious expansion directly contravenes the Government's own Planning Policy for Traveller Sites. This means that this application should not and cannot be considered in isolation. Granting

APPENDIX 1

permission will set a precedent that will impact negatively not only on the current sites but on the surrounding area which will be impossible to defend against future incursions. If approved, it will add to the existing gross social imbalance, constituting more than one third of the population of a small hamlet.

(The residents of Brambledown have no problem with accommodating small sites in their midst, demonstrated by their support for a previous application in Elmley Road, nearby. They do however have a problem with what seems to be an inexorably-increasing number of caravans on adjacent plots in Greyhound Road to form, in effect, one large site).

- iv. The Government's new Planning Policy for Traveller Sites legislation specifically promotes peaceful and integrated co-existence between the site and the local community.

The site has a long and contentious history of various breaches of planning control. The obvious lack of enforcement by Swale Borough Council on what is a clear abuse of the planning system and that authority's lack of compliance with the Localism Act 2011 which gives councils the power to tackle the intentional abuse of retrospective planning is evident in this case. This clear lack of enforcement action has without a doubt provided a major stumbling block in creating the situation at Greyhound Road today. It has led to the proliferation of the open countryside site and opened the door to further unauthorised encampments. Indeed, events on and surrounding the site can clearly demonstrate how its close proximity to the settled community has indeed impacted on residents' quality of life, from both an environmental and a social perspective. Furthermore, conditions attached to the previous five temporary permissions have been largely ignored, and a key requirement of the Council's Consultation Document (Policy H4, A.1) that "use of the site will not give rise to adverse impacts upon residential amenity" has not been met.

Another recommendation for approval here ('Temporary' or otherwise) would serve to demonstrate yet again to Brambledown residents that there is no effective planning mechanism to prevent the continual spread of gypsy sites along Greyhound Road until all available space is occupied. And further, that all new legislation and Government guidance to Local Authorities to prevent this in the interests of community cohesion is ineffective on the ground. Such a recommendation could also undermine the Council's case at the imminent Appeal on Woodlands Lodge, where Officers have been tasked by Members to oppose the Appeal on the grounds given for the recent decision to refuse permission. In addition, recommending approval following yet another example of unauthorised site preparation would serve to confirm to residents that however strong the case for refusal on the grounds of unsustainability and cumulative impact, it will always be overridden by considerations of 'need' by gypsy families who have obviously been settled elsewhere but have chosen, for their own reasons, to re-locate to Greyhound Road. Local residents see such blatant disregard of planning policy as fundamentally objectionable, which doesn't bode well for future community relations.

For all of the above reasons and in accordance with the express wishes of Planning Committee Members when refusing Woodlands Lodge, Minster-on-Sea Parish Council would ask you to recommend refusal of this application.

PLANNING COMMITTEE – 10 MARCH 2016

PART 3

Report of the Head of Planning

PART 3

Applications for which **REFUSAL** is recommended

3.1 REFERENCE NO - 15/509814/FULL		
APPLICATION PROPOSAL Erection of one detached dwelling.		
ADDRESS 19 South Road Faversham Kent ME13 7LR		
RECOMMENDATION REFUSAL		
SUMMARY OF REASONS FOR REFUSAL By reason of scale, siting and height the proposal represents a harmfully intrusive element into the area that would fail to preserve or enhance Faversham conservation area.		
REASON FOR REFERRAL TO COMMITTEE Councillor request		
WARD St Ann's	PARISH/TOWN COUNCIL Faversham Town	APPLICANT Mrs L C Guthrie AGENT Redsquare Architects Ltd.
DECISION DUE DATE 21/01/16	PUBLICITY EXPIRY DATE 12/02/16	

1.0 DESCRIPTION OF SITE

- 1.01 The site is a terraced residential property located on South Road, Faversham. The property has a long rear garden similar to others in the immediate vicinity, however, towards the rear of the garden it widens and angles behind the rear gardens of no 21, 23, 25 and 27 South Road to abut Cross Lane.
- 1.02 The site is located within Faversham conservation area and the character of the rear of the site where the new dwelling is proposed is an attractive area of rear gardens positioned either side of the largely C19 brick walls bounding each side of Cross Lane (a pedestrian walkway linking Bank Street to South Road). Individual pedestrian gate entrances to houses on Stone Street punctuate the rear garden walls off Cross Lane and the only notable vertical intrusions into this leafy green area come in the form of trees punctuating the skyline in places.
- 1.03 The site's eastern boundary is that of the Faversham Pools with the outdoor pool set approx. 1.5m from the site boundary.

2.0 PROPOSAL

- 2.01 The proposal is for the erection of a new dwelling house which comprises two blocks one a two storey block located on the west boundary which includes the boundary wall with no 23 South Road. This will provide a bedroom, study, w.c and hallway on the ground floor and two further bedrooms and a bathroom on the first floor. It is located approx. 4.7m from the front of the site which is the boundary brick wall facing Cross Lane. Four roof lights are provided and first floor windows on both gable ends facing across Cross Lane and across the proposed rear garden. A further four windows measuring a total of 2.6m in length and 0.7m in depth will provide light to the landing area and provide views to the east towards the swimming pool. This element measures 12.2m in length and 4.5m in width and has an eaves height of 4.4m and a ridge height of 7.2m.
- 2.02 The single storey element of the house is located to the east and set back over 2m from the front elevation of the two storey block and extends 1.7m to the rear, making the length 11.8m in total and 4.5m in width with a height of 3.4m. This is a lean to element that provides an open plan kitchen, dining and lounge space.
- 2.02 The building also has a basement which is accessed from the hallway and provides a utility and storage space.
- 2.03 The building is shown to have a slate roof, stained timber weather boarding, timber joinery and conservation style roof lights.
- 2.04 There is no vehicular access to the site and a garage is owned by the applicant in Tanners Street for use by future occupants.
- 2.05 The Council engaged in pre application discussions over a protracted period with the applicant. However, it is only with the submission of the application with the full details, including the Heritage Impact Assessment that a full assessment and determination is able to be made.
- 2.06 The initial response in 2013 was limited as no drawings were provided with the submission for the “eco house” but it was confirmed that with the site being in the defined built up area of Faversham there was a presumption in favour of a high quality proposal. However, due to the sensitive nature of the site and likely impact on the surrounding area it was confirmed the requirement for any proposal to be of an exceptional design standard. The applicant was invited to submit further design details to gain pre application advice.
- 2.07 Further pre application details were submitted in 2014 but due to the bulk, massing and multi pitched roof elements it was considered harmful to the character of the area and the conclusion was that any revisions should be reduced in scale and massing and that the submitted scheme did not relate well to the special character and appearance of the conservation area.
- 2.08 Further revised drawings were received mid 2015 offering 2 schemes. The conclusion then was that support was not able to be offered for either scheme with acknowledgment that “this is a difficult site and it may be that it is not possible to achieve what your client requires on this small site.”

- 2.09 Following a site meeting and revised drawings a response in September 2015 offered encouragement that the building showed a stronger relationship to its context and was now of the proportions and scale of a modest coach house, whilst the lean to was the least successful part and consideration should be given to reducing the width. Further advice was given that any formal application “*should give a good indication of eaves and verges, fenestration design, quality of materials...important to demonstrate that acceptable access arrangements to the site can be provided and that it be vital to provide justification/evidence showing how this type of development is appropriate in this location*”

3.0 APPLICANT’S SUPPORTING INFORMATION

- 3.01 The application is supported by additional information from the applicant in the form of a Heritage Impact Assessment as required by para 128 of the NPPF which concludes that the potential impact of the development is that:

- Could visually impact on surrounding properties
- Architecturally its aesthetic could be inappropriate for the conservation area
- 19 South Road reduced garden could be inappropriate for that house

- 3.02 Each of the points above are addressed, stating that the pre application design development in conjunction with Officers had ensured a final design for the site that is both unimposing, modest and architecturally appropriate and that the revised rear garden boundary would match that of neighbouring properties.

- 3.03 Also, a pre application history report has been provided explaining from the applicants viewpoint the process and stating at the end that “*The above documented record completes our pre application history and confirms that the proposed scheme submitted for planning application has been developed in full with Swale Planning and Conservation, and that an informal recommendation of support has been agreed in principle.*”

- 3.04 Additional details have been provided to alleviate concerns and misunderstandings and to provide assurances that the project has been considered in light of both neighbours and the neighbourhood specifically. Cross Lane will not be closed, no trees will be removed as part of the application, the garden wall adj to no 23 is owned by the applicant, no habitable windows overlook any part of the neighbouring sites, bins will be within the development site, liaison with Building Control has confirmed either a new dedicated dry riser or an automist system or sprinkler system would comply with relevant fire protection regulations.

4.0 PLANNING CONSTRAINTS

Conservation Area Faversham

MOD Thurnham MOD Safeguarding Directive Thurnham

Thurnham Exclusion Zone Thurnham, Kent

Thurnham Wind Station tHURNHAM WIND SAFEGUARDING

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) E1, E19 & H2
 Bearing Fruits Local Plan 2031 (Publication Version, December 2014) Policy DM14:
 General Development Criteria CP8: Conserving and Enhancing the Historic
 Environment: Policy DM33: Development Affecting a Conservation Area

Supplementary Planning Documents: Conservation Areas

6.0 LOCAL REPRESENTATIONS

6.1 Over 50 comments of objection to the proposal have been received raising the following summarised issues;

- Want the 1st floor window facing Cross Lane which overlooks the gardens & looks directly into the back windows of our property and reduces our degree of privacy removed or obscured.
- This is effectively a three story building at the end of the applicant's garden that will not blend in and be highly visible from all angles.
- proposed house is too large for the site
- If there is a real need for the applicant to build a domestic residence in their rear garden then a single storey less intrusive building would be far more acceptable
- It is not a modest house. At 204m² the proposal is close to twice the size of the average home in Faversham and directly comparable in floor space to many of its established neighbours.
- The building will both overshadow and overlook our garden, which until now has been a private space
- Will have an uncomfortable relationship with our land which is in use all year round and will lose the morning sun all year
- Proposed window on the second floor overlooking Cross Lane, will overlook to the rear of properties on Stone Street, the rear gardens abut Cross Lane at a substantially lower level.
- The two storey dwelling will 'tower' above the end of the garden and will overshadow the entire garden. This will reduce privacy and will adversely impact the end of the garden.
- The proposed building is tall (we estimate 9m from the plans) and will loom over its surroundings
- The open aspect that the gardens in South Road means that this building will be seen from our kitchen and from the first and second floors bedrooms which means the loss of existing views and would adversely affect the residential amenity of our house
- The established pattern of development in this area consists of houses along South Road with lengthy rear gardens. The proposed development is in conflict with the established pattern and would be detrimental to the townscape of this area.
- The general character of the area enclosed by the houses of South Road, Stone Street and the Swimming Pool is leafy and open, with many mature trees and much wildlife.
- It will have an adverse effect of the development on the character and appearance of the Conservation Area
- Establish a precedent encouraging further developments in gardens, effectively 'in-filling' the green spaces within the town centre.

- Faversham has a characterful and historic town centre with many attractive Victorian and Georgian buildings alongside gardens and green spaces. We believe these spaces and the character of the town need to be protected
- The encircled garden enclave which forms a crucial and original aspect of this part of the conservation area
- By siting this substantial dwelling in the middle of this garden enclave it will fundamentally and very substantially alter the dynamic of this space, in a way which neither conserves nor enhances it
- Swale Local Plan point 5.3.1 that they will "consider policies to resist inappropriate development of residential gardens"
- Proposal does not satisfy planning policy E15 to protect Conservation areas, as it does not "preserve or enhance all features that contribute positively to the area's special character or appearance".
- It does not "pay special attention to the use of detail and materials" as the design is nothing like the houses in South Road, Stone Street or further along the lane.
- It does not "retain the layout, form of streets, [or] spaces" because there is no residential development along that stretch of lane; it is an area of gardens.
- There is no mention of development along the lane being considered suitable in the current Local Plan or emerging Local Plan
- It is reasonable for residents to be able to enjoy their properties without the uncertainty of sudden changes in their environment and there has been no expectation, or local consultation, that the lane would ever be prey to development.
- Faversham Town Council's Town Action Plan states 'green spaces within Faversham are precious and should not be lost'
- Also of concern is the proposed 'package treatment plant'
- The property is not to be connected to the main sewer. There are no details on the plan as to where this will be sited or whether there has been consultation with the Environment Agency and the Water Authority.
- A new property in this position (footpath which is little used at night, no CCTV, already the subject of graffiti) would lead to the South Road back gardens being increasingly vulnerable to break-ins
- Application states that there are no trees or hedges on the proposed development site. However, there are number of established trees and hedges located along the west wall which will need to be removed as this wall will be incorporated in the proposed new building.
- Design is to give it a 'workshop/coach house' aesthetic and that it aligns with other buildings further down the lane" Which buildings are these? There are none in Cross Lane visible at all, between South Road and Bank Street.
- Understand the aim of the appearance of this proposed dwelling is to mimic a 'modest' coach house, but we feel this effect is incongruous due to its location and the nature of the terraced houses surrounding it. Also, its design and size is not in keeping with a Victorian coach house
- It is clear that significant thought has been given to the design of the proposed property in terms of its potential impact on the privacy of existing neighbouring properties. However, this exacerbates the problems from a visual perspective, particularly the aspect from the properties on South Road where the plans indicate that there would be an expanse of weatherboarding and roof.
- If a building is to be erected on this site, believe it should be one storey. As many of the concerns relating to the visual impact of the proposed property stem from the fact that it is a two storey building
- In the neighbouring properties while there are a couple of single storey garden structures, such as summer houses, these are entirely in keeping with the large gardens in which they sit.

- The workshop/coach house aesthetic does not work due to the non-authentic and excessive use of banks of skylights
- While Faversham does indeed have some 2 storey workshops or coach houses, they are almost exclusively associated with current or former pubs and shops. As such, while this aesthetic may fit in with some parts of the conservation area it is not architecturally appropriate in this specific setting of substantial Victorian family homes
- Add to the parking problems of the neighbouring roads and should be considered
- There is no parking provision at the site
- A family house of this size, particularly if older family members are being accommodated, will almost certainly require more than the one parking space provided by the Tanner Street garage
- The proposed building does not conform to the 2010 Building Regulations,
- There is no vehicular access what about Fire Engines, Deliveries and bin collection
- The application states this is an environmentally friendly design however it gives no evidence beyond stating it will comply with building regulations, which is a legal requirement rather than an ambition, and some vague suggestions
- How would the construction take place, would Cross Lane be closed?
- The build itself will also cause disruption in terms of noise and dust
- The use of heavy machinery along Cross Lane during construction may cause subsidence into our garden
- If permission was granted for this building it would set a precedent as there are other neighbouring gardens which also have rear access and possible building space.
- The design and access statement indicates that there have been informal discussions with the planning department about this application - to the extent that the plan is described as being designed 'in conjunction with Swale Borough Council's planning and conservation department'. I would like to understand, in the spirit of transparency, to what extent this plan has been preapproved or socialised to decision makers already?
- The planning application states that there are no trees or shrubs on the site or adjoining it, which is incorrect

6.02 The Faversham Society commented that the application should be refused as there is no precedent within the gardens of South Road for back land development of residential units. Also that the house will be out of character with the appearance of Cross Lane and the proposal would result in significant harm to the character and appearance of the Conservation Area.

6.03 Faversham Pools commented that they have operated for over 50 years and provided pleasure for more than 200,000 visitors during the summer months. They acknowledge that on the busy days noise from visitors to the pools can be heard by residents in the surrounding properties more than 50m away. This application is only 1.5m from the boundary wall. They raised concern that Cross Lane could possibly be closed due to the construction. Furthermore the pool has 6 staff parking bays adjacent to Cross Lane which would not be available to contractors' vehicles. They also state the safeguarding policy would have to be reviewed as the application would closely overlook the bathers.

7.0 CONSULTATIONS

7.01 Faversham Town Council originally discussed the proposal on 15 December and recommended no objection, subject to full protection being given to the existing brick walls bounding Cross Lane. They then reconsidered the proposal at their 8 February meeting and offered no comment pending receipt of further information

7.02 Kent Highway Services commented that the development proposal does not meet the criteria to warrant involvement from the Highway Authority in accordance with the current consultation protocol arrangements.

7.03 Kent Fire & Rescue Services comment that access to the site for them, is inadequate. Consideration has also been given to on site access as required by Building Regulations Approved Document B and British Standard 9991.

In particular they comment:

1. The width of the access to the site is inadequate; a minimum of 3.7m is required as defined in the above guidance.
2. The access to the dwelling is over 45m from the parking place for a fire appliance; the variation detailed in British Standard 9991 can be applied to extend this distance to 90m by the installation of domestic sprinkler system in the dwelling.

8.0 BACKGROUND PAPERS AND PLANS

8.01 Application papers, plans and correspondence fro application 15/509814/FULL

9.0 APPRAISAL

9.01 The site is located within the built up area boundary of Faversham and as such the principle of an additional dwelling here is acceptable. However what needs to be assessed is whether the proposal “preserves or enhances the conservation area” and also the impact on the amenity of local residents and the occupiers of the proposed new dwelling of its location.

9.02 The application site is located within the Faversham conservation area, and an assessment of the character of the area is critical in understanding the impact of the proposed dwelling.

9.03 The adopted Conservation Area Character Appraisal (2004) describes the area consisting of Cross Lane and the Central Car Park as follows:

‘8.20. Cross Lane, running parallel with Stone Street, is a well-used footpath linking the town centre with the residential areas to the west. Rather broad at its western end it passes between brick-built garden walls, then close to Bank Street it is fronted by a run of C19 houses. Near to Preston Street, however, it squeezes alley-like between brick walls and old timber-framed buildings. The main town centre car park, established in 1952, is rather uncompromisingly juxtaposed with the outstanding historic environments of Preston Street, Market Place and West Street. It also provides the means of rear servicing to many town centre properties; in a number of instances the rear boundaries and yards abutting the car park are rather unattractive in appearance. Leslie Smith Drive, the service road at the back of West Street, has foreshortened the original property curtilages. The substantial bulk of the swimming pool, built, in the 1980s, marks the western edge of the car park, and the small Arden theatre building stands alongside.’

9.04 In the western half of Cross Lane (which runs between South Road to the west and the central car park to the east) leaving aside the bulk of the large modern buildings containing the Swimming Pool, Arden Theatre and Health Centre, the distinct impression one gains is of an attractive area of rear gardens positioned either side of the largely C19 brick walls bounding each side of the lane. Individual pedestrian gate

entrances punctuate the walls and the only notable vertical intrusions into this leafy green area come in the form of trees punctuating the skyline in places.

- 9.05 There are a number of buildings located within this area characterised by walls, trees and shrubs and with the backdrop of the rear elevation of Victorian townhouses on South Road and Stone Street, but as these are either single storey in form and/or very modest in scale.
- 9.06 The proposed building is to have a two storey element to an eaves height of 4.4m and a roof ridge height of 7.2m. This is very different in character and appearance to the existing buildings in the locality which do not intrude into the tranquil leafy scene in the same way that I suggest the proposed development would, to the detriment of the current attractive and established character and appearance of the area.
- 9.07 In the context of para 132 of the National Planning Policy Framework (NPPF) it states that “great weight should be given to the assets conservation” and the intrusion of a two storey development contrary to the Conservation Area character does not fulfil this aim.
- 9.08 New development can enhance a conservation area, and conservation areas are designated not to prevent any new development taking place, but to help ensure that where development does take place, it is sensitive to the special character of the area and of a high standard of design.
- 9.09 The part of the conservation area in question is not however weak/deficient in character or in particular need of enhancement through sensitively managed change. In this context, whilst I would suggest that the design of the proposed development is not poor per se in terms of its architectural form and/or detailing, it is however very much out of context for its immediate environment.
- 9.10 The shock of the new is of course a factor that often comes into play in the perception of new development, but I consider that a development of this nature at this location is never even likely to ‘blend in’ after a period of time, as it is an area simply not suitable for two storey residential development.
- 9.11 I would also be concerned that despite all applications being determined on their individual merits the approval here could lead to pressure for other submissions. Just one dwelling/two storey building of this scale would be harmful enough to the established character of the area by representing an alien intrusion into it, but further piecemeal/incremental development of a similar nature would in my view give rise to very significant harm.
- 9.12 In the context of paragraph 134 of the National Planning Policy Framework, there are no specific public benefits associated with the proposed scheme to weigh against the Council’s statutory duty (set out in Section 72 of the Planning (Listed Buildings and Conservation Areas) Act, 1990) that *‘special attention shall be paid in the exercise of planning functions to the desirability of preserving or enhancing the character or appearance of the conservation area’*.
- 9.13 Certainly the site would provide one unit to help the Council meet its defined housing target, but there are plenty of other sites that can also provide this function without giving rise to harm to such a designated heritage asset.
- 9.14 There has been considerable public interest and comment on this application and I have considered all the comments in coming to my recommendation.

- 9.15 I would however address a number of pertinent issues, Firstly the development's siting next to a well-used and much valued public facility of Faversham Pools. The building is to be located approx. 1.5m from the boundary wall and as such will be very close to the outside pool and grassed area and as it is acknowledged that this area does give rise to significant noise disturbance I would be concerned as to the impact on the residents of the proposed dwelling of this noise during the summer months when the area is heavily used and the outside space of the property would be in use. However, incoming residents will be aware of this when deciding to occupy the property and the noise is for only a limited part of the year, over defined opening hours.
- 9.16 Furthermore the outlook in this direction from the pool area is characterised by the existing trees along the boundary and the rear of the houses of South Road and Stone Street being some distance away. The siting of the proposed property at approx. 1.5m from the boundary is likely to be imposing and overbearing to a substantial degree. Its impact would be exacerbated were it to result in the shadowing of the pool site.
- 9.17 Considering the amenity of the residents of South Road or Stone Street the proposed dwelling would be approx. 40m from the rear of the properties and as such whilst I appreciate their view would be altered the proposal would not result in overlooking or loss of privacy to a degree likely to warrant grounds for refusal.
- 9.18 The proposal will not have any vehicular access and provides a garage in Tanner Street, due to the sites town centre location close to all transport, services and facilities I find this would not be an obstacle to development.
- 9.19 There have been protracted discussions with the applicant and their architect regarding the proposal. Whilst I note the comments in the submission the interpretation of some of the informal advice does appear to have been promoted to a level beyond that which was given by officers. The Council offers pre application advice and as in this case, advice was given between 2013 and 2015 that whilst accepting the principle of development here officers rejected the design and scale of many of the proposals.
- 9.20 It is also not unusual, nor necessarily an indication of support, following lengthy revisions that it is recommended by Officers that a planning application be made. This is so it can go through the formal process of determination with all the necessary details and supporting documentation provided together.

10.0 CONCLUSION

- 10.01 This is a proposal for a single house in the rear garden of 19 South Road, as the site is located in Faversham conservation area the impact of the proposal needs to be carefully considered. The formal determination of the application required the full details of the scheme and for it to be considered in the context of the immediate vicinity. The two storey element of the proposal is an intrusion contrary to the conservation area character of the vicinity and does not fulfil the aim of preserving the character of the area and thus the heritage asset. The design is also out of context for its immediate environment and is unlikely over time to "fit in" with the area.

11.0 RECOMMENDATION – REFUSE for the following reasons:

11.01 By reason of its siting and scale, and in particular its height, the proposed development would read as an alien and intrusive form of development in an attractive part of the Faversham conservation area characterised by established rear gardens located either side of Cross Lane, where the only notable vertical intrusions into this leafy green area come in the form of trees punctuating the skyline in places. The proposed development would therefore fail to preserve or enhance the character or appearance of the Faversham conservation area at the location in question contrary to Swale Borough Local Plan 2008 (saved) Policies E1, E19 and H2 Bearing Fruits 2031: Swale Borough Local Plan (Publication Version Dec 2014) Policies DM14, DM33 and CP8

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.

PLANNING COMMITTEE – 10 March 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 – 24 Admirals Walk, Minster**

APPEAL DISMISSED

Observations

DELEGATED REFUSAL:

Full support for the Council's decision.

- **Item 5.2 – 11 Range Road, Eastchurch**

APPEAL ALLOWED

Observations

DELEGATED REFUSAL:

A disappointing decision, but one that provides clear direction that the Council's five-year housing supply shortfall must be afforded great weight towards approving residential development in the countryside.

- **Item 5.3 – Howt Green Farm, Sheppey Way, Bobbing**

APPEAL ALLOWED PLUS COSTS AWARDED AGAINST THE COUNCIL

Observations

AGAINST OFFICER RECOMMENDATION:

A decision that fully endorses the appellant's case against the refusal of planning permission.

- **Item 5.4 – Moth's Field, Denstroude Lane, Dunkirk**

APPEAL DISMISSED

Observations

DELEGATED REFUSAL:

Full support for the Council's decision.

- **Item 5.5 – The Ponderosa, 48 Keycol Hill, Bobbing**

APPEAL DISMISSED

Observations

DELEGATED REFUSAL:

Full support for the Council’s decision.

- **Item 5.6 – Land at Cedar Lodge, Whybornes Chase, Minster**
SW/14/0516 APPEAL DISMISSED
14/506851 APPEAL ALLOWED

Observations

COMMITTEE REFUSALS AGAINST OFFICERS’ RECOMMENDATION

Clear decisions in which the Inspector supported Member’s view that semi-detached dwellings would be out of character with the area; but however that a single detached dwelling would cause no harm to local amenity.

- **Item 5.7 – The Old Bindery, Butcher’s Field, Throwley**

APPEAL ALLOWED

Observations

APPEAL AGAINST CONDITION OF DELEGATED DECISION:

This site now has a very complex planning history. Despite the Inspector making it quite clear that the Council’s decision to grant a very carefully worded permission was entirely consistent with that of three previous Inspectors, and a permission which he has essentially supported; he has removed the requirement to re-position the largest caravan on the site, which was one of the main controls on the permission that a previous Inspector felt necessary to enable the previous temporary permission to be granted. In fact, he has removed any controls over where caravans can be parked, which is very disappointing given the very obvious sensitivity of the site.

- **Item 5.8 – 2 Greenacres, Holywell Lane, Upchurch**

APPEAL DISMISSED

Observations

ENFORCEMENT APPEAL:

A good decision, and full support for the Council.

- **Item 5.9 – Land at Vicarage Lane, Ospringe**

APPEAL DISMISSED

Observations

ENFORCEMENT APPEAL:

Very clear support for the Council's action, with the Inspector making only minor changes to the enforcement notice despite the appellant appealing on numerous grounds.

This page is intentionally left blank



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: 15 January 2016

Appeal Ref: APP/V2255/W/15/3131894
24 Admirals Walk, Halfway, Kent ME12 3AY

- 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 Stephen Kingsman against the decision of Swale Borough Council.
 - The application, Ref 15/501570/FULL, dated 11 February 2015, was refused by notice dated 16 July 2015.
 - The development proposed is a new two bedroom detached bungalow.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this appeal are the effect of the proposal on the character and appearance of the area and the effect of the proposal on the living conditions of the occupiers of neighbouring properties with regard to outlook and provision of amenity space.

Reasons

Character and Appearance

3. The site currently accommodates a hardstanding parking area for No 24 Admirals Walk, but which fronts Banner Way. However, from my site visit I saw that there is a level area for parking to the front of the building at No 24. There is also a gravel parking area to the side and front of the building at No 22. As these parking areas already exist, frontage parking for Nos 22 and 24 would not occur as a direct result of the development.
 4. The properties in Banner Way have garages or parking spaces to the side of the dwellings providing the opportunity for parking other than on their frontages. The bungalow would be the same width as the other dwellings in Banner Way, but because the plot would be narrower than the other plots in Banner Way there is no provision for parking to the side of the bungalow and the only parking area is on the frontage. The lack of space to the side of the dwelling for car parking would result in the development appearing cramped, and the comments in the officer's report stating that that the site is too small for a dwelling, supports my view. Due to this cramped effect, and the provision of the parking area exclusively on the frontage of the plot, the
-

Appeal Decision APP/V2255/W/15/3131894

development would appear incongruous in the street scene and would be harmful to the character and appearance of the area.

5. Furthermore, despite the unattractive appearance of the site in the street scene currently, I do not consider that this justifies the development proposed.
6. Accordingly the development would fail to accord with policies E1, E19 and H2 of the Swale Borough Local Plan 2008 (SBLP) which require development to be appropriate to its location and surroundings. It would also be contrary to the Council's adopted Supplementary Planning Guidance: Designing an Extension, which provides guidance on the provision of car parking.

Living Conditions

7. The land in the vicinity of the site is sloped such that the rear garden of No 22 is approximately 1.5 metres higher than the site. The rear boundary of No 22 comprises a trellis fence approximately 1 metre high and accordingly the outlook from the rear of the bungalow at No 22 would primarily be of the gable end roof of the development. The gable end would be very close to this adjacent bungalow and would appear intrusive when viewed from the windows on its rear elevation. This would detrimentally affect the outlook from this property to the detriment of the living conditions of its occupiers. Additionally, due to topography, any boundary screening that could be provided within the appeal site to mitigate for this intrusive effect, and secured by condition, would be excessively tall when seen from the appeal site and would be overdominant.
8. As the site is wholly owned by the occupiers of No 24 and does not appear to be used by the occupiers of No 22, the development would not reduce the amount of private garden space available to No 22. It would however result in the private garden area to No 24 being reduced by around half to approximately eight metres in depth. Whilst the resultant garden may be sufficient for the appellant, I must consider all future occupiers of the property. To that end the proposed garden would be too small to provide private amenity space of a sufficient size to facilitate everyday recreational activities that an occupier would reasonably expect to be able to carry out. I note that the garden to No 22 is of a similar depth, but that garden is wider than that at No 24 and some additional space is provided to the side of that dwelling.
9. Therefore due to the adverse impact on the living conditions of the occupiers of No 22 in respect of their outlook, and on the current and future occupiers of No 24 with regard to the resultant size of the rear garden, the development would be contrary to Policy E1 of the SBLP which aims to ensure residential amenity is not harmed.

Conclusion

10. For the reasons given above, and taking account of all other considerations, I conclude that the appeal should be dismissed.

Andrew Owen

INSPECTOR



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: 28 January 2016

Appeal Ref: APP/V2255/W/15/3135783

Land adjacent to 11 Range Road, Eastchurch, Sheerness, Kent ME12 4DU

- 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 Lee Marshall against the decision of Swale Borough Council.
 - The application Ref 14/506821/FULL, dated 22 December 2014, was refused by notice dated 12 August 2015.
 - The development proposed is a pair of 3 bedroom semi detached dwellings with associated garages and parking.
-

Decision

1. The appeal is allowed and planning permission is granted for a pair of 3 bedroom semi detached dwellings with associated garages and parking at land adjacent to 11 Range Road, Eastchurch, Sheerness, Kent ME12 4DU in accordance with the terms of the application, Ref 14/506821/FULL, dated 22 December 2014, subject to the conditions listed in the attached Schedule.

Main Issues

2. The main issues in this appeal are the effect of the proposal on the character and appearance of the area and whether the development would constitute sustainable development.

Reasons

Character and Appearance

3. The site is within a small settlement dominated by three prisons forming the Sheppy prison cluster and also including a fire station and around 70 dwellings. It effectively comprises an undeveloped corner plot as it faces Range Road to its south and east. The adjacent development to the north is a row of two-storey, semi-detached properties and the dwellings to the west are of a similar form, design and appearance. There is a playing field to the rear of the site, Swaleside prison car park to the south and a paddock opposite. The paddock and the car park are visually separated from the site by bushes and hedgerows of around five metres in height and hence contribute little to the visual context of the site. As a result the site relates more strongly to the neighbouring residential development than to the rural land opposite. Consequently the development would have little impact on the character or appearance of the countryside.
-

Appeal Decision APP/V2255/W/15/3135783

4. The dwellings on Range Road are of a regular form, scale and appearance being exclusively semi-detached, two-storey properties constructed of red or yellow brick and accompanied in parts by hanging tiles or weatherboarding. The development would reflect this form and scale and would incorporate weatherboarding at first floor level. The building would differ from the adjacent units by being marginally higher, incorporating dormers and having half hipped roofs. However these differences would not result in the development appearing incongruous in its setting.
5. The garage to the rear of plot 1 would be detached from the main house and would front the part of Range Road that runs parallel to the south boundary of the site. The garage would be largely screened from views from the west by the boundary fence and by a large tree that is positioned just beyond the south west corner of the site. The driveway in front of this garage would project forward of the rest of the development and would be visible in the street scene. However even when a car is parked on here, the driveway would not appear unduly prominent in the street scene. Indeed many of the other properties along Range Road have driveways forward of the dwelling. As such, in this respect the development would also not appear incongruous in its setting.
6. Consequently the development would not harm the character and appearance of the area, including the countryside, and would comply with Policy E1 of the Swale Borough Local Plan (SBLP) which seeks to ensure development is appropriate to its location, and Policy E19 of the SBLP which requires development to be of a high quality design.

Sustainable Development

7. It is not disputed that the Council cannot demonstrate a five year supply of housing land. In such circumstances, paragraph 49 of the National Planning Policy Framework advises that relevant policies for the supply of housing should not be considered up to date. Policies H2 and RC3 of the SBLP relate to the provision of housing and so should not be considered up to date. Policy E6 of the SBLP relates to development generally in the countryside and should also be considered out of date in so far as it relates to housing supply. As such, I can give these policies only limited weight.
8. The presumption in favour of sustainable development is set out in Paragraph 14 of the Framework. It adds that where relevant policies are out of date, planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the Framework as a whole, or where specific policies in the Framework indicate development should be restricted.
9. The Framework identifies three dimensions to sustainable development: economic, social and environmental, and states that planning needs to perform roles in all three dimensions. It is necessary to consider the proposal in terms of all three roles to establish whether it constitutes sustainable development.
10. The site is located outside the defined settlement of Eastchurch, being approximately $\frac{3}{4}$ mile from the settlement boundary and around 1 mile from the village centre and the goods and services available there. Church Road, which links the Sheppy prison cluster to the village centre, does have a footway along its length and some lighting and so provides a safe pedestrian access to the village centre. Furthermore, on Church Street there is a bus stop around

Appeal Decision APP/V2255/W/15/3135783

300 metres from the site which is served by three bus services providing links to the village centre and larger towns further afield. Accordingly because of the site's accessibility to goods, services and public transport links, the provision of housing in this location would support the well-being of the village and help to perform the social role in sustainable development.

11. The prison cluster dominates the context of the site, and the appellant has commented that the neighbouring houses were originally built to house prison staff and their families. It is not unreasonable to consider that the prisons could provide employment opportunities for future residents of the dwellings which would be accessible by walking or cycling. Furthermore there may also be a short term gain for the local economy during the construction period. Consequently, the development would contribute to the local economy and fulfil the economic role.
12. As set out above, the immediate area has a primarily domestic character and therefore no harm would be caused to the character or appearance of the countryside as a result of the development. As such the development would protect the countryside and the environmental role would be met.
13. In terms of complying with specific policies in the Framework, Paragraph 55 advises that isolated homes in the countryside should be avoided. However due to the size of the settlement within which the site is located and the links to the village centre, I do not consider that the development would be isolated.
14. In summary, there would be no adverse impacts arising from the proposed dwelling, there would be benefits when considered against the Framework as a whole and there are no specific policies in the Framework which indicate that development should be restricted. For all the above reasons, I find that the proposed dwelling would constitute sustainable development as defined in the Framework. The development would also accord with Policy H2 of the SBLP which supports sustainable forms of development, and Policy E6 of the SBLP which requires development to protect the character of the countryside.

Conditions

15. I have considered the conditions put forward by the Council against the requirements of the national Planning Practise Guidance and the Framework. Where necessary and in the interests of clarity and precision, I have altered the conditions to better reflect this guidance.
16. In addition to the standard timescale condition, I have attached conditions for the avoidance of doubt, to protect the character and appearance of the area, in the interests of sustainable development, in the interests of highway safety and in the interests of the residential amenity of neighbouring residents. Some conditions require compliance prior to the commencement of development so that the effects of the development are properly mitigated for.

Conclusions

17. For the reasons given above, and taking account of all other considerations, I conclude that the appeal should be allowed and planning permission granted subject to the conditions in the attached Schedule.

Appeal Decision APP/V2255/W/15/3135783

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: 14.48.01B, 14.48.02B and 14.48.03A.
- 3) No development shall take place until samples of the materials to be used in the construction of the external surfaces of the building hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 4) 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 have been taken to ensure that the development incorporates sustainable construction techniques such as water conservation and recycling and energy efficiency. Such measures shall be carried out as approved.
- 5) No development shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority and these works shall be carried out as approved before the occupation of the development. These details shall include existing trees, shrubs and other landscape features; schedules of plants noting species (which shall be native species), plant sizes and proposed numbers/densities where appropriate, means of enclosure, hard surfacing materials and an implementation programme.
- 6) If within a period of five years from the date of the planting of any tree or shrub that tree or shrub, or any tree or shrub planted in replacement, is removed, uprooted, destroyed, dies, or becomes, in the opinion of the local planning authority, seriously damaged or defective, another tree or shrub of the same species and size as that originally planted shall be planted in the same place, unless the local planning authority gives its written approval to any variation.
- 7) No dwelling shall be occupied until the garages and vehicle parking and manoeuvring areas have been provided within the site in accordance with drawing No 14.48.01B.
- 8) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification), the garages, vehicle parking and manoeuvring areas shall be kept available for vehicle parking and manoeuvring at all times.
- 9) Construction works shall not take place outside 0730 hours to 1900 hours Mondays to Fridays and 0730 hours to 1300 hours on Saturdays nor at any time on Sundays or Bank Holidays, unless with the prior written approval of the Local Planning Authority.
- 10) 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 in writing by the local planning authority. The approved Statement shall be adhered to throughout the construction period unless any variation has been approved by the local planning authority.



Appeal Decision

Site visit made on 24 November 2015

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

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

Decision date: 28 January 2016

Appeal Ref: APP/V2255/W/15/3133538

Howt Green Farm, Sheppey Way, Bobbing, Sittingbourne ME9 8QP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by AC Goatham & Son against the decision of Swale Borough Council.
 - The application Ref 14/505985/FULL, dated 18 November 2014, was refused by notice dated 4 March 2015.
 - The development proposed is described as 'proposed change of use of land for creation of hardstanding to site 16 mobile homes for 52 weeks of the year for occupation by seasonal agricultural workers along with associated engineering works'.
-

Decision

1. The appeal is allowed and planning permission is granted for proposed change of use of land for creation of hardstanding to site 16 mobile homes for 52 weeks of the year for occupation by seasonal agricultural workers along with associated engineering works at Howt Green Farm, Sheppey Way, Bobbing, Sittingbourne ME9 8QP in accordance with the terms of the application, Ref 14/505985/FULL, dated 18 November 2014, subject to the conditions set out in Appendix A of this decision.

Procedural Matter

2. At the appeal statement stage, the local planning authority informed the Planning Inspectorate that *'having reappraised the decision of the Planning Committee, Members have resolved that the Council is unable to present a case defending the reason for refusal of the application. Therefore, Swale Borough Council has decided not to contest the appeal.'* Nonetheless, there is no indication that the original decision notice has been quashed and therefore the appeal submitted by the appellant remains to be determined. I have proceeded on this basis.

Main Issue

3. The main issue is the effect of the proposed development on the character and appearance of the area.

Reasons

Character and appearance

4. The appeal site is located adjacent to Sheppey Way with the area to be used for the stationing of caravans currently an orchard. There are a number of
-

www.planningportal.gov.uk/planninginspectorate

Appeal Decision APP/V2255/W/15/3133538

larger warehouse type buildings on the site, which appear to be used for the storage of produce grown on the adjoining and nearby land. I also saw that the area surrounding the buildings is used for the storage of produce in wooden crates and for the turning and storage of tractors and other vehicles with areas of hardstanding. To the rear of the site there are 16 existing mobile homes, with associated parking area. Public vantage points are provided from Sheppey Way and the restricted Byway ZU48A, from which, it is clear that the site is used for agricultural purposes.

5. The proposed location of the mobile homes would be in the south-eastern corner of the site. This is partially screened by an established hedge along the road. The appellant has indicated on the submitted drawings that further landscaping would be provided within the appeal site, and this would further reinforce the screening of the mobile homes when viewed from Sheppey Way and from the byway near to the entrance into the site. Furthermore, I consider that a planning condition could reasonably be used in order to ensure that the current landscaping is reinforced, which would lessen the visual impact. The visibility of the proposal also needs to take account of the backdrop of the larger agricultural buildings to their rear; which would also lessen their prominence within the street scene. Both of these factors would reduce the visual impact, and would mean that the proposed development would not appear as an incongruent feature at odds with the agricultural and rural landscape adjacent to the Sheppey Way.
6. I therefore conclude that the provision of 16 mobile homes for seasonal agricultural workers and associated engineering works would not result in material harm to the character and appearance of the area. Accordingly the proposed development would accord with Policies E1, E9 and E19 of the Swale Borough Local Plan 2008, which, amongst other aims, seek to ensure that developments are well sited and of a scale, design and appearance that is appropriate to the location with a high standard of landscaping. It would also accord with the aims of the National Planning Policy Framework, which seeks to ensure that planning policies support economic growth in rural areas in order to create jobs and prosperity.

Other Matters

7. A number of concerns have been raised by neighbours; I now consider these before coming to an overall conclusion. Concerns have been raised as to the collection and drop off point for seasonal workers, however it is clear from drawing 2254/P/10C that it would be located near to the existing mobile homes and a condition requiring this to be the sole pick up and drop off point would not be unreasonable in order to protect nearby residential amenity. I am also mindful that the local highways authority is satisfied that the proposal would have more than an insignificant impact on the highway, and I see no reason not to concur given the scale of the development proposed.
8. In terms of localised flooding, there is little evidence before me that demonstrates that the appeal site or nearby is affected by specific flooding issues. Nevertheless, a condition requiring details of surface and foul water drainage could be used to ensure that the development does not introduce any specific issues in this respect from the proposed development. Concerns have been raised in terms of the need for further mobile homes on the site and the general management of the site. However there is no indication from the

Appeal Decision APP/V2255/W/15/3133538

Council, through evidence such as environmental health or police complaints for example, that any reported anti-social or site management issues have occurred in the past or would arise from the 16 mobile homes sought in this case.

9. The general demand for apples in the market place has been questioned, but it is unclear how this is relevant when the appellant, who appears to have farmed local land for a number of years, clearly considers that they require further accommodation for seasonal workers. Furthermore, there is no cogent evidence before me which supports this assertion. Questions have been raised in terms of the fact that workers may not be local and could come from across the European Union. However, the origination point of seasonal workers and the right to work within the UK is not a planning justification for refusing permission.
10. Having taken into account the other matters raised, I do not find, whether individually or cumulatively, they amount to justification for the refusal or planning permission and therefore the dismissal of the current appeal scheme.

Conditions

11. The Council have suggested a number of conditions. I now consider in light of the Planning Practice Guidance and Paragraph 206 of the National Planning Policy Framework in terms of the use of planning conditions. A condition requiring the proposal to be carried out in accordance with the submitted drawings is necessary for the avoidance of doubt. Details of the disposal of foul and surface water are necessary in order to prevent ground water pollution and flooding. Conditions requiring details of wildlife mitigation measures, soft landscaping and that a dark green colour is used are reasonable to ensure that the proposal enhances local biodiversity and does not adversely affect the character or appearance of the rural location. This should also include conditions relating to the boundary treatments proposed, including the acoustic fence.
12. A condition restricting hours of construction work is necessary in order to reduce noise, disturbance and nuisance levels for local residents at evenings, weekends and bank holidays. However the hours suggested, from 07:30 to 19:00 would be a large part of the day and it would not be unreasonable to impose a shorter time period of 08:00 to 18:00 in order to protect nearby residential amenity. For similar reasons, conditions requiring precautions to limit construction vehicles depositing mud on the highway, restricting the use of external lighting, and that a single pick up and drop off point is used would be reasonable and necessary in this case. Conditions restricting occupation of the mobile homes, the numbers and remediation measures when they are no longer required are necessary and reasonable in order to protect the rural character of the area.

Overall Conclusion

13. For the reasons given above, and having taken into account all matters raised into account, I conclude that the appeal should be allowed.

Cullum J A Parker

INSPECTOR

Appeal Decision APP/V2255/W/15/3133538

Appendix A – List 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: 2254/P/10 C and 3307/DR 001 rev A.
- 3) Prior to the commencement of development hereby approved, full details of the method of disposal of foul and surface waters shall be submitted to and approved in writing by the local planning authority. The approved details shall be implemented prior to occupation of the development hereby approved and thereafter retained.
- 4) Prior to the commencement of development hereby approved, a report demonstrating how the proposal will incorporate measures designed to encourage and promote local biodiversity and wildlife shall be submitted to and approved in writing by the local planning authority. The approved details shall be implemented prior to occupation of the development hereby approved and thereafter retained.
- 5) No construction work, including demolition or engineering operations, shall take place outside 08:00 hours to 18:00 hours Mondays to Fridays and 08:00 hours to 13:00 hours on Saturdays, nor at any time on Sundays or Bank or Public Holidays.
- 6) Prior to the commencement of the development hereby approved, full details of adequate precautions to be taken during the period of construction to prevent the deposit of mud and or other debris on the public highway arising from the development hereby approved shall be submitted to and approved in writing by the local planning authority. The approved details shall be implemented as approved until the works have been completed.
- 7) No development shall take place until full details of soft landscape works have been submitted to and approved in writing by the local planning authority and these works shall be carried out as approved. These details shall include details of fencing, planting schedules of plants, (including indigenous species and of a type that would enhance or encourage local biodiversity), plant sizes and numbers where appropriate and an implementation programme. Such details shall also include planting to reinforce the existing mature hedgerow to the south west of the proposal and the proposed mixed native species hedgerow to the north west of the proposal as shown on drawing 3307/DR001 rev A.
- 8) All soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development or in accordance with the programme agreed with the local planning authority. Any trees, shrubs or other plants that die, is removed or becomes seriously diseased within 10 years of planting shall be replaced with one of an original similar size and type.
- 9) Prior to the commencement of the development hereby approved, details of a 3 metre high acoustic fence to be located along the boundary with Sheppey Way, shall be submitted to and approved in writing by the local planning authority. The approved details shall be erected prior to occupation of any of the mobile homes and thereafter retained.

Appeal Decision APP/V2255/W/15/3133538

- 10) The mobile homes hereby permitted shall be used for the purpose of seasonal workers accommodation in association with agriculture as defined by Section 336(i) of the Town and Country Planning Act 1990, as amended (or any definition which replaces it) and for no other purpose including Class C3 (residential) of the Use Classes Order 1987, as amended. The total number of seasonal agricultural workers accommodated within the mobile homes hereby permitted shall not exceed 50 persons (including immediate family members). Such accommodated seasonal workers should undertake work for AC Goatham & Son only (or any successor in title).
- 11) Prior to occupation of the mobile homes hereby permitted, details of the dates of occupation of the mobile homes shall be submitted to the local planning authority. Such details shall include a period of five months in any year during the apple and pear harvest between 1 July and 30 November where all 16 mobile homes may be occupied. It shall also contain details of which of the four of the mobile homes shall be used for human habitation until 31 December of that same year. Thereafter, none of the mobile homes should be used for human habitation until the start of the next harvest season, unless stated otherwise in the submitted details. The submitted details should also include details of how occupancy would be monitored so as to ensure that the condition is reasonably complied with, such as a log book of occupation dates and this shall be made available for inspection by the local planning authority.
- 12) Should any of the mobile homes become redundant or unused for two consecutive years for the purposes set out in Condition 10, they shall be removed from the site and the land restored to its original conditions; that is the hardstanding removed and the land restored to its natural state as farmed land. Should all the mobile homes be removed under this condition, the fences subject to condition 7 and 9 of this permission shall be removed within 3 months of the cessation of the use and removal of the mobile homes.
- 13) At no time shall there be more than 16 mobile homes stationed or stored within the area of the appeal site. Furthermore the caravans shall only be sited in the area shown on drawing 2254/P/10 C.
- 14) The mobile homes shall be coloured dark green in colour as set out in the Landscape and visual impact assessment and thereafter retained in such colour.
- 15) No floodlighting, security lighting or other external lighting shall be installed or operated at the site, other than in accordance with details submitted and agreed in writing by the local planning authority. Such details shall include a statement as to the need for the lighting, the hours and frequency of operation, the areas of illumination and beam angles, and the number and location of any lighting. Thereafter any lighting details shall be installed as agreed and retained in that condition.
- 16) Details in the form of cross-sectional drawings through the site, of the existing and proposed site levels shall be submitted to and approved in writing by the local planning authority before work commences and the development shall be completed strictly in accordance with the approved levels.



Costs Decision

Site visit made on 24 November 2015

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

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

Decision date: 28 January 2016

Costs application in relation to Appeal Ref: APP/V2255/W/15/3133538 Howt Green Farm, Sheppey Way, Bobbing, Sittingbourne ME9 8QP

- 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 AC Goatham & Son for a full award of costs against Swale Borough Council.
 - The appeal was against the refusal of planning permission for 'proposed change of use of land for creation of hardstanding to site 16 mobile homes for 52 weeks of the year for occupation by seasonal agricultural workers along with associated engineering works'.
-

Decision

1. The application for an award of costs is allowed in the terms set out below.

Reasons

2. The application for costs was made and responded to on the basis of the Planning Practice Guidance issued on 6 March 2014 (the Guidance). The Guidance, advises that costs may only be awarded against a party who has behaved unreasonably and this has directly caused another party to incur unnecessary or wasted expense in the appeal process.
3. The appellant considers that the Council has acted unreasonably by refusing planning permission when the agreed Statement of Common Ground (SOCG) agrees that *'there are no planning considerations which render the scheme unacceptable and that the appeal should be allowed without delay in accordance with the requirements of the National Planning Policy Framework'*. The appellant goes on to provide five areas where they consider the Guidance are relevant. Put simply, that the unnecessary and wasted expense incurred are a result of having to make a needless appeal.
4. The Council's response deals solely with the fact that they do not consider that high level legal advice sought by the appellant was necessary given the issues raised. They also point out that the appeal procedure was set by the Planning Inspectorate, not the Council, and therefore it would be unfair for the Council to cover the costs in preparing for a Hearing.
5. The Council refused planning permission on 4 March 2015, following a committee meeting on 19 February 2015 where the officer's recommendation was to grant permission subject to conditions. The motion leading to this refusal was limited to *'it was over-intensive and would have a detrimental impact on the visual amenity of the area'*. No other reasoning to support this

www.planningportal.gov.uk/planninginspectorate

Costs Decision APP/V2255/W/15/3133538

stance has been provided within either the Council's statement of case or the planning committee minutes. Nor has any further reasoning been provided within the Council's rebuttal of the application for costs. It would, therefore, be difficult for the objective observer to understand firstly; what concerns the Council actually had in practice and secondly; whether conditions could be reasonably used to mitigate the impact.

6. These factors are further compounded by the apparent about-turn by the local planning authority, who's Planning Committee on 15 October 2015 decided, for an unspecified reason, not to contest the appeal. Instead, it is now considered by the Council that there are no planning considerations that render the scheme unacceptable. In practice, this means that the appellant has had to unreasonably incur the costs in preparing for the appeal due to this unsubstantiated lack of contesting the original decision. This is a completely unreasonable stance by the Council, which has not been adequately explained. Nor has any effort been made to either quash the original planning decision made in March 2015 or invite a further application from the appellant. Indeed, if permission had been granted by the Council in March 2015, as its uncontested stance implies, there would have been no need for the appellant to have appealed the decision. The Council has therefore acted unreasonably and the appellant has as a result incurred unnecessary and wasted expense.
7. I acknowledge that the appeal was to be considered by Hearing. However, after careful consideration of the case file, the various points raised, the issues at hand, and the views of local residents, the appointed Inspector considered that the Written Representations procedure would be appropriate and ensure a fair, impartial and open consideration of the appeal scheme. This change of procedure followed the Council's withdrawal of their sole reason for refusal somewhat late in the appeal process. In any case, the specific amount of any costs sought is a matter for the parties to resolve themselves, as detailed in the costs order.
8. I therefore find that the costs involved in addressing the key issue of the refusal, and the subsequent need to appeal, do represent an unnecessary expense for the applicant. I therefore find that unreasonable behaviour resulting in unnecessary expense, as described in the Guidance, has been demonstrated and that a full award of costs is justified.

Costs Order

9. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Swale Borough Council shall pay to AC Goatham & Son, the costs of the appeal proceedings described in the heading of this decision.
10. The applicant is now invited to submit to Swale Borough Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount. In the event that the parties cannot agree on the amount, a copy of the guidance note on how to apply for a detailed assessment by the Senior Courts Costs Office is enclosed.

Cullum J A Parker

INSPECTOR

www.planningportal.gov.uk/planninginspectorate

2

This page is intentionally left blank



Appeal Decision

Site visit made on 18 January 2016

by **David Reed BSc DipTP DMS MRTPI**

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

Decision date: 4 February 2016

Appeal Ref: APP/V2255/W/15/3135870

Moth's Field, Denstroude Lane, Dunkirk, Kent CT2 9LA

- 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 J Amos against the decision of Swale Borough Council.
 - The application Ref 15/504285/FULL, dated 13 May 2015, was refused by notice dated 8 September 2015.
 - The development proposed is conversion of barn building to residential dwelling with associated car parking and residential curtilage.
-

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether the proposal for the conversion of the building to a dwelling is justified in relation to relevant planning policies for the countryside.

Reasons

Justification in relation to relevant planning policies

3. The appeal relates to a recently constructed barn situated on an agricultural smallholding on the south side of Denstroude Lane opposite two semi-detached cottages. The building, which is not yet completed, is about 10 m x 20 m in size, about 3.4 m to the eaves and about 7 m high to the ridge. The proposal is to convert the barn into a three bed dwelling with integral garage, involving a series of window and door openings together with roof lights.
4. The site lies in the open countryside some distance from the nearest hamlets of Dunkirk, Dargate and Hernhill. In such areas policy E6 of the Swale Borough Local Plan 2008 (the Local Plan) seeks to protect the quality, character and amenity value of the countryside, and restricts new housing development to certain limited circumstances. One of these is potentially relevant to the appeal, namely the re-use or adaptation of an existing rural building in accordance with policy RC6.
5. However, in this case the building was only recently permitted for agricultural use and has not yet been completed nor used for its intended purpose. Two nearby landowners have refused consent for a connection to mains electricity across their land, the nearest possible connection would be prohibitively expensive and the use of a generator or solar panels would be uneconomic. On-site electricity is essential for keeping livestock on the smallholding.

www.planningportal.gov.uk/planninginspectorate

Appeal Decision APP/V2255/W/15/3135870

6. The appellant has thus been prevented from using the barn for agricultural purposes as intended. However, it remains unexplained why construction of the barn was commenced before a suitable electricity connection had been secured. Permission for the barn was granted on 6 June 2012 and the details of materials and landscaping were submitted on 10 October 2012. Work to construct the barn commenced on 10 November 2012¹, but this was after initial discussions with neighbouring landowners over an electricity connection had revealed the lack of agreement². In any event, the decision to proceed with construction was at the appellant's own risk, and therefore the inability to use the building for agricultural purposes can only be given limited weight in the determination of this appeal.
7. Policy RC6 of the Local Plan allows the conversion of rural buildings for residential purposes in certain circumstances, but not if there is an adverse effect on the countryside or an unsustainable travel pattern would result. The first criterion has added importance because the site lies within the defined Blean Woods Special Landscape Area (SLA). The National Planning Policy Framework (NPPF) states in paragraph 55 that new isolated homes in the countryside should be avoided unless there are special circumstances, which include, inter alia, where the development would reuse redundant or disused buildings and lead to an enhancement to the immediate setting.
8. The barn is designed for agricultural use and is not at all out of place in a rural area. However, it is large and if converted would become a substantial residential property in contrast to the modest vernacular semi-detached cottages nearby. The amount of fenestration inevitably involved, including the first floor gable end windows and roof lights, even if reduced by condition, would significantly change the character of the building, giving it a domestic appearance. This, together with the creation of a residential curtilage with landscaped garden and other domestic features such as sheds, clothes drying and play equipment would not enhance the setting of the building and would lead to a marked loss of rural character. Despite a tree screen along the road frontage the building is visible from both directions along the lane and from a public footpath which runs next to the smallholding.
9. In addition, contrary to the appellant's view, the building is relatively isolated from nearby hamlets and about 4 km from the villages of Boughton and Blean with their wider range of services and facilities. There is no public transport nearby. Consequently, the occupants of the new dwelling would inevitably have to rely on private transport and the proposal would not therefore represent a sustainable pattern of development.
10. For these reasons the proposal is not justified in relation to relevant planning policies for the countryside. It would cause significant harm to the character and appearance of the countryside and would not enhance the immediate setting of the building. Furthermore, it would not comprise a sustainable pattern of development. This would be in conflict with policies H2, E6, E9, E19 and RC6 of the Local Plan which seek to restrict new houses outside defined built-up areas, protect the quality, character and amenity value of the landscape, particularly in the Blean Woods SLA, secure development that is sympathetic to its context and resist the conversion of rural buildings which would adversely affect the countryside or lead to unsustainable travel patterns.

¹ Invoice from Blatch and Green dated 20 August 2013

² Emails dated 21 and 22 October 2012

Appeal Decision APP/V2255/W/15/3135870

It would also conflict with paragraph 55 of the NPPF which seeks to avoid new isolated homes in the countryside unless there are special circumstances which are not met in this case.

Other matters

11. The Council accepts that at present it cannot demonstrate a five year supply of deliverable housing sites and consequently the housing supply policies of the Local Plan are out of date. However, the proposal would only make a small contribution to this supply, a single dwelling, and this factor can therefore only be given limited weight in this appeal given the objections that have been identified.
12. A recent appeal decision to approve a detached dwelling outside the settlement boundary at The Firs, Dunkirk Road South, Dunkirk is quoted as a precedent³. However, the site forms part of an existing large garden and there are other properties along the road. In contrast, the appeal site comprises an agricultural smallholding in open countryside with only a pair of semi-detached properties in the vicinity.
13. I have carefully considered all the other arguments raised in favour of this appeal. These include the negotiations that took place over the design of the barn (although that was in the context of its use for agricultural purposes), the small number of vehicle movements that would arise (potentially less than an agricultural use), the potential for enhanced landscaping, the proposed reduction in the hard surfaced area, and the additional security that would result from occupation, avoiding the potential misuse of the site. However, none of these benefits or arguments outweigh the objections that have been identified in respect of the main issue.

Conclusion

14. It is recognised that the appellant has been frustrated in his efforts to use the building as intended and the proposal would have a number of benefits including the provision of a new dwelling. However, the adverse impacts of converting the barn in relation to the character and appearance of the countryside and the unsustainable nature of the development significantly and demonstrably outweigh the benefits when assessed as a whole.
15. Having regard to the above, the appeal should be dismissed.

David Reed

INSPECTOR

³ APP/V2255/W/15/3004335

This page is intentionally left blank



Appeal Decision

Site visit made on 19 January 2016

by David Reed BSc DipTP DMS MRTPI

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

Decision date: 4 February 2016

Appeal Ref: APP/V2255/W/15/3137042

The Ponderosa, 48 Keycol Hill, Bobbing, Kent ME9 8ND

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr & Mrs D Blythe against the decision of Swale Borough Council.
 - The application Ref 15/500815/OUT, dated 9 February 2015, was refused by notice dated 8 September 2015.
 - The development proposed is a two storey detached three bedroom dwelling and new single storey pitch roof double garage within ground of 48 Keycol Hill.
-

Decision

1. The appeal is dismissed.

Preliminary matter

2. The application was submitted in outline with approval also sought at this stage for the access. All other matters are reserved for later determination. However, the description of the application specifies that the development would be a two storey detached three bedroom dwelling with a single storey pitch roof double garage for No 48 Keycol Hill. I have dealt with the appeal on that basis, treating the proposed site plan as illustrative only.

Main Issues

3. The main issues are:
 - the effect of the proposal on the character and appearance of the street scene; and
 - highway safety in relation to the access arrangements.

Reasons

Character and appearance

4. The appeal site lies on the northern side of Keycol Hill within a cluster of residential development which lines both sides of the A2. The site itself forms part of the large curtilage of No 48 which lies to one side of the property and currently contains a single storey triple garage. This would be demolished and replaced with a two storey house together with a new double garage for No 48.
5. The site is already occupied by built development, albeit a large single storey garage. Although the properties on either side, Nos 48 and 46, are bungalows, these are unusual with the majority of houses nearby being two storey

www.planningportal.gov.uk/planninginspectorate

Appeal Decision APP/V2255/W/15/3137042

detached or semi-detached properties. In particular, to the west of No 48, on the road frontage in front of No 46 and on the southern side of Keycol Hill there is two storey development.

6. The proposed house would be at a higher level than the road but that is the case with all the properties on the northern side of the road. The house would not however be prominent when approaching along Keycol Hill from the west as it would be set behind the building line of No 48 and the two storey houses which form Nos 50 – 60. From the east the house would be screened by the pair of semi-detached cottages on the road frontage, Nos 42/44.
7. There would be some loss of openness when passing immediately in front of the site. At present the site forms part of a short length of single storey buildings comprising the large bungalow No 48, the existing triple garage and a single storey pool building which would remain. Next to this are Nos 46 and 40, two bungalows on much higher ground with higher ridgelines as a result. However, the loss of openness would be minimal because the new house would have a relatively narrow frontage, would be set well back from the road, and would remain flanked by single storey buildings - a replacement double garage and the retained swimming pool building.
8. The appellants' statement comments that, notwithstanding the description of the development, they would also be willing to accept a bungalow on the site. This would reduce the loss of openness compared to a two storey house and would also be acceptable.
9. For these reasons the proposal would not cause significant harm to the character and appearance of the street scene and would comply with Policies E1 and E19 of the Swale Borough Local Plan 2008 (the Local Plan). These require development to protect and enhance the built environment, to be well sited and of a scale, height, massing and appearance that is appropriate to the location and surroundings.
10. The site lies outside the defined built-up area of Sittingbourne in the Local Plan. However, the site forms part of an established residential area, does not comprise open countryside or form part of a low density housing area which might warrant protection as an integral part of the wider rural environment. Consequently, there would be no conflict with the aims of Policies E6, SH1 and H2 of the Local Plan which seek to protect the quality, character and amenity value of the wider countryside by resisting new housing outside defined built-up areas.

Highway safety

11. Approval is sought for the access as part of this application. The proposed dwelling would share an existing access drive from the busy A2 with three other properties, Nos 44, 46 and the host property 48. However, the highway authority considers that the existing access is not suitable to accommodate additional traffic without increasing its width to 4.8 m for at least 10 m from the carriageway. This would allow two vehicles to pass in the access drive and avoid vehicles either waiting in the highway or reversing into it, thus causing disruption to passing traffic.
12. The appeal site does not include the land necessary to widen the access in this way and it would comprise operational development outside the scope of the

www.planningportal.gov.uk/planninginspectorate

2

Appeal Decision APP/V2255/W/15/3137042

current application. Although the land on one side of the access is within the appellants' control no plan has been submitted to clearly demonstrate that a satisfactory access could be provided. In these circumstances the ability to provide safe access to the site has not been proven and a Grampian condition would not be appropriate.

13. For these reasons it has not been established that the access arrangements would be satisfactory in relation to highway safety. The proposal could therefore potentially cause a highway danger contrary to Policies E1 and T1 of the Local Plan which require development to provide safe vehicular access and not intensify the use of an existing access unless it can be improved to an acceptable standard.

Conclusion

14. The proposal would not result in significant harm to the character and appearance of the street scene and would provide the benefit of an additional dwelling. However, the outstanding concerns in respect of highway safety mean that the appeal should be dismissed.

David Reed

INSPECTOR

This page is intentionally left blank



Appeal Decisions

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: 9th February 2016

Appeal A Ref: APP/V2255/W/15/3062027

Land at Cedar Lodge, Whybornes Chase, Minster-on-Sea, Sheppey, Kent, ME12 2HZ

- 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 Keith French against the decision of Swale Borough Council.
- The application Ref: SW/14/0516, dated 17 April 2014, was refused by notice dated 9 December 2014.
- The development proposed is described as 'demolition of existing bungalow and proposed development of two semi-detached dwellings'.

Appeal B Ref: APP/V2255/W/15/3062073

Land at Cedar Lodge, Whybornes Chase, Minster-on-Sea, Sheppey, Kent, ME12 2HZ

- 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 Keith French against the decision of Swale Borough Council.
- The application Ref: 14/506851/FULL, dated 29 December 2014, was refused by notice dated 6 May 2015.
- The development proposed is described as 'demolition of existing bungalow and proposed detached house'.

Decisions

1. Appeal A is dismissed.
2. Appeal B is allowed and planning permission granted for a detached house at land at Cedar Lodge, Whybornes Chase, Minster-on-Sea, Sheppey, Kent, ME12 2HZ, in accordance with the terms of the application, Ref: 14/506851/FULL, dated 29 December 2014, subject to the conditions at Annex 1.

Main Issue

3. The main issue in both appeals is the effect of the proposals on the character and appearance of the area.

Reasons

4. Two alternative schemes are before me. Appeal A proposes two semi-detached dwellings, whilst Appeal B proposes a detached single dwelling. The appeal site

Appeal Decision APP/V2255/W/15/3062027 & 3062073

was previously occupied by a bungalow with a generous garden. The bungalow has been demolished, and a new detached house is nearing completion on the northern portion of the site. The southern portion of the site, formerly part of the garden, comprises the area for these proposals. Land levels slope down towards the north, with the adjacent property to the south, 'Santorini', set at a higher level. The site is located in a residential area of varied character and contrasting house designs, of different ages, with a wide range of materials and finishes. There is a mix of bungalows and two storey houses. The road is unmade in this section.

Appeal A – two dwellings

5. I appreciate that the appellant has sought to achieve a high quality design. The dwellings would have front gables either end and the roofs would be hipped. To reduce the building's bulk, part of the ground floor accommodation would be provided in a single storey projection. The first floor windows on the rear elevation would serve stairways and bathrooms, and be high level to minimise overlooking to the rear. The proposed palette of materials would include a mix of brick, weatherboarding and render that would provide variety and interest.
6. All that said, I have serious concerns about the scheme. The two semi-detached dwellings, occupying this relatively constrained plot, would appear shoe-horned on to the site. Minimal separation would be provided to the side boundaries, with the dwellings spanning virtually the entire plot. This would result in a cramped and overbearing appearance. The proposed undercroft area to the front elevation, to enable vehicle parking, with an overhanging first floor, would be quite different in appearance from other houses nearby, and appear discordant and visually intrusive in this location.
7. For these reasons, I find that the proposal would harm the character and appearance of the area. It would conflict with Policies E1 and E19 of the Swale Borough Local Plan ('the Local Plan'). Together, these require development proposals to reflect the positive characteristics and features of the site and locality; and to be appropriate in respect of design, scale, height and massing. It would also conflict with Policy H2 which requires, amongst other things, house types and sizes to be appropriate to the location and nature of the site. I reach my conclusion notwithstanding the original Council officer's recommendation.

Appeal B – one dwelling

8. The dwelling has been attractively designed to incorporate a mixed palette of materials, including brick, render and weatherboarding finishes. It would incorporate various traditional architectural features, such as a hipped roof and a front gable. In contrast to Appeal A, adequate space would be retained about the building to avoid a cramped appearance, or an unneighbourly effect. Furthermore, no undercroft parking is proposed in this scheme, but an integral garage which would result in a more pleasing visual appearance. I consider the dwelling would be appropriately assimilated in the area without appearing discordant.
9. The first floor windows on the rear elevation would serve stairways and bathrooms, and be high level to minimise overlooking to the rear, thereby

Appeal Decision APP/V2255/W/15/3062027 & 3062073

addressing residents' privacy concerns. No windows are proposed on the flank walls for similar reasons. Ground floor accommodation would be partially provided in a single storey projection to reduce the bulkiness of the building, and lessen the effect on neighbouring properties. Adequate parking spaces within the site means on street parking should be minimised.

10. In contrast to Appeal A, I find that this proposal would not harm the character and appearance of the area, and would comply with Policies E1, E19 and H2 of the Local Plan.

Conditions

11. 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 landscaping are necessary to preserve the character of the area. A condition relating to car parking and garaging is necessary to ensure proper provision for such facilities. A condition restricting additional windows and doors is necessary to protect living conditions at neighbouring properties. A condition relating to sustainable building techniques is necessary to ensure that the scheme complies with the Government's sustainable objectives. A condition controlling the hours of building work is necessary to reduce the risk of disturbance to neighbouring properties during the construction stage. Where necessary, I have reworded the suggested conditions for succinctness, to avoid duplication and to accord with the PPG.

Conclusion

12. In reaching my decision, I have carefully considered residents' concerns, as well as the Parish Council's comments, regarding both schemes. However, in respect of Appeal B, I do not consider the concerns to be sufficiently well founded for the appeal to fail. For the reasons explained above, I conclude that Appeal A should be dismissed, but that Appeal B should be allowed.

Matthew C J Nunn

INSPECTOR

Appeal Decision APP/V2255/W/15/3062027 & 3062073

Annex 1 – 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: 14/2476/100; 13/2476/12E.
- 3) No development shall take place until details of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 4) The landscaping works, including hard and soft landscaping, shown on the approved plans shall be carried out within 12 months of the completion of the dwelling, 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) The dwelling shall not be occupied until the garage and car parking spaces shown on the approved plans have been provided, and those areas shall thereafter be permanently kept available at all times for the parking of vehicles.
- 6) 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), no additional doors or windows, or other openings, shall be inserted within the side elevations of the dwelling hereby permitted, apart from those authorised by this permission.
- 7) The development shall be carried out in accordance with the sustainable construction measures specified in the Sustainability Statement accompanying the application, unless the local planning authority gives written approval for any variation.
- 8) Demolition or construction works shall not take place outside 0730 hrs to 1800 hrs Mondays to Fridays, 0830 hrs to 1300 hrs on Saturdays, and at no time on Sundays and Bank Holidays.



Appeal Decision

Hearing held on 5 January 2016

Site visit made on 5 January 2016

by **S J Papworth DipArch(Glos) RIBA**

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

Decision date: 10 February 2016

Appeal Ref: APP/V2255/W/15/3131746

The Old Bindery, Butcher's Field, Almshouse Road, Throwley Forstal, Kent ME13 0PJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
 - The appeal is made by Mr Nelson Scamp against the decision of Swale Borough Council.
 - The application Ref 14/505965, dated 23 November 2014, was approved by notice dated 21 April 2015 and planning permission was granted subject to conditions.
 - The development permitted is the material change of use of land to a mixed use as a caravan site for the stationing of caravans used residentially, use for horse keeping and use of a building as stables, as originally approved by appeal decision (APP/V2255/C/11/2151258) dated 28 November 2011, without complying with conditions 1 (temporary permission), 2 (clearance of site) and 5 (site development scheme) of the appeal decision.
 - The conditions in dispute are as follows:-
 - Number 1); 'The use hereby permitted shall be carried out only by Mr Nelson Scamp and shall be for a limited period, being the period of 2 years from the date of this decision, or the period during which the premises are occupied by Mr Nelson Scamp, whichever is the shorter'.
Reason; 'In recognition of the personal circumstances of the applicant'
 - Number 2); 'When the land ceases to be occupied by Mr Nelson Scamp, or at the end of 2 years from the date of this decision, whichever shall occur first, the use hereby permitted shall cease and all caravans, structures, materials and equipment brought onto it in connection with the use shall be removed. At that time any laurel, photinia or eucalyptus or coniferous plants on the land shall also be removed.'
Reason; 'In the interests of the amenities of the area.'
 - Number 5); 'The use hereby permitted shall be carried out only in strict accordance with the scheme for internal layout of the site (the scheme) approved by the Council on 7 June 2013 under the requirements of condition 5 of appeal decision APP/V2255/C/11/2151258 dated 28 November 2011. The requirements of the scheme shall be adhered to in full including repositioning, or removal, of the mobile home currently stationed outside the area hatched black (the area known as the yard area) on the 1;1,000 scale A4 size plan labelled Plan 2 submitted with the application, and the removal of the foundations and filling in of the foundation holes of the mobile home to restore the land to its condition prior to the excavation of the foundations. No residential use of the land, no stationing of any caravan or mobile home, and no stationing, parking or storage of any vehicle, equipment or article or item related to the residential occupation of the site shall be carried on other than within the area hatched black (the yard area) on the 1:1,000 scale A4 size plan labelled Plan 2 submitted with the application.'
Reason; 'In the interests of the amenities of the area.'
-

Appeal Decision APP/V2255/W/15/3131746

Decision

1. I allow the appeal and vary the planning permission Ref:14/505965 for the material change of use of land to a mixed use as a caravan site for the stationing of caravans used residentially, use for horse keeping and use of a building as stables, as originally approved by appeal decision (APP/V2255/C/11/2151258) dated 28 November 2011 at The Old Bindery, Butcher's Field, Almshouse Road, Throwley Forstal, Kent ME13 0PJ, granted on 21 April 2015 by Swale Borough Council, by deleting conditions 1), 2) and 5) and substituting for them the following conditions, including restating the undisputed conditions:
 - 1) The use hereby permitted shall be carried out only by Mr Nelson Scamp and shall be for a limited period, being the period of 2 years from the date of this Appeal Decision, or the period during which the premises are occupied by Mr Nelson Scamp, whichever is the shorter.
 - 2) When the land ceases to be occupied by Mr Nelson Scamp, or at the end of 2 years from the date of this Appeal Decision, whichever shall occur first, the use hereby permitted shall cease and all caravans, structures, materials and equipment brought onto it in connection with the use shall be removed. At that time any laurel, photinia or eucalyptus or coniferous plants on the land shall also be removed.
 - 3) Other than the bow-topped, vardo caravan that was on the land on 30 November 2011, no more than 2 caravans as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968, as amended, of which no more than one shall be a static caravan, shall be stationed on the site at any time.
 - 4) No commercial activities shall take place on the land, including the storage of vehicles, plant, products or waste. No vehicle over 3.5t shall be stationed, parked or stored on the land.

Main Issue

2. This is whether the conditions pass the tests in the National Planning Policy Framework, having regard to advice in the web-based Planning Practice Guidance, the planning history of the site, the character and appearance of the area, the supply of gypsy sites, and the personal circumstances of the appellant.

Reasons

Planning History and Preliminary Findings

3. In order to consider the conditions attached to the grant of temporary permission by the Council, it is necessary to consider the findings of previous Inspectors with regard to the use and development of this site, which clearly informed the Council's consideration of the situation when deciding to grant the permission that is now being appealed.
4. APP/V2255/C/09/2108942 and APP/V2255/A/09/2106094 24 February 2010 concerned an enforcement notice and a refusal of planning permission for the residential use of a caravan stationed on land, stationing of a touring caravan with associated hardstanding and landscaping. The Inspector referred to a mobile home positioned to the east of the workshop, which she found

Appeal Decision APP/V2255/W/15/3131746

acceptable as such, as it was clearly visible but the intrusion was muted by its location relative to the workshop, its colouring and its restricted size. She however found harm likely through permanent occupation and attendant domestic items that would become established. She acknowledged that if the appeal were dismissed the mobile home would be able to stay. The location of the site was described as remote from services. It was concluded that the harm was such that permission should not be granted for even a limited period, whilst allowing for personal circumstances and the lack of availability of sites, and that the site was not suitable as a gypsy caravan site. The appeal was dismissed.

5. *APP/V2255/C/11/2151258 28 November 2011* concerned an enforcement notice, and in respect of the deemed planning application the Inspector described the proposal as a material change of use of the land to a mixed use of land for use as a caravan sites for the stationing of caravans used residentially, use for horse keeping and the use of a building as stables. He found harm similar to that which the 2010 Inspector feared, through domestic items and ornamental planting in relation to a new, larger, mobile home. He considered a proposal for a revised site layout and concluded that un-met need, lack of alternatives, and the uncertainty of the Plan-making process at that time were sufficient to grant a three-year temporary and personal permission, having concluded previously that there was no justification for a permanent permission. Conditions were attached which included one similar to the disputed condition 1) of the present permission, a site restoration requirement similar to disputed condition 2) and a condition requiring a site layout to secure the movement of the mobile home into the yard, similar in its aims to the disputed condition 5).
6. *APP/V2255/A/12/2183060 4 April 2013* concerned an appeal against the Council's refusal to approve details submitted pursuant to the above condition 5). The main issue was whether the details submitted would protect the character and appearance of the Kent Downs Area of Outstanding Natural Beauty and the setting of the Throwley Forstal Conservation Area, considerations which had prompted the 2010 Inspector to dismiss the appeal and the 2011 Inspector to attach condition 5). This third Inspector concluded that the submitted details would not protect these designated areas as there would be on-going and unacceptable harm, but he did mention that it would be unreasonable to expect indigenous planting at the boundary in a temporary permission. He described the situation as being an *impasse* and urged the parties to take account of his findings whether favourable to them or not. He acknowledged local support for the appellant and for the steps he had taken to improve the appearance of the site.
7. Subsequently a scheme was submitted which the Council found acceptable and a letter dated 7 June 2013 was sent to the appellant setting out the work to be done and the timescale. It is clear that this work has not been carried out, and the dates mentioned have passed.
8. *14/505965/Full 21 April 2015* This is the permission that is now being appealed against and the Council explained at the Hearing the reasoning behind the amended wording of condition 5). The intentions of all three of the disputed conditions can be traced back through the previous appeal decisions. The application that led to this grant of permission clearly sought in the accompanying letter the ability to retain the mobile home in the original

Appeal Decision APP/V2255/W/15/3131746

position, effectively seeking not to have condition 5) attached, and set out the reasoning why the relocation was not considered practicable. It was argued that a personal permission was applicable, but that there was no need for the permission to be temporary in addition. As can be seen from the bullet points in the heading to this Decision, the permission granted was both temporary and personal, and required the relocation of the mobile home.

9. From the above, it is clear that harm to the Area of Outstanding Natural Beauty has been consistently identified by the Council and that view has been consistently upheld at appeal. The 2010 Inspector was considering a restricted site footprint with no room for mitigation. Although the mobile home then on the site was broadly acceptable as it stood, the likelihood of harmful items through its permanent use was determinative in her findings against the proposal. The 2011 Inspector considered a larger site and a proposal to move the then new, larger mobile home, into the yard. He found that acceptable, but only as a temporary measure while the policy situation was resolved. Inspectors do not generally suggest schemes, and the evidence here is that it was the appellant who suggested moving the mobile home. The Inspector clearly took this offer at face value and that was sufficient to allow him to grant the temporary personal permission. The 2013 Inspector could not remove or vary the condition, but again found harm and that the scheme presented did not do enough to overcome it. The Council's most recent grant of permission is wholly consistent with the previous three appeal findings.

The Conditions

10. It was clarified that the objection to condition 1) was not with regard to this being a personal permission, but to the reference to a time limit in addition, the appellant considering making the permission personal only would be sufficient safeguard against permanent use. For that reason the objection to condition 2) was over the 2 year temporary nature of the permission. The objection to condition 5) centred on the practicality of relocating the mobile home due to its size and the effect relocation would have on the operation and accessibility of the site.
11. The Framework sets out at paragraph 203 the principle that otherwise unacceptable development could be made acceptable through the use of conditions. Paragraph 206 states that planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. These six tests are reiterated in the web-based Planning Practice Guidance (Paragraph: 003 Reference ID: 21a-003-20140306) and the succeeding paragraph sets out key questions to be answered in respect of each of the tests, under the general statement that the six tests must all be satisfied each time a decision to grant planning permission subject to conditions is made.
12. Before looking in more depth at the situation, it is appropriate to consider briefly how the disputed conditions sit with the key questions posed in the Planning Practice Guidance;
 - *Necessary. Will it be appropriate to refuse planning permission without the requirements imposed by the condition? A condition must not be imposed unless there is a definite planning reason for it, ie it is needed to make the development acceptable in planning terms. If a condition is wider in scope*

Appeal Decision APP/V2255/W/15/3131746

than is necessary to achieve the desired objective it will fail the test of necessity. The effect of the present situation on the character and appearance of the Area of Outstanding Natural Beauty and the adjoining conservation area will be considered further in this Decision, as will the effect on these considerations were condition 5) to be complied with, in order to test its necessity. The need for a temporary permission in addition to a personal one will be considered.

- *Relevant to Planning. Does the condition relate to planning objectives and is it within the scope of the permission to which it is to be attached? A condition must not be used to control matters that are subject to specific control elsewhere in planning legislation (for example, advertisement control, listed building consents, or tree preservation). Specific controls outside planning legislation may provide an alternative means of managing certain matters (for example, works on public highways often require highways' consent). This matter can be answered now; the conditions do relate to the planning objectives of protecting a designated landscape and a designated heritage asset. There are no other relevant controls available.*
- *Relevant to the development to be permitted. Does the condition fairly and reasonably relate to the development to be permitted? It is not sufficient that a condition is related to planning objectives: it must also be justified by the nature or impact of the development permitted. A condition cannot be imposed in order to remedy a pre-existing problem or issue not created by the proposed development. The impacts of the development will be considered further, but to the extent that this consideration is different from necessity and reasonableness, the conditions are relevant to an application for a caravan in an Area of Outstanding Natural Beauty and adjacent to a conservation area. It is clear that the personal circumstances of the appellant are relevant.*
- *Enforceable. Would it be practicably possible to enforce the condition? Unenforceable conditions include those for which it would, in practice, be impossible to detect a contravention or remedy any breach of the condition, or those concerned with matters over which the applicant has no control. This matter can be answered now; the evidence is that the appellant suggested condition 5), or at least the location for the mobile home, as mitigation. Whilst there has clearly been a problem and delay in enforcing the condition that is not to say that it is unenforceable; contravention is readily detectable, and the works required are under the control of the appellant.*
- *Precise. Is the condition written in a way that makes it clear to the applicant and others what must be done to comply with it? Poorly worded conditions are those that do not clearly state what is required and when must not be used. This matter can be answered now; whilst the wording of the Council's condition 5) differs from that used by the Inspector in 2011, the intent is clear and there is sufficient reference to other documents to make the requirements clear. The findings of the 2013 Inspector were clear also as to what was required to discharge the previous condition 5).*
- *Reasonable in all other respects. Is the condition reasonable? Conditions which place unjustifiable and disproportionate burdens on an applicant will fail the test of reasonableness. Unreasonable conditions cannot be used to*

Appeal Decision APP/V2255/W/15/3131746

make development that is unacceptable in planning terms acceptable. This will be considered in further depth having regard to the effects and the personal circumstances of the appellant.

Four of the tests therefore; relevance to planning, relevance to the development, enforceability and precision are found to be satisfied in all three conditions. There is a need to look further at necessity and reasonableness.

Character and Appearance

13. The Inspector writing in 2011 identified the main issue in the deemed planning application as *"the suitability of the site as a gypsy and traveller site with regard to the effect on the AONB and Conservation Area and its sustainability and whether any harm is outweighed by other considerations"* and that remains the main point of consideration in testing the necessity of the conditions. The Council's reasons for the conditions are as stated in the bullet point headings above, *"in the interests of the amenities of the area"* and *"in recognition of the personal circumstances of the applicant"*.
14. The site is within the Kent Downs Area of Outstanding Natural Beauty and adjoins the Throwley Forstal Conservation Area, the boundary of which runs along the western boundary of the appeal site between Almshouse Road and the public footpath to the south. Saved Local Plan Policy E1 contains general criteria for all development proposals including responding to the positive characteristics of the site and locality, and protecting and enhancing the natural and built environment. Policy E6 on the countryside sets out the limited circumstances whereby development will be permitted, including being a site for gypsies in accordance with Policy H4. The quality and character of the landscape is to be protected as set out in Policy E9, with the long-term conservation and enhancement of the Kent Downs Area of Outstanding Natural Beauty being a priority over other planning considerations. Policy E15 seeks the preservation or enhancement of the settings of conservation areas. With regard to Policy H4 on gypsy and traveller sites, referred to in Policy E6, the Officers Report which resulted in the appeal permission set out the reasons why only limited weight can now be afforded the policy and those reasons appear correct. In that connection, the 2015 Planning Policy for Traveller Sites sets out at Policy H the considerations for decision makers.
15. The Framework states at paragraph 115 that great weight should be given to conserving landscape and scenic beauty in Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to landscape and scenic beauty; the conservation of wildlife and cultural heritage are important considerations in these areas.
16. There is emerging policy in the Swale Borough Local Plan Part 1 '*Bearing Fruits 2031*' with the Publication Version dated December 2014. Policy DM10 on gypsy and traveller sites has criteria for assessing windfall sites. It appears that it is no longer intended to allocate sites and emerging Policy CP3 will not be continued with. Gypsy and traveller sites are intended to be provided on application through Policy DM10, and the Council explained at the Hearing the view that to avoid the Area of Outstanding Natural Beauty and an area of landscape value along the Swale, the A2 corridor was a likely suitable area.
17. Looking first at the effect on the character and appearance of the area, the findings of three previous Inspectors carry significant weight as the designation

Appeal Decision APP/V2255/W/15/3131746

of the Area of Outstanding Natural Beauty and the conservation area have not changed. But, this must be tested in the light of the present situation, as there have been some changes to the surroundings.

18. It is apparent that the vegetation along the roadside has matured further from that seen previously, and it is the fact that sight of the mobile home is not readily available from the road in passing. Local people have written in support of the way the appellant has tidied the site and praise the planting that has been carried out. However, it is clear from the planning history that this domestic style of planting is one of the previous objections to the development and named species are to be removed on cessation of the use as part of the remediation under Condition 2). The domestic nature of the planting extends the appearance of residential occupancy and hence the extent of the village into what was the countryside, and this is only slightly mitigated by the presence of dwellings opposite. Without the vegetation the gable end of the mobile home would be visible, with the decking and any paraphernalia associated with the use extending the harmful effect further into the open countryside. Whether it is the mobile home if visible, or the planting that is visible, this encroachment is harmful to the character and appearance of the countryside and undermines the natural beauty of the Kent Downs Area of Outstanding Natural Beauty.
19. In views from the footpath to the south-east the present mobile home is clearly visible as a large building with PVCu windows, a pitched roof and decking in front. Any sense that the structure is visually subsumed within the workshop building behind as described by the Inspector in 2010 for a previous smaller mobile home, does not apply now and the structure appears stark and intrusive in the rural landscape. The recently planted conifer hedging could well obscure the view in time, but would itself bring domestic-style planting further into the countryside, adding to encroachment, lessening the natural beauty and more firmly establishing this inappropriate and harmful residential development and the activity that would be associated with it.
20. There has been change in the vicinity of this footpath, firstly with the diversion of the path to separate it from the access to a newly-built house, and secondly in the form of that house which replaces what the Council describe as a poor quality structure. The Council state that effort was put into making sure the approved building responded to the vernacular style of the area, but it appears that the new building is more evident in the landscape than the previous one, and represents an element of encroachment of substantial built form into the land south of the appeal site.
21. There are also three other mobile homes in the area, but they are all to the further, west side of the village. One is justified by an agreed forestry use; another in providing a temporary dwelling while building work progresses, although there appears doubt over whether the work is progressing; and the third has been moved away from a listed building but without permission. In view of the location and circumstances of these cases, little weight can be attached to their existence either as a change to the circumstances of the appeal site or as precedents.
22. Making due allowance for the changes that have been highlighted, the conclusion remains as found by previous Inspectors, and by the Council most recently, that the stationing and use of the mobile home causes harm to the

Appeal Decision APP/V2255/W/15/3131746

character and appearance of the Kent Downs Area of Outstanding Natural Beauty, and adversely affects the countryside setting of the Throwley Forstal Conservation Area. Whilst the harm caused would be somewhat less than previously, the grant of a permanent permission for the mobile home in this position would make the harm permanent and consolidate this inappropriate use in the rural location.

23. The level of harm to the setting of the conservation area is 'less than substantial', a differentiation required between paragraphs 133 and 134 of the Framework. In this case the latter applies and this states that this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use. This matter will be concluded on later in this Decision.
24. Attention has been drawn to the findings of a previous Inspector on a site not far away on Ashford Road, Bradlesmere (APP/V2255/A/14/2219020) in early 2015. She found great harm to the Area of Outstanding Natural Beauty but factored in the best interest of children. In line with advice in Planning Policy for Traveller Sites, this is a reasonable balance to strike, but is one that does not apply in the present case.
25. It is appropriate now to consider the effect of moving the mobile home as required under Condition 5). The Inspector writing in 2011 found that harm would remain to the Area of Outstanding Natural Beauty and the conservation area even then, concluding that a permanent permission was not justified. On the basis of the movement of the large mobile home that still appears a correct analysis of the situation. The ridge-line would likely protrude above the lower parts of the storage barns in views from the footpath. It is accepted that the harm from the present siting would be removed but the workshop would still occupy much of the width, only that much further back, and it is unclear to what extent domestic paraphernalia would be hidden.
26. The appellant also points to shortcomings in the resulting layout of the yard, notwithstanding that it was he who had suggested the move. The present mobile home could be placed somewhat differently than was pegged out at the site inspection, allowing access to both the barn containing the bow-top caravan and the workshops, but the space left by the touring caravan would severely restrict movement for vehicles and horseboxes in particular. These are operational shortcomings but lead to the conclusion that the view from the road, at the entrance to the conservation area, would be of a cluttered and unattractive yard.
27. Another aspect seemingly not before the 2011 or 2013 Inspectors is the view expressed by the occupiers of the adjoining dwelling, Forstal Cottage. They are supportive of the appellant staying on the land and consider that conditions 1) and 2) are unnecessary and unfair. However, they are *'vehemently opposed to the implementation of condition 5) on the grounds that it will detract from their privacy'*.
28. For these reasons, in addition to the harm being too much to allow the mobile home to stay in its present location as a permanent permission, the harm if moved does not diminish sufficiently to allow the mobile home to be placed in the yard as a permanent permission.
29. There is a balance to be struck here, but it is concluded that the difference in the magnitude of harm caused by leaving the mobile home where it is, as

Appeal Decision APP/V2255/W/15/3131746

opposed to relocating it is not now as great as concluded by previous Inspectors. As a result the necessity for condition 5) is not clearly demonstrated as being 'in the interests of the amenities of the area'.

Supply of Traveller Sites and Personal Circumstances

30. There does appear to have been some changes from the time of the grant of the 2011 temporary permission based partly on the supply situation. As that has been acknowledged in the Council's grant of permission, there is no need to look at this in great detail. Of relevance however is the change that has occurred since the Council's grant of permission, and in particular the publication of the revised Planning Policy for Traveller Sites in August 2015.
31. The Council had produced a Gypsy and Traveller Accommodation Assessment in early 2013 and the "Update Paper on Gypsy and Traveller Accommodation Assessment and Policy Implications – Post PPTS (August 2015)" details the process that has been carried out since August. Although a previous survey undertaken did not frame questions to deal with the new definition in Annex 1, the Council considers the information available to be sufficient to address at least part of the issue. Paragraph 4.14 states that, when determining need, the Council has erred on the side of caution by including all need from temporary and unauthorised development, until national practice guidance becomes clear, or the matter is resolved during the Local Plan examination hearings. It is concluded by the Council that the need figure can be revised through 'main modifications' of the emerging Local Plan and they suggest four options for future action.
32. A further update was submitted as the Appeal Statement of September 2015 and elaborated on at the Hearing. The appellant points to further delay and the fact that gypsies are only able to buy land where they can, and not necessarily where the Council or they might want. Doubts were cast over aspects of the assessment and how need would be met, with one site at Brotherhood Woodyard stated to have had its occupancy raised but with a layout that no longer suits traveller's needs with doubt over whether there remains room for touring caravans and individual family utility rooms. This matter was raised by two different Inspectors in appeal Decisions of January 2015 (APP/V2255/A/14/2222135 and APP/V2255/A/14/2219020) and the situation appears largely unchanged to the date of the current Hearing. The balancing of inward and outward migration was claimed by the appellant to be unrealistic, and that with an area so close to London and not having Green Belt, it was considered in-migration would likely be more than out-migration.
33. With regard to the supply of traveller sites, there is evidence of good progress being made by the Council, but the changes introduced in August 2015 to the Planning Policy for Traveller Sites have not been fully tested, with the Council's assumptions over a reduction in people meeting the revised definition not being tested at all. At the least there is further delay resulting, and real doubts over some of the other assumptions referred to in the Update Paper that will only be tested later in the Plan-making process. Notwithstanding the conclusions that a permanent permission would be inappropriate, there is sufficient evidence to conclude that the Council's grant of a temporary permission was reasonable, and remains so now.
34. The appellant's case is that if only a temporary permission can be justified, this would be sufficiently provided for by the permission being personal to Mr

Appeal Decision APP/V2255/W/15/3131746

Scamp. His personal circumstances were accorded weight in the 2011 appeal, and no-doubt in the Council's consideration of the application to extend that permission. Further information was provided to the current appeal on the appellant's health. The evidence is of the site being acquired by the appellant from a relative who had made some use of it previously, and he clearly intends being the occupier of the site for as long as he is able. For those reasons it is reasonable that any permission be personal to him.

35. The change to the definition of a traveller in Planning Policy for Traveller Sites was discussed at the Hearing, it being noted that the Council had struck-out the reference to agreement on Mr Scamp's gypsy status in the draft Statement of Common Ground. The evidence appears to be that he did comply with the previous definition, and he stated his intention to continue trading in horses and to resume his nomadic lifestyle. The definition no longer provides for a permanent cessation on grounds of old age or ill-health, but the appellant, whilst presently in ill-health, does not appear to be of an age that would preclude travelling and the issues in paragraph 2 of the Annex remain for the new definition. On that basis it cannot be concluded that the appellant has permanently ceased travelling.
36. With regard to the harm to the setting of the conservation area, there are public benefits in avoiding the need for Mr Scamp to resort to roadside living, but that is avoided in the grant of a temporary permission. On the evidence available, it is considered reasonable and necessary to restrict the permission to a temporary one, as granted by the Council, as the time period for a personal permission alone could be substantially longer and too long having mind to the effect on the environment previously identified.

Overall Balance and Conclusions

37. The Council granted a two year permission on 21 April 2015 and this would run to April 2017, which is just over the year from the date of the appeal Hearing. The change to Planning Policy for Traveller Sites after the grant of that permission has clearly resulted in some further work on the Plan-making situation and likely resulting delay. It would be reasonable to recognise this in the grant of permission for an extended period, being two years from the date of this Decision rather than from the date of the Council's Decision. As stated previously, the permission should still be personal to Mr Scamp and the temporary permission would cease if he were to vacate the land and end the use prior to the expiry of the temporary period.
38. On the matter of condition 5) however, and on the balance of the reduced harm through the mobile home remaining in its present position against the increased harm (or reduced benefit) of it being moved, the necessity has been described earlier in this Decision as being 'not clearly demonstrated'. Looking at the reasonableness of requiring the move to be carried out, the works would be for only a relatively short period of time, and would put the appellant to expense and effort that he may well not be in the best position to bear, in his present health. The result would, in addition to causing some harm to the neighbours and the public view near the conservation area, cause difficulties to the appellant in gaining access to his property. In the balance it is concluded that the condition is neither necessary nor reasonable and should be deleted.

Appeal Decision APP/V2255/W/15/3131746

Human Rights

39. Article 8 of the European Convention on Human Rights as enshrined in the Human Rights Act 1998, concerns a right to respect for private and family life.
40. The decision that follows from the reasoning above to grant permission for a temporary period of two years would allow Mr Scamp to remain on the land while other issues on the supply of sites are resolved. This would be a proportionate approach to the legitimate aim of protecting the environment, and granting permission for a limited period would have no greater impact on Mr Scamp than would be necessary to address the wider public interest.

Conclusions

41. Having regard to the circumstances that informed the Council's grant of permission, and those pertaining now, conditions 1) and 2) satisfy the tests in the Framework and as reiterated with questions in the Planning Practice Guidance, although the time periods in each case should start again from the date of this Decision in recognition of delay in the Plan-making process. Condition 5) is not necessary and its imposition would be unreasonable in the time period set by conditions 1) and 2), so that condition 5) should be deleted.
42. For the reasons given above it is concluded that the appeal should succeed. The planning permission will be varied by deleting the disputed conditions, substituting new conditions 1) and 2), and restating the undisputed conditions 3) and 4).

S J Papworth

INSPECTOR

Appeal Decision APP/V2255/W/15/3131746

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Graham Thomas BSc(Hons) DipTP MRTPI	Area Planning Officer Swale Borough Council
Shelly Rouse BSc(Hons) MRTPI	Policy Officer Swale Borough Council

FOR THE APPELLANT:

Alison Heine BSc MSc MRTPI	Heine Planning Consultancy
Nelson Scamp	Appellant
Marianne Hilden	In support of appellant

DOCUMENTS

- | | | |
|----------|---|--|
| Document | 1 | "Update Paper on Gypsy and Traveller Accommodation Assessment and Policy Implications – Post PPTS (August 2015)" submitted by Council |
| Document | 2 | Letter Agent to Council 15 April 2013 with details and programme for site layout scheme, and Council response 7 June 2013, both submitted by Council |
| Document | 3 | Appeal Decision APP/V2255/A/14/222135, 28 January 2015, land at Blind Mary's lane, Bredgar, submitted by appellant. |



Appeal Decision

Site visit made on 25 January 2016

by **Katie Peerless DipArch RIBA**

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

Decision date: 17 February 2016

Appeal Ref: APP/V2255/C/15/3095228

2 Greenacres, Holywell Lane, Upchurch, Sittingbourne, Kent ME9 7HP

- 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 P Delaney against an enforcement notice issued by Swale Borough Council.
 - The enforcement notice, 15/500491/OPDEV was issued on 18 May 2015.
 - The breach of planning control as alleged in the notice is the creation of a new entrance on to Holywell Lane, the approximate position of which is highlighted in yellow on the plan attached to the enforcement notice.
 - The requirements of the notice are (i) Restore the land to its original condition using clean soils and materials, a condition similar to the land on either side of the new entrance.
 - The period for compliance with the requirements is two 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.
-

Decision

1. The appeal is dismissed.

Main Issues

2. I consider the main issues on the appeal on ground (a) and the deemed planning application are the effect of the development on the character and appearance of the surrounding countryside.

Site and surroundings

3. The appeal site forms the entrance to a plot of land presently occupied as an unauthorised residential site for gypsies. It is situated in open countryside and served by Holywell Lane, a narrow road designated as a Rural Lane in the adopted Swale Borough Local Plan 2008 (LP).
4. The site included within the red line on the enforcement notice plan does not reflect the fact that the part of the site accessed by the new entrance has been separated from the remainder of the land, which has another entrance further along Holywell Lane to the north. I am, however, told that both the gypsy plots that now exist are unauthorised and the Council has submitted details of an application for planning permission¹ for this use, covering the whole of the 'red line' site, which was refused on 16 June 2015.

¹ Ref: 14/500247/FULL

Appeal Decision APP/V2255/

Reasons

5. The development that has been carried out has removed a substantial section of the embankment forming the sides of the lane, which, together with the vegetation that grows on it, creates a pleasant, green enclosure that is typical of this designated rural lane. The entrance is wide and is located at a point where the embankment is at highest, meaning that the works have left an unattractive and prominent scar which, in my view, detracts from the character and appearance of the surroundings.
6. The appellant has given no explanation of why another access and driveway is necessary at this point. Although it seems clear that the entrance has been created to allow access to the unauthorised residential site, this is not a reason, in my opinion, to accept the harm that has been caused. Unless and until the use is granted planning permission or becomes lawful, the harm caused to the rural location and the loss of a significant section of the embankment is not outweighed by any identified need for the development, which is contrary to LP policy RC7 which seeks to protect the character of rural lanes. It also conflict with LP policies E1(3), which also seeks to protect the positive characteristics and features of the site, and E6 which limits development in the countryside.
7. The LP is under review and the emerging Local Plan 'Bearing Fruits 2031' which, due to its state of progression, can be accorded some weight, contains policies DM26 and DM14 which carry forward the aims and objectives of the corresponding adopted policies. The development is therefore also contrary to these policies.
8. I accept that new planting could reduce the impact of the cutting and soften the harsh appearance of the entrance but without any justification for the entrance, this does not alter my view that the development does not accord with the development plan.
9. It is also the case that there are other access points along Holywell Lane, but they are less obtrusive and do not damage the character of the surroundings to the extent caused by the appeal development. I conclude that they do not set any precedent for allowing this example.

Conclusions

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

Katie Peerless

Inspector



Appeal Decision

Site visit made on 25 January 2016

by Katie Peerless Dip Arch RIBA

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

Decision date: 18 February 2016

Appeal Ref: APP/V2255/C/15/3121548

Land at Vicarage Lane, Ospringe, Faversham, Kent ME13 8XT

- 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 R Cumberland against an enforcement notice issued by Swale Borough Council.
 - The enforcement notice, numbered 14/500478/CHANGE, was issued on 20 April 2015.
 - The breach of planning control as alleged in the notice is the alteration of site access, levelling of the site, provision of access track and turning head and change of use to processing and storage of timber.
 - The requirements of the notice are (i) Cease using the land for processing and storage of timber. (ii) Restore the land to its former state. (iii) Remove any debris associated with complying with (i) and (ii) above from the land.
 - The period for compliance with the requirements is three months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (b), (c), (e), (f) and (g) of the Town and Country Planning Act 1990 as amended.
-

Decision

1. It is directed that the enforcement notice be corrected by the substitution of the plan attached to this Decision for the plan attached to the notice and by the deletion of the words '*alteration of site access*', and '*provision of access track and turning head*' in the allegations. Otherwise, the appeal is dismissed, the enforcement notice is upheld as corrected and planning permission is refused on the application deemed to have been made under section 177(5) of the Town and Country Planning Act 1990 (as amended) (TCPA).

Main Issues

2. I consider the main issues on the appeal on ground (a) and the deemed planning application are the effect of the development on:
 - (i) the character and appearance of the surrounding countryside and the Ospringe Conservation Area;
 - (ii) highway safety and the free flow of traffic in Vicarage Lane and Water Lane and
 - (iii) the living conditions of local residents.

Planning history

3. A planning application for 'Alteration of site access, levelling of the site, provision of access track and turning head, construction of two pole barns and change of use to processing and storage of timber', ref: SW/14/0548, at the site was refused by the Council on 2 March 2015.
-

Appeal Decision APP/V2255/C/15/3121548

Procedural matter

4. The appellant has submitted a Land Registry document showing the area of the site in his ownership, which does not include some of the area enclosed by the red line on the Enforcement Notice. The Council raises no objection to the amendment of the enforcement notice to omit the land that is outside the appellant's control and I can therefore do so without prejudice to either party.

Site and surroundings

5. The appeal site is part of a field lying to the south of the village of Ospringe and within the Ospringe Conservation Area. It is accessed from the north via a field gate on Vicarage Lane and is also bounded by Vicarage Lane to the east. It comprises grassland that rises to the east and to the west lies another field, Water Lane and the church of St. Peter and St. Paul. There are residential properties to the south-west and north.

Reasons

Ground (b)

6. The appellant submits that there has been no alteration to the site access, that there has been no access track or turning head created, that any levelling of the site is a minor operation and that the change from the agricultural use is to forestry. The submissions on whether there is a difference between forestry and the use actually taking place on the land will be considered under the appeal on ground (c), as there is no dispute that the use of the land for the processing and storage of timber is taking place as a matter of fact, as alleged.
7. I saw at the site inspection that the site access appears to be the only entrance to the field and the Council has not explained how it considers it has been altered. A letter from the Council to the appellant dated 4 May 2012 alludes to a possible new access but the appellant says he has always used an existing gateway which has not been altered. In the absence of any evidence from the Council to contradict this, I conclude that the allegation referring to the alteration of the access is incorrect.
8. Similarly, I saw that there has been no access track or turning head 'provided' on the site. Vehicles have obviously accessed the site and this has resulted in depressions being formed by their tyres in the grass and, in places, some hardcore has been laid to fill in the deeper ruts. However, this is such a low key operation that I consider that it does not amount to development and consequently cannot be enforced against. I shall therefore correct the enforcement notice by omitting the references to the alterations to the access and the formation of a track and turning head.
9. It is clear that there have been some changes made to the profile of the land and some cutting into the slope has occurred. This is classified as an engineering operation and although the appellant describes it as 'minor', it has taken place as a matter of fact. The appeal on ground (b) therefore fails in respect of this item.

Ground (e)

10. It is submitted that the appellant was not served properly with the enforcement notice, which was, in fact, issued to his father, who acts as his agent. This came about because Mr P Cumberland had signed the owner's certificate on the planning application noted above.

Appeal Decision APP/V2255/C/15/3121548

11. The land is owned by Mr R Cumberland and his wife, Mrs Susan Cumberland. The appeal is, however, made in the name of Mr R Cumberland, who has consequently not been disadvantaged by the failure to serve the notice on him directly. Mr Paul Cumberland, his father, gives his address as the same as his son and I have no reason to suppose that Mr R Cumberland has not been made aware of the appeal. He also attended the site visit.
12. In any event, s.175(5) of the TCPA provides that any person who has made an appeal against an enforcement notice is not entitled to subsequently claim that the notice was not properly served on them. The appeal on ground (e) therefore fails.

Ground (c)

13. The appellant submits that planning permission is not required for the change of use, as it is a forestry operation. The dictionary definition of 'forestry' is the 'science or art of managing forests'. There are no trees being grown or harvested on the site; all the timber that is processed and stored has been imported from elsewhere. Consequently, the operations that are being carried out are not a forestry use, and would not be exempt from the definition of development that requires planning permission as set out in s.55 of the TCPA.
14. In respect of the changes made to the profile of the land, I consider that this is significant enough to require a grant of planning permission to authorise it. The appeal on ground (c) therefore fails.

Ground (a)

15. The appeal site is in a tranquil valley area of countryside within a conservation area and it contributes to the pleasant rural surroundings outside the built up confines of the village. In such areas policies, E6 and E19 of the Swale Borough Local Plan Local Plan 2008 (LP) seek to protect the quality, character and amenity of the countryside and reinforce local distinctiveness by restricting development to certain categories that require a rural location.
16. As noted above, the operation being undertaken by the appellant does not fall within these categories and is a commercial business that does not need to be undertaken on its current site or in a rural location. It is not associated with any tree felling on the site and would not be limited to works associated with the management of established woodland. The importation of timber and subsequent cutting and distribution of the logs produced could be carried out elsewhere.
17. The operation can be clearly seen from Water Lane, the road that serves the church, and appears as an obtrusive and jarring insertion into otherwise attractive countryside. The noise of the chainsaw operating can also be heard across the valley and I noted it was considerably louder and more disturbing than the background noise of the M2 motorway, which lies some 500m from the site.
18. Consequently, the development harms the appearance of the countryside and detracts from the tranquillity of the surroundings. It also fails to preserve the character of the Ospringe Conservation Area, conflicting with the statutory requirement set out in the Planning (Listed Buildings and Conservation Areas) Act 1990 which requires special attention to be paid to the desirability of preserving the character and appearance of such areas.

Appeal Decision APP/V2255/C/15/3121548

19. I accept that the sound of a chainsaw and logging works can often be found in rural areas and that, at present, the operations taking place on site are limited in extent to a small part of the land in the appellant's ownership. However, the grant of planning permission under the appeal on ground (a) would be for the processing and storage of timber across all of the area contained within the enforcement notice 'red line' plan.
20. Even without any building works, the level of activity could therefore be extensive and become even more intrusive than at present. No planning conditions have been suggested that could overcome this harm or restrict the extent of the operations taking place, other than by limiting the hours of use of the site and the times when machinery could be used on it. I also note that the appellant raises objections to these suggested conditions.
21. In terms of highway safety, there are concerns about the use of the narrow country lanes by commercial vehicles delivering timber to the site. I can understand these concerns but the appellant states that the site is normally only accessed by tractor and trailer with a maximum of 6 lorry movements a year. However, the County Highway Authority has raised objections to the scheme due to the restricted width of the lanes around the site and the possible increase in the amount of traffic using them.
22. I am concerned that, as noted above, the activity on site may not, in future, be limited to the level that takes place at present, as a grant of planning permission would authorise the use of all the area within the enforcement notice plan, not only by the appellant but also by a future owner who might want to make greater use of the facility. Once again, conditions could not limit the expansion of the business within the site boundaries once the land had permission for this commercial use. This could result in an increase in traffic that would prove unacceptable in this rural location. This would be contrary to policy T1 from the LP, which aims to prevent development that would result in a reduction in highway safety. I conclude, therefore, that the risk of additional traffic movements weighs against the development.
23. Local residents have reported disturbance from the noise of the chainsaw and, from what I heard at the site visit, I can understand their concern. The Council has suggested a condition requiring the submission of a noise mitigation scheme but the appellant has objected to this. In any event, I have been given no indication of how, or even if, this could be achieved. The appellant has made reference to a noise report that was submitted with the planning application but this has not been included by either side in the appeal documentation and is consequently not before me.
24. It may well be that the noise produced by the chainsaw would not be at a level that would result in a statutory nuisance but, from my experience on site, there would nonetheless be a degree of harm resulting from the operation as it is now being carried out. This again weighs against the development as there would be a conflict with LP policies E1 and E19, where they seek to protect existing amenity.
25. The wording of the enforcement notice directly relates to the development for which planning permission was sought, and refused. It seems that this is the source of the incorrect allegations but also gives an indication of the appellant's aspirations for his business. Consequently, there is no indication that it would be viable without the other infrastructure for which planning permission was previously sought.

Appeal Decision APP/V2255/C/15/3121548

26. The National Planning Policy Framework (the Framework) notes that sustainable development comprises three strands: social, economic and environmental, which need to be considered together and as a whole. In this case, I have found environmental harm to the countryside and to the designated heritage asset that is the conservation area and through increased noise that has already proved disturbing to local residents. I have also found that the possibility of increased traffic generation is another factor that weighs against the grant of planning permission.
27. I have considered the benefits that the appellant claims the business brings for him and the area in general. I agree that the provision of employment and the production of the logs for fuel are factors that support the application but I am not persuaded that they are sufficient to outweigh the identified harm, given that there is no requirement for the business to operate from this particular site, which is not in a location supported for commercial uses by LP policy.
28. I have also noted the other developments in the Borough that the appellant cites as supporting his case or which he claims shows an inconsistent approach by the Council. However, none of these examples are directly comparable to the circumstances at the appeal site. I also have no information on whether the Council has taken enforcement action against any of them. I have therefore considered this case on its own particular merits.
29. Although the Framework gives broad support for rural businesses, these businesses must represent sustainable development and in this case I consider that the economic and social benefits of the proposal are not sufficient to outweigh the identified environmental harm. Consequently, the business is not sustainable and is not supported by local or national planning policy. In these circumstances, I find no overriding justification for allowing the field to be used for the processing and storage of timber and the appeal on ground (a) fails, as does the deemed planning application.

Grounds (f) and (g)

30. Part of the appeal on ground (f) seems to be based on the assumption that the enforcement notice requires the removal of hedgerows and fencing that the appellant has put in place. This is not the case as these items have not been enforced against in the notice and the requirements can only call for the removal of items, or the cessation of the use, that are in the allegations.
31. The appellant also seeks confirmation that the wood that is already on site can be cut into logs prior to removal if the other grounds of appeal fail. I agree that this would be sensible, given the limited amount of stock on site at the time of the visit, the submission by the appellant that he has already stopped the importation of timber to the site and the need to restrict larger vehicles accessing the site.
32. However, the enforcement notice allows 3 months for the removal of the stock from the site and it seems to me that the cutting of the timber and its removal from site could be achieved in this time. There is consequently no need to vary the requirements under an appeal on ground (f) and during the 3 month period the timber could be cut into logs as requested by the appellant.

Appeal Decision APP/V2255/C/15/3121548

33. The appeal on ground (g) seeks until 1 June 2016 for compliance with the notice and, by the time this Decision is issued, this date will be only just over the 3 months sought by the Council. I conclude that there is consequently no need to extend the time for compliance and the appeal on ground (g) consequently fails.

Katie Peerless

Inspector

Appeal Decision APP/V2255/C/15/3121548



Plan

This is the plan referred to in my decision dated: 18 February 2016

by **Katie Peerless Dip Arch RIBA**

Land at: **Vicarage Lane, Ospringe, Faversham, Kent ME13 8XT**

Reference: **APP/V2255/C/15/3121548**

Scale: NTS



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

Document is Restricted

This page is intentionally left blank

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

Document is Restricted

This page is intentionally left blank