

## AGENDA

### PLANNING COMMITTEE MEETING

Date: Thursday, 8 December 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 (Vice-Chairman), Roger Clark, Richard Darby, Mike Dendor, James Hall, Mike Henderson, James Hunt, Ken Ingleton, Nigel Kay, Samuel Koffie-Williams, Peter Marchington, Bryan Mulhern (Chairman), Prescott and Ghlin Whelan.

Quorum = 3

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Pages

1. Fire Evacuation Procedure

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

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

The Chairman will inform the meeting that:

(a) in the event of the alarm sounding, everybody must leave the building via the nearest safe available exit and gather at the Assembly points at the far side of the Car Park. Nobody must leave the assembly point until everybody can be accounted for and nobody must return to the building until the Chairman has informed them that it is safe to do so; 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 10 November 2016 (Minute Nos. 999 - 1005) 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.

(c) Where it is possible that a fair-minded and informed observer, having considered the facts would conclude that there was a real possibility that the member might be predetermined or biased the member should declare their predetermination or bias and then leave the room while that item is considered.

**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 28 November 2016 (Minute Nos. to follow).

16/506618/FULL 41 Windsor Drive, Sittingbourne, Kent, ME10 1UN  
16/506288/OUT 100 Station Road, Teynham, Kent, ME9 9TB

6. Deferred Items 1 - 5

To consider the following application:

15/510565/FULL, Hand Car Wash, 15-21 Key Street, Sittingbourne

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

Requests to speak on this item must be registered with Democratic Services ([democraticservices@swale.gov.uk](mailto:democraticservices@swale.gov.uk) or call us on 01795 417328) by noon on Wednesday 7 December 2016.

7. Report of the Head of Planning 6 - 147

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

The Council operates a scheme of public speaking at meetings of the Planning Committee. All applications on which the public has registered to speak will be taken first. Requests to speak at the meeting must be registered with Democratic Services ([democraticservices@swale.gov.uk](mailto:democraticservices@swale.gov.uk) or call 01795 417328) by noon on Wednesday 7 December 2016.

8. Exclusion of the 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 5, and 7.

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

9. Report of the Head of Planning 148 -151

To consider the attached report (Part 6).

**Issued on Wednesday, 30 November 2016**

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

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

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## SWALE BOROUGH COUNCIL

### PLANNING SERVICES

Planning Items to be submitted to the Planning Committee

**8 DECEMBER 2016**

#### Standard Index to Contents

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

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

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

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

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

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

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

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ABBREVIATIONS: commonly used in this Agenda

CDA Crime and Disorder Act 1998

GPDO The Town and Country Planning (General Permitted Development) (England) Order 2015

HRA Human Rights Act 1998

SBLP Swale Borough Local Plan 2008

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## INDEX OF ITEMS FOR PLANNING COMMITTEE – 8 DECEMBER 2016

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

### Deferred Items

Def Item 1 Pg 1 – 5	15/510565/FULL	SITTINGBOURNE	Hand Car Wash, 15-21 Key Street
<u>Part 2</u>			
2.1 Pg 6 - 9	16/507069/ADV	SITTINGBOURNE	Sonora Way/Jacynth Drive
2.2 Pg 10 - 13	16/507097/ADV	SITTINGBOURNE	Roundabout junction with A249
2.3 Pg 14 - 20	16/507183/FULL	MILSTEAD	Milstead Primary School
2.4 Pg 21 - 41	16/505280/OUT	SITTINGBOURNE	Land at Swale Way, East Hall Farm
2.5 Pg 42 - 53	16/506068/FULL	NEWINGTON	Land at Callaways Lane
2.6 Pg 54 - 63	16/505956/FULL	BAPCHILD	42-44 The Street
2.7 Pg 64 - 90	16/505982/FULL	SITTINGBOURNE	Depot Eurolink Way
2.8 Pg 91 - 112	16/506081/FULL	SITTINGBOURNE	Site at St Michael's Road
2.9 Pg 113 - 123	16/504551/OUT	MINSTER	Little Oyster Residential Home
<u>PART 3</u>			
3.1 Pg 124 - 129	16/507410/FULL	MINSTER	Land South of 30 Seaside Avenue
3.2 Pg 130 - 137	16/506592/FULL	MINSTER	13 Princes Avenue
<u>Part 5 - Index</u> Pg 138			
5.1 Pg 139 - 140	16/503823/FULL	FAVERSHAM	43 Canute Road
5.2 Pg 141 - 147	14/505609/FULL	HARTLIP	Alpaca Farm, Yaugher Lane

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**PLANNING COMMITTEE – 8 DECEMBER 2016**

**DEFERRED ITEM**

Report of the Head of Planning

**DEFERRED ITEMS**

Reports shown in previous Minutes as being deferred from that Meeting

<b>REFERENCE NO - 15/510565/FULL</b>		
<b>APPLICATION PROPOSAL</b> Part retrospective application for attenuating fence and canopy		
<b>ADDRESS</b> Hand Car Wash, 15 - 21 Key Street, Sittingbourne, Kent, ME10 1YX.		
<b>RECOMMENDATION</b> Approve, subject to the receipt and consideration of any additional comments arising from the reconsultation period (deadline for comments 20/6/16) which will be reported to Members at the meeting.		
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b> The fence does not seriously harm residential amenity and provides protection to residents of 23 Key Street and others from spray and noise pollution and so should be approved.		
<b>REASON FOR REFERRAL TO COMMITTEE</b> At the request of Councillor Baldock		
<b>WARD</b> Borden & Grove Ward	<b>PARISH/TOWN COUNCIL</b> Bobbing	<b>APPLICANT</b> Mr L Kapaj <b>AGENT</b> Woodstock Associates
<b>DECISION DUE DATE</b> 7/07/16	<b>PUBLICITY EXPIRY DATE</b> 08/11/16	
<b>RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):</b>		
<b>App No</b>	<b>Proposal</b>	<b>Decision</b>
15/505017/FULL	Retrospective - Erection of canopy over car wash area	Withdrawn
SW/14/0151	Siting of portacabin and drainage interceptor for car washing operation	Approved
SW/99/0497	Extension to existing vehicle workshop to provide vehicle paint spray booth/oven	Approved
SW/03/1093	Variation of condition (2) of SW/91/1212 and condition (2) of SW/91/1213 to allow 24 hour opening.	Approved
SW/91/1213	Duplicate application for demolition of existing service station and 3 dwellings & construction of new service station, car wash & vehicle service building	Approved
SW/91/1212	Demolition of existing service station and three	Approved

	dwelling, & construction of new service station, car wash & vehicle service building	
SW/90/1034	Reconstruction of existing service station and demolition of 3 dwellings. Provision of new service station and vehicle service building.	Refused
SW/80/0555	Rebuilding of existing garage as mot testing bay new office at rear and minor improvements to front elevation	Approved

## MAIN REPORT

### 1.0 BACKGROUND

- 1.01 Members may recall this application – it was reported to the Planning Committee Meeting on 30<sup>th</sup> June this year, and at that time sought retrospective permission for a canopy and sound attenuating fence, and planning permission for further sound attenuating fencing to the north, at an existing hand car wash at 15-21 Key Street. The original report is attached as an appendix to this report.
- 1.02 At the Meeting, Members resolved to defer the application “to allow for further discussion to consider whether the opening hours could be adjusted, and the length of the acoustic fence.”
- 1.03 Since the Meeting, my officers and Environmental Health Officers have visited the site and held discussions with the applicant and agent. The application has been amended as follows and neighbouring properties have been notified.

### 2.0 DESCRIPTION OF SITE

- 2.01 The site remains as per the previous report. As set out in the previous report, it is important for Members to note that the use of the site as a car wash is lawful, does not in itself require planning permission and is not the subject of this application.

### 3.0 PROPOSAL

- 3.01 The application has been amended to show the canopy extended up to the rear of the adjacent dwelling, and the fence raised slightly to meet the canopy. The fence is not proposed to be extended along the blank flank wall of the adjacent dwelling, as the agent considers this would provide little by way of noise attenuation. Whilst the applicant has not provided any proposal to reduce the operating hours of the car wash, the agent has indicated that he may be willing to reduce the hours of use on a Sunday. The agent advises that current operating hours are 8am -6pm six days a week and 8.30am -5.30pm on Sundays, commenting that:

*With the new canopy arrangement [currently proposed] in place and better sound attenuation he would prefer to not change the hours at all but if it would help ease the path to approval then he would agree to 9am – 5pm on Sundays.*

### 3.0 POLICY AND OTHER CONSIDERATIONS

- 3.01 The National Planning Policy Framework (NPPF) and National Planning Practice Guidance (NPPG) regarding achieving sustainable development; requiring good design; conserving and enhancing the natural environment, which states at paragraph 109;

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

- *preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of soil, air, water or noise pollution or land instability”.*

- 3.02 Development Plan: Policies E1 and E19 of the Swale Borough Local Plan 2008. Policies CP4 and DM14 of the Emerging Local Plan.

#### **4.0 LOCAL REPRESENTATIONS**

- 4.01 Two letters of objection have been received as the result of the re-consultation raising the following issues:

- As the structure is already up and it has little or no sound reducing qualities I am opposed to this proposal.
- I shouldn't be able to hear the car wash over my tv with the doors shut. With the doors open in the summer it was just unbearable. Now they want to add to the existing structure further to create a larger canopy area, this is not going to improve the noise transfer to mine and my neighbours property,
- It's just going to encourage them to stay open later than they already are.
- As other car washes in the area don't have such massive structures covering them and they seem to operate just fine I am not sure why this is required
- The unbearable noise will not disappear as the result of this amendment;
- The use must be made to cease;

No other representations have been received.

#### **5.0 CONSULTATIONS**

- 5.01 The Environmental Services Manager has provided the following comments:

*Provision of a canopy to enclose the area of the car washing bay, sealed at the top edge with the acoustic boundary fence, is in my view the best practical solution to reducing noise and water overspray from the jet washing operation on site.*

*Whilst the combination of acoustic fencing and canopy will have a beneficial affect, it will not eliminate all noise completely due to the juxtaposition of a commercial activity with residential gardens.*

#### **6.0 BACKGROUND PAPERS AND PLANS**

- 6.01 Application papers, plans and supporting statements.

#### **7.0 APPRAISAL**

- 7.01 As I set out above, and at length in the previous report, the use of the site for a car wash is lawful, does not require planning permission, and is not under scrutiny here.

Refusal of planning permission for this scheme would not result in the cessation of the use from a planning point of view, and would simply result (if enforcement action were to be successfully taken) in the removal of the canopy and fence currently constructed on site. The use as a car wash could carry on unfettered by action from the Local Planning Authority.

- 7.02 I note the previous concerns raised regarding highway matters. The development as built and the additional development proposed would not have any impact on highway safety or convenience and I find it acceptable in this regard.
- 7.03 Given the above, the key considerations here are the impact of the development proposed on residential amenity and visual amenity.

### **Visual Impact**

- 7.04 As I set out to Members previously, The fence and canopy have a functional design that is commensurate with that of the petrol filling station and adjacent garage and for this reason is acceptable in my opinion. The proposed extension to the canopy would not in my view cause any significant additional visual impact. The impact of the proposal on the visual amenities of area and the character and appearance of the streetscene are relatively limited in my opinion because of the topography of the site with lower land levels towards the rear of the site and the fact that views of the site from the A2 Key Street are relatively constrained by the side elevation of the petrol filling station shop and that of 23 Key Street.

### **Residential Amenity**

- 7.05 The fence as built and the canopy as built do not in my view harm residential amenity, as I set out in my previous report. The proposed extension to the canopy would have some additional impact on the amenities of any occupier of the adjacent dwelling. However – it would not cause such substantial loss of light or outlook that planning permission should be refused. In addition, I am mindful of the benefit it would give in terms of noise attenuation and prevention of spray.

### **Other Matters**

- 7.06 Members will no doubt be aware that the amendments now proposed do not tally with the reason for deferring this application. Specifically, the resolution of the Planning Committee was to enable discussion relating to the fence and potentially extending it further along the flank of no.23 Key Street, the adjacent dwelling. I am firmly of the view that the scheme now proposed, namely extending the canopy, would be more beneficial in terms of reducing exposure of the future occupiers of this dwelling (which currently lies empty) to spray, and in particular noise. The flank wall of the dwelling is blank, and has no openings. Provision of a noise attenuating fence along this elevation would be of no practical benefit.
- 7.07 In terms of the reduction in hours of use, I have given this matter very careful consideration. As I set out above, the use of the site is lawful, does not require planning permission, and could operate, in planning terms, 24 hours a day without any action being available to the Local Planning Authority to prevent it. I recognise the rationale behind the Committee's deferral of the application, and I note the comments of the agent, as set out in paragraph 3.01 above. However – this issue lies outside of the control of the Local Planning Authority. The application is not an opportunity to impose controls on a use which is lawful and not subject to any planning restrictions. I do not therefore recommend imposing any conditions restricting the hours of use of

the site. Members should be clear – I am not stating that unfettered use of the site is acceptable. I am though clear that it cannot be controlled through the planning system.

## **8.0 CONCLUSION**

8.01 The proposed canopy and fence would not give rise to harm to residential or visual amenity. I recommend that planning permission is granted.

## **9.0 RECOMMENDATION – GRANT** Subject to the following conditions/

CONDITIONS to include

- 1) Prior to the installation of the additional fencing and extended canopy over the car washing area adjoining the residential property, its details and specification shall be submitted to and approved by the Local Planning Authority and once approved, this shall thereafter be installed and permanently retained.

Reason: To secure an acoustic fence and canopy that will effectively reduce noise pollution and spray in the interests of residential amenity.

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

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

Offering pre-application advice.

Where possible, suggesting solutions to secure a successful outcome.

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

In this instance:

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

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

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**PLANNING COMMITTEE – 8 DECEMBER 2016**

**PART 2**

Report of the Head of Planning

**PART 2**

Applications for which **PERMISSION** is recommended

<b>REFERENCE NO - 16/507069/ADV</b>			
<b>APPLICATION PROPOSAL</b> Advertisement consent for 5 x non-illuminated pole mounted sponsorship signs.			
<b>ADDRESS</b> Advertisement on roundabout at Sonora Way/Jacinth Drive, Sittingbourne, Kent, ME10 5SN			
<b>RECOMMENDATION – Approve</b>			
<b>SUMMARY OF REASONS FOR RECOMMENDATION/REASONS FOR REFUSAL</b> The proposal would not give rise to significant harm in terms of highway safety and convenience, and would not significantly harm the character and appearance of the street scene.			
<b>REASON FOR REFERRAL TO COMMITTEE</b> Parish Council objection.			
<b>WARD</b> The Meads	<b>PARISH/TOWN COUNCIL</b> Bobbing	<b>APPLICANT</b> Marketing Force Limited <b>AGENT</b> N/A	
<b>DECISION DUE DATE</b> 22/11/16	<b>PUBLICITY EXPIRY DATE</b> 21/10/16	<b>OFFICER SITE VISIT DATE</b> 25/10/16	
<b>RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):</b>			
<b>App No</b>	<b>Proposal</b>	<b>Decision</b>	<b>Date</b>
None relevant	N/A	N/A	N/A

**1.0 DESCRIPTION OF SITE**

1.01 This modestly sized roundabout forms a junction between Sonora Way, Jacinth Drive, Cinnabar Drive and Quartz Way. It is the main route into and out of The Meads ward.

1.02 There is landscaping on the roundabout, although it is clear at the entry points with good visibility.

1.03 The street scene is typical of a built up, residential location.

**2.0 PROPOSAL**

2.01 The proposal seeks advertisement consent for the erection of 5 non-illuminated pole mounted signs at each entry onto the roundabout.

2.02 They would measure 0.87m in maximum height x 1.219m in maximum width.

- 2.03 The signs would display Kent County Council at the top and would allow sponsors to display company names, logos, short messages and contact details as part of a roundabout sponsorship programme.

### **3.0 PLANNING CONSTRAINTS**

- 3.01 None relevant

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

- 4.01 The National Planning Policy Framework (NPPF) and The National Planning Practice Guidance (NPPG): The NPPF and NPPG are relevant in that they encourage good design and seek to minimise the impact of advertisements on public safety and amenity.
- 4.02 Development Plan: Saved policies E1, E19 and E23 of the adopted Swale Borough Council Local Plan 2008 and policies CP 4, DM 14 and DM 15 of the emerging Swale Borough Council Local Plan Bearing Fruits 2031 are relevant in that they relate to general development criteria and design and the impact of advertisements on safety and amenity.
- 4.03 Supplementary Planning Documents: The Council's adopted Supplementary Planning Guidance entitled "The Design of Shopfronts Signs & Advertisements" is also relevant, and remains a material consideration having been through a formal review and adoption process. It was adopted by the Council in 1993 after a period of consultation with the public, local and national consultees, and is specifically referred to in the supporting text for saved policy E23 of the Local Plan. It therefore remains a material consideration to be afforded substantial weight in the decision making process.
- 4.04 National Planning Policy Framework (NPPF)
- 4.05 The NPPF was released on 27th March 2012 with immediate effect, however, para 214 states "that for 12 months from this publication date, decision-makers may continue to give full weight to relevant policies adopted since 2004 even if there is a limited degree of conflict with this Framework."
- 4.06 The 12 month period noted above has now expired, as such, it is necessary for a review of the consistency between the policies contained within the Swale Borough Local Plan 2008 and the NPPF.
- 4.07 This has been carried out in the form of a report agreed by the Local Development Framework Panel on 12 December 2012. Saved policies E1, E19 and E23 are considered to accord with the NPPF for the purposes of determining this application and as such, these policies can still be afforded significant weight in the decision-making process.

### **5.0 LOCAL REPRESENTATIONS**

- 5.01 2 residential representations objecting to the proposal have been received, raising the following summarised issues:
- Concern for the safety of the public, especially children
  - The roundabout is already dangerous as people drive too fast around it



- Nobody, especially children can see what is coming as you try to cross it
- Drivers will be distracted and may not notice someone, especially children, trying to cross the road
- There can be nothing so important to advertise, or any income great enough, to compromise pedestrian and road users safety

5.02 The Sittingbourne Society objects to the proposal for the following reasons:

- The roundabout carries heavy volumes of traffic and the signs would be a dangerous distraction to drivers negotiating them. Nor will the signs improve the appearance of the town

## 6.0 CONSULTATIONS

6.01 **Bobbing Parish Council** objects to the proposal for the following reasons:

- Foliage has previously been lowered due to issues with visibility, the signs will exacerbate this and add to the hazard

6.02 **Kent County Council Highways & Transportation** raise no objection to the proposal

## 7.0 BACKGROUND PAPERS AND PLANS

7.01 The application reference to which this proposal refers to is 16/507069/ADV.

## 8.0 APPRAISAL

8.01 The application site is within the defined built up area boundary in which the principle of development is acceptable. The main considerations in this case are the impact of the proposal upon highway safety & convenience and visual amenity.

### Highway Safety & Convenience

8.02 I note the concerns regarding highway safety. However, KCC Highways & Transportation have considered the proposal and raise no objection. The roundabout is modestly sized but with clear visibility at each entry point. In my view, the allocated pedestrian crossing points at each junction provide a clear and safe route through the roads surrounding the roundabout, which would not be impacted by the development.

8.03 Furthermore, the signs would be relatively low in height and at least 1m away from the roundabout edge. They would be lower than the majority of the foliage already in situ. They would also be of a black, non-intrusive design. As such, I consider that there would be no serious distraction to drivers or pedestrians, and despite the concern raised, take the view that there would be no serious concern in terms of highway safety and convenience.

### Visual Amenity

8.04 I take the view that the signs would be acceptably designed and given their low level form and the large size of the roundabout, I believe that they would not amount to dominant or intrusive features in the street scene, and would comfortably amalgamate with the character of the urban nature of the main road.

- 8.05 While I accept the view that the signs themselves would not necessarily improve the appearance of the area, I do not believe that they would be significantly harmful so as to warrant refusal of advertisement consent.

## 9.0 CONCLUSION

- 9.01 Taking into account all of the above, I do not consider that the signs would give rise to serious concern in terms of highway safety & convenience or the visual amenity of the area, and recommend that advertisement consent be granted.

## 10.0 RECOMMENDATION – GRANT subject to the following 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.

Reason: In accordance with the provisions of Regulation 2(1) of the Town and Country Planning (Control of Advertisement) (England) Regulations 2007.

- (6) No advertisement shall be illuminated.

Reason: In the interests of the highway safety and the amenities of the area.

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

**REPORT SUMMARY**

<b>REFERENCE NO - 16/507097/ADV</b>			
<b>APPLICATION PROPOSAL</b> Advertisement consent for 6 x non-illuminated pole mounted sponsorship signs.			
<b>ADDRESS</b> Roundabout junction with A249, Key Street, Sittingbourne, Kent, ME10 1YU			
<b>RECOMMENDATION</b> – Approve			
<b>SUMMARY OF REASONS FOR RECOMMENDATION/REASONS FOR REFUSAL</b> The proposal would not give rise to significant harm in terms of highway safety and convenience, and would not significantly harm the character and appearance of the street scene.			
<b>REASON FOR REFERRAL TO COMMITTEE</b> Parish Council objection.			
<b>WARD</b> Borden and Grove Park	<b>PARISH/TOWN</b> Bobbing	<b>COUNCIL</b>	<b>APPLICANT</b> Marketing Force Ltd <b>AGENT</b> N/A
<b>DECISION DUE DATE</b> 22/11/16	<b>PUBLICITY EXPIRY DATE</b> 21/10/16	<b>OFFICER SITE VISIT DATE</b> 25/10/16	
<b>RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):</b>			
<b>App No</b>	<b>Proposal</b>	<b>Decision</b>	<b>Date</b>
None relevant	N/A	N/A	N/A

**1.0 DESCRIPTION OF SITE**

- 1.01 This large roundabout forms a junction between the A2 and A249, and is a main route into and out of Sittingbourne, and onwards to and from the Isle of Sheppey, The Medway Towns and the M2.
- 1.02 There is landscaping on the western half of the roundabout. The eastern half lies above the A249 and is consequently free of landscaping.
- 1.03 The street scene is of a typical, urban, main road.

**2.0 PROPOSAL**

- 2.01 The proposal seeks advertisement consent for the erection of 6 non-illuminated pole mounted signs at each entry onto the roundabout.
- 2.02 They would measure 0.87m in maximum height x 1.219m in maximum width.
- 2.03 The signs would display Kent County Council at the top and would allow sponsors to display company names, logos, short messages and contact details as part of a roundabout sponsorship programme.

**3.0 PLANNING CONSTRAINTS**

- 3.01 None relevant

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

- 4.01 The National Planning Policy Framework (NPPF) and The National Planning Practice Guidance (NPPG): The NPPF and NPPG are relevant in that they encourage good design and seek to minimise the impact of advertisements on public safety and amenity.
- 4.02 Development Plan: Saved policies E1, E6, E19 and E23 of the adopted Swale Borough Council Local Plan 2008 and policies CP 4, DM 14 and DM 15 of the emerging Swale Borough Council Local Plan Bearing Fruits 2031 are relevant in that they relate to general development criteria and design, development in the countryside and the impact of advertisements on safety and amenity.
- 4.03 Supplementary Planning Documents: The Council's adopted Supplementary Planning Guidance entitled "The Design of Shopfronts Signs & Advertisements" is also relevant, and remains a material consideration having been through a formal review and adoption process. It was adopted by the Council in 1993 after a period of consultation with the public, local and national consultees, and is specifically referred to in the supporting text for saved policy E23 of the Local Plan. It therefore remains a material consideration to be afforded substantial weight in the decision making process.
- 4.04 National Planning Policy Framework (NPPF)
- 4.05 The NPPF was released on 27th March 2012 with immediate effect, however, para 214 states "that for 12 months from this publication date, decision-makers may continue to give full weight to relevant policies adopted since 2004 even if there is a limited degree of conflict with this Framework."
- 4.06 The 12 month period noted above has now expired, as such, it is necessary for a review of the consistency between the policies contained within the Swale Borough Local Plan 2008 and the NPPF.
- 4.07 This has been carried out in the form of a report agreed by the Local Development Framework Panel on 12 December 2012. Saved policies E1, E6, E19 and E23 are considered to accord with the NPPF for the purposes of determining this application and as such, these policies can still be afforded significant weight in the decision-making process.

#### **5.0 LOCAL REPRESENTATIONS**

- 5.01 None received

#### **6.0 CONSULTATIONS**

- 6.01 **Bobbing Parish Council** strongly objects to the proposal for the following reasons:
- There is concern that 6 signs would be a distraction on what is already an extremely busy and fast moving roundabout
  - There has already been a fatality and numerous accidents of varying degrees of severity and there is concern that drivers attention will be pulled towards the signs and that their concentration will be taken away from the fast moving traffic

6.02 **Kent County Council Highways & Transportation** raise no objection to the proposal

## 7.0 BACKGROUND PAPERS AND PLANS

7.01 The application reference to which this proposal refers to is 16/507097/ADV.

## 8.0 APPRAISAL

8.01 The application site is located just outside the defined built area boundary of Sittingbourne. However, the roundabout sits on an urban, main road and I do not consider that the site forms part of a sensitive rural setting. As such, I take the view that the proposal would not significantly harm the character and appearance of the countryside, and that the principle of the development is acceptable. The main considerations in this case are the impact of the proposal upon highway safety & convenience and visual amenity.

### Highway Safety & Convenience

8.02 I note the concern regarding highway safety. However, KCC Highways & Transportation have considered the proposal and raise no objection. The roundabout is large with good visibility in all directions. Furthermore, the signs would be relatively low in height and at least 1m away from the roundabout edge. They would also be of a black, non-intrusive design. Taking into account all of the above, and despite the concern raised, I consider that the signs would not detract drivers' attention and that there would be no serious concern in terms of highway safety and convenience.

### Visual Amenity

8.03 I take the view that the signs would be acceptably designed and given their low level form and the large size of the roundabout, I believe that they would not amount to dominant or intrusive features in the street scene, and would comfortably amalgamate with the character of the urban nature of the main road.

## 9.0 CONCLUSION

9.01 Taking into account all of the above, I do not consider that the signs would give rise to serious concern in terms of highway safety & convenience or the visual amenity of the area, and recommend that advertisement consent be granted.

**10.0 RECOMMENDATION** – GRANT subject to the following 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.

Reason: In accordance with the provisions of Regulation 2(1) of the Town and Country Planning (Control of Advertisement) (England) Regulations 2007.

- (6) No advertisement shall be illuminated.

Reason: In the interests of the highway safety and the amenities of the area.

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

<b>REFERENCE NO - 16/507183/FULL</b>			
<b>APPLICATION PROPOSAL</b> Classroom Extension			
<b>ADDRESS</b> Milstead Primary School School Lane Milstead Kent ME9 0SJ			
<b>RECOMMENDATION</b> Approve			
<b>SUMMARY OF REASONS FOR RECOMMENDATION/REASONS FOR REFUSAL</b> Proposal is broadly in line with National and Local Planning Policy			
<b>REASON FOR REFERRAL TO COMMITTEE</b> Objection from Parish Council and Local Residents			
<b>WARD</b> West Downs	<b>PARISH/TOWN COUNCIL</b> Milstead	<b>APPLICANT</b> Mrs Katherine Baker <b>AGENT</b> Ian Titherington	
<b>DECISION DUE DATE</b> 28/11/16	<b>PUBLICITY EXPIRY DATE</b> 28/10/16		
<b>RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):</b>			
<b>App No</b>	<b>Proposal</b>	<b>Decision</b>	<b>Date</b>
SW/00/0286	Classroom extension and provision of access ramp	KCC approval	24/05/2000
SW/14/0524	Single storey extension to rear of existing school building to accommodate reception class	SBC approval	17/06/2014

**1.0 DESCRIPTION OF SITE**

- 1.01 The school comprises of a Victorian building with later extensions together with a playground to the front and a smaller area of hardstanding to the rear. The building itself is of brick and flint construction.
- 1.02 The school is approached by a narrow lane which ends shortly after the school has been reached. The lane itself is reached from Frinsted Road. The school is situated in a rural area and within the Kent Downs Area of Outstanding Natural Beauty.
- 1.03 The school is now an academy school and, in 2014, the Borough Council approved a flat roofed single storey infill extension at the rear of the building to accommodate a new reception classroom. This has been completed.

**2.0 PROPOSAL**

- 2.01 This application proposes a single storey extension to an existing classroom, (measuring 17sqm.) The extension would comprise of brick and flint facings under a pitched tiled roof to match the existing building. White timber windows and a white coloured aluminium glazed door are also proposed. The classroom to be extended is already 43sqm in area and would be increased to 60sqm – a 39.5% increase in floor area.

- 2.02 A new external access ramp to the proposed extension is also shown, along with a black handrail and balustrade.
- 2.03 The extension will be at the rear corner of the school building away from any immediate neighbouring properties.

### **3.0 APPLICANT'S SUPPORTING INFORMATION**

- 3.01 The Head Teacher has responded to local representations about possible increase in pupil numbers arising from the extension by saying that;

*"I can confirm the proposed small extension is to increase the space in one of the main classrooms in the school, making use of what is effectively dead space. The extension is needed to enable efficient delivery of the curriculum to the existing children in the existing classroom and the storage of necessary school equipment."*

*"We currently have 96 children on roll split over 4 classes. We have maintained pupil numbers over the last few years and we are not looking to increase the planned admission numbers. The proposed new extension will not increase staffing levels and will not affect parking or traffic management arrangements."*

### **4.0 PLANNING CONSTRAINTS**

- 4.01 Area of Outstanding Natural Beauty KENT DOWNS

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

- 5.01 The NPPF was released on 27<sup>th</sup> March 2012 with immediate effect, however, para 214 states *"that for 12 months from this publication date, decision-makers may continue to give full weight to relevant policies adopted since 2004 even if there is a limited degree of conflict with this Framework."*
- 5.02 The 12 month period noted above has expired. As such, it is necessary for a review of the consistency between the policies contained within the Swale Borough Local Plan 2008 and the NPPF. This was carried out in the form of a report agreed by the Local Development Framework Panel on 12 December 2012. All saved policies cited below are considered to accord with the NPPF for the purposes of determining this application and as such, these policies can still be afforded significant weight in the decision-making process.
- 5.03 The NPPF sets out that sustainable development should be approved, that the natural environment should be protected, and that Local Planning Authorities should recognise the intrinsic character and beauty of the countryside and supporting thriving rural communities within it. Sustainable development is defined in relation to three key roles – economic, social and environmental.
- 5.04 The NPPF specifically encourages plan-led development providing a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency. It also seeks that planning be creative and support infrastructure necessary for thriving local places, protecting the countryside whilst preferring use of land of lesser environmental value and making the fullest possible use of public transport, walking and cycling. Paragraph 115 of the NPPF seeks to protect the natural beauty of Areas of Outstanding Natural Beauty.



5.05 The guidance encourages sustainable transport patterns and choice of travel modes, minimising journey lengths, and specifically suggests that where practical (particularly within large-scale developments) primary schools should be located within walking distance of most properties.

5.06 With regard to school development the NPPF (paragraph 72) is very clear. It states that:

*“The Government attaches great importance to ensuring that a sufficient choice of school places is available to meet the needs of existing and new communities. Local planning authorities should take a proactive, positive and collaborative approach to meeting this requirement, and to development that will widen choice in education. They should:*

- *give great weight to the need to create, expand or alter schools, and*
- *work with school promoters to identify and resolve key planning issues before applications are submitted.”*

5.07 In August 2011 the Secretary of State for Communities & Local Government and the Secretary of State for Education issued a policy statement on planning for schools development which took immediate effect, designed to facilitate the delivery and expansion of state-funded schools through the planning system. This statement makes clear that the Government is firmly committed to ensuring sufficient provision to meet growing demand for state schools, increasing choice and opportunity and raising educational standards. The Government’s view as stated is that the creation and development of state-funded schools is in the national interest and that planning decision-makers should support that objective; with the answer to proposals for such development being “yes”.

5.08 This statement has not been cancelled by the NPPF (March 2012) or the newer National Planning Practice Guidance suite (March 2014) and remains live on the DCLG website. It contains the following points;

- The Secretary of State will attach significant weight to the need to establish and develop state-funded schools when determining applications and appeals.
- Local authorities should engage in pre-application discussions with promoters of school development.
- The Secretary of State will be minded to consider refusal of permission for a state-funded school development as unreasonable conduct, unless supported by clear and cogent evidence.
- Any refusal may result in the appeal being dealt with by the Secretary of State himself.

5.09 The Development Plan comprises the saved policies of the adopted Swale Borough Local Plan 2008. This Plan was intended to cover the period to 2016 so is not out of date. It is soon to be replaced by the emerging Plan Bearing Fruits; although the emphasis of relevant polices has not changed.

5.10 The following saved Local Plan policies are relevant to this proposal and whilst it is important to remember that the Local Plan should be read as a whole, without focussing on any individual policy, I have highlighted below those policies most directly relevant to consideration of the application in bold type and which I will discuss these in more detail below.:-

SP1 (Sustainable development)

SP2 (Environment)

**SP7 (Community Services and Facilities)**

TG1 (Thames Gateway Planning area)

SH1 (Settlement hierarchy)

E1 (General Development Criteria)

**E6 (The countryside)**

**E9 (Landscape)**

E10 (Trees and hedges)

E19 (Design)

**T1 (Highway Safety)**

T3 (Vehicle parking) and

T4 (Cyclists and Pedestrians)

T5 (Public Transport)

**C1 (Existing and New Community Services and Facilities)**

- 5.11 Saved policy SP7 seeks to meet the social needs of the Borough by, amongst other things, ensuring that services and facilities (including schools) are provided in as timely a fashion as possible.
- 5.12 Saved policy E6 seeks to protect the countryside from development but has exceptions. Put simply land outside the defined urban area boundary, as the application site is, only those developments necessary for maintaining and enhancing landscape character, biodiversity, community, social and economic needs of the countryside will be considered appropriate. The specific exceptions to policy E6 include necessary community infrastructure.
- 5.13 Saved policy E9 seeks to protect the natural beauty of AONBs whilst encouraging suitably located and designed development necessary to facilitate the economic and social well being of their communities.
- 5.14 Saved policy T1 requires that new development should not generate volumes of traffic in excess of the capacity of the highway network, or result in a decrease in safety on the highway network.
- 5.15 Saved policy C1 encourages new or improved community facilities.

**6.0 LOCAL REPRESENTATIONS**

- 6.01 I have received six letters of objection raising the following summarised grounds;

- Any extension potentially implies scope for increased pupil numbers, all of which arrive by car
- The ever-increasing pupil numbers do create infrastructure difficulties locally, especially adding to pressure on the narrow roads with speed, inconsiderate driving, parking, noise and pollution issues getting worse
- Access difficulties for emergency services at school times
- The school's kitchen and play area are too small to cater for additional pupils
- The school seeks an extension to increase classroom space every 18 months or so
- The school has previously said pupil numbers will not increase above 84 but now the numbers are around 100
- Objection to any further expansion of the school without a clear and enforceable limit on pupil numbers
- Lack of communications with/from the school
- The drawings are inverted and create confusion

## **7.0 CONSULTATIONS**

7.01 Milstead Parish Council has objected to the application, saying in summary that;

- Previous planning applications have always been sought for reasons other than increasing pupil numbers and yet the numbers have steadily increased
- There are currently 96 pupils at the school but the published admission figures pre-academy status was for only 70 pupils, an increase on 30% over the past seven years. The school's current published admission number is 105 pupils, a 50% increase
- This has been done without any public consultation
- The impact and risks to residents from so many parked cars on such narrow roads without footpaths, as well as risks from the road being impassable to emergency services are already untenable
- Parking problems will only get worse with extra pupil numbers, blocking access for large farm or goods vehicles and causing traffic congestion and people having to walk in the middle of the road
- So far, luckily, nobody has been hurt
- The need for more space is a direct result of this steady increase in pupil numbers; the only way to limit numbers seems to be to limit classroom space

## **8.0 BACKGROUND PAPERS AND PLANS**

8.01 All papers submitted with application 16/507183/FULL

## **9.0 APPRAISAL**

9.01 In my view the main issues for consideration in this application are the principle of development, design issues, impact on residential amenity and whether or not the concerns over increasing pupil numbers are material to the merits of the application.

### **The Principle of Development**

9.02 In this case I am satisfied that the principle of the expansion of an existing school is acceptable even in a rural area. Policy for rural areas allows for community facilities and the Government's policy stance is clearly to support investment in state funded

schools. I see no conflict with national or local policies in the expansion of schools to provide better quality educational facilities. Having said that, I can fully appreciate potential concerns over the expansion of schools where this might have adverse environmental consequences. I will examine these potential consequences

### **Design**

- 9.03 One obvious potential consequence of any expansion of a school is that its architectural quality or appearance might be harmed. Earlier extensions to the school are less than well designed going back to the year 2000 and beyond. The 2014 extension is not a good piece of design but it is sandwiched between existing wings of the school and has no public presence. Refusal might have been unreasonable. In contrast, this extension has all the hallmarks of a sympathetic addition to the school in matching materials. It will be modest and relatively well concealed from public views. I consider that it meets the Council's aspirations for good design in this sensitive AONB setting albeit the drawings do appear to be reversed and I am seeking clarification from the applicant.

### **Residential Amenity**

- 9.04 The school has one immediate residential neighbour and another very close nearby. In neither case do I consider the extension likely to be prominent or at all harmful to their amenity. It is set on the far end of the school from the immediate neighbour and at the back boundary of the site from the next nearest neighbour.

### **Highways**

- 9.05 In this case all the concerns over the extension relate to the potential for the school role to be increased. I am aware of the acute parking and access problems of this remote and isolated site, and can appreciate concern over any increase in pupil numbers. However, the number of pupils is not currently controlled by planning conditions and an increase in numbers would not constitute development requiring planning permission. Furthermore, the Head Teacher has confirmed in writing since submission of the application that the purpose of the extension is not to allow for an increase in pupil numbers. Accordingly, I am firmly of the view that this is not a material consideration for Members to consider when determining this application.
- 9.06 Members will be aware that planning applications should be determined on their own planning merits and the number of objections is not of itself a reason to refuse an application. Ultimately I am aware of six objections as well as the Parish Council's objection but they are all overtly based on concern over a potential increase in pupil numbers, not the actual building works involved. I do not consider that these objections would withstand the scrutiny of an appeal Inspector, and that the Council would not have a tenable case to defend should refusal be contemplated on this ground. I conclude that the matter of potential increase in pupil numbers should not be a factor in decision making here, and thus no additional impact on highway safety can be alleged.

## **10.0 CONCLUSION**

- 10.01 I am not aware of any objections to this application on material planning grounds related to the actual impact of this very small and well designed extension and I can see no reason to refuse the application.

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

**CONDITIONS**

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

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

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

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

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

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

**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.

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<b>REFERENCE NO - 16/505280/OUT</b>			
<b>APPLICATION PROPOSAL</b> Outline Application for residential development (up to 33 dwellings), and open space; including associated access (vehicular / cycle / pedestrian), alterations to levels, surface water attenuation features (including swales), landscaping and related development.			
<b>ADDRESS</b> Land At Swale Way East Hall Farm East Hall Lane Sittingbourne Kent ME10 3TJ			
<b>RECOMMENDATION</b> GRANT subject to comments from Southern Water (consultation expires 13/12/16) and any additional conditions recommended by them and also subject to a section 106 agreement requiring contributions as set out in paragraph 9.25 below.			
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b> The development would provide much needed housing within the built-up area boundary on part of a wider site allocated for housing development. The development is considered to be sustainable in terms of its location and the social, environmental and economic impacts that it would have. The provision of housing as opposed to 'Neighborhood Centre Uses' is regrettable but the applicant has agreed to contribute towards the setting up of a community shop on the opposite site. This would go some way towards addressing the main concerns of the residents of Great Easthall.			
<b>REASON FOR REFERRAL TO COMMITTEE</b> Strong public objection and Ward Member request.			
<b>WARD</b> Murston	<b>PARISH/TOWN COUNCIL</b>	<b>APPLICANT</b> Trenport Investments Limited <b>AGENT</b> Vincent And Gorbng	
<b>DECISION DUE DATE</b> 20/09/16	<b>PUBLICITY EXPIRY DATE</b> 15/11/16	<b>OFFICER SITE VISIT DATE</b> 10/11/16	
<b>RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):</b>			
<b>App No</b>	<b>Proposal</b>	<b>Decision</b>	<b>Date</b>
SW/02/1180	Residential development, employment development, open space and supporting facilities	Approved	16/07/2004
This application granted outline planning permission for the development of Great Easthall. Members will be aware that since the grant of outline permission, there have been numerous approvals of reserved matters applications for housing and development of the wider site has been underway for many years. Further planning permission have also been granted for Parcels F,G and H, and approximately 500 of the 860 dwellings approved at this site have been completed.			
SW/07/0431	Approval of reserved matters pursuant to outline permission SW/02/1180 for the development of a neighborhood center, erection of a supermarket, local convenience store, seven shop units, a public house, twelve dwellings, veterinary surgery and associated development.	Approved but not implemented	02/05/2007

15/510505/FULL	Construction of new community centre with adjoining changing room facilities and associated works (land opposite application site)	Approved	03/08/16
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**MAIN REPORT**

**1.0 DESCRIPTION OF SITE**

1.01 The application site is a parcel of empty land (1.4ha) to the northeast of the residential estate of Great Easthall which lies approximately 2km to the northeast of Sittingbourne town centre. The land is mainly flat with a gentle slope down from southwest to northwest, covered in rough grass and is currently enclosed by wire fencing. A medium pressure gas pipe runs through the site at its southern end with a 6m wide easement. A large attenuation pond serving the Great Easthall development lies immediately to the south of the site and there is a children’s play area to the southwest. East Hall, a grade II listed farmhouse, lies 100 m to the west of the site and the community hall recently approved under 15/510505/FULL is currently under construction on the opposite parcel of land to the east. The main vehicular access into Great Easthall is immediately to the east of the site. This leads off Swale Way and the Northern Relief Road. There is no other vehicular access into the Great Easthall Estate apart from a bus route which provides access to Oak Road in Murston for buses and pedestrians only. Eurolink IV, a large site comprising of a number of commercial/industrial buildings, lies to the north of the application site. Eurolink V (further commercial/industrial development) will be developed on the land to the northeast, on the opposite side of Swale Way to the application site. Sittingbourne Golf Course lies 600m metres to the northeast of the site with agricultural fields stretching to the north (where they meet The Swale) and to the east towards Teynham.

1.02 The application site lies within the built-up area boundary as identified on the proposals maps for the adopted and emerging Local Plans. The site also lies 600m to the south of The Swale and Medway Estuary and Marshes SSSI, Ramsar and Special Protection Area and 800m to the south of the North Kent Marshes Special Landscape Area.

1.03 A footway/cycleway is immediately to the north of the site running along Swale Way. The land on the opposite side of Great Easthall Way, to the north of the community hall, is proposed to be developed as a medical centre but there has been no planning application submitted to date and its delivery will be dependent on the requirements of the NHS.

**2.0 PROPOSAL**

2.01 This is an outline planning application for which all detailed matters are reserved with the exception of the access to the site which is shown on the plans. The access would be taken from Great Easthall Way and would not alter the existing access that has already been constructed on site.

2.02 The application specifies that there would be up to 33 dwellings provided on site but details of the type, height and layout of the houses are only shown indicatively under this outline planning application. The indicative layout – though not necessarily showing an arrangement that the Council would accept - does demonstrate that there would be sufficient space for sustainable urban drainage in the form of swales, open space and a housing layout that would provide reasonably sized gardens and parking for each property. The indicative layout describes a housing mix of 2, 3 and 4 bedroom, 1-3 storey properties at a relatively low density of 25.8 dwelling/ha. The parameters information states that there could be some flats/apartments on the frontage to Swale Way/Great Easthall Way. The layout as shown on



the indicative plan incorporates the gas main easement with no development shown within this constraint.

2.03 The site may have to be altered in terms of its levels to allow suitable gradients for roads and the houses. This would change the levels by 0.5m either up or down.

2.04 This land was included within the outline planning consent for the Great Easthall housing estate under SW/02/1180 – outline application for residential, employment, open space and supporting facilities, where it was ear-marked as a ‘Neighbourhood Centre’ as well as the land opposite, upon which the community hall is now under construction. The Section 106 agreement the subject of the outline permission requires the developer to ‘provide services to the area of land to be reserved as a Neighbourhood Centre Site’, the removal of contaminated land from the site of the Neighbourhood Centre and the levelling of the land and, the reservation of the land for ‘Neighbourhood Centre Uses’ (community hall, medical centre, small supermarket, small retail units, public house, residential accommodation (not amounting to more than 0.75ha of the ground area) and, open space) for 2 years following the completion of the residential development. Should Members resolve to approve the current planning application, this Section 106 agreement will need to be modified.

### 3.0 SUMMARY INFORMATION

	Proposed
Site Area (ha)	1.4ha
Resi storeys	Max 3
Height	Min 8m max 12.5m
Parking Spaces	Not set
No. of Residential Units	Max 33
No. of Affordable Units	10%
Density	25.8 dph (not set)

### 4.0 PLANNING CONSTRAINTS

4.01 As set out above, the medium-pressure gas pipeline runs through the southern part of the site, and its position is shown on the Illustrative Layout.

### 5.0 POLICY AND OTHER CONSIDERATIONS

5.01 The National Planning Policy Framework (NPPF): paras 7 (three dimensions of sustainable development), 8, 11 (presumption in favour of sustainable development), 12, 14, 17 (core planning principles), 19 (economy), 32 (sustainable transport), 34, 47 (delivering a wide choice of high quality homes), 49, 50, 55, 56, 58 (good design), 69, 70, 73 (healthy communities); 118, 119 (biodiversity), 120, 121 (contaminated land), 123 (noise), 129, 131 (heritage assets), 159 (housing), 162 (infrastructure), 186 (decision taking), 187, 196 (determining applications); 197, 204 (planning obligations) & 216 (weight to emerging policies).

5.02 National Planning Policy Guidance (NPPG): Design; Natural environment; Housing and Economic Development needs assessment; Planning Obligations; Use of planning conditions; transport assessments and statements in decision taking; Water supply, waste water and water quality land affected by contamination.

Development Plan:

5.03 The Swale Borough Local Plan 2008 saved policies SP1 (sustainable development), SP2 (environment), SP4 (housing), SP6 (transport and utilities), SP7 (community services and facilities), TG1 (Thames Gateway Planning Area) SH1 (settlement hierarchy), E1 (general development criteria), E11 (biodiversity and geological interests), E12 (designated biodiversity and geological conservation sites), E14 (Developing involving Listed Buildings) H2 (new housing), H3 (affordable housing), H7 (East Hall Farm), C1 (Community services and facilities), T1 (safe access), T4 (cyclists and pedestrians) & C3 (open space on new housing developments

5.04 The emerging Swale Borough Local Plan “Bearing Fruits” – ST1 (sustainable development), ST2 (targets for homes and jobs), ST3 (settlement strategy), ST4 (meeting local plan development targets), ST5 (Sittingbourne area strategy), CP2 sustainable transport, CP3 (high quality homes), CP4 (good design), CP5 (health and wellbeing), CP6 (community facilities and services to meet local needs), CP8 (conserving and enhancing the historic environment), DM6 (managing transport demand and impact), DM7 (vehicle parking), DM8 (affordable housing), DM14 (general development criteria), DM17 (open space, sports and recreation provision), DM21 (water, flooding and drainage), DM28 (biodiversity and geological conservation), DM23 (listed buildings), DM34 (Archaeological sites) & IMP1 (implementation and delivery plan).

5.05 Kent Minerals and Waste Local Plan 2013 – 2030 – Policy DM7 states that planning permission will only be granted for non-mineral development that is incompatible with minerals safeguarding where it is demonstrated, among other things, that it constitutes development on a site allocated in the adopted development plan.

#### Supplementary Planning Documents

Developer Contributions (2009)

East Hall Farm Development Brief March 2003

Great Easthall Development Brief Review October 2009

## **6.0 LOCAL REPRESENTATIONS**

6.01 Sixty letters of representation have been received. A summary of their comments is as follows:

- Concern about lack of shop/convenience store to serve the residents of Great Easthall. The closest store by car means travelling through the Eurolink Estate (often congested) into Sittingbourne;
- There are too many houses being built without amenities and schools;
- Great Easthall is like a giant cul-de-sac. It doesn't even have a post box;
- Development should not be allowed unless the developer helps to fund a shop unit;
- Swale Way an local infrastructure are already overcrowded with traffic;
- Many residents of Great Easthall were promised the provision of local amenities (shop/pub) within the estate when buying their properties;
- Parking in the estate is already under pressure and there is congestion on local roads with only one way in and out of the estate;
- The development should provide retail at ground floor and apartments above as a compromise;
- There seems to be space on the site to develop retail as well;

- The completion of the Northern Relief Road should be a priority and the land left available for commercial uses until such time as it is complete;
- The viability survey is bias;
- The community shop may never happen;
- Planning policies support provision of community facilities;
- The school that was planned for the estate has not been provided and the community hall took longer to deliver than expected;
- The community needs somewhere to come together and socialise.

6.02 An e-petition protesting against the planning application has also been created. This is entitled – *“We want amenities not properties on the entrance to the Great Easthall estate.”* This had a total of 84 comments and 120 signatures at the time of writing this report. The comments largely reiterate the concerns set out above.

## 7.0 CONSULTATIONS

7.01 The Greenspaces Manager notes that the Illustrative Layout would fit into the existing open space and surroundings. He requests a commuted sum for the maintenance of any open space, if it is to be transferred to the Council. He also seeks an off-site formal sport contribution of £511 per dwelling.

7.02 The Head of Housing confirms that in accordance with planning policy, they require 10% affordable housing with a 70:30 split of affordable rented and shared ownership respectively. Affordable housing should be evenly distributed across the site and should represent a mix of house types with some that are wheelchair adaptable.

7.03 KCC Public Rights of Way Officer have no objection noting that a public right of way passes close to the site and that this should not be obstructed

7.04 The KCC Archaeological officer notes that there is potential for prehistoric and Roman remains within part of the site and recommends a condition to ensure the implementation of a programme of archaeological works.

7.05 The Environmental Services Manager has no objection noting that the site is sufficiently far away from known areas of elevated air pollution to pose an air quality issue, levels of dust will be acceptable and, with appropriate mitigation, noise from the nearby industrial units would be at an acceptable level. Conditions are recommended to remediate contamination if found at the site and to deal with landfill gas.

7.06 The Environment Agency have no objection to the proposal noting that development is considered low risk.

7.07 Natural England (NE) have no objection to the application on the basis that the applicant has agreed to pay a contribution towards the Thames, Medway and Swale Estuaries Strategic Management and Monitoring (SAMM) Strategy. They confirm that on this basis, the development can be screened out as not having a likelihood of significant effects of the designated sites. They suggest referring to their standing advice on protected species and encourage biodiversity enhancements.

7.08 The KCC Flood Risk Project Officer acknowledges the submitted Flood Risk Assessment which proposes a surface water drainage strategy utilising a swale, attenuation basin, bioretention areas and permeable paving to provide the volume attenuation required to ensure a controlled outflow from the site. Although it has not been demonstrated how these volumes would be accommodated, it would be expected that this will be possible within the

development layout. Discharge rates and attenuated volumes should be agreed with them at detailed design stage. The applicant should discuss the proposal for porous tarmac with Kent Highways if they are going to adopt the roads. Conditions are recommended that require details of surface water drainage and details of the management and maintenance of the SUDs.

7.09 UK Power Networks have no objection to the proposal.

7.10 KCC Development Contributions team request primary and secondary education contributions at a total of £155,784.78. They also request contributions towards libraries at a total of £1584.52. They also request that the development incorporates superfast fibre optic broadband.

7.11 Southern Gas Networks originally objected to the proposal based on incorrect information regarding the status of the gas pipeline running through the site. Following confirmation that the pipeline is medium and not high pressure they consider the proposal to be acceptable.

7.12 KCC Highways and Transportation have no objection to the proposal noting that the existing roundabout is more than adequate for a vehicular access on a development of this size. In addition the pedestrian/cycle access improvements provide suitable links to the existing network.

7.13 Kent Police invite the applicant to consult them if the application proceeds and recommend a condition or informative to ensure that crime prevention is considered at the design stage. They also draw the applicant's attention to document "Q" building regulations for doors and windows specifications.

7.14 KCC Ecology required additional information in respect of the current state of the site which may have become more inviting to reptiles and birds since the ecological scoping survey was carried out. Upon receipt of this updated information, they advise that the site has limited potential for protected/notable species as all vegetation on the site has recently been cleared. It is exceptionally bad practice for sites to be cleared before ecological scoping surveys are carried out and they recommend that the site is managed to prevent suitable habitat establishing in the future. They acknowledge that the proposed pond, swale and vegetated mound will provide some habitat for biodiversity at the site. They recommend that a green corridor is created along the northern boundary of the site. These areas should be managed to the benefit of biodiversity. The applicant could also enhance habitat outside of the site i.e. the pond opposite the site. The final site plan should be designed to incorporate foraging the breeding opportunities for birds within the site. They recommend a condition to control lighting to protect bats and encourage planting that would retain foraging opportunities for bats. They also recommend a condition to encourage ecological enhancements and a management plan.

7.15 The Lower Medway Internal Drainage Board do not object to the proposal but recommend that surface water is appropriately managed and that the details are agreed with KCC's flood team.

7.16 The Health and Safety Executive confirm that the site does not lie within the consultation distance of a major hazard site or pipeline.

7.17 Comments from Southern Water are awaited and will be reported at the meeting.

7.18 The Economic Development Officer comments that they understand the issues of viability and acknowledge the lack of passing trade without the through road (NNR) but would wish to see provision of local amenities to serve an expanding local community.

## **8.0 BACKGROUND PAPERS AND PLANS**

8.01 The applicant has submitted the following documents to support their application:

8.02 Design and Access Statement; Transport Statement; Preliminary Geo-Environmental and Geotechnical Risk Assessment; Extended Phase 1 Habitat Survey; Great Crested Newt Survey and Preliminary Assessment of Trees for use by Bats; Noise Impact Assessment; Draft Heads of Terms – Section 106 agreement; Flood Risk Assessment; Cultural Heritage Desk Based Assessment; Utilities Statement; Air Quality Assessment; Assessment of Viability of a Neighbourhood Centre.

## **9.0 APPRAISAL**

### **Principle of Development**

9.01 For the purposes of the development plan, the site is located within the built confines of the wider Sittingbourne area within the housing allocation for Easthall Farm. Policy SP4 seeks to provide sufficient land for housing need, and policies SH1 and H5 of the adopted local plan seek to concentrate this in the Thames Gateway Planning Area. Policy H2 of the adopted plan states that permission for new residential development will be granted for sites that are allocated or within defined built-up areas.

9.02 The NPPF was published in 2012 and is a material consideration in the determination of planning applications. It sets out a presumption in favour of sustainable development. Paragraph 7 identifies three strands to sustainable development, an economic role (supporting the economy and growth), a social role (providing strong, healthy, accessible communities), and an environmental role (contributing to protecting our natural, built and historic environment). Paragraph 14 sets out that, for the purposes of decision taking, this means where the development plan is absent, silent or relevant policies are out of date, permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits.

9.03 The relevant housing policies within the adopted Swale Borough Local Plan 2008 are considered to be out of date and so in accordance with the NPPF, the presumption is in favour of sustainable development. For sites outside of the built-up area boundary, special consideration must be given to the status of/weight to be given to the emerging Local Plan insofar as it directs development towards strategically sustainable sites. For this application, the site falls within allocated housing land for the adopted Local Plan and is identified as being within the built-up area in the emerging Local Plan and so the site is considered to be sustainable from a strategic point of view. The delivery of housing on this site will help towards meeting this Borough's housing need, easing pressure off of sites within rural areas. For these reasons, I consider that the development is acceptable in principle.

### **Loss of Neighbourhood Centre**

9.04 Members will note from the 'proposal' section above and the concerns of local residents that this land was, under the masterplan for the Easthall Farm development and under the terms of the Section 106 agreement (both agreed pursuant to SW/02/1180), originally earmarked to provide 'Neighbourhood Centre Uses' such as shops and a public house. The 2009 Development Brief for Great Easthall states:

*“The original brief illustrated that a Neighbourhood Centre would be located on both sides of the site entrance, which is the main access and a key focal point on the site. The land area allocated for the Neighbourhood Centre/Village is 2.033 hectares, which was to be further divided into the following uses:*

- *Neighbourhood Centre 1.507ha*
- *Community Hall and/or Sports Pavilion /0326ha*
- *Medical Centre Site 0.2ha.*

*...Adopted Local Plan policy C1 seeks the retention, and supports expansion, of existing community facilities. These include both the key services, commercially and publicly provided, within communities, town centres and commercial areas, together with public and private open space and school fields and sporting facilities. Where the need exists, it applies equally to those sites where the provision of facilities has been agreed but where their physical provision has yet to be made.*

*The Section 106 agreement requires that no more than 350 dwellings are occupied on site until the Community Centre can be accessed and services to the land for the Neighbourhood Centre/Village have been provided”*

9.05 Planning permission was granted on this site in 2007 for the erection of a supermarket, local convenience site, seven shop units, a public house, twelve dwellings and, a veterinary surgery under SW/07/0431. Unfortunately, this 2007 permission was never implemented as, according to the applicant, it was not commercially viable to do so with the developers eventually going into receivership.

9.06 The applicant has submitted a report entitled “Assessment of the Viability of a Neighbourhood Centre” in which the consultant sets out the context within which Great Easthall sits and assesses the likely commercial viability of uses such as shops and a pub at the application site. One of the main factors that the author highlights as having a negative effect on commercial viability of shops/a pub, is the fact that the Northern Relief Road terminates at Great Easthall. There is no opportunity for passing trade therefore with the catchment area effectively limited to the residents of Great Easthall. The report does acknowledge that the workforce at Eurolink Way and the Eurolink IV and V developments could make use of a shop located at the application site, however, it notes that retailers attach very limited importance to non-residential populations as their patterns of behaviour are so unpredictable and prospects are that they will shop in their home locations. The report also notes that the location of the site, being at the edge of the housing estate, would make it less likely to be used than if it were in the centre of the development with better all-round accessibility, including by foot, with more of a community role to play.

9.07 The report notes the location of the Co-op in Murston with a sales area of 200 sq m. This is within 5-10 minute driving distance of the estate (approx. 10 min walk) and the proliferation of food retailers in and around Sittingbourne. According to the report, retail trends have changed significantly since the masterplan for Great Easthall was first envisaged. This change has been aided by the global financial crisis in 2007, the UK recession and, the growth in on-line retail sales, all of which could impact on the establishment of a retail business at the application site. On retail, the report concludes that:

*“Our view is that whilst there might be enough retail expenditure within and close to Great Easthall to support a neighbourhood convenience store...that in todays market, operators would not be interested. This is compounded by the location’s relative inaccessibility from other population centre and the fact that it is a dead-end, with no prospect of ‘passing trade’.*

9.08 The report comments on the potential for a public house at the application site and highlights the recent trend for the closure of pubs across the country. Its states:

*“In new markets, those with the most prospect of continued success are family-orientated pub/restaurants. These, however, require large catchment populations that will use them regularly as ‘destinations’ coupled with plentiful passing trade for those that will opt to patronise them on the spur of the moment. None of this pertains to Great Easthall.”*

9.09 In response to a request by Planning Officers, the applicant has submitted a statement regarding the marketing of the application site for commercial uses, specifically a retail convenience store. This confirms that the site was marketed widely as a commercial site with the 2007 permission for the “Neighbourhood Uses” noted. It also notes that the land had been available for neighbourhood retail development for about 10 years and at no time in that period has a scheme been viable, with insufficient interest from businesses, and there is no prospect of it becoming viable in the foreseeable future. The statement appends a letter from Tesco Stores Ltd (who may have potentially considered a Tesco Express format) which confirm that they would not be interested in pursuing a store on the site due to the lack of custom in the catchment area, the compromised location of the site effectively in a cul-de-sac and the lack of proximity to an arterial road rendering it largely inaccessible to passing trade. The presence of the Co-op in Murston means that it is highly unlikely that this retailer would consider establishing a new shop at the application site.

9.10 The policy position is clear that the application site should be developed as a ‘Neighbourhood Centre’ with uses such as shops and a public house. Members will have noted that the community hall is currently under construction and the site opposite is still available to be developed as a medical centre (although whether this comes to fruition is unknown at this stage and is entirely dependent on the requirements of the NHS). Indeed, when considering sustainable development, it is of course desirable to ensure that housing developments of this scale i.e. that of Great Easthall, are provided with easy access to services and facilities that meet their everyday needs. However, it is fair to conclude that many years have passed since the original masterplan for East Hall Farm was drawn up and that the retail and pub sectors have had to respond to significant changes to the UK economy. Moreover, the terminus of the Northern Relief Road at Great Easthall (which in all likelihood will remain this way for the foreseeable future) is a significant blow to the viability of any potential retail or pub use wishing to develop at the application site. I have given consideration to the evidence submitted by the applicant in respect of the likelihood of a shop or pub business being attracted to the site. The applicant can demonstrate that despite a planning permission for a Neighbourhood Centre being in place in 2007, the development could not be delivered despite the best efforts of the landowner at the time. It is highly unfortunate but the commercial realities of the situation must be acknowledged.

9.11 The provision of a small convenience store within the Great Easthall estate is though still highly desirable, not only for the convenience of local residents but also to cut down on the need to travel by car and to feed into the sense of community within the estate. Given the desire by many of the residents of Great Easthall for, at the very least, a small convenience store within the estate, and given the fact that it would not seem to be commercially viable for such an operation at the site, Planning Officers have suggested to the applicant that they consider contributing towards the setting up of a community shop. Such a shop would be run by members of the local community with a paid manager and volunteers and all profits put back into the shop. The shop would sell essentials and any other goods that the community requires. Its location would be likely to be adjacent, or attached to, the community hall which would allow a concentration of community activity in one place to the mutual benefit of both the community hall and community shop (perhaps shared management responsibilities and an opportunity to utilise the community shop as part of the community hall facilities). The shop is envisaged to be no more than 56 sq m (600 sq ft) and so it is not expected to attract

significant traffic with only a small additional parking requirement. The applicant has agreed to pay for the construction of the shop building, contribute towards the fit-out costs, professional fees (for architects, planning fees etc.) and, the manager's salary for up to 2 years (after which the shop will need to be self-sufficient). The total amount offered by the applicant is £180,000. Initial feedback from the local community and a Ward Member about the community shop idea has been positive.

9.12 It is acknowledged that a community shop of 56 sq m is a far cry from the Neighbourhood Centre detailed in the 2007 planning permission. However, it seems to me that the provision of a community shop would address the basic convenience needs of the local community and its location on the site of the community hall will be an added benefit contributing, albeit in a small way, towards the social dimension of sustainable development. I am of the view that the contribution towards the community shop would meet the CIL tests as set out at Paragraph 204 of the NPPF – necessary to make the development acceptable, directly related to the development and, fairly and reasonably related in scale and kind to the development.

9.13 Should the community decide that the community shop cannot/should not be executed, the applicant has agreed that some of the £180,000 can be used to fund improvements to the community hall. I am waiting for the Economy and Community Services Manager to provide information in respect of the type of improvement project needed and an estimate of the cost of this project. The applicant will then need to agree to the details of this. I will update Members at the meeting.

### **Residential Amenity**

9.14 The proposal is in outline form only but the site is over 60 metres from the closest residential property. Therefore, I do not consider that the proposal would cause any undue overlooking and overshadowing to existing local residents of Great Easthall.

9.15 There would potentially be noise from the use of the adjacent community hall but I do not consider that it would be at a level that would potentially negatively impact upon future residents of the application site.

9.16 The submitted noise report highlights the potential for a noise impact from the adjacent commercial/industrial buildings and road traffic noise. It concludes that the noise climate at the site is considered to meet policy aims and is suitable for residential development, subject to the incorporation of appropriate mitigation. This would include the use of standard double glazing and mechanical ventilation (details to be agreed) with trickle vents. Consideration should be given to the noise sources/impact at the detailed design stage. Specifically, the buildings should screen the rear gardens from surrounding roads. I suggest that an updated noise report is required to be submitted as part of the reserved matters application.

### **Design/visual impact**

9.17 The submitted illustrative layout shows how the 33 dwellings might be arranged within the site. I am not convinced that the proposed parking courts shown within the centre of the site follows good urban design principles, nor is the inward-facing arrangement of the dwellings on the northern part of the site likely to be acceptable. However, I consider that there is room within the site to address this at the reserved matters stage. The buildings heights would respond well to the surrounding space, particularly the 3 storey dwellings fronting onto the main entrance to Great Easthall. Establishing high quality design at this point of the site is particularly important in my view as these buildings will act as a focal point/landmark/gateway feature at the entrance to the wider housing estate. The gas pipe easement will be of benefit to the layout as it forces buildings to be set back away from the



attenuation pond to the south which is a very important landscape feature of the estate. With regard to density, 33 dwellings on the site would equate to approximately 24 dwellings per hectare, which is on the low side but is considered to be acceptable for this location on the edge of the built-up area.

9.18 The proposal would be set against the backdrop of the existing housing development of Great Easthall and Eurolink IV, with Eurolink V soon to occupy the land opposite the application site. I do not therefore consider that there would be any detriment to the character or appearance of the landscape.

### **Heritage impact**

9.19 The application site lies 100m to the east of the grade II listed Easthall Farmhouse. The proposed development will impact upon the setting of this historic building to some extent but it is clear that the existing surrounding development (housing and Eurolink IV) has already changed the context within which the listed building sits. I am also mindful of the commercial development that was approved on this site in 2007 which would have seen quite tall buildings of a very modern architecture. In comparison, the proposed houses have the potential to respect the setting of the listed building much more successfully. At this outline stage, I conclude that the development of this site is likely to be able to conserve and enhance the setting of the listed farmhouse. The reserved matters application will need to give careful consideration to the design and height of the dwellings close to the western boundary of the site but I see no reason why the proposed dwellings could not respect the historic value of the grade II listed building.

### **Highways**

9.20 Kent Highways have no objection to the proposed access which is actually already in place and has been designed to cater for a high usage. It would certainly be appropriate for use by the residents of, and visitors to, the houses on this site.

9.21 Members will be aware that as this application is in outline form only, details of parking arrangements and road layouts within the site will be considered under a separate reserved matters application.

### **Ecology/biodiversity**

9.22 Natural England do not object to the application noting that there would be no significant impact on the SPA subject to contribution towards the Thames, Medway and Swale Estuaries Strategic Management and Monitoring (SAMM) Strategy. Article 4(4) of the Birds Directive (2009/147/EC) requires *Member States to take appropriate steps to avoid pollution or deterioration of habitats or any disturbances affecting the birds, in so far as these would be significant having regard to the objectives of this Article*. For proposals likely to have a significant effect on a European site, the Conservation of Habitats and Species Regulations (2010) require the Council to make an appropriate assessment of the implications for the site. An Appropriate assessment is appended.

9.23 The Extended Phase 1 Habitat Survey notes that the habitats within the site do not currently have high potential for reptiles, bats and species 1 birds. The submitted survey recommends that a great crested newt survey is carried out on the pond to the south of the site with further survey work if necessary. It also recommends keeping the site mown (outside of bird breeding season), further work to assess the potential for mature trees as roosting sites for bats, provision of bat boxes, nest boxes for birds, minimal lighting close to landscape features and the planting of native trees and shrubs within the site. The applicant submitted an updated ecological scoping survey as requested by KCC Ecology. They agree

that the site has limited potential for the presence of protected/notable species but make it clear that it is bad practice to clear the site prior to an ecological scoping survey is carried out, which seems to have been the case here.

9.24 The applicant has submitted a Great Crested Newt Survey and the assessment of trees for use by bats in response to the scoping survey. This concludes that no great crested newts were recorded but smooth newts and marsh frogs were found at the site. There were no signs of bats roosting in the trees surveyed. The survey report recommends that another Great Crested Newt survey and assessment of bat roosting in trees is carried out if the development has not taken place within 2 years in case colonisation has occurred. KCC Ecology have recommended conditions to ensure that the site is designed to encourage ecology and biodiversity. Members will note condition (24) below.

### **Developer contributions**

9.25 The applicant has agreed to meet the various requests for developer contributions/obligations within a Section 106 agreement. These are as follows:

- primary education contributions £77,911.68
- secondary education contributions £77,873.40;
- libraries at a total of £1584.52;
- 10% affordable housing with a 70:30 split of affordable rented and shared ownership respectively;
- £223.58 per house contribution towards the Thames, Medway and Swale Estuaries Strategic Management and Monitoring (SAMM) Strategy;
- Community shop contribution £180,000 (some of this money to be used to fund an improvement to the community hall if the community shop does not come to fruition. Details to be agreed).
- commuted sum for the maintenance of the open space £17,495.13;
- Bins - £92 per dwelling and £905 per 5 flats for communal bins;
- NHS (expanding local health services) - £864 per dwelling;
- 2.5% (of total contributions) administration fee.

9.26 The applicant has disputed the need for a financial contribution towards off-site sports provision which the Greenspaces Manager confirms would be put towards changing facilities for the local sports pitches. They do not consider that this request meets the CIL tests as set out at Paragraph 204 of the NPPF – necessary to make the development acceptable, directly related to the development and, fairly and reasonably related in scale and kind to the development. I am inclined to agree with the applicant that this request does not pass the CIL tests as the need for a changing facility cannot be directly related to this particular housing development. It is true to say that the residents of this development will make some use of the sports pitches but a direct link cannot be made between the proposed houses at this site and the provision of changing facilities off-site in my view.

9.27 Members should also note that the original Section 106 agreement pursuant to SW/02/1180 will require some small variations to the wording where it relates to the provision of the Neighbourhood Centre at the application site.

### **Other Matters**

9.28 The KCC Archaeological officer notes that there is potential for prehistoric and Roman remains within part of the site and recommends a condition to ensure the implementation of a programme of archaeological works. The applicant notes that a large part of the site was

used for brick-earth extraction and that this limits the potential for archaeological finds. However, for a small part of the site, the programme of archaeological works would be appropriate. I have recommended an appropriate condition.

9.29 I am content that foul and surface water drainage can be designed to meet the requirements of the relevant consultees. Surface water is to be managed so that run-off from the site is minimised via sustainable drainage methods such as swales and ponds. I therefore consider that there would be an increase in the likelihood of flooding by way of increased surface water run-off. The submitted Flood Risk Assessment confirms that there is no risk of flooding at the site.

9.30 The Head of Environmental Services accepts the findings of the Geo-environmental/geo-technical report in respect of contaminated land which conclude that there would be a low to medium risk to human health and recommends an appropriate condition to remediate any contamination that may be found at the site. He also recommends a condition to deal with landfill gas at the site.

9.31 The Air Quality Assessment concludes that the proposals would have no significant impacts on the Sittingbourne AQMA and that the site is suitable for residential use. The Environmental Service Manager accepts this conclusion and I therefore have no concerns in this respect.

9.32 The Utilities Statement concludes that there is sufficient capacity for the proposed development for all services.

9.33 Policy DM7 of the Kent Minerals and Waste Local Plan 2013 – 2030 states that planning permission will only be granted for non-mineral development that is incompatible with minerals safeguarding where it is demonstrated, among other things, that it constitutes development on a site allocated in the adopted development plan. As the application site lies within allocated land (Swale Borough Local Plan 2008), the development of this site for housing would comply with Kent policy DM7.

9.34 I do not intend to limit the number of dwellings allowed to be developed on this site to 33 as indicated in the application. This is because it may be possible, given the need for housing in the Borough, for a higher number of dwellings to be provided on site which would be demonstrated through the reserved matters application. However, Members should note condition (6) which sets out the building parameters for the site which will ensure that the development has adequate landscaping and that the buildings are of an appropriate height.

## **10.0 CONCLUSION**

10.01 The proposed development would provide much needed housing on land within the built-up area boundary. Whilst this site was originally ear-marked for 'Neighbourhood Uses' serving the residents of the Great Easthall estate, the operation of shops and a pub on this site have proven to be commercially unviable. Planning Officers have negotiated a contribution of £180,000 towards the setting up of a community shop that would cover the cost of construction, fit-out costs, professional fees and payment of the manager's wages for up to two years. The shop would be provided next to the community hall contributing towards a community hub within the Great Easthall estate. Subject to the community shop contribution, the development is considered to be sustainable and acceptable in principle.

10.02 Consideration has been given to residential amenity, design, landscape impact, highway safety/amenity, ecology and biodiversity, impact on heritage assets, flooding, contamination, air quality, brick earth extraction and utility provision. I have recommended appropriate conditions where necessary.

10.03 The applicant has agreed to make various financial contributions towards education, libraries, the Thames, Medway and Swale Estuaries Strategic Management and Monitoring (SAMM) Strategy, NHS (expanding local health services), bins and a commuted sum for the maintenance of open space. It is considered that these contributions met the CIL tests.

10.04 I therefore consider that the proposed development of this site for up to 33 dwellings would be acceptable and recommend approval subject to the conditions set out below, comments from Southern Water and the completion of a section 106 Agreement to incorporate the requirements as set out above at paragraph 9.25.

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

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

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

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

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

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

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

4. The development hereby approved shall be carried out in accordance with the following approved drawing: ITL11359-SK-002 rev A, Development Parameters 006c.

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

5. The details referred to in condition (1) shall include cross-sectional drawings through the site, of the existing and proposed site levels shall be submitted to and approved in writing by the Local Planning Authority before work commences and the development shall be completed strictly in accordance with the approved levels.

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

6. The layout for the reserved matters application pursuant to condition (1) shall include open space/open land and the connecting cycle/footway as shown within the application site on the Development Parameters plan 006c. In addition, the maximum storey height shall not exceed 3 with a maximum ridge height 13 metres.

Reason: In the interests of achieving a good design and living environment for future residents.

7. No development shall take place on areas not previously excavated for brickearth (as identified in green on plan entitled "Figure 17" prepared by CgMs) until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written specification and timetable which has been submitted to and approved in writing by the Local Planning Authority.

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

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

Reason: To ensure that the development complies with the approved details in the interests of protection of Controlled Waters and human health.

9. Upon completion of the works to remediate contaminated land under condition (8), and before any part or agreed phase of the development is occupied, a closure report shall be submitted which shall include details remediation works undertaken, with quality assurance certificates to show that the works have been carried out in accordance with the approved methodology. Details of any post-remediation sampling and analysis to show the site has reached the required clean-up criteria shall be included in the closure report together with the necessary documentation detailing what waste materials have been removed from the site

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

10. Prior to the commencement, a detailed scheme for the investigation, recording and remediation of gas shall be carried out. Such a scheme to comprise:

A report to be submitted to and approved by the Local planning authority. The report shall include a risk assessment and detail how on site monitoring during the investigation took place. The investigation shall be carried out by a suitably qualified and accredited consultant/contractor in accordance with a methodology that complies with current best practice, and these details reported.

Detailed proposals in line with current best practice for gas protection measures (the 'Gas Protection Proposals') have been submitted to and approved by the Local Planning Authority. The Proposals shall detail sources of best practice employed.

Approved works shall be carried out in full on site prior to first occupation. Upon completion of the works, this condition shall not be discharged until a closure report has been submitted to and approved by the Local Planning Authority. The closure report shall include full details of the works and certification that the works have been carried out in accordance with the approved scheme.

Reason: To safeguard the future occupants of the site.

11. Prior to the commencement of development hereby approved, full details of the method of disposal of foul and surface waters including discharge rates and

attenuated volumes, shall be submitted to and approved by the Local Planning Authority. This shall include full details for the Sustainable Urban Drainage System and how it will be maintained. The approved details shall be implemented before the first use of the development hereby permitted.

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

12. Prior to the commencement of development hereby approved, a programme for the suppression of dust during the demolition of existing buildings and construction of the development shall be 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.

13. No construction work in connection with the development shall take place on any Sunday or Bank Holiday, nor on any other day except between the following times:-  
Monday to Friday 0730 – 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.

14. 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.

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

Reason: In the interests of highway safety and convenience.

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

Reason: In the interests of highway safety and convenience.

17. The details submitted pursuant to condition (1) above shall show adequate land, reserved for the parking or garaging of cars and such land shall be kept available for this purpose at all times and no permanent development, whether permitted by the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking or re-enacting that Order) or not shall be carried out on such land or in a position as to preclude vehicular access thereto; such land and access thereto shall be provided prior to the occupation of the dwelling(s) hereby permitted.

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

amenity.

18. The proposed estate road, 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, as appropriate, 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 and in accordance with a schedule of house completion and an implementation programme for the agreed works, also to be submitted to the Local Planning Authority for approval in writing.

Reason: To ensure that the roads are constructed and laid-out in a satisfactory manner.

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

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

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

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

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

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

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

Reason: In the interest of visual amenity.

23. Prior to the commencement of development hereby approved, a Noise Assessment shall be submitted to the Local Planning Authority that specifically responds to the layout of the housing development pursuant to condition (1) above. This shall include details of the double glazing and any mechanical ventilation that is to be installed within the properties and any other mitigation measures recommended as a result of the noise assessment.

Reason: In the interests of residential amenity.

24. Prior to the commencement of development pursuant to condition (1), a report demonstrating how the proposal will incorporate measures to encourage and promote biodiversity and wildlife, including details of the type and location of lighting to be provided close to landscaped area (so as not to discourage bats from foraging) and details of how the biodiversity habitat areas of the site will be managed, shall be submitted to and approved in writing. This report shall comment on the likelihood of Great Crested newts colonising the site since the last survey was undertaken at the site in March and April 2016 and suggest appropriate further survey work and mitigation if required. Development shall be carried out in accordance with those approved details and shall thereafter be retained.

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

25. Prior to the commencement of development hereby approved, details shall be submitted to the Local Planning Authority and approved in writing, which set out what measures have been taken to ensure that the development incorporates sustainable construction techniques such as water conservation and recycling, renewable energy production including the inclusion of solar thermal or solar photo voltaic installations, and energy efficiency. Upon approval, the details shall be incorporated into the development as approved.

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

26. Prior to the occupation of the dwellings hereby approved, ducting / culverts and any other associated equipment to enable the provision of Broadband to each property within the application site, shall be installed as part of the layout pursuant to condition (1).

Reason: To enable the provision of Broadband to each property.

#### Informative

1. Prior to the submission of any reserved matters application, the applicant, agent, or successors in title, are encouraged to undertake pre-application (reserved matters) discussion with the local Planning Authority. As part of this pre-application discussion, it may well be necessary to consult with external bodies such as Kent Police Crime Prevention Design Advisors (CPDAs) to ensure that a comprehensive approach is taken to Crime Prevention and Community Safety.

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 in the processing of their application and 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 was asked to address matters to improve the development.

## **APPENDIX: HABITATS REGULATIONS ASSESSMENT**

### **Context**

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

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

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

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

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

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

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

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

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

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

### **Associated information**

The applicant confirms that they are willing to commit to contributions towards the strategic mitigation noted above. Natural England's email to SBC dated 12<sup>th</sup> September 2016 has also been considered; in particular that they have raised no objections subject to contributions towards strategic mitigation.

### **The Assessment of Land at Swale Way, East Hall Farm, Sittingbourne**

The application site lies 600m to the south of The Swale and Medway Estuary and Marshes SSSI, Ramsar and Special Protection Area. Therefore, there is a medium possibility that future residents of the site will access footpaths and land within these European designated areas. Natural England consider that the development is unlikely to have a significant effect on the internationally designated site either alone or in combination.

This assessment has taken into account the availability of other public footpaths close to the site and the open space, footways and cycleways close to the site and within the Great Easthall estate. Whilst these would no doubt supplement many day-to-day recreational activities, there would be some leakage to the SPA. However, the commitment of the applicant to contribute £223.58 per house to address SPA recreational disturbance towards strategic mitigation in line with recommendations of the Thames Medway and Swale Estuaries SAMM as detailed above, will off-set some of the impacts. This mitigation will include strategies for the management of disturbance within public authorised parts of the SPA as well as to prevent public access to privately owned parts of the SPA.

### **Conclusions**

Taking the above into account, the proposals would not give rise to significant effects on the SPA. At this stage it can therefore be concluded that the proposals can be screened out for purposes of

Appropriate Assessment.

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

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<b>REFERENCE NO - 16/506068/FULL</b>			
<b>APPLICATION PROPOSAL</b> Erection of chalet bungalow with detached double garage/store and associated parking, access and landscaping works			
<b>ADDRESS</b> Land At Callaways Lane Newington Kent ME9 7LU			
<b>RECOMMENDATION</b> Grant with conditions			
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b> The Council does not currently have a five year supply of housing land and therefore the policies in the Local Plan related to housing are considered to be out of date. The site adjoins the built up area boundary, is considered to be in a sustainable location when assessed against the NPPF and the benefits of one dwelling in this location outweigh any harm caused to the countryside. Furthermore, the proposal would not cause harm to the setting of the conservation area or residential amenities.			
<b>REASON FOR REFERRAL TO COMMITTEE</b> Recommendation contrary to Parish Council view.			
<b>WARD</b> Hartlip, Newington And Upchurch	<b>PARISH/TOWN COUNCIL</b> Newington	<b>APPLICANT</b> Mr J Lane <b>AGENT</b> DHA Planning	
<b>DECISION DUE DATE</b> 17/10/16	<b>PUBLICITY EXPIRY DATE</b> 01/11/16		
<b>RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):</b>			
<b>App No</b>	<b>Proposal</b>	<b>Decision</b>	<b>Date</b>
None			

**MAIN REPORT**

**1.0 DESCRIPTION OF SITE**

- 1.01 The application site comprises an undeveloped parcel of land measuring 48m-55m in depth and 24m-28m in width.
- 1.02 The site is bounded to the northwest by Callaways Lane and to the northeast by an access track. To the south of the site lies open countryside. The built up area boundary abuts the site to the northeast and also runs along Callaways Lane to the northwest of the site. The Newington Manor conservation area lies approximately 14m to the west of the closest part of the application site.

**2.0 PROPOSAL**

- 2.01 The application seeks planning permission for the erection of a chalet bungalow with a detached double garage / store.
- 2.02 The dwelling would be set back from Callaways Lane by a distance of 22m-24m and as a result would be located towards the centre of the application site. The property will have a footprint of 13m x 7m at ground floor level with the floor area reducing to 11m x 6.5m at first floor level. The proposed dwelling has a pitched roof with three

pitched roof dormers on the front roofslope and three on the rear. There will be a catslide roof on the northeast elevation. The eaves height will be 2.4m on the northeast elevation and 3.5m elsewhere. The ridge height will be 8m. A chimney rising to 8.3m will be located on the southwest elevation.

- 2.03 A double garage / store will be located in advance of the front elevation of the dwelling, close to the access track which abuts the northeast boundary of the application site. This structure measures 10m x 6.5m and has a pitched roof with a catslide element. The eaves of the building will be 1.6m on the catslide element, 2.5m elsewhere and 6m to the ridge.
- 2.04 A courtyard / parking area would be located in the area in front of the dwelling and to the rear of the site would be private amenity space measuring 21m in depth and 27m in width. A 1.2m high post and rail fence would be situated on the front and side boundaries of the site.

### 3.0 PLANNING CONSTRAINTS

- 3.01 Newington Manor conservation area – Would affect the setting of.

### 4.0 POLICY AND OTHER CONSIDERATIONS

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

- 4.01 The NPPF at paragraph 14 states that central to the NPPF is “*a presumption in favour of sustainable development.*”

*For decision-taking this means:*

- *approving development proposals that accord with the development plan without delay; and*
- *where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:*
  - *any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or*
  - *specific policies in this Framework indicate development should be restricted.”*

- 4.02 At paragraph 49 the NPPF states that “*Housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.*”

#### Development Plan

- 4.03 Policies SP1 (Sustainable Development), SP2 (Environment), SP4 (Housing), SP5 (Rural Communities), SH1 (Settlement Hierarchy), E1 (General Development Criteria), E6 (The Countryside), E15 (Development Affecting a Conservation Area), E19 (Achieving High Quality Design and Distinctiveness), RC3 (Helping to Meet Rural Housing Needs), H2 (Providing for New Housing), T1 (Providing Safe Access to New Development) and T3 (Vehicle Parking for New Development) of the adopted Swale Borough Local Plan 2008

- 4.04 Policies ST1 (Delivering Sustainable Development in Swale), ST2 (Development Targets for Jobs and Homes 2011-2031 2014-2031), ST3 (The Swale Settlement Strategy), CP3 (Delivering a Wide Choice of High Quality Homes), CP4 (Requiring Good Design) and DM14 (General Development Criteria) of The Emerging Swale Borough Local Plan 'Bearing Fruits 2031' Proposed Main Modifications 2016.

## 5.0 LOCAL REPRESENTATIONS

- 5.01 Surrounding properties were sent a consultation letter, objections were received from two separate addresses raising the following summarised points:

- The application site provides a barrier between the developed side of Callaways Lane and the open countryside;
- A vast array of wildlife resides within the application site;
- The site is close to the conservation area and development in this location could impact on views into and out of this designated area;
- The site is sensitive and should not be built upon;
- Many well established trees and bushes will have to be cleared to allow for the development;
- The vehicular access will be dangerously located;
- The development site abuts an accessway which could cause damage to the banked area and impact upon the users of the access;
- The cumulative impact of planning applications for housing in the vicinity will create the urbanisation of this rural area within which the infrastructure does not exist to support new residents;
- Existing residents will have to endure months of construction related disturbances;
- The surrounding road network is not large enough to deal with construction vehicles;
- The property would give rise to light pollution to existing residents and wildlife and would impact upon the darkness of the countryside;
- The proposal would lead to a loss of views from neighbouring properties;
- The owner of the land promised not to develop the site;
- Developers promise new facilities but these are rarely delivered.

## 6.0 CONSULTATIONS

- 6.01 **Newington Parish Council** *"objects to this application.*

*The proposed dwelling is within the conservation area and would be visible from Cranbrook Farm and Little Cranbrook Farm. It would extend the built-up boundary of the Village.*

*There seem to be errors in the application: it is contradictory stating, the land is in the centre of the village and also that it is on the periphery. Much is made of the 1998 Cranbrook Farm application, quoting this as a precedent; in fact this application was in respect of the conversion of a redundant farm outbuilding, rather than building on rural land a dwelling that would not fulfil any social or agricultural need."*

- 6.02 **KCC Ecology** request conditions related to a method statement for ecological mitigation, a lighting strategy, bat boxes, bird boxes and the provision of additional native hedgerow planting.

- 6.03 The Council's **Environmental Protection Team** state that *"the land is currently used for agricultural purposes of which details have not been given. It will be necessary for a desk top study to be provided for this site. There is also the potential to cause a*

*noise nuisance during construction.*” No objection has been raised subject to conditions related to land contamination and construction noise.

## **7.0 SUPPORTING DOCUMENTS**

- 7.01 A Design and Access Statement and Heritage Statement have been submitted in support of the application. This sets out that the Council cannot demonstrate a five year supply of housing and the site lies within a sustainable location. Further to this, in response to the objection letters received the applicant has commented stating that there has never been a promise not to develop the site and the proposed dwelling will be occupied by the applicants.

## **8.0 BACKGROUND PAPERS AND PLANS**

- 8.01 Application papers and correspondence relating to planning reference 16/506068/FULL.

## **9.0 APPRAISAL**

### **Principle of Development**

- 9.01 Although the site adjoins the built up area boundary, in planning policy terms it lies outside of the built up area and is therefore in the countryside. In regards to this the Council can not currently demonstrate a five year supply of housing land and because of this the Council’s policies in relation to residential development are to be considered out of date, as set out in paragraph 49 of the NPPF. This means that policies E6 (Countryside) as far as it relates to housing, H2 (Providing for New Housing) and RC3 (Helping to Meet Rural Housing Needs) of the adopted Swale Borough Local Plan 2008 (SBLP) are out of date because they seek to restrict housing development in the countryside as defined by the Proposals Map of the SBLP. Therefore these policies can only be afforded limited weight.
- 9.02 Paragraph 14 of the NPPF sets out the presumption in favour of sustainable development. It dictates that where relevant policies are out of date, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the whole framework, or where specific policies in the framework indicate development should be restricted.
- 9.03 The NPPF identifies three dimensions to sustainable development; economic, social and environmental, and states that planning needs to perform roles in all three dimensions. I consider each in turn below.
- 9.04 As set out above, the boundary of the application site abuts the boundary of the built up area. As such, the site is only 330m from the centre of Newington (via Callaways Lane and High Street). Although there is not a footpath immediately adjacent to the application site there is a footpath which begins approximately 50m away which provides access into the centre. I also note that the nearest bus stop is 320m away from the site, the mainline railway station 500m away and a primary school is located 950m away. Therefore I consider that the site has extremely good accessibility to goods, services and public transport and relatively good links to the nearest primary school. Due to this a dwelling in this location would support the well being of the village and help to perform the social role in sustainable development.
- 9.05 In terms of the proposals contribution to the economic role of sustainable development there is some limited potential for future residents of the proposal to find



employment at one of the services which are provided within the village centre. In addition, the construction phase of the development would generate some short term employment. Therefore I consider that this dimension to sustainable development has been satisfied, albeit in a limited way.

- 9.06 The northern side of Callaways Lane is defined by existing residential development. Further to this, immediately to the northeast of the application site, on the southern side of Callaways Lane, the environment is built up in nature. Therefore, although to the south of the application site the setting is largely rural this does not solely define the characteristics of the surrounding area in my view. As such, I do not consider that the development would cause unacceptable harm to the character and appearance of the countryside.
- 9.07 Paragraph 55 of the NPPF advises that isolated new homes in the countryside should be avoided. However, as the site abuts the built up area boundary and due to its close proximity to the village centre and other built form I do not at all consider that the site can be defined as isolated. As such I believe that there would be limited harm arising from the development which would be considerably outweighed by the benefits that an additional dwelling would bring when considered against the NPPF as a whole. Overall there are no specific policies in the NPPF which indicate that the development should be restricted in this case.

#### **Impact upon the setting of the conservation area and visual amenities**

- 9.08 As set out above the site lies close to the Newington Manor conservation area. Therefore a key consideration in the determination of this application is the requirement of the proposal to preserve or enhance the setting of, or views into and out of this designated heritage asset.
- 9.09 Upon receipt of the original application the garage / store was located close to the southwestern boundary of the application site. I considered that this created a barrier between the application site and the open space beyond. As a result I liaised with the agent and suggested that the garage / store building be moved close to the northeastern boundary on the opposite side of the application site. Amended drawings have been forthcoming which reflect this and alongside the proposed property being set back into the site this has, in my view, resulted in the development complimenting the open space to the southwest.
- 9.10 Further to the southwest of the site lies Cranbrook Farm. A reasonably sized area of open land between this address and the application site would be retained. It is also important to consider that as set out above, the proposed dwelling will be set back into the site, allowing views from Callaways Lane towards the conservation area to be retained. It is further noted that the dwelling to the northeast of the application site, known as 'Cromac' is of an undistinguished design and as such, the traditional design of the proposed dwelling in comparison would enhance the area in my view. As a result I am of the opinion that the proposal as amended would have a positive impact upon the setting of the conservation area and visual amenities and is acceptable in my opinion in this regard.

#### **Residential Amenity**

- 9.11 The site faces neighbouring residential properties on the opposite side of Callaways Lane and the adjacent access track. Although the proposed detached garage will be set forward of the proposed property, this element of the application will still be separated from the closest dwellings by a distance of 30m (from Longview) and 22m

(from Cromac). As a result I am of the view that the proposal will have little impact on residential amenities and is acceptable in relation to this.

### **Impact upon SPA and Ramsar sites**

- 9.12 I have for completeness set out a Habitat Regulations Assessment below. This confirms that whilst mitigation could be provided by way of developer contributions, this is not considered appropriate for developments 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**

- 9.13 A number of the points raised in the objection letters have been responded to by virtue of the discussion above. However, of those that remain I respond as follows. In regards to wildlife and vegetation on the site I have consulted with KCC Ecology who recommended a number of conditions. I have included these and therefore take the view that these matters can be dealt with satisfactorily. In relation to the new access, Callaways Lane is an unclassified road and therefore KCC Highways have made no comment. However, I note that a number of residential properties in the vicinity have accesses onto Callaways Lane and I do not believe that the access proposed here to be any worse than those existing.
- 9.14 In regards to the point raised about the cumulative impact of housing developments, I give significant weight to the fact that this is a proposal for one dwelling which is located adjacent to the built up area boundary. Therefore, in this location, I do not believe that the scale of development proposed, even accounting for other dwellings, would give rise to a significantly unacceptable strain on infrastructure and services.
- 9.15 I do not believe that the disturbance from construction of one dwelling would be so significant as to substantiate a reason for reason. However, I have included a condition which restricts hours of construction to protect the amenities of neighbours. Furthermore, due to the relatively small scale of the development I do not consider that construction vehicles would have a significantly harmful impact upon the surrounding road network. In relation to light pollution, due to the distance between the proposed and surrounding properties I am of the view that standard domestic lighting would not have an unacceptable impact upon neighbouring amenities or the wider countryside. Furthermore, KCC Ecology have requested a condition in relation to lighting which I have imposed to protect species on the site.
- 9.16 Loss of views, comments that the applicant may or may not have made previously in relation to site and the stability of the bank adjacent to the application site are not material planning considerations and therefore I make no further comment in relation to these. I also note the comment raised relating to developer contributions but as this is a scheme for one dwelling this proposal would fall below the threshold for this.

## **10.0 CONCLUSION**

- 10.01 Overall I consider that due to the Council's housing policies being out of date as a result of the current five housing land supply position that the benefits that the development would bring in terms of a welcome, albeit limited contribution to the housing land supply in a sustainable location would outweigh the very limited harm that this proposal would cause. I have also assessed the impact upon the setting of, and views into and out of the conservation area and take the view that the proposal

has been appropriately designed and laid out to preserve this designated heritage asset. I consider that the development would cause very little harm to residential amenities. Due to the above I recommend that planning permission is granted.

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

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

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

- 2) The development hereby permitted shall take place in accordance with the following drawings: 16.27.1000A; 16.27.SK01E; 16.27.SK04B; 16.27.SK05A; 16.27.SK06C; 16.27.SK11A; 16.27.SK20; 16.27.SK21; 16.27.SK22; 16.27.SK23, received 7<sup>th</sup> November 2016).

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

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

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

- 4) 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 shall be implemented in accordance with the approved details.

Reason: In the interest of visual amenity and to preserve the setting of the conservation area.

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

Reason: In the interest of visual amenity and to preserve the setting of the conservation area.

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

Reason: In the interest of visual amenity and to preserve the setting of the conservation area.

- 7) 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.

- 8) 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.

- 9) 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.

- 10) No development shall take place (including any ground works, site or vegetation clearance) until a method statement for ecological mitigation (including provision for reptiles, amphibians, nesting birds, and hedgehogs) has been submitted to and approved in writing by the local planning authority.

The content of the method statement shall include the:

- a) Purpose and objectives for the proposed works;
- b) Detailed design(s) and/or working method(s) necessary to achieve stated objectives;
- c) Extent and location of proposed works, including the identification of a suitable receptor site, shown on appropriate scale maps and plans;
- d) Timetable for implementation, demonstrating that works are aligned with the proposed phasing of construction;
- e) Persons responsible for implementing the works, including times during construction when specialist ecologists need to be present on site to undertake / oversee works;
- f) Use of protective fences, exclusion barriers and warning signs
- g) Initial aftercare and long-term maintenance (where relevant);

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

Reason: In the interest of protecting reptiles on the site and to ensure that such matters are agreed before work is commenced.

- 11) No development shall take place until a “lighting design strategy for biodiversity” for the site boundaries has been submitted to and approved in writing by the local planning authority. The lighting strategy shall:
- a) Identify those areas/features on site that are particularly sensitive for bats and that are likely to cause disturbance in or around their breeding sites and resting places or along important routes used to access key areas of their territory;
  - b) Show how and where external lighting will be installed so that it can be clearly demonstrated that areas to be lit will not disturb or prevent the above species using their territory.
- All external lighting shall be installed in accordance with the specifications and locations set out in the strategy and these shall be maintained thereafter in accordance with the strategy.
- Reason: In the interests of preventing disturbances to species in the vicinity and to ensure that such matters are agreed before work is commenced.
- 12) Details of the location and completion of the following enhancement measures shall be submitted to, and be approved by, the Local Planning Authority prior to the occupation of the dwelling hereby approved:
- a) 2 x Schwegler Bat Box: Type 2F;
  - b) 1 x Schwegler Bat Box: Type 1FF
  - c) 2 x Schwegler Bird Box: Type 1B;
  - d) 1 x Schwegler Sparrow Terrace: Type 1SP;
  - e) Provision of native planting.
- Reason: In the interests of biodiversity.
- 13) The development hereby permitted shall not be commenced until the following components of a scheme to deal with the risks associated with contamination of the site shall have been submitted to and approved, in writing, by the Local Planning Authority:
- a) 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.
  - b) A site investigation, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
  - c) A remediation method statement (RMS) based on the site investigation results and the detailed risk assessment (2). This should give full details of the remediation measures required and how they are to be undertaken. The RMS should also include a verification plan to detail the data that will be collected in order to demonstrate that the works set out in the RMS are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

d) A Closure Report is submitted upon completion of the works. The closure report shall include full verification details as set out in 3. This should include details of any post remediation sampling and analysis, together with documentation certifying quantities and source/destination of any material brought onto or taken from the site. Any material brought onto the site shall be certified clean;

Any changes to these components require the express consent of the Local Planning Authority. The scheme shall thereafter be implemented as approved.

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

- 14) No construction activities shall take place, other than between 0800 to 1800 hours (Monday to Friday) and 0800 to 1300 hours (Saturday) with no working activities on Sunday or Bank Holiday.

Reason: In the interests of residential amenity.

- 15) 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 (as amended) (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.

- 16) 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 (as amended) (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.

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

Reason: In the interests of highway safety and amenity.

### **Habitats Regulations Assessment**

This HRA has been undertaken without information provided by the applicant. The application site is located 2.8km south of Medway Estuary and Marshes Special Protection Area and Ramsar site which is a 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 a proposal for one 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.



<b>REFERENCE NO - 16/505956/FULL</b>		
<b>APPLICATION PROPOSAL</b> Demolition of the existing commercial buildings, erection of 3, four bed terraced dwellings and 2, four bed semi-detached dwellings, creation of 11 car parking spaces and area for cycle spaces to rear of dwellings as amended by drawings received 3 November 2016		
<b>ADDRESS</b> 42-44 The Street Bapchild ME9 9AH		
<b>RECOMMENDATION</b> Grant SUBJECT TO: outstanding representations (closing date 15 December 2016)		
<b>SUMMARY OF REASONS FOR RECOMMENDATION/REASONS FOR REFUSAL</b> The proposal, as amended, is broadly in line with national and local planning policy		
<b>REASON FOR REFERRAL TO COMMITTEE</b> Local representations		
<b>WARD</b> West Downs	<b>PARISH/TOWN COUNCIL</b> Bapchild	<b>APPLICANT</b> Mr Herbert Gray <b>AGENT</b> Cook Associates Design Studio LLP
<b>DECISION DUE DATE</b> 27/09/16	<b>PUBLICITY EXPIRY DATE</b> 09/09/16	

**1.0 DESCRIPTION OF SITE**

- 1.01 The site is at present used for the display and sale of caravans and motor homes. It is mainly laid to hardstanding, with two large utilitarian buildings on site; one virtually in the centre of the site and the other immediately on the rear boundary to the site, backing on to the rear gardens of modern dwellings situated in Doubleday Drive. It has been suggested that the building at the rear of the site may contain asbestos within its construction.
- 1.02 The site is situated within the built-up area boundary of Bapchild, fronting the A2. The immediate area is predominantly residential in character, although there is a large Vauxhall garage quite nearby. Detached houses stand on either side of the site.
- 1.03 The history of the site is somewhat chequered in recent years. Before the present occupiers of the site, it was used unlawfully as a hand car wash business, which caused great disruption and hardship to the local residents. I understand that the present tenants have reversed this unfortunate episode.
- 1.04 There is an existing public right of way near to the site which links The Street with Doubleday Drive. It would be unaffected by the proposal. The streetscene on either side comprises a mix of domestic styles and building lines with no clear uniformity.

**2.0 PROPOSAL**

- 2.01 The proposal is to remove the present structures from the site and to construct five houses, one terrace of three houses and a pair of semi-detached houses, all to the same design. Each house would be served by its own garden, and the submitted drawings show each house having two off-road parking spaces and an additional visitor parking space all arranged across the front of the site.

- 2.02 The design of the proposed houses is quite contemporary, featuring a combination of facing materials (brick, render and cladding), and most obviously, a zinc roof. The roof would be in a wave shape, rising from the front elevation giving the building two storeys to the front and a three storey flat roofed appearance to the rear.
- 2.03 The original drawings submitted showed full length glazed doors and glazed balconies to the rear upstairs storeys potentially giving rise to privacy issues, but amended drawings have removed the balconies and substituted more traditional rear windows instead.
- 2.04 The proposal utilises the existing access to the site, with the above-mentioned parking areas leading directly therefrom.
- 2.05 The distance from rear windows to rear window at the nearest point between the rear windows of the proposal and the rear walls to the existing properties was originally just less than the 21m distance normally required, but in the amended drawings the pair of houses has been moved forward on the site and there would now be at least 21 metres from the centre of the nearest proposed bedroom window, and at a slight angle, to the closest house behind. Moving these houses further forward still would begin to affect an existing side window in the adjoining house to the west. The terraced houses proposed are further from the rear boundary and exceed normal minimum privacy distances.
- 2.06 The application is accompanied by a Design and Access Statement and a Heritage Statement, and a letter from a local property consultant discussing the loss of employment use of the land. This letter explains the chequered history of commercial uses at the site with a turn-over of vehicle related businesses as the property is not to a standard suitable to support a viable business. Other commercial uses are considered unsuitable given the wholly residential surroundings of the site, such that the site is no longer fit for commercial uses, and is more suitable for residential development.

**3.0 SUMMARY INFORMATION**

	<b>Proposed</b>
Site Area (ha)	0.13h
Approximate Ridge Height (m)	8.5m
Approximate Eaves Height (m)	5m (front), 8.3m (rear)
Approximate Depth (m)	12.5m
Approximate Width (m)	4.3m (each house)
No. of Storeys	2 ½
Parking Spaces	11
No. of Residential Units	5
No. of Affordable Units	0

**4.0 PLANNING CONSTRAINTS**

None.

**5.0 POLICY AND OTHER CONSIDERATIONS**

- 5.01 Swale Borough Local Plan 2008 saved policies E1 (General Development Criteria), E19 (Design Criteria), B1 (Employment Land) and H2 (New Housing).

- 5.02 Bearing Fruits 2031: The Swale Borough Local Plan Main Modifications June 2016: Policies ST1 (Sustainable Development), CP4 (Requiring Good Design), DM14 (Development Criteria).
- 5.03 The National Planning Policy Framework (NPPF): Paragraphs 7 (Sustainable Development), 9 (Quality of built environment), 14 (presumption in favour of sustainable development), 49 (presumption in favour of sustainable housing development), 51 (Housing need).

## 6.0 LOCAL REPRESENTATIONS

- 6.01 Objections and concerns have been received from five local addresses. Their comments may be summarised as follows:

- This will remove our privacy and security
- Design of new buildings is not in keeping with the street scene, particularly the use of flat zinc roofs which are not in keeping with adjacent or local properties
- Visual impression of buildings being taller
- Overshadowing to neighbouring properties
- Balconies will erode neighbours' privacy; *'The only possible overlooking at present is from our neighbours' windows, but of course a balcony is by its nature designed for sitting and viewing so is quite a different prospect'*
- Concerns over maintenance of existing side boundary wall
- No objection to residential development per se
- The current tenants are far more respectful of the site's surroundings with minimal impact or disruption
- Unable to erect a rear fence at present, as the present building acts as a boundary
- Proposal could effect the value of my property
- Present building at the rear of the site has asbestos within its construction
- Underground fuel tanks and contamination on site
- Would erode the security to the rear of our home
- Noise pollution from the A2 due to the proposed gap in the building line
- Sound from proposed properties would be disturbing

## 7.0 CONSULTATIONS

- 7.01 Bapchild Parish Council neither support nor object to the proposal, but raise concerns with regard to the proposed roof height, the rear balconies (now deleted) and privacy issue, concerns over ground contamination, and concerns over the possible use of asbestos within the existing rear building.
- 7.02 Kent Highways and Transportation raises no objection, subject to conditions recommended below.
- 7.03 Natural England raises no objection.
- 7.04 The KCC Public Rights of Way Officer raises no objection.
- 7.05 The Council's Environmental Health Manager raises no objection, subject to the inclusion of conditions recommended below.
- 7.06 I await the comments of the Environment Agency, which I hope to be able to report to Members at the meeting (closing date 15 December 2016).

## 8.0 APPRAISAL

- 8.01 The main issues to consider in this case are those of principle, residential amenity and design.
- 8.02 In terms of the principle of development, the site is situated within the built-up area boundary and in a very sustainable location. As noted earlier in the report, the immediate area is predominantly residential in character and, as such, I consider the proposal to be acceptable in principle.
- 8.03 With regard to residential amenity, from the responses received from nearby local residents, it appears that this is the main issue of concern, particularly with regard to concerns of overshadowing, overlooking and erosion of privacy.
- 8.04 When assessing the original drawings submitted with the application, I noted the inclusion of balconies to the rear, these have subsequently been removed and consequently will substantially reduce any likelihood of overlooking, whilst the greater distance between the rears of the properties will further reduce such a likelihood. As such, I now believe that the effect on residential amenity is acceptable.
- 8.05 Any overshadowing from the proposal is likely to effect the northerly direction (The Street itself) and will have little effect on neighbouring properties.
- 8.06 With reference to design, I note that concern has been expressed with regard to the somewhat contemporary design. It is true that the design is somewhat modern, but I believe it to express a standard of design which I find both original and pleasing. The design is not run of the mill and represents a refreshing take on design whilst not compromising the character and appearance of the local area and the street scene which exhibits no consistency at present. The open nature of the site already represents a substantial break in form and I cannot see any objection to the design on style grounds as it is in itself well considered. As such, I am of the opinion that the contemporary design proposed would not have an adverse impact on the character and impact on the street scene, and is therefore acceptable.
- 8.07 I note the loss of existing employment land, but conclude that the current employment levels on the site would be fairly minimal, and that the use of the land for residential dwellings is far more in tune with the present needs of the immediate area.
- 8.08 As such, although I note the objections raised, I am of the opinion that the proposal is acceptable. I therefore recommend that the application be approved, subject to strict compliance with Conditions included below.

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

### CONDITIONS

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

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

- (2) The development hereby permitted shall be carried out in complete accordance with the following approved drawings: 15024/003 Rev B, 15024/004 Rev B, 15024/005, 15024/006 Rev B, 15024/007 Rev A and 15024/008 Rev A.

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

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

Reason: In the interest of promoting energy efficiency and sustainable development and to ensure that the details are correct before development commences.

- (4) 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 shall be implemented in accordance with the approved details.

Reason: In the interest of visual amenity and to ensure that the details are correct before development commences.

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

Reason: In the interests of residential amenity and to ensure that the details are correct before development commences.

- (6) 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.

- (7) 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.

- (8) No burning of waste or refuse shall take place on site during construction works.

Reason: In the interests of residential amenity.

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

Reason: In the interests of highway safety and convenience.

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

Reason: In the interests of highway safety and convenience.

- (11) No development approved by this permission shall be commenced prior to a contaminated land assessment (and associated remediation strategy if relevant), being submitted to and approved in writing by the Local Planning Authority, comprising:

- a) A desk study and conceptual model, based on the historical uses of the site and proposed end-uses, and professional opinion as to whether further investigative works are required. A site investigation strategy, based on the results of the desk study, shall be approved by the Local Planning Authority prior to any intrusive investigations commencing on site.
- b) An investigation, including relevant soil, soil gas, surface and groundwater sampling, carried out by a suitably qualified and accredited consultant/contractor in accordance with a Quality Assured sampling and analysis methodology.
- c) A site investigation report detailing all investigative works and sampling on site, together with the results of analyses, risk assessment to any receptors and a proposed remediation strategy which shall be of such a nature as to render harmless the identified contamination given the proposed end-use of the site and surrounding environment, including any controlled waters.

Reason: To ensure any land contamination is adequately dealt with and to ensure that the details are correct before development commences.

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

Reason: To ensure any land contaminated 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 proposed remediation works with quality assurance certificates to show that the works have been carried out in accordance with the approved methodology. Details of any post-remediation sampling and analysis to show the site has reached the required clean-up criteria shall be included in the closure report together with the necessary documentation detailing what waste materials have been removed from the site.

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

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

Reason: In order to prevent pollution of water supplies and to ensure that the details are correct before development commences.

- (15) 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 prior to the commencement of development.

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

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

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

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

- (18) The areas shown on the submitted plan as car parking spaces 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 dwellings hereby permitted.

Reason: Development without adequate provision for the parking of cars is likely to lead to car parking inconvenient to other road users.

- (19) No development shall take place before details of cycle storage (2 cycles per dwelling) shall have been submitted to and approved in writing by the Local Planning Authority. The development shall then be carried out in complete accordance with these approved details.

Reason: In the interests of amenity and to ensure that the details are correct before development commences.

- (20) Adequate and suitable measures shall be carried out for the minimisation of asbestos fibres during demolition, so as to prevent airborne fibres from affecting workers carrying out the work, and nearby properties. Only contractors licensed by the Health and Safety Executive shall be employed. Any redundant materials removed from the site shall be transported by a registered waste carrier and disposed of at an appropriate legal tipping site.

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

- (21) Prior to the commencement of the development, a Code of Construction/Demolition Practice shall be submitted to and approved in writing by the Local Planning Authority. The construction of the development shall then be carried out in accordance with the approved Code of Construction Practice and BS5228 Noise Vibration and Control on Construction and Open Sites and the Control of dust from construction sites (BRE DTi Feb 2003) unless previously agreed in writing by the Local Planning Authority.

The code shall include:

- An indicative programme for carrying out the works
- Measures to minimise the production of dust on the site, to include measures for the safe dismantling of asbestos containing material (ACM) so as to prevent the generation of airborne fibres
- Measures to minimise the noise (including vibration) generated by the construction process to include the careful selection of plant and machinery and use of noise mitigation barrier(s)
- Maximum noise levels expected 1 metre from the affected façade of any residential unit adjacent to the site(s)
- Design and provision of site hoardings
- Management of traffic visiting the site(s) including temporary parking or holding areas
- Provision of off road parking for all site operatives
- Measures to prevent the transfer of mud and extraneous material onto the public highway
- Measures to manage the production of waste and to maximise the re-use of materials
- Measures to minimise the potential for pollution of groundwater and surface water
- The location and design of site office(s) and storage compounds
- The location of temporary vehicle access points to the site(s) during the construction works
- The arrangements for public consultation and liaison during the construction works

Reason: In the interests of residential amenity and to ensure that the details are correct before development commences.

- (22) The first five metres of the access leading from the public highway to the development hereby permitted shall be of a bound material.



Reason: In the interests of highway safety and convenience.

- (23) Upon completion, no rearward extension other than at ground floor level, whether permitted by Class A of Part 1 of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking and re-enacting that Order) or not, shall be carried out to any of the houses hereby approved

Reason: To avoid any extension reducing the distance between rear windows, the interests of the amenities of the residents of Doubleday Drive.

### **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.

### **Habitat Regulations Assessment**

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

The application site is located within 6km of the Swale Special Protection Area (SPA) and Ramsar site both of which are European designated sites afforded protection under the Conservation of Habitats and Species Regulations 2010 as amended (the Habitat Regulations).

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

The proposal therefore has potential to affect said site's features of interest.

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 and site remediation satisfactory to the EA, 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 of 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 would cost substantially 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 single dwellings upwards 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 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, 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 dwellings proposed but in the longer term the mitigation will be secured at an appropriate level, and in perpetuity.

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

<b>REFERENCE NO - 16/505982/FULL</b>			
<b>APPLICATION PROPOSAL</b>			
Erection of two detached buildings comprising (i) two A1 retail units and (ii) an A3/A5 drive-thru restaurant, and associated parking (Alternative development to site 6 under application 14/505440).			
<b>ADDRESS</b> Depot Eurolink Way Sittingbourne Kent ME10 3HH			
<b>RECOMMENDATION</b> - That delegated powers are given to officers to grant planning permission, subject to the completion of a S106 agreement to control the implementation and phasing of the development as part of the wider regeneration project in the town, no adverse comments from Kent County Council Highways with regard to the revised layout, to resolution over the ability to comply with BREEAM standards and subject to the formal issue of planning permission 14/505440.			
<b>SUMMARY OF REASONS FOR RECOMMENDATION/REASONS FOR REFUSAL</b>			
The development is not wholly in accordance with adopted and emerging Development Plan policies. However as part of the wider package of regeneration works across the town centre and likely significant economic benefits that would arise from this, together with the fallback position of application 14/505440 for retail development on this site, the overall planning balance is that permission should be granted subject to some restriction on the retail goods sold as set out in the planning conditions below.			
<b>REASON FOR REFERRAL TO COMMITTEE</b>			
Due to the significance of the development as part of the wider Spirit of Sittingbourne project, and because the development would take place on land owned by Swale Borough Council as part of a development partnership with the Spirit of Sittingbourne, and for authority to enter into a Section 106 agreement.			
<b>WARD</b> Chalkwell	<b>PARISH/TOWN COUNCIL</b>	<b>APPLICANT</b> The Spirit Of Sittingbourne LLP <b>AGENT</b> Goddard Planning Consultancy	
<b>DECISION DUE DATE</b> 03/11/16	<b>PUBLICITY EXPIRY DATE</b> 28/09/16	<b>OFFICER SITE VISIT DATE</b> Various from August to November	
<b>RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):</b>			
<b>App No</b>	<b>Proposal</b>	<b>Decision</b>	<b>Date</b>
14/505540	Proposed mixed use development - on six parcels of land - of 212 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	Pending Decision – resolution to grant subject to completion of a S106 agreement	Not yet issued

	and the creation of a new public square in Sittingbourne Town Centre, in front of the railway station.		
SW/80/0050	New Council Depot	Approved	25/03/80
16/506081	Detached four storey building comprising ground floor restaurant space (use class A3) and 63 bedroom hotel (Alternative development to site 4, Block B under application 14/505440/FULL).	Under consideration within this agenda	

**MAIN REPORT**

**1.0 DESCRIPTION OF SITE**

- 1.01 Members will be well aware of the “Spirit of Sittingbourne” development proposals which span across six sites and which Members have resolved to grant permission under application 14/505440. The application has not been formally granted to date, as there are outstanding matters which remain to be completed. For the purposes of this committee report, I shall refer to it as the “original” scheme.
- 1.02 This application seeks to make revisions to the original scheme for a retail park on site 6 – known as the Depot or “big box” site, located on the junction of Milton Road and Eurolink Way and immediately to the north of the railway line. This site was formerly used by Biffa as a waste transfer centre and contains two buildings surrounded by hard-standing. Much of the site boundary with both Milton Road and Eurolink Way is enclosed by tree and shrub growth of various species.
- 1.03 The site measures 1.044 hectares. Land levels vary across the site, with a rise in level of around 1 metre from north to south, and 2 metres from west to east. Due to these differing levels within the site and surrounding area the site is elevated by around 1.5 metres above Milton Road on the west boundary, and this reduces to a difference of around 0.5 metres on the eastern boundary of the site with Eurolink Way.
- 1.04 The Sittingbourne retail park lies to the north of the site on the opposite side of Eurolink Way, and the Morrisons supermarket is located further to the west on the opposite side of Milton Road.

**2.0 PROPOSAL**

- 2.01 The original scheme for the site provided a total of 3158 sqm of retail space contained within 4 units of approximately 8.6 metres in height, together with 105 parking spaces. The approved scheme included a planning condition to restrict the type / nature of goods sold from the site, as well as a restriction on the minimum size of the units.
- 2.02 This application seeks to reduce the quantum of retail floor space to 2421 sq.m. and introduce an A5 food takeaway facility on the site (167 sq.m.) , together with design and layout changes and an increase in car parking to 135 spaces. The retail floor space would be split between two units.
- 2.03 Members will no doubt be aware from local media that the applicant is in discussion with the Food Warehouse, Home Bargains, and Costa Coffee to occupy the proposed units. The application details and drawings include reference to these companies,

although Members will be aware that a planning permission runs with the land and would not restrict occupation to these companies only.

- 2.04 The application seeks an unrestricted retail use for the proposed units, i.e. free from the same or similar conditions imposed under the original scheme that restrict the nature of goods that can be sold from the premises. The conditions in question – namely numbers (28) and (44) from the report to committee on 10<sup>th</sup> March 2016 for 14/505440/FULL are discussed at paragraph 9.03 below.
- 2.05 The proposed changes in layout are partly in response to the revised quantum of floor space now proposed, but also involves a re-siting of the retail buildings. These units would have main frontages facing into the site and towards the main bulk of car parking in the centre of the site. As a result, the service yard for both retail units would be adjacent to the railway line and also to Milton Road, and the side elevation of unit 1 would face onto Eurolink Way.
- 2.06 The proposed retail units would measure approximately 56 metres in length, up to 48 metres in depth, and 9 metres in height. The plans also show that the site would be levelled, and as a result the retail units would be sited approximately 2-2.5 metres above the level of Milton Road and also the level of Eurolink Way to the west side of the site.
- 2.07 Due to the siting changes to re-orientate the main face of the building and create a greater amount of car parking in the centre of the site, the proposed retail units would be sited much closer to Eurolink Way than the original scheme. Unit 1 would be sited around 5 metres from the boundary of the site with Eurolink Way, whereas the units in the original scheme would be sited around 25 metres from this boundary. As a result of this, the proposed units would also occupy a greater length along Milton Road than the approved scheme, although the building would be sited slightly further from the boundary with Milton Road, at around 6.5 metres minimum compared to 4 metres under the original scheme.
- 2.08 The proposed takeaway unit would be sited on the eastern side of the site and would include a drive-through facility. It would measure around 5.25 metres in height, 16 metres in length and 11 metres in depth. At this point, the floor level of the unit would be just under 1 metre higher than pavement level at Eurolink Way.
- 2.09 Soft landscaping would be accommodated primarily on the north and west boundaries of the site, adjacent with Milton Road and Eurolink Way. This includes proposals to retain the existing landscaping along much of the length of Milton Road.

### 3.0 SUMMARY INFORMATION

	<b>Proposed scheme</b>	<b>“Original scheme”</b>	<b>Existing site</b>
Site Area (ha)	1.044 ha	1.044ha	1.044ha
Approximate Ridge Height (m)	9m	8.6m	9.8m
Approximate Eaves Height (m)	8.5m	8.4m	8.5m
Approximate Depth (m)	48m max	72m max	45m
Approximate Length (m)	56m max	46m max	49m
No. of Storeys	one	one	one
Net Floor Area	2,588 sqm	3,217 sqm	2373 sqm
Parking Spaces	134	105	Not marked

### 4.0 PLANNING CONSTRAINTS

Within built confines of Sittingbourne  
 The town centre boundary line runs immediately to the south of the railway line  
 Within a Proposed Regeneration Area  
 Groundwater Source Protection Zone

## 5.0 POLICY AND OTHER CONSIDERATIONS

### The National Planning Policy Framework (NPPF)(2012)

- 5.01 The following paragraphs are considered to be of particular relevance to this development.
- 5.02 The NPPF has at its core the presumption in favour of sustainable development, and paragraph 7 sets out the following three dimensions to this term:
- “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.”
- 5.03 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... “ .
- 5.04 Paragraph 12 states that the NPPF “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.”
- 5.05 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...”
- 5.06 Paragraph 17 defines a set of core planning principles, including promoting the vitality of our main urban areas, making effective use of brownfield land, and focusing significant development in locations which are or can be made sustainable..
- 5.07 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.”
- 5.08 Paragraph 23 sets out that planning policies should be positive towards the management and growth of town centres over the plan period, should recognise town centres as the heart of the community and pursue policies to support their vitality and viability. Suitable sites should be allocated to meet the scale and type of development needed in town centres. Appropriate edge of centre sites should be allocated for main town centre uses that are well connected to the town centre where suitable and viable town centre sites are not available. If sufficient edge of centre sites are not identified, policies should identify other accessible locations that are well connected.

- 5.09 Paragraph 24 states that a sequential test should be applied to planning applications for main town centre uses [which include retail and drive-through restaurants] that are not in an existing centre and are not in accordance with an up-to-date Local Plan.
- 5.10 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 centres and where the development would not accord with an up-to-date Local Plan. 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.
- 5.11 Paragraphs 56 to 68 attach importance to good design. Paragraph 56 states 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.” 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.”
- 5.12 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”.
- 5.13 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.”
- 5.14 Paragraphs 203 to 206. refer to the use of planning conditions and obligations.
- 5.15 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.

#### The Swale Borough Local Plan (2008)

- 5.16 The following policies of the SBLP (2008) have been ‘saved’ and are of relevance.
- 5.17 The site is located in Area Action Plan 8 which covers the Milton Creek area and adjoins the Town Centre Area Action Plan (AAP7) to the south of the railway). AAP8 allocates the land for a mixed use development comprising at least 1000 new homes, retail and leisure development. It specifies that development will take place in accordance with an overall master plan, in line with Policy B27, will complement / link with the town centre, and will require development to be of the highest design standard.
- 5.18 Policy B27 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.*”
- 5.19 Policy B4 seeks to control the location of new retail development. It states that such development will only be permitted for allocated sites or the town centre Area Action

Plans. Elsewhere and beyond town centre locations, an impact assessment will be required to demonstrate that town centres would not be undermined.

- 5.20 The following policies from the SBLP 2008 are also applicable: SP1, SP2, SP3, SP6 (strategic policies), TG1 (Thames Gateway), E1 (general development criteria), E10 (trees and hedges), E11 (biodiversity), E12 (biodiversity sites), E19 (high quality design), B1 (retaining employment), B2 (providing new employment), 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).

The emerging “Bearing Fruits” Local Plan (with Proposed Main Modifications)

- 5.21 The local plan is currently subject to main modifications following the examination in public earlier this year. A further examination will take place early next year, after which the plan will form the adopted development plan for the Council. Despite the current unadopted status of the plan, it has been tested through the examination process and weight can be given to the policies contained within it.
- 5.22 Policy Regen 1 is the main policy pertaining to Sittingbourne town centre and brings forward those elements of previous policy (notably from AAP8 and B27 of the adopted Local Plan, which are still relevant and is in accordance with the NPPF. Consequently, there are not any significant unresolved objections to this policy and significant weight should be applied to it, 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, Bell Road 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;*
- 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.*
- 9. Ensure that, through both on and off site measures, any significant adverse impacts on European sites through recreational pressure will be mitigated in accordance with Policies CP7 and DM28, including a financial contribution towards the Strategic Access Management and Monitoring Strategy; and*
- 10. Provide infrastructure needs arising from the development, including those matters identified by the Local Plan Implementation and Delivery Schedule, in particular those relating to transport, libraries and health*

- 5.23 Members will also note the supporting text on Pages 235 (paragraph 6.7.24 onwards) to 239 in relation to this policy.
- 5.24 Policy DM2 sets out that main town centre uses should be located within existing town centres. Any edge of town or out of town proposals must demonstrate, via an impact assessment, that the development would not undermine the viability and vitality of existing centres, prejudice the provision of other land uses, and should be well located to the road network and accessible by public transport, pedestrians and cyclists.
- 5.25 Policy ST5 sets out that developments should ensure the vitality of Sittingbourne town centre by enhancing its retail offer and attractiveness to secure local spending and jobs, and provide improved spaces, better north-south links, and buildings of architectural excellence.
- 5.26 The following policies are also relevant: ST1 (delivering sustainable development in Swale), ST3 (settlement strategy), ST4 (meeting development targets), CP4 (requiring good design), CP7 (natural environment and green infrastructure), DM1 (town centre vitality and viability), DM6 (managing transport demand), DM7 (vehicle parking), DM14 (general development criteria), DM19 (sustainable design and

construction), DM20 (renewable and low carbon energy), and DM21 (water, flooding and drainage).

#### Supplementary Planning Documents

- 5.27 The Sittingbourne Town Centre and Milton Creek SPD was adopted in 2010 and sets out a masterplan for the regeneration of the town centre and Milton creek area. The SPD involved major expansion of the town centre towards the railway line and over it, including a bridge connection. Such proposals for the town centre have largely not materialised to date.
- 5.28 As set out above, the emerging local plan policy (Regen 1) sets out a revised approach for the development of the Town centre, based on latest evidence and likelihood of implementation, and this has resulted in proposals for a smaller scale form of regeneration.

### **6.0 LOCAL REPRESENTATIONS**

None received

### **7.0 CONSULTATIONS**

#### Kent Highways

##### *Original comments*

- 7.01 The general concept of (the approved) scheme and its impact on the highway network has been accepted, and the changes to the highway layout associated with it are to be finalised through the detailed design stage of the Section 278 Agreement. The Transport Statement (TS) submitted in support of this revised scheme therefore assesses the difference between the previously proposed retail only use of the site, and that of a smaller retail element and A3/A5 drive-thru restaurant now being planned.
- 7.02 TRICS analysis has been used to predict the vehicular trip attraction associated with the site, and this has suggested that the current proposal is likely to generate 3 less vehicle movements on the highway network during the weekday AM peak hour, 9 less during the PM peak, and 3 less during the Saturday peak hour compared against the previous scheme. I am happy that the methodology used to identify the traffic impact is appropriate, and as the net traffic effect would be less than had been accepted before, I would not have any concern over the traffic volumes associated with the new proposal.
- 7.03 The parking provision now proposed would equate to an amount totalling 86% of the maximum suggested by the relevant standards, which is an increase from the former scheme that was only to provide 66% of the maximum. This would therefore allow more availability for parking on the site than has previously been accepted, and is nearer the permitted maximum number that would be allowed.
- 7.04 As before, the vehicular access into the development would be revised from the existing arrangement that served the former depot, to include an island that would physically prevent right turn vehicle movements out of the site, and accommodate pedestrian crossing facilities. This ensures that pedestrians would not have to cross a

wide junction mouth all in one go, instead being able to take refuge between each traffic stream.

- 7.05 However, the new proposal does invariably change the internal layout of the development, and I have the following comments to make in respect of matters that need further consideration:
- The direct pedestrian route that had been made available between the development and the zebra crossing on Milton Road adjacent to the Morrison's superstore has been replaced with a flight of steps leading onto Eurolink Way. This results in a more tortuous and less direct route to link the development with the town centre, particularly as the introduction of steps will prevent wheelchair users and pushchairs from taking advantage of it. I would like to see the flush route provided along similar lines to what had previously been agreed.
  - There is no direct pedestrian route between the proposed Drive-Thru unit and the main retail buildings, where previously a central corridor had been provided along the desire line. Pedestrians are unlikely to divert up to the junction crossing point.
  - Vehicles entering the development could encounter vehicles with minimal warning emerging from the parking spaces adjacent to the drive-thru lane. A speed restraint feature should be located north of these parking spaces to slow traffic. It might be possible to incorporate this with a pedestrian crossing point to address item 2 above, perhaps using a raised table.
  - There is insufficient turning space at the end of the drive-thru car park to turn a vehicle around if all the parking bays are in use. An 8m by 8m area for this purpose would normally be sufficient.
  - I note that the service yard is not large enough to provide vehicle access as far as the service door for Unit 1, so goods will have to be transferred over a fairly long distance between the delivery vehicle and this door. Whilst not ideal, I accept that this will not have any bearing on the operation of the public highway, and the operator of that retail unit will have no choice but to manage deliveries in that manner. Provided they are comfortable with that forced arrangement, this should not be an issue.

*Further Comments*

- 7.06 The applicant has submitted an amended layout plan which seeks to address the points raised by Kent Highways. The A5 takeaway unit has been re-orientated and the access to the drive-thru element of this proposal has been amended to reduce the likelihood of problems with queuing traffic. A pedestrian route has been provided through the development. Comments on these amendments are awaited from Kent Highways, and will be reported to Members at the meeting.

The Environment Agency (summarised)

- 7.07 No objection, subject to the application of planning conditions relating to contamination and protection of controlled waters.

Kent County Council Flood and Water Management (summarised)

- 7.08 No objection subject to a condition to require details of a sustainable drainage scheme to be submitted.

Southern Water (summarised)

- 7.09 Advise that, following an initial desk top study, Southern Water currently cannot accommodate the needs of the application without the development providing additional local infrastructure. The proposed development would increase flows into the wastewater sewerage system and as a result increase the risk of flooding in and around the existing area, contrary to the NPPF. Alternatively, the developer can discharge foul flow no greater than existing levels if proven to be connected and it is ensured that there is no overall increase in flows into the foul system. Should the LPA be minded to approve the application, Southern Water would request a condition to require a drainage strategy to deal with the means of foul disposal. Re surface drainage, any SuDS will need to include arrangements for long term management and maintenance, and will not be adoptable by sewerage undertakers.

Lower Medway Internal Drainage Board

- 7.10 The site of this proposal is outside of the IDB district and is unlikely to affect IDB interests provided that surface water runoff is appropriately managed. Details of site drainage, and its future maintenance, should be agreed with KCC's drainage and flood risk team.

Network Rail (summarised)

- 7.11 No objection provided that the development does not encroach / undermine / affect the safety or operation of Network Rail land. All buildings should be sited at least 2 metres from the boundary with Network Rail to avoid maintenance issues.

UK Power Networks

- 7.12 No objection

Natural England (summarised)

- 7.13 No objection but point towards the use of NE standing advice on protected species, and the process for notification in relation to the Swale SPA / Ramsar / SSSI.

Kent Police

- 7.14 Advise that the applicant should contact Kent Police to discuss crime prevention. If no contact is made, Kent Police suggest that a condition be included as part of the planning approval to ensure crime prevention is addressed effectively.

Kent County Council Rights of Way team

- 7.15 Do not wish to make comment.

SBC Economy and Community Services Manager

- 7.16 The application seeks to improve and extend the current retail offer as well as the 'dwell time' of those wishing to spend leisure and recreation time in the area facilitating economic growth, creating jobs and retaining expenditure in the local economy. The current proposal will have both community and visitor appeal as it adds value and provides choice within the limited infrastructure in and around Sittingbourne.

Environmental Health Manager

- 7.17 No objections subject to conditions relating to contamination, and construction works.

Tree Consultant

- 7.18 In general the landscaping details as shown on drawing no V13003A-L01B by Vector Design Concepts appears reasonable and uses a good mix of native and non-native stock. The introduction of trees within the main car parking area to the front of units 1 & 2 is welcomed although as discussed the successful establishment of these tree will be down to ensuring the planting pits are sufficient enough to provide adequate rooting volume as the trees mature. Therefore, I would like to see further details on the size and construction of the tree pits to be used within the hard surfaced areas.

Kent County Council Ecology

- 7.19 No objection regarding impacts on protected species, but advise that the detailed mitigation and enhancement measures must be implemented as a condition of the planning permission. Advise that consideration should be given to the impacts of the wider development on the Swale SPA, Ramsar and SSSI.

## **8.0 BACKGROUND PAPERS AND PLANS**

- 8.01 The application has been submitted with full drawings, including site plan, elevation plan, floor plan, section plan, and Computer Generated Images (CGI) of the site. In addition, the following documents have been submitted with the application – Planning, Design and Heritage Statement, Transport Assessment, Economic Benefits Assessment / leaflet, Retail Addendum note, Air Quality Assessment, Arboricultural Survey, Archaeological Assessment, Contamination Assessment, Flood Risk Assessment, Heritage Impact Assessment, Landscape Review, Ecological Appraisal, Noise and vibration Assessment, Surface and Foul Water Assessment, Utilities Assessment. Some of these documents are the same as those submitted for the original application. Others are specific to this development.

## **9.0 APPRAISAL**

### **Principle of Development**

- 9.01 The principle of developing the site as a retail park is clearly established under the approved scheme, subject to the conditions imposed on the development. The current scheme differs insofar that the quantum of retail floor space has been reduced, and a food takeaway facility has been added. The applicant also seeks unrestricted retail use for the units, whereas the approved scheme included a planning condition to restrict the type and nature of goods to be sold from the site, and a second condition to prevent sub-division and to impose a minimum unit size of 510sqm gross floor space. It is important to consider the likely effects of these revisions on the existing town centre.

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

- 9.02 Members will note from Section 5 above that the regeneration of Sittingbourne town centre is a key local strategic policy within both the adopted and emerging local plan. Both policies AAP8 of the adopted plan and Regen 1 of the emerging plan seek to enhance retail choice and provision through development proposals and to provide additional comparison retail space, subject to compliance with linked policy DM2 (emerging plan) (and B4 of the adopted plan) which in turn seek to protect the vitality and viability of the town centre. The policies specify that developments for main town

centre uses outside of existing centres must demonstrate, through a retail impact assessment, that the vitality and viability of a centre would not be undermined. This is consistent with the test in paragraphs 26 and 27 of the NPPF.

- 9.03 The original application across the six sites (14/505440) included a retail impact assessment to demonstrate the likely impacts on Sittingbourne town centre arising from the proposals for retail development on the Depot site. The Council employed a specialist retail consultant to appraise the original scheme and concluded that the retail impact would not result in significant adverse impacts upon the town centre, subject to the imposition of two planning conditions that would restrict the size and type of goods sold from the retail units.

Condition 28 of the original scheme prevents the subdivision of the floor space in the approved scheme to no more than 4 units, and requires each individual unit to be a minimum of 510sqm floor space. The effect of this condition is to prevent the creation of a number of smaller retail units that could, in turn, appeal to retailers in smaller premises in the High Street to relocate to.

Condition 44 of the original scheme restricts the sale of goods from the site. It specifies that “No more than 50% of the retail floor space hereby approved on site 6 shall be used for open comparison sales. The remaining retail floor space 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.” For the benefit of Members, “comparison” goods are essentially those items not found in typical supermarket type retailing – which in itself is known as “convenience” retailing.

- 9.04 The current application seeks planning permission for an unrestricted retail operation on the site. The applicant has submitted an addendum to the original retail impact assessment submitted under 14/505440 to support this, and in turn the Council has employed the same retail consultant as for the approved scheme for advice.
- 9.05 The application site falls to be in excess of 300 metres from the town centre and is considered to be an “out of centre” site for the purposes of retail impact. The key issues for the development of such sites are as follows –

*Are there any more preferable sites in or at the edge of the town centre to accommodate the development (known as “the sequential test”)?*

- 9.06 In this respect, the Council’s retail consultant has revisited and reviewed a range of alternative sites, including the Forum centre, the Bell Centre and No’s 39-49 East Street (the former Focus site which was previously reviewed is now occupied by Lidl), and advises that these are either unsuitable or unavailable for larger format retail floor space. On this basis, the depot site is considered to satisfy the sequential test insofar that there are no better placed and preferable sites available to develop.

*Would the proposal have a significant adverse effect on the vitality and viability of the town centre (the impact test)?*

- 9.07 The addendum sets out the applicant’s position that the turnover from the site would be less than the original scheme, given the reduction in retail floor space proposed, and that consequently trade diversion from the town centre would be less.

- 9.08 The retail consultant has highlighted concern over the potential impact of an open and unrestricted A1 retail use from the site. In particular, that a number of branded comparison goods retailers (including Argos, Boots, New Look, WH Smith), that form key anchor stores in the town, trade from smaller format units and could seek to relocate to the site if an open A1 use was granted. It is advised that the loss of even one of these anchor stores would represent a significant adverse impact upon the vitality and viability of the town centre.
- 9.09 The Council's retail consultant has also considered the retail impact on the basis that two named operators are now proposed for the retail units (Home Bargains and The Food Warehouse). On the basis of trading assumptions for these named operators, the consultant has highlighted that a greater diversion of trade in convenience retailing may occur from the town centre, primarily as a result of the Food Warehouse operation.
- 9.10 The likely impact on the town centre's convenience goods turnover is considered by the retail consultant to be high and "significantly adverse". Furthermore, much of this impact is considered to fall "like for like" on the existing Iceland store, as the Food Warehouse is part of the Iceland group and will sell a similar range of food. Concern is raised that the existing Iceland store would close in the town centre if the Food Warehouse is permitted as one of the two operators identified for the application site.
- 9.11 In response to the advice given by the Council's retail consultant, the applicant has highlighted that the overall impact on both comparison and convenience goods turnover within the town centre would be between 3.5% and 5%, and should be considered well below a level that could be regarded as "significantly adverse". In addition, that the Iceland store makes only a limited contribution to the overall turnover of the town centre (less than 1%), that the health of the town centre is not underpinned by this store, and that there is no evidence that the store will close as a result of the proposed development. However the Council's retail consultant has provided this advice based on the specific characteristics of Sittingbourne town centre, including vacancy rates and the fall in retail offer beyond the core shopping area, particularly towards the eastern end of the High Street, and on this basis he considers these percentage figures in trade diversion to be "adverse".
- 9.12 As Members will appreciate, there are conflicting views from the respective consultants and it is difficult to reach a firm conclusion on possible future impacts of a development. Nonetheless, I share the concern raised by the Council's retail consultant that an open A1 use could lead to one or more of the established and key retail operators within the town relocating to the site. In addition, I am concerned that a current named operator for the development could adversely affect the convenience shopping offer in the town, with particular risk to the Iceland store in the event that the Food Warehouse opens on the application site, given its company connection to Iceland and similarities in products sold. There is no certainty that the Iceland store would close, and the applicant has advised that Iceland have a lease on the existing premises that expires in 2019. The Food Warehouse has also submitted a letter to explain the differences in the operation of this business compared to an Iceland store. Nonetheless this risk that the Iceland store could close, as highlighted by the Council's retail consultant, must be considered together with the possible effect of losing a retail operator that does encourage shoppers into the east side of the High Street.
- 9.13 Whilst a key objective of policy Regen 1 is to provide additional comparison retail space and uses (subject to compliance with DM2 of the plan), the conclusions from the Council's retail consultant are that the development would be likely to result in

adverse impacts on the existing town centre that would not accord with the above development plan policies or with the NPPF, and in turn the above policies of the emerging plan.

The A5 Takeaway unit

- 9.14 The proposal also includes the provision of an A5 takeaway hot food facility, currently shown to be occupied by Costa Coffee. The retail impact addendum submitted with the application sets out that this component of the scheme does not require the same assessment as the retail units, that it would serve visitors to the retail park and passing trade, and would not compete with the town centre. No objection to this element of the scheme has been raised by the retail consultant and overall I am satisfied that this would be unlikely to have an adverse impact upon the town centre.

Material considerations

- 9.15 Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. In this instance, I have identified three main material considerations as outlined below.

i) Benefits of the wider regeneration scheme

- 9.16 Whilst the impact assessment has been based on the current turnover of the town centre, it is important to also consider the likely impacts of the wider regeneration scheme and the positive effect this may have on the town centre. This is an important material consideration acknowledged and highlighted by the retail consultants for both parties. The Council's retail consultant has advised that *"the application forms part of the wider multi-million pound regeneration of Sittingbourne town centre. In March 2015 the Council resolved to grant planning permission for phase 1 of the wider Masterplan scheme, which includes the £59m phase 1 town centre regeneration project for a new 8-screen cinema and restaurants (officer note – this now includes a proposal for a hotel development) .....we understand that the scheme will bring around £250m into Sittingbourne over the next 10 years and create around 700 new jobs. This is an important material consideration for the Council as part of its decision-taking on this application."*
- 9.17 The supporting information submitted with the application sets out a number of economic benefits arising from the overall package of regeneration works, including –
- Creation of 223 jobs (including 100 from the retail development).
  - Creation of 330 construction jobs and 230 indirect construction jobs.
  - Total leisure expenditure of £1.3 million per annum generated by the scheme based on the 212 new flats proposed.
  - Construction GVA (Gross Value Added) equating to £38.8 million over a 40 month period
  - GVA generated by residential population of £10.5 million per annum
- 9.18 In addition, Members will appreciate that the cinema, restaurant and hotel development will in itself draw existing residents into the town with subsequent likely knock-on benefits for the town centre. It is intended to increase consumer choice, to attract new shoppers and retailers to the town, and claw back trade currently "leaking out" of the town to other centres and facilities. This is an important material consideration that needs to be taken into account in the overall planning balance of the scheme. These developments would, as both a direct result of the package of



regeneration works and likely knock-on benefits to the town, serve to meet a number of the criteria contained within Policy Regen 1 of the emerging plan, including the provision of a cinema, station square and a multi storey car park, as well as the enhancement of St Michaels Road and a reduction in the dominance of this road.

- 9.19 The original scheme for the retail park has been marketed and the applicant submits that interest has been limited, based on the layout of the development (see later section) and the restriction on open A1 use. Whilst the current scheme has potentially secured three potential end-users, I understand that this process has not been without difficulties. I also understand that the retail element of the scheme provides a funding stream that would help finance other elements of the wider scheme, and that if the retail development did not emerge, then the delivery of the wider regeneration scheme would be at risk.

*ii) The fall-back position*

- 9.20 The original planning application was submitted in relation to the Depot site with no named end-users – and this was acknowledged by the Council's retail consultant at the time. In resolving to grant planning permission for the original scheme, two conditions will limit the extent of retail operations allowed from the site, as set out in general terms in paragraph 9.03 above.
- 9.21 The original scheme would permit a total floor area of 3158sqm of retail floor space. The restrictions on use prevent more than 50% of this floor space to be used for open comparison sales. The remaining 50% is restricted to the goods specified in paragraph 9.03, including convenience goods. Members should note that this list of specified goods is not restricted by an upper limit and that, for example, if one or more convenience goods retailers sought to occupy the entire floor space of the original scheme, this would not be in conflict with the conditions imposed. I consider that Home Bargains and The Food Warehouse could, theoretically, occupy the units within the original scheme and not be in conflict with the restrictions on the size of the units or the nature of goods sold.
- 9.22 The current application is for a smaller quantum of retail floor space, at 2421 sqm. The two proposed units would occupy floor areas of 1,024sqm and 1,397 sqm respectively. If the same conditions for the original scheme were applied to the current application, then the two named operators would be able to operate within these parameters.
- 9.23 As planning permission is fundamentally granted to run with the land in question, and not to an individual or organisation (except in very special circumstances), I believe it is an important material consideration to highlight that a convenience goods retailer (including The Food Warehouse) could occupy the approved development and comply with the terms of this planning permission. It is normally held to be unreasonable for a Local Planning Authority to seek to impose stricter conditions than those which already exist on a development, unless there is particular justification to do so. Although the Council's retail consultant has highlighted the potential impact of The Food Warehouse on the Iceland store in the town centre as a named operator under this application, the benefit of this knowledge was not available under the original scheme. Nonetheless, I consider that it would prove difficult for the Council to justify that the current scheme should be refused, as a material fall-back position exists which could result in the same type of occupation and impact.

*iii) Need for open A1 use*

- 9.24 The application seeks to avoid any limitation on open A1 use on the basis that this has been restrictive in attracting suitable funders for the scheme. However the latest supporting information submitted by the applicant does not provide firm evidence of this. It states that there is a preference from funders to have an open consent, but also sets out that the scheme has identified tenants for 100% of the development, and that some restriction on A1 use may be possible. On the basis of this information, I do not consider that a wholly unrestricted A1 use, whilst preferable to a developer, is the only way in which this scheme can be delivered.

#### Conclusion on retail impact

- 9.25 The Council's retail consultant has advised that an unrestricted A1 use would be likely to cause significant adverse impacts on the town centre. Whilst the economic benefits of the wider regeneration scheme are substantial and can be given substantial weight as a material consideration, I do not consider that the case provided by the applicant demonstrates that the scheme can only be delivered through an unrestricted retail use. An unrestricted use would create a significant risk that one or more key comparison retail stores that anchor the town centre could relocate to the application site. On this basis, I would advise Members against granting permission on this basis.
- 9.26. The Council's retail consultant has raised concern that the proposed convenience operator would be likely to adversely impact upon convenience retailing in the town centre, and particularly the Iceland store. This again raises a risk that an anchor store could be lost from the town centre. As above, the economic benefits of the wider regeneration scheme are substantial and can be given substantial weight as a material consideration. In addition, there is a fall-back position that a convenience store can operate from the site under the original scheme – and in my opinion this has to be given significant weight. Taking these two material considerations together, I consider these would outweigh the policy conflict identified. I would conclude on this basis that permission should be granted with a restriction on the type of goods sold from the units as set out in the conditions below, and Members will note condition (22) in particular.

#### **Visual Impact /character and appearance of area**

- 9.27 Policies AAP8 of the adopted plan, and Regen1 and ST5 of the emerging plan, together with design policies E19 of the adopted plan and CP4 of the emerging plan specifically seek for development to be high quality / of the highest design standards.
- 9.28 The existing site is a former industrial premises of typical poor and utilitarian design design historically associated with such units. The main building on the site is set back from the road boundaries, but due to its size and scale it is readily visible from Eurolink Way, although less so from Milton Road due to existing screening.
- 9.29 The details of the proposed development and comparison with the original scheme is set out in section 2 above. The proposed buildings (as the "big box" name would suggest) are typical of retail parks, being of warehouse style proportions and appearance.
- 9.30 The layout of the development has been revised from the original scheme, due to the operational requirements of the named tenants, which effectively requires a greater amount of car parking space within the site and reconfiguration to provide two larger units, with main entrances and frontages facing into the site and towards the car

parking area. In comparison with the original scheme, such reconfiguration would result in some unfortunate impacts. As a result of the layout now proposed, the scheme now essentially “turns its back” on Milton Road, and the side elevation facing Eurolink Way is of a lower architectural standard and interest than the original scheme, which had a main frontage facing this road. In addition, the building would also be sited much closer to the junction of these roads compared to the original scheme, and would therefore be of greater visual presence, accentuated by the change in levels between Milton Road in particular and the application site. The new layout has also resulted in the removal of the pedestrian ramped access route via Milton Road into the development (which is discussed in greater detail later).

- 9.31 My officers have sought to resolve these differences but the current named tenants have stringent design requirements in terms of the size and siting of the units, and I am advised that that this layout cannot be changed, as the tenants would not accept this and would withdraw from the scheme. The applicant has attempted to add more interest to the elevations of the building, and has introduced a false shopfront feature on each corner of Eurolink Way, using a combination of glazing, timber panels and brickwork. In addition the application now seeks to retain much of the existing mature landscaping on the Milton Road frontage. However the closer siting of the retail units to the roads and the use of secondary / rear elevations to face these roads means that the buildings would be bulky, prominently located and with a lower standard of articulation and interest than would be expected if the main shopfronts faced such roads.
- 9.32 In my opinion, the revised configuration, layout and design has lead to a less well integrated scheme with the rest of the town centre and the Morrison’s store opposite. Whilst to some extent this can be attributed to the ‘viability’ of the development as part of the wider regeneration scheme, it is disappointing that a higher quality design has not been secured. In response, the applicants have attempted to add more design interest to what are essentially bland prominent frontage designs and as mentioned earlier further discussions are taking place to improve the frontage design through further small scale changes.
- 9.33 The A5 takeaway unit would be sited on the east side of the site and would be single storey in height, and of relatively modest proportions. The building would be set back around 10 metres from the road frontage, with a belt of intervening landscaping. I do not consider that this small scale building would cause any harmful visual impact on the surrounding area.
- 9.34 The applicant has made it clear that commercial interest in the retail park as per the original design has been very limited, and that the named tenants would only occupy the site if the current layout and design is accepted by the Council. Whilst I consider that the layout and design are functional rather than inspiring, it is recognised that the ability to deliver this project, and in turn the wider regeneration scheme, does rely on securing tenants and funding this retail development. Given the poor quality appearance of the existing site, it could be argued that the proposed development would not be materially harmful to the character and appearance of the area compared to existing. However, taking all factors into account, including the benefits of the wider regeneration scheme, I would conclude that the scheme should not be refused on design and layout grounds.

### **Residential Amenity**

- 9.35 There are no residential properties in close proximity to the site and as such no residential amenity issues arise.

### **Highways**

- 9.36 Policies T1, T2, T3 and T4 of the adopted plan and policies DM6 and DM7 of the emerging plan seek to ensure that developments do not create unacceptable impacts and that traffic can be accommodated on the highway network, and also that sufficient levels of car parking should be provided, taking into account factors such as accessibility of the development, the availability of public transport and measures to prioritise the needs of pedestrians and cyclists.
- 9.37 Kent County Council Highways and Transportation raise no objection (see paragraphs 7.01 to 7.05 above) to the scheme based on the generation of traffic, as the predicted traffic levels would be lower than the original retail scheme for the site, which was found to be acceptable. The number of parking spaces would increase on site compared to the original scheme, and would provide 86% of recommended maximum standards, in comparison to 66% under the original scheme. Again, no objection is raised on the basis that the parking ratio would be better under the current proposal. Given the close proximity of the site to the town centre and to public transport, I am satisfied that the level of parking is acceptable.
- 9.38 Kent County Council Highways and Transportation have raised a number of points regarding the internal arrangements of the layout, and the applicant has submitted amended plans to address these. This includes the re-siting of the route to the drive-thru within the proposed car park, to avoid potential congestion issues, and provision of a direct pedestrian link between the A5 facility and the A1 units, to improve connectivity between these buildings.
- 9.39 In terms of ease of access for pedestrians and cyclists, the site is located adjacent to the defined town centre boundary in an accessible location, and the package of improvements as part of the wider regeneration scheme would act to reduce the dominance of St Michaels Road and improve pedestrian connectivity between the station and the town centre. This in turn would also improve access to the site from the town centre, albeit that this would be along a busy stretch of Milton Road.
- 9.40 The original scheme includes a pedestrian link into the site from Milton Road via a ramped access, to maximise the connectivity between the town and the site and to encourage pedestrian movement. The current scheme does not include this ramped link due to the siting and layout requirements of the retail operators. Following discussions with officers, a stepped access has been introduced into the site and the junction of Milton Road and Eurolink Way. A ramped access is then provided on Eurolink Way. Whilst it is unfortunate that the revised proposals do not offer the best solution for such access, nonetheless I accept that they do provide pedestrian links into the site at the closest available points, taking into account the siting and layout requirements of the operators.
- 9.41 Overall, I consider the highways impacts to be acceptable and in accordance with the above policies.

### **Landscaping**

- 9.42 The proposal would retain existing landscaping on the boundary of the site with Milton Road, and planning conditions can be applied to protect this during construction. The application also seeks to provide new landscaping on the frontage with Eurolink Way,

as well as planting within the proposed car park. Taking into account the operation requirements of the named tenants in paragraph 9.31 above, I am satisfied that the level of landscaping is acceptable and appropriate conditions are set out below.

### **Other Matters**

- 9.43 Ecology – The site is located within the the impact risk zone for the Swale Special Protection Area (SPA), Ramsar and SSSI. However I do not consider that this development, as an enhancement to the retail offer in the town, would be likely to result in significant additional recreation visitors to The Swale.
- 9.44 Archaeology - The County Archaeological officer had recommended a condition for a programme of archaeological work across the six sites under the original scheme. On this basis, it would be appropriate for a similarly worded condition to be attached to this proposal, and this would accord with policy E16 of the adopted plan and policy DM34 of the emerging plan.
- 9.45 Sustainable construction – Policy DM19 of the emerging plan requires non-residential developments of more than 1000sqm in floor area to achieve BREEAM “very good” standards. Under the original application, the applicant demonstrated that it was not financially viable to achieve the relevant BREEAM standards. It is unclear from the submission whether the same issues arise with the current scheme and I am awaiting further information in this respect. This will be reported to Members at the meeting.
- 9.46 Members will be aware that this application would effectively replace the site 6 development under the original scheme. Whilst it is technically a “stand-alone” application, I am of the opinion that it would be necessary to control the implementation of this permission via a S106 agreement (or other appropriate mechanism as advised by the Council’s legal department) to ensure that it does not take place before the delivery of necessary infrastructure and that it comes forward in an appropriate phase as part of the wider regeneration project. This is important as the original scheme requires site 6 to be used as a temporary car park prior to any development on sites 1, 2 and 3, (for a minimum of 55 spaces) and for this to be retained until the multi storey car park has been completed and is open.

## **10.0 CONCLUSION AND PLANNING BALANCE**

- 10.01 The NPPF makes clear that there is a presumption in favour of sustainable development, and this should be seen as a “golden thread” running through plan-making and decision-taking. Sustainable development is defined as having three dimensions, economic, social and environmental.
- 10.02 As set out in detail above, the proposed development forms part of a package of regeneration proposals across the town which are linked and reliant on each other to be successfully implemented. This is likely to result in substantial economic benefits arising from the wider development, including the proposals for site 6 now under consideration. Against this, there is a risk that site 6 could adversely affect the town centre if an unrestricted A1 use was granted, and that the convenience retailing proposed could also in itself result in adverse impact on the town, contrary to the development plan and NPPF. I have concluded in paragraphs 9.25 and 9.26 that an unrestricted A1 use should not be granted. However when taking into account other material considerations, the balance lies in favour of granting a scheme with restrictions on the type of goods sold from the site, which would allow convenience retailing but to no greater extent than the original scheme.

- 10.03 The proposed development would add to the retail offer within the town, which in turn would provide enhanced choice for shoppers. Although not within the town centre, the site would be generally accessible and well located in relation to the town, albeit that the layout of the development does not provide for the same standard of connections as the original scheme. The wider regeneration works proposed to improve pedestrian access across St Michaels Road would also improve connections between the town and the site.
- 10.04 From an environmental perspective, I have concluded that the layout and design of the scheme would be a step down from the original scheme, in having to respond to the viability issues and site occupant constraints involved. However the scheme would not be so unacceptable that it should be refused, when taking into account the wider benefits of the regeneration proposals for the town.
- 10.05 Overall, I would recommend that any harm or conflicts with the development plan arising from the development are outweighed by other considerations, and that the proposal would represent sustainable development with the balance in favour of granting permission.
- 11.0 RECOMMENDATION** – GRANT PERMISSION, subject to the completion of a S106 agreement to control the implementation and phasing of the development as part of the wider regeneration project in the town, no adverse comments from Kent County Council Highways with regard to the revised layout, to resolution over the ability to comply with BREEAM standards (and if appropriate to the imposition of a condition requiring the buildings satisfy BREEAM “very good” standards), and subject to the formal issue of planning permission 14/505440.

### **CONDITIONS**

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

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

- (2) The development hereby approved shall be carried out in accordance with the following approved drawings: 13003A-152R, 13003A-153E, 13003A-154C, 13003A-155K, 13003A-156B, 13003A-157F, 13003A-158A, 13003A-159A

Reason: 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 amenity and highway safety and convenience through adverse levels of noise and disturbance during construction.

- (4) No development shall take place until a drainage strategy, detailing the proposed means of foul disposal and an implementation timetable, has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved scheme and timetable.

Reasons: to ensure the provision of appropriate foul drainage and to mitigate against flood risk

- (5) No development shall take place 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 be capable of accommodating the surface water generated by this development (for all rainfall durations and intensities up to and including the climate change adjusted critical 100 year storm). The scheme shall include details of the implementation, maintenance and management of the sustainable drainage scheme, and shall be implemented and thereafter managed and maintained in accordance with the approved details. Those details shall include:
  - i) a timetable for its implementation, and
  - ii) a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the sustainable drainage system throughout its lifetime.

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

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

Reasons: In the interest of Security, Crime Prevention and Community Safety

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

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

- (8) No development shall take place until full details of proposed ecological enhancements for the site have been submitted to and approved in writing by the Local Planning Authority. The agreed measures shall then be implemented in full 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 amenity and minimising disturbance to bats.

- (10) No development shall take place until samples of the external finishing materials to be used in the construction of the units have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: In the interest of visual amenity.

- (11) No development shall take place until drawings of large scale (1:1 or 1:2) sections showing the junctions between the different facing materials on the building have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: In the interest of visual amenity.

- (12) The existing trees shown for retention on the proposed landscape plan V13003A-L01C shall be protected in accordance with BS5837:2012 – “Trees in Relation to Design, Demolition and Construction”, and the details of such protection measures shall be submitted to and approved in writing by the Local Planning Authority before development commences. The protection measures shall implemented prior to any works (including demolition) taking place and shall remain in place for the duration of the development, and no development, storage or other activity shall take place within the protected area unless approved by this permission or otherwise approved in writing by the Local Planning Authority.

Reason: To safeguard existing trees, in the interest of visual amenity.

- (13) Before development commences, full details of the size and construction of the tree pits to be used to accommodate soft landscaping within the hard surfaced areas of the development shall be submitted to and approved in writing by the Local Planning



Authority. The development shall be undertaken in accordance with the approved details.

Reason: To ensure appropriate conditions for new planting are provided, in the interest of visual amenity.

- (14) No development shall take place until full details of hard and soft landscape works have been submitted to and approved in writing by the Local Planning Authority. These details shall include proposed trees, shrubs and other features, planting schedules of plants (which shall include indigenous/native species), noting species, plant sizes and numbers where appropriate, size of tree pits, measures to prevent tree vandalism, any means of enclosure, details of retaining walls, hard surfacing materials, and an implementation programme.

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

- 15) 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.

- (16) 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 has been 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 the National Planning Policy Framework.

- (17) 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.

- (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) During construction provision shall be made, 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.

- (20) Prior to any of the works commencing, 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.

Reasons: In the interests of highway safety.

*Post commencement*

- (21) The retail floorspace hereby approved 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 floor space.

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

- (22) 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 in any unit 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

- (23) The development hereby approved shall not be occupied until details of covered cycle parking for that site have been submitted to and approved in writing by the Local Planning Authority, and provided on site. 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.

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

- (24) Before first use of any unit hereby permitted, the pedestrian and vehicular accesses and walkways, parking spaces and servicing areas, and cycle parking as shown on the approved plans shall be completed and available for use.

Reason: To ensure suitable access and parking is provided for the development.

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

- (26) 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.

- (27) No mechanical ventilation, extraction/filtration equipment, air conditioning, heating, ventilation or refrigeration equipment shall be installed on the building hereby approved until full details of the design, siting, discharge points and predicted acoustic performance, together with any necessary measures to mitigate against noise, have been submitted to and approved by the Local Planning Authority.

Reason: To safeguard the appearance of the development and the amenities of the area

- (28) 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.

- (29) 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.

- (30) 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.

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

Reason: In the interests of residential amenity.

- (32) The use of the retail units hereby permitted shall be restricted to the hours of 07:00 to 23:00 hours on weekdays and Saturdays, and 10:00 to 17:00 hours on Sundays

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

- (33) The approved hard and soft landscape works shall be completed prior to the first use of any part of the building or in accordance with an implementation programme agreed in writing with the Local Planning Authority prior to such use.

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

- (34) Upon completion of the approved landscaping works, any new or retained trees or shrubs that are removed, dying, become severely damaged or become 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.

- (35) Prior to the first occupation of the retail units hereby permitted, full details relating to the use and treatment of the glazed areas in the Eurolink Way elevation of the proposed building (with priority to be given to use as a display window unless demonstrated that this is not practical), shall be submitted to and approved in writing by the Local Planning Authority, and the areas shall be maintained as such thereafter.

To ensure that the glazed areas provide visual interest, to enhance the appearance of the building and visual amenities of the area.

## INFORMATIVES

- 1) You are advised that this planning permission relates only to the development of site 6 as part of the Spirit of Sittingbourne regeneration scheme. Sites 1-5 remain subject to control under a separate planning application(s).
- 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](http://www.southernwater.co.uk).
- 3) It is the responsibility of the applicant to ensure, before the development hereby approved is commenced, that all necessary highway approvals and consents where required are obtained and that the limits of highway boundary are clearly established in order to avoid any enforcement action being taken by the Highway Authority. The applicant must also ensure that the details shown on the approved plans agree in every aspect with those approved under such legislation and common law. It is therefore important for the applicant to contact KCC Highways and Transportation to progress this aspect of the works prior to commencement on site.
- 4) 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](http://www.kent.gov.uk/roads_and_transport.aspx) or telephone: 03000 418181) in order to obtain the necessary Application Pack.
- 5) If Piling is proposed for the development, a Piling Risk Assessment must be submitted, written in accordance with our guidance document "Piling and Penetrative Ground Improvement Methods on Land Affected by Contamination: Guidance on Pollution Prevention. National Groundwater & Contaminated Land Centre report NC/99/73".

## 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.

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

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<b>REFERENCE NO - 16/506081/FULL</b>			
<b>APPLICATION PROPOSAL</b>			
Detached four storey building comprising ground floor restaurant space (use class A3) and 63 bedroom hotel (Alternative development to site 4, Block B under application 14/505440/FULL).			
<b>ADDRESS</b> Site At St Michael's Road Spirit Of Sittingbourne Site 4, Block B Sittingbourne Kent ME10 3DU			
<b>RECOMMENDATION</b> - That delegated powers are given to officers to grant planning permission, subject to a) the completion of a Section 106 agreement (or other arrangement as advised by Legal Services) to control the phasing of the development as part of the wider regeneration proposals in the town, b) the formal grant of planning permission 14/505440/FULL (the implementation of which this application is dependent upon), and subject to the planning conditions listed below.			
<b>SUMMARY OF REASONS FOR RECOMMENDATION/REASONS FOR REFUSAL</b>			
The development is in accordance with adopted and emerging Development Plan policies and would not have unacceptable planning implications.			
<b>REASON FOR REFERRAL TO COMMITTEE</b>			
Due to the significance of the development as part of the wider Spirit of Sittingbourne project, and because the development would take place on land owned by Swale Borough Council as part of a development partnership with the Spirit of Sittingbourne, and as authority is required to enter into a legal agreement.			
<b>WARD</b> Chalkwell	<b>PARISH/TOWN COUNCIL</b>	<b>APPLICANT</b> The Spirit Of Sittingbourne LLP <b>AGENT</b> Goddard Planning Consultancy	
<b>DECISION DUE DATE</b> 03/11/16	<b>PUBLICITY EXPIRY DATE</b> 14/09/16	<b>OFFICER SITE VISIT DATE</b> Various from August to November	
<b>RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):</b>			
<b>App No</b>	<b>Proposal</b>	<b>Decision</b>	<b>Date</b>
14/505440/FULL	Proposed mixed use development - on six parcels of land - of 212 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.	Pending Decision – resolution to grant subject to completion of a S106 agreement and other minor revisions.	Not yet issued
SW/10/1415	Tesco Spenhill. Part of proposed wider redevelopment of town centre and land at Milton Creek together with SW/10/1419 and	Members resolved to approve, but	28/05/13

	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 of 14/505440.	application subsequently withdrawn.	
SW/03/0754	Permission for use of part of Forum car park for a Friday market.	Permission granted	18/08/03
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	18/12/96

## MAIN REPORT

### 1.0 DESCRIPTION OF SITE

- 1.01 Members will be well aware of the “Spirit of Sittingbourne” development proposals which span across six sites and for which Members have resolved to grant permission under application 14/505440/FULL. The application has not been formally granted to date, as there are outstanding matters which remain to be completed. For the purposes of this committee report, I shall refer to it as the “original” scheme.
- 1.02 This application seeks to make revisions to the original scheme on site 4 – which is the parcel of land bordered by the railway station to the north, the Forum and car park to the south, the former Globe and Engine PH to the east and The Fountain Pub and Station Street to the west. This site also includes the station car park / drop-off area, St Michaels Road and the roundabout.
- 1.03 This application relates specifically to a limited parcel of land within site 4 which essentially wraps around the area of the Block B building in the original scheme – the details of which are elaborated in the section below.

### 2.0 PROPOSAL

- 2.01 The original scheme for site 4 incorporated a reconfiguration of St Michael’s road to move it further north towards the train station, the erection of two buildings containing restaurants, a cinema and leisure facilities, and creation of a public square on land to the south of the realigned road between the town centre and the station. The Block A building would incorporate 5 restaurant units at ground level and a cinema complex above. Block B would incorporate a restaurant at ground level with a D2 (assembly and leisure) facility at first floor level – possibly for use as a gym.
- 2.02 This application now before members seeks an alternative development for the Block B building. The application proposes a building containing 1 x restaurant unit of smaller size (375 sqm) at ground floor level, with the remaining ground floor and upper floors occupied as a hotel. The building would be arranged over four storeys, with the upper three floors containing 63 bedrooms and a reception area at ground level.
- 2.03 The proposed building would be L shaped in design, with the two longest elevations measuring 34 metres (north elevation) and 25 metres (west elevation) in length. The



building would stand at 17 metres in height at its highest point on the north and east facing corner of the building, dropping to 14.75m for the remainder of the building.

- 2.04 The building has been designed in a contemporary style, with the use of coloured aluminium seam cladding proposed on upper floors. This would be the same style cladding as shown on the drawings for the original scheme for use on both Blocks A and B within site 4.
- 2.05 The proposed development would be sited in essentially the same location as the original Block B building, albeit that due to changes in the shape of the footprint, there would be some minor differences in the footprint of the two schemes. The proposed building would be sited, at its closest point, some 15.5 metres from the Forum building, 22 metres from the former Globe and Engine PH, and 50 metres from the railway station building. Taking into account the highway changes under the original scheme, the north east corner of the proposed building would be set back around 6 metres from the pavement edge, and the north elevation of the building would be some 24 metres from the proposed crossing point to the railway station on the realigned road.
- 2.06 The original Block B building would be a lozenge shape with elevations of 25-30 metres in length, and a height of 11.2 metres. Due to the lozenge shape, the gap between Blocks A and B in the original scheme, which would serve as a pedestrian thoroughfare through the site, widens towards the north from a minimum of 8.4 metres to a maximum of around 18 metres.
- 2.07 The relationship between the two blocks as proposed under this application would change, as Block B would no longer taper away from Block A in the same manner and would more directly face this building. The gap between the two buildings would be between 8.8 and 9.2 metres. A more modest widening effect between the two buildings has been incorporated into the scheme at pedestrian level by cutting in the north west corner of the building at a 45 degree angle on the ground floor.
- 2.08 The scheme does not propose any on-site car parking, and would rely on existing and proposed town centre car parking spaces to serve it.

### 3.0 SUMMARY INFORMATION

	“Approved”	Proposed	Change (+/-)
Site Area (ha)	737sqm	737 sqm	
Approximate Height	11.2m	17m / 14.75m	+ 3.55 – 5.8m
Approximate Eaves Height (m)	11.2m	17m / 14.75m	+ 3.55 – 5.8m
Approximate Depth (m)	25m	25m	
Approximate Width (m)	30m	34m	
No. of Storeys	2	4	+2
Net Floor Area	1156 sqm	2350 sqm	+ 1194 sqm
Parking Spaces*	0	0	0

\* Members should note that although no parking spaces are proposed within site 4, the package of developments across the six Spirit of Sittingbourne sites includes the development of a 308 space multi-storey car park in site 5, adjacent to site 4.

### 4.0 PLANNING CONSTRAINTS

Within built up area of Sittingbourne

Source Protection Zone

SSSI Impact Risk Zone

The proposed building would be sited around 60 metres to the north of the Sittingbourne Conservation Area

The site falls within a designated regeneration area and the defined Town Centre boundary under the Emerging Plan.

MOD Thurnham MOD Safeguarding Directive Thurnham

## 5.0 POLICY AND OTHER CONSIDERATIONS

### The National Planning Policy Framework (NPPF)

- 5.01 The NPPF has, at its core, a presumption in favour of sustainable development (Para 14) and it defines three dimensions to this term (Para7):
- *“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.”*
- 5.02 The NPPF sets out 12 core planning principles (para 17), including –
- Planning should be genuinely plan-led
  - It should enhance and improve places in which people live
  - It should proactively drive and support sustainable economic development
  - It should always seek high quality design
  - It should promote the vitality of main urban areas
  - It should encourage the effective use of previously developed land
  - Promotion of mixed use developments
  - Directing development to sustainable locations with travel choices
- 5.03 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.”*
- 5.04 Paragraph 23 seeks to promote the growth and management of town centres, including –
- Recognising town centres as the heart of a community and supporting their viability and vitality.
  - Defining town centres and making clear which uses will be allowed in such locations
  - Promoting competitive centres
  - Allocation of a range of sites to meet the scale and type of uses needed in town centres
  - Ensuring that town centre uses are directed to centres, and applying a sequential test for those that are not. A hotel is defined as a main town centre use in Annexe 2 of the NPPF.

- 5.05 Promoting sustainable transport and scrutinising developments that generate significant amounts of movement to determine whether opportunities for sustainable transport modes have been taken up (Paragraphs 29 and 32) .
- 5.06 Requiring good design (paragraph 58)
- 5.07 Promotion of social interaction and creating health inclusive communities, including provision of safe and accessible environments, high quality public space, and clear and legible pedestrian routes (Paragraph 69).

The Swale Borough Adopted Local Plan (2008)

- 5.08 Area Action Plan 7 (AAP7) sets out a strategy for Sittingbourne town centre. The overall aim of the policy is to consolidate and expand Sittingbourne's position as a retail, business, cultural, community, education and civic centre for multi-purpose visits. The policy also states that development will be required to comply with Policy B27. Planning permission will be granted for proposals that (inter-alia) maintain and enhance retail provisions in the core shopping areas whilst introducing uses that provide greater vitality, viability, diversity, activity and colour.
- 5.09 Policy B27 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.*"
- 5.10 Policy B4 seeks to permit retail and leisure development within the town centre area action plans.
- 5.11 Policy B5 states that permission will be granted for the development of new tourist attractions and facilities, The pre-ambule to this policy states that existing hotel provision in the Borough is very limited and results in trade being lost to places such as Rochester and Maidstone.
- 5.12 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), E14 (development affecting listed buildings), E15 (Development affecting a Conservation Area), E19 (high quality design), B2 (providing new employment), U1 (servicing development), T1 (safe access to development), T2 (highway improvements), T3 (parking for new developments), T4 (cyclists and pedestrians), T5 (public transport), T7 (town centre parking).

The emerging "Bearing Fruits" Local Plan (with Proposed Main Modifications)

- 5.13 The local plan is currently subject to main modifications following the examination in public earlier this year. A further examination will take place early next year, after which, subject to it being found sound, the plan will form the adopted development plan for the Council. Despite the current unadopted status of the plan, it has been tested through the examination process and weight can be given to the policies contained within it.
- 5.14 Policy Regen 1 of the plan 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, Bell Road 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;*
- 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.*
- 9. Ensure that, through both on and off site measures, any significant adverse impacts on European sites through recreational pressure will be mitigated in accordance with Policies CP7 and DM28, including a financial contribution towards the Strategic Access Management and Monitoring Strategy; and*

*10. Provide infrastructure needs arising from the development, including those matters identified by the Local Plan Implementation and Delivery Schedule, in particular those relating to transport, libraries and health*

- 5.15 Policy ST3 of the emerging plan sets out the role of Sittingbourne as the primary urban focus for growth and for development to support town centre regeneration.
- 5.16 Policy ST5 sets out a strategy specific to the Sittingbourne area. Criteria 2 seeks to ensure the vitality of the town centre. This includes -
- Enhancing retail offer and attractiveness to secure local spending and jobs, provide improved spaces, better north-south links and buildings of architectural excellence.
  - Providing a wider range of services and facilities
  - Enhancing local character and the built environment
  - Adding to the mix of uses in the town centre
- 5.17 Policy CP1 seeks to build a strong, competitive economy in the Borough, including safeguarding / widening sustainable tourism potential.
- 5.18 Policy DM3 sets out the Council approach in respect of proposals for main town centre uses, and states that such uses should, unless demonstrated otherwise, be located within town centres.
- 5.19 The following policies are also relevant: ST1 (delivering sustainable development in Swale), ST4 (meeting development targets), CP2 (promoting sustainable transport), CP4 (requiring good design), CP5 (health and wellbeing), DM1 (vitality of town centres), DM2 (town centre uses), DM6 (managing transport demand), DM7 (vehicle parking), DM14 (general development criteria), DM17 (open space), DM19 (sustainable design and construction), DM20 (renewable and low carbon energy), and DM21 (water, flooding and drainage).

#### Supplementary Planning Documents

- 5.20 The Sittingbourne Town Centre and Milton Creek SPD was adopted in 2010 and sets out a masterplan for the regeneration of the town centre and Milton creek area. The SPD involved major expansion of the town centre towards the railway line and over it, including a bridge connection. Such proposals for the town centre have largely not materialised to date.
- 5.21 As set out above, the emerging local plan policy (Regen 1) sets out a revised approach for the development of the Town centre, based on latest evidence and likelihood of implementation, and this has resulted in proposals for a smaller scale form of regeneration.

## **6.0 LOCAL REPRESENTATIONS**

- 6.01 A site notice has been displayed on site, and 86 notification letters have been sent to surrounding properties.
- 6.02 To date, one letter has been received in response, from The Sittingbourne Society. The comments are summarised as follows –
- No objection in principle to a new hotel.

- Concern that no parking is being made for guests and staff.
- This will place strain on the proposed multi storey car park and surrounding car parks, as there will be conflicts in use of the spaces between guests who have not left the hotel and commuter / town centre workers.
- As a result this could lead to more parking in surrounding residential areas.

## 7.0 CONSULTATIONS

### Kent Highways (summarised)

- 7.01 The Transport Assessment submitted with the application sets out that the proposed development would generate a maximum requirement of 136 car parking spaces, compared to 113 spaces generated by the approved scheme. (*Officer note – Members should be aware that these figures relate to the difference in parking requirements in relation to Block B only*). KCC consider that this maximum increase of 23 spaces can be absorbed in public car parks, noting the proximity to such car parks and the new multi storey complex to be built. In addition, KCC recognise that peak demand for the proposed use would be overnight, out of the busy period for town centre parking that occurs during the central part of the day. In addition, KCC note that custom will also be drawn from business travellers utilising train services.
- 7.02 TRICS analysis identifies that the proposed development would be likely to generate an additional 14 vehicle movements on the highway network during the weekday AM peak, a reduction by 4 during the PM peak, and an additional 19 during the Saturday peak hour, compared against the former scheme. It is considered that this would have an insignificant impact on the highway network.
- 7.03 As already accepted with application 14/505440/FULL, the building would be serviced from the proposed new bus stop arrangement adjacent to the Forum, and the A2 highway realigned around the railway station to make room for the wider “Site 4” development. This also included the partial stopping up of Station Street to sever its connection to St Michael’s Road. It will be expected therefore, that whatever highway changes were secured as part of the larger regeneration scheme will still need to be secured in order for this latest application to proceed.
- 7.04 Consequently, KCC would have no objections to the proposed development subject to adequate conditions being put in place to secure the expected highways works and other relevant issues previously identified for the former scheme.

### Highways England (summarised)

- 7.05 Offer no objection to the application, as the scale of trips generated by the development compared to the original scheme would be unlikely to materially impact upon the strategic highway network.

### Network Rail Summarised)

- 7.06 Comment that “This is part of a wider Spirit of Sittingbourne scheme that Network Rail have been involved in as it requires land transfer swaps in order to make the identified area shown as a clearance on the plan into public realm. The proposal that we have seen do mention a hotel being built and we have no significant concerns or comments at this point.”

Environmental Health (summarised)

- 7.07 The Environmental Protection Manager advises that they would not normally be particularly concerned about the proposed uses, and raises no objection regarding noise, air quality or land contamination, subject to conditions.

Kent Police (summarised)

- 7.08 Advise that the applicant should contact Kent Police to discuss crime prevention. If no contact is made, Kent Police suggest that a condition be included as part of the planning approval to ensure crime prevention is addressed effectively.

Southern Water (summarised)

- 7.09 Advise that public sewers are located within the site and request a condition to require measures to divert drainage apparatus. Also advise that, following an initial desk top study, Southern Water currently cannot accommodate the needs of the application without the development providing additional local infrastructure. The proposed development would increase flows into the wastewater sewerage system and as a result increase the risk of flooding in and around the existing area, contrary to the NPPF. Alternatively, the developer can discharge foul flow no greater than existing levels if proven to be connected and it is ensured that there is no overall increase in flows into the foul system. Should the Local Planning Authority be minded to approve the application, Southern Water would request a condition to require a drainage strategy to deal with the means of foul disposal. Re surface drainage, any SuDS will need to include arrangements for long term management and maintenance, and will not be adoptable by sewerage undertakers.

Lower Medway Internal Drainage Board (summarised)

- 7.10 No objection.

Environment Agency (summarised)

- 7.11 No objection, subject to the application of planning conditions relating to contamination and protection of controlled waters.

Kent County Council Ecologist

- 7.12 Site 4 has limited potential to impact upon protected species, and no objection is raised in this respect. The site falls within 3km of the Swale SPA, Ramsar and SSSI, and may result in a negative impact on the designated sites due to an increase in recreation. Recommend that further consideration is given to this, in liaison with the SBC representative on the North Kent Environmental Planning Group.

**8.0 BACKGROUND PAPERS AND PLANS**

- 8.01 The application has been submitted with full drawings, including site plan, elevation plan, floor plan, section plan, and Computer Generated Images (CGI) of the front and rear elevations. In addition, the following documents have been submitted with the application – Planning Statement, Design and Access statement, Transport Assessment, Economic Benefits Assessment / leaflet, Air Quality Assessment, Arboricultural Survey, Archaeological Assessment, Contamination Assessment, Flood Risk Assessment, Heritage Impact Assessment, Landscape Review, Ecological Appraisal, Noise and vibration Assessment, Surface and Foul Water Assessment,

Utilities Assessment. Some of these documents are the same as those submitted for the original application. Others are specific to this development.

## 9.0 APPRAISAL

### Principle of Development

- 9.01 As set out in the policy section above, the regeneration of Sittingbourne town centre forms a key component of both the adopted local plan (AAP7) and the emerging plan (Regen1), and is reflected in the decision by the Planning Committee to resolve to grant permission for the development over six sites under application 14/505440/FULL.
- 9.02 This application seeks to amend the development within site 4 and specifically to Block B. The revised scheme would reduce the quantum of floor space available for restaurant provision (from approx. 475sqm to 375sqm, remove the proposed first floor D2 (assembly and leisure) facility, and would provide for a hotel within a revised building over four floors.
- 9.03 Key policies contained within both the adopted and emerging local plans seek to consolidate and enhance the role of Sittingbourne as the principal town in the Borough through promotion of a multitude of uses in the town centre, whilst maintaining the vitality and viability of the retail function of the town. A hotel is defined as a main town centre use, and both the NPPF and emerging policy DM3 seek to secure such uses first and foremost in existing centres. As well as being a main town centre use in its own right, a hotel development has added benefits insofar that guests will be likely to use facilities in the town centre such as shops and restaurants, and will therefore provide an economic benefit, which in turn will help strengthen the town centre and add to the vitality and viability of the town. Policies B5 of the adopted plan and CP1 of the emerging plan provide support for new tourist facilities.
- 9.04 In this respect, the proposed development for a mixed restaurant and hotel development would be an appropriate town centre use, it would be consistent with the aims of the regeneration of the town centre, and it would help strengthen the vitality and viability of the town centre through linked spending, as well as improving tourist facilities in the Borough. Whilst the proposal would reduce the amount of floor space proposed for restaurant use, this is a small reduction and the wider development of site 4 would still provide for 6 no restaurant units within Blocks A, and B. In my opinion, this would still maintain a healthy supply of restaurant units so as not to materially affect the role of site 4 in providing eating facilities to complement the town centre and cinema facility, and enhance the evening time offer in the town. The development would in itself create jobs and investment in the town, and would provide modern leisure / tourism and eating facilities, capable of drawing custom that may presently go outside the Borough.
- 9.05 As such, I am satisfied that the provision of a restaurant and hotel facility in this sustainable town centre location would be fully in accordance with the adopted and emerging development plan, and the NPPF.

### Scale / Design of Block B and impact upon character and appearance of surrounding area

- 9.06 Site 4 is arguably the key component of the entire town centre regeneration scheme, given its gateway location between the train station and the High Street, the nature



and scale of the proposed developments to provide a cinema complex, restaurants and now a hotel facility, and significant highway changes to provide a public square.

- 9.07 The proposed development for Block B would, at 4 storeys, be greater in height and scale than the original scheme for Block B (which would have a maximum height of 11.2m). It would be located between the existing Forum building and the proposed cinema complex, and would be taller in height than the Forum, but lower than the proposed cinema complex – and would create a stepped effect in height between buildings. It would add to the stock of existing and proposed larger scale buildings in the immediate area, which includes the existing Wilkinson's building (at around 14.5 metres height), the proposed multi storey car park to the east (17.4-18.8 metres high), and the cinema complex (18.6m)
- 9.08 The proposed building would front the new public square and would be a visual focal point from the train station. The public square would provide an appropriate setting to what is arguably the principal elevation of the building. In addition, due to the realignment of the road, the east facing elevation would be prominent in views along the (realigned) St Michaels Road. In my opinion, a building of the height and scale proposed would be appropriate given this location and setting.
- 9.09 The contemporary design of the building would follow the design approach for the cinema complex, and the mix and quality of external materials will be crucial to delivery of a high quality building. As shown on the drawings, the building would include a mix of coloured vertical seam cladding and horizontal aluminium bands, punctured by a series of metal framed windows with powder coated panels on the upper floors, with a combination of brickwork and large glazed windows on the ground floor. I am of the opinion that the use and mix of material as shown on the plans would be capable of delivering a good quality aesthetic appearance to the building, that would complement the proposed cinema complex and multi storey car park building – and the main cladding material is the same as shown for Blocks A and B under the original scheme. It is fair to say that existing large buildings in the area, namely the Forum building and the Wilkinson's building, offer bland and uninteresting elevations from the perspective of the station and St Michaels Road. The proposed development, together with other proposed buildings within the regeneration scheme would have the potential to lift the quality of design in the area to the south of the station, and in turn enhance the character and appearance of the area.
- 9.10 The change in footprint compared to the approved Block B building together with the increase in height of the building would alter the visual relationship with the cinema complex building (Block A). At its closest point, the proposed building would be separated by 9.1 metres from Block A, and given the height of the two buildings, this would result in more of an enclosed character to the passage between these buildings, compared to the original scheme. The appearance and functioning of this space between the buildings is particularly important as it would provide a key pedestrian route through the development, as well as a key frontage to the proposed restaurants. This would be managed in part by cutting back the ground floor elevation on the north east corner of the building, so at pedestrian level there would be a greater appreciation of space. In addition, Block A cuts away from Block B to the south, and widens the space between the buildings at this point. It is also important to note that as this route would accommodate the main entrances and shopfronts to the restaurant units in block A and B, as well as the cinema and hotel facility, that this would provide an active frontage with such activity related to the units extending late into evenings. This would act to provide visual interest to the elevations of both buildings, as well as human activity, and should create an attractive environment for

people to pass through notwithstanding the more enclosed character of the area between Blocks A and B.

- 9.11 The proposal would be sited around 60 metres to the north of the Sittingbourne High Street Conservation Area, which is primarily focused upon the history and quality of buildings fronting the High Street (which forms part of a Roman road). Some views of the proposed building may be gained from certain vantage points within the conservation area, such as Berry Street. These would be seen against the context of the existing car park, and Forum building, and the approved cinema complex building. In my opinion, any such views would be limited and would not be harmful to the setting of the conservation area, given the distance involved and other built form. As such I do not consider there would be any conflict with policies E15 of the adopted plan or DM33 of the emerging plan.
- 9.12 Taking the above into account, I am satisfied that the development would be of appropriate quality in terms of design and scale. This would be in accordance with the design criteria contained within policies E1, E15, E19 and AAP7 of the adopted plan, and policies ST5, CP4, Regen1 and DM14 of the emerging plan.

### **Residential Amenity**

- 9.13 The proposed development for Block B appears to be immediately surrounded by other commercial and non-residential buildings. The closest residential buildings would be those to the west on Station Street which would be screened from the development by the cinema complex building. There may also be residential units above some commercial units on the High Street. However these are some 80 metres from Block B and given this considerable distance I do not consider that any harm to amenity would arise. In this respect, there would be no conflict with policies E1 of the adopted plan or DM14 of the emerging plan.

### **Highways**

- 9.14 Policies T1 and T2 of the adopted plan and policy DM6 of the emerging plan seek to ensure that new developments can be accommodated within the existing highway network and that any necessary highways improvements arising from development are secured in order to make proposals acceptable.
- 9.15 In this instance, the original scheme for the development across 6 sites has been subject to a detailed analysis regarding impact on the highway network, and the scheme has been found acceptable subject to the implementation of highways realignment works and improvements. The majority of localised highways alterations are concentrated within site 4. The application currently before members does not seek to alter any of the agreed highways changes and improvements to be secured under the original scheme.
- 9.16 The supporting Transport Assessment submitted with the application sets out the difference in likely trip rates between the original scheme and the proposed development. From the data supplied, the total amount of daily trips generated by the proposal over a 24 hour period would be almost identical to those generated under the original scheme for Block B, taking into account the removal of the D2 facility, introduction of the hotel facility and reduction in floor area of the restaurant facility within the block. It has been calculated that there would be a difference in how these highways movements would be spread over a 24 hour period compared to the uses

within the original Block B building - the proposal has been calculated to add a further 14 trips to the local highway network during the AM peak hour (8am-9am), and a reduction in 4 trips during the PM (17:00-18:00) peak. An additional 19 trips have been calculated for the Saturday peak hour (12:00-13:00). KCC Highways advise that these differences would have an insignificant impact on the highway network.

- 9.17 In terms of car parking, and as noted above, the proposed development would generate a maximum requirement for 136 car parking spaces, compared to 113 spaces for the original scheme. Members will note the advice from KCC Highways that parking can be absorbed in the town centre car parks (existing and proposed), and that the likely demand for hotel parking would peak overnight, outside of the peak demand for town centre car parking. Members should also note that the sustainable location of the site within the town centre and opposite a train station would provide other transport options and should mean that parking demand is less than the maximum requirements set out above.
- 9.18 Members will note that the Sittingbourne Society has raised some concern regarding the potential strain on town centre car parks. However this concern is not shared by KCC Highways, and I agree that the nature of peak demand for parking in relation to the hotel and restaurant (i.e evenings / overnight) would be unlikely to conflict with peak demand from shoppers / commuters / town centre workers (during the day). The erection of the multi storey car park as part of the original scheme would offset the existing parking facilities that would be lost through development across the 6 sites.
- 9.19 The application details set out that the developer is in discussion with the Council to allow hotel guests to park in the multi-storey car park. This arrangement falls outside of the control of this planning application, but would help allay any concerns that long-stay commuter / town centre worker parking would be affected – as the multi storey car park would otherwise operate as a short stay parking facility.
- 9.20 On the basis of the above and taking into account advice from KCC Highways and Highways England I consider that, provided the highways works are undertaken in accordance with the original scheme and that the multi-storey car park is delivered (both of which would be also controlled under the original scheme), the development would not result in any unacceptable highways or parking impacts. In this respect, the development would comply with the above development plan policies.

### **Noise / Air Quality**

- 9.21 The likely noise impacts relating to this development would be from plant and equipment used in the restaurant and hotel. The Environmental Health Manager does not object to the application on noise grounds, and I consider it would be appropriate to impose planning conditions to require details of plant and equipment, so that the location and noise outbreak from such units can be controlled.
- 9.22 In terms of air quality, the original application was submitted with an air quality assessment and no objection was raised by the Environmental Health Manager from an air quality perspective. Given that the impacts on air quality arising from the scheme would be traffic based, and that likely traffic generated by the proposal would be very similar to the traffic generated by the uses for Block B in the original development, I would conclude that the proposal would not give rise to any unacceptable air quality impacts. The Environmental Health Manager does not object to the application.

- 9.23 Policy E1 of the adopted plan and policy ST5 of the emerging plan contain criteria that seek to ensure that developments do not result in unacceptable noise or air quality impacts, and based on the above I do not consider that the proposal would be in conflict with the above policies.

### **Other Matters**

- 9.24 Ecology - the development of the site would not give rise to any direct ecological impacts on protected species. The site does fall within the impact risk zone for the Swale Special Protection Area (SPA), Ramsar and SSSI and a hotel development would draw visitors into the local area. However, it is considered that any impacts would be low, based on the short-stay nature of customers to the hotel (typically less than 2 days), the position of the hotel within the town (rather than a hotel / tourist facility much closer to The Swale,) and that hotel users will not bring pets – dogs being a primary source of disturbance to birds within the designated area. On this basis, I do not consider that the development would be in conflict with policy DM28 of the emerging plan.
- 9.25 Archaeology – site 4 lies within an area with potential for Roman activity and the County Archaeological officer had recommended a condition for a programme of archaeological work across the six sites under the approved scheme. On this basis, it would be appropriate for a similarly worded condition to be attached to this proposal, and this would accord with policy E16 of the adopted plan and policy DM34 of the emerging plan
- 9.26 Sustainable construction – Policy DM19 of the emerging plan requires non-residential developments of more than 1000sqm in floor area to achieve BREEAM “very good” standards. Under the original application, the applicant demonstrated that it was not financially viable to achieve the relevant BREEAM standards. The applicant has provided supporting information to demonstrate that compliance with the “very good” standard is not viable under the current application. I understand that the scheme has still been designed to meet the BREEAM “good” standards and in this instance I consider this to be appropriate to ensure a form of sustainable construction given the acknowledged viability issues.
- 9.27 Members will be aware that this application would effectively replace Block B under the original scheme for Block B as now proposed. Whilst it is technically a “stand-alone” application, the ability to deliver this proposal does rely on the implementation of the original scheme. I am of the opinion that it would be necessary to control the implementation of this permission via a S106 agreement (or other appropriate mechanism as advised by the Council’s legal department) to ensure that it does not take place before the delivery of necessary infrastructure and that it comes forward in an appropriate phase as part of the wider regeneration project.
- 9.28 In this respect, this application can only be approved following the formal grant of planning permission 14/505440/FULL, and my recommendation to grant permission is also on this basis.
- 9.29 The list of recommended planning conditions does naturally overlap with many of those relating to the approved scheme. If granted, it will be for the developer to determine whether, for the purposes of Block B, they will implement this scheme or the approved scheme. The remainder of the development across the six sites will, in either scenario, be subject to control under the original planning permission, including the remainder of site 4 which is not subject to control under this planning permission.

## 10.0 CONCLUSION

- 10.01 The proposal to replace the approved Block B building would facilitate the provision of a substantial hotel and restaurant facility in the town. The sustainable location of the site next to the train station and within the town centre boundary would fully accord with the adopted and emerging local plan and the NPPF, and would make a significant contribution to the package of wider town centre regeneration schemes for Sittingbourne. Whilst the building would be taller and greater in scale than the original Block B development, I consider the scheme to be appropriate in design terms and capable of delivering a high quality development to lift the character and appearance of a key part of the town. I would conclude that the development would accord with the adopted and emerging development plan and would provide, both in isolation and in combination with the approved scheme, social, economic and environmental benefits that would represent sustainable development under the NPPF.

- 11.0 RECOMMENDATION – GRANT PERMISSION**, subject to the completion of a S106 agreement to control the implementation and phasing of the development as part of the wider regeneration project in the town, and subject to the formal issue of planning permission 14/505440, the implementation of which this development is dependant upon.

### CONDITIONS

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

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

- (2) The development hereby approved shall be carried out in accordance with the following approved drawings: 13003B\_100E, 13003-105H, 13003B\_108K, 13003B-110M, 13003B-112, 13003B\_155B, 13003B-157B, 13003B\_158A, 13003B\_159

Reason: 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 until a drainage strategy, detailing any measures to divert public sewers and water mains, the proposed means of foul disposal and an implementation timetable, has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved scheme and timetable.

Reasons: to ensure the provision of appropriate foul drainage and to mitigate against flood risk

- (5) No development shall take place until full details of the method of disposal of 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. The approved details shall then be implemented before the first use of the development hereby permitted

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

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

Reasons: In the interest of Security, Crime Prevention and Community Safety

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

Reasons: In the interests of highway safety

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

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

- (9) No development shall take place until full details of hard and soft landscape works have been submitted to and approved in writing by the Local Planning Authority. These details shall include proposed trees, shrubs and other features, planting schedules of plants (which shall include indigenous species), noting species, plant sizes and numbers where appropriate, size of tree pits, measures to prevent tree vandalism, any means of enclosure, hard surfacing materials, and an implementation programme.

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

- (10) Prior to the commencement of development, samples of the external finishing materials to be used in the construction of the building shall be submitted to and approved in writing by the Local Planning Authority. This shall include the following –
- i) Two joined, full size cladding panels (to include a curved junction section and a cut to the same length sample of the profiled dark metal banding product and a curved section of the coping material to be used for the building); and
  - ii) A two square metre sample of the brickwork to be used to form the base level of the building (the sample to specifically show the bricks, brick bond, mortar colour, mortar joint thickness and mortar profile to be used).

The development shall be carried out in accordance with the approved details.

Reason: In the interest of visual amenity.

- (11) Prior to the commencement of development, part vertical and plan sections to a scale of 1:1 or 1:2 of the following construction details of the building shall be submitted to and approved in writing by the Local Planning Authority.
- i) window junction
  - ii) Overhang of element of building between ground floor and 1<sup>st</sup> floor (vertical section only)

The development shall be carried out in accordance with the approved details.

Reason: In the interest of visual amenity.

- (12) 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.

- (13) 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 has been 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 the National Planning Policy Framework.

- (14) 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.

- (15) 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.

- (16) During construction provision shall be made, 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.

- (17) 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.

*Post commencement*

- (18) The proposed refuse and recycling storage arrangements for the development hereby approved and as shown on the approved plans, shall be completed prior to first use of the development and shall be retained in perpetuity unless otherwise agreed in writing by the Local Planning Authority.

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

- (19) 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.

- (20) No mechanical ventilation, extraction/filtration equipment, air conditioning, heating, ventilation or refrigeration equipment shall be installed on the building hereby approved until full details of the design, siting, discharge points and predicted acoustic performance, together with any necessary measures to mitigate against noise, have been submitted to and approved by the Local Planning Authority.

Reason: To safeguard the amenities of nearby residential properties.

- (21) No infiltration of surface water drainage into the ground at the site is permitted other than with the express written consent of the Local Planning Authority, 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.

- (22) 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.

- (23) 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.

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

Reason: In the interests of residential amenity.

- (25) The use of the restaurant 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.

- (26) The approved hard and soft landscape works shall be completed prior to the first use of any part of the building or in accordance with an implementation programme agreed in writing with the Local Planning Authority prior to such use.

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

- (27) Upon completion of the approved landscaping works, 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.

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

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

#### INFORMATIVES

- 1) You are advised that this planning permission relates only to the development of Block B in the area shown outlined in red on drawing 13003B\_159. The remainder of the development within Site 4 (as shown outlined in blue on the plan) will be subject to the terms and conditions of planning permission 14/505440.
- 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](http://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) 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.
- 5) 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](http://www.kent.gov.uk/roads_and_transport.aspx) or telephone: 03000 418181) in order to obtain the necessary Application Pack.
- 6) If Piling is proposed for the development, a Piling Risk Assessment must be submitted, written in accordance with our guidance document "Piling and Penetrative Ground Improvement Methods on Land Affected by Contamination: Guidance on Pollution Prevention. National Groundwater & Contaminated Land Centre report NC/99/73".

#### The Council's Approach to this Application

The Council recognises the advice in paragraphs 186 and 187 of the National Planning Policy Framework (NPPF) and seeks to work with applicants in a positive and proactive manner by offering a pre-application advice service; ; and seeking to find solutions to any obstacles to approval of applications

having due regard to the responses to consultation, where it can reasonably be expected that amendments to an application will result in an approval without resulting in a significant change to the nature of the application and the application can then be amended and determined in accordance with statutory timescales. In this case the application was found to be acceptable, and presented to Members with a recommendation to approve subject to resolution of outstanding issues.

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

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

<b>REFERENCE NO - 16/504551/OUT</b>		
<b>APPLICATION PROPOSAL</b> Outline application for a 50 bed care home with ancillary accommodation, over 3 floors (the top floor within the roof) and with a basement kitchen and staff rooms, with appearance, layout and scale to be considered at this stage and all other matters reserved for future consideration		
<b>ADDRESS</b> Little Oyster Residential Home Seaside Avenue Minster-On-Sea ME12 2NJ		
<b>RECOMMENDATION</b> Approve		
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b> The proposal is virtually identical to that approved by Planning Committee on 29 <sup>th</sup> August 2013 under reference SW/13/0599. Since this approval, there have been no meaningful changes in the physical site surroundings or planning policy that indicates planning permission should now be refused. Notwithstanding the above, the proposal is acceptable in principle and would have an acceptable impact on residential amenity and highway safety and convenience. The proposal is of an acceptable design, scale and bulk with no harm arising to the visual amenities of the area and the character and appearance of the streetscene. The proposal is considered to constitute sustainable development.		
<b>REASON FOR REFERRAL TO COMMITTEE</b> Minster Parish Council objects to the proposal.		
<b>WARD</b> Minster Cliffs	<b>PARISH/TOWN COUNCIL</b> Minster-On-Sea	<b>APPLICANT</b> Mr Ernesto Batten <b>AGENT</b> Prime Folio
<b>DECISION DUE DATE</b> 11/10/16	<b>PUBLICITY EXPIRY DATE</b> 13/10/16	<b>OFFICER SITE VISIT DATE</b> 23/8/16
<b>RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):</b>		
<b>App No</b>	<b>Proposal</b>	<b>Decision</b>
SW/13/0599	Outline application for new 50 bedroom care home with ancillary accommodation over 3 floors (the top floor within the roof) and with a basement kitchen and staff rooms.	Approved
SW/10/1363	Renewal of outline planning permission SW/07/0123 for the erection of 31 self contained flats.	However, this has not been determined due to technical issues with the section 106 agreement.
SW/07/0784	Outline application for two storey care home with 40 bedrooms, ancillary rooms and 25 car parking spaces.	Approved
SW/07/0123	Outline application for the erection of 31 self-contained sheltered flats.	Refused and allowed at appeal
SW/05/707	New vehicular access	Refused
SW/03/1221	Approval of reserved matters of SW/03/0063 for two-storey building - an extension of	Approved

	existing facilities.	
SW/03/0063	Outline application for new two storey building for disabled people being an extension of existing facilities.	Approved
SW/02/0770	Outline Application for new three storey building containing rooms and suites for disabled people.	Refused and appeal dismissed

**MAIN REPORT**

**1.0 DESCRIPTION OF SITE**

- 1.01 The application site comprises a rectangular piece of land of 0.29ha (0.7 acres), which is currently used as a car park and grassed area in connection with the Little Oyster Care Home. The land occupies a very prominent position in the sea front area. A public car park lies immediately beyond the boundary to the south west of the application site.
- 1.02 The existing Little Oyster care home is long established and is located at the corner of Seaside Avenue and The Leas. To the south sit dwellings in Southsea Avenue. These properties occupy an elevated position above the application site (decreasing to about 2m towards Seaside Avenue). The land rises by approximately 1m from north west to south east, on land lower than the existing care home, which is single storey where adjacent to the proposal, but is 2 storey further to the north west.

**2.0 PROPOSAL**

- 2.01 This application seeks outline planning permission for the erection of a 50 bedroom care home. The application seeks approval for appearance, layout and scale reserved matters. Access and landscaping are reserved for future consideration.
- 2.02 The application forms sets out that the proposed development would fall within use class C2 residential institutions. Each bedroom would have its own en-suite and there would be communal dining areas (four in total), lounges and “activity” areas (four in total), on the ground and first floor. The accommodation would be provided over three floors with rooms in the roofspace and small flat roof dormers facing The Leas. A basement area would provide the staff room, kitchen and laundry room. The building would be a total height of 9.15m from ground level. The site sections show this and the relationship with the houses to the rear (south). The basement would have an external area of 62 sq. m to the flank of the building (northwest) that is dug out of the ground to provide access to the kitchens etc.
- 2.03 The site layout drawing shows 40 vehicle parking spaces, one of which is for an ambulance. The disposition of these spaces and the arrangements for ambulance access are shown on the layout plan. There would be some land to the north (front) and east (side) of the building set aside as communal amenity space for the residents.
- 2.04 The applicant has submitted an amended layout plan to deal with the comments of KCC Ecology, KCC SUDS and KCC Highways and Transportation to provide an area fenced off as natural habitat, clarify intended drainage systems and show appropriate vehicle turning space.

### 3.0 SUMMARY INFORMATION

	Existing	Proposed	Change (+/-)
Site Area (ha)	0.29	0.29	0
Approximate Ridge Height (m)	na	9.1	+9.1
Approximate Eaves Height (m)	na	5.1	+5.1
Approximate Depth (m)	na	24 max	+24
Approximate Width (m)	na	51 max	+51
No. of Storeys	na	3 with rooms in roof	+3
Net Floor Area	na	2500m2	+2500m2
Parking Spaces	na	40	+40

### 4.0 PLANNING CONSTRAINTS

4.01 The site is located within the built up area boundary of the adopted local plan whereas it is outside under the emerging local plan. The site is within the coastal zone of the adopted local plan.

### 5.0 POLICY AND OTHER CONSIDERATIONS

5.01 The National Planning Policy Framework (NPPF) in relation to achieving sustainable development; 1. Building a strong, competitive economy; and 7. Requiring good design.

#### Swale Borough Local Plan 2008

5.02 Policy E1 of the Swale Borough Local Plan 2008 gives general guidance regarding design and amenity, amongst others. Policy E19 aims to achieve high quality design on all developments in the Borough.

5.03 Policy C1 (SBLP) encourages the retention and provision of both public and private community facilities.

5.04 Policy T3 (SBLP) deals with traffic, and seeks to minimise the highways impacts of any new development through the provision of adequate parking, sightlines, turning space, etc.

5.05 Policy E13 (SBLP) seeks to control development within the Cliff Erosion and Coastal Zone. It restricts development outside of the built-up area boundaries within such areas.

#### Emerging Local Plan Bearing Fruits 2031 Proposed Main Modifications Version June 2016

5.06 Policy CP4 requires good quality design that is appropriate to its surroundings.

5.07 Policy DM7 requires vehicle parking in accordance with extant KCC Standards.

- 5.08 Policy DM14 sets out general development criteria that require inter alia development to be of an appropriate scale and design for the location and to cause no harm to amenity.
- 5.09 Policy DM19 requires all non-residential development over 1000sqm to achieve BREEAM very good or equivalent, or good if below this threshold.

## 6.0 LOCAL REPRESENTATIONS

- 6.01 Twenty five letters of objection have been received which are summarised as follows;
- Loss of privacy/overlooked for residents of dwellings to the rear.
  - Development on this scale should not be allowed to take place due to impact on streetscene.
  - Out of keeping with the area and will be a blot on the landscape.
  - The Leas is popular throughout the year for its beach and views. The proposal will exacerbate existing parking problems and will impact this island asset which should be preserved.
  - Impact on residential amenity.
  - Lack of on site parking for staff, visitors, ambulances, deliveries who currently park on road.
  - Suitability of access for delivery and emergency vehicles.
  - Access to public transport for visitors and residents.
  - Shops and amenities.
  - Rubbish storage and collection.
  - The Island needs good standard care facilities but they do not need to all be in one place.
  - Application should not be considered until sewage system problems are sorted out.
  - Overbearing on the landscape.
  - Very poor access and service road.
  - How will large vehicles turn when spaces are filled?
  - How will occupants be evacuated during an emergency when fire engines and ambulances will need access?
  - Highways would not cope with additional traffic.
  - Ambulances often park on the highway causing obstructions.
  - Area unsuitable for disabled people due to lack of shops and recreational facilities.
  - Flood risk- no measures in place to evacuate people
  - How would disabled residents be evacuated from multiple floors during a fire if lifts are out of bounds?
  - Lack of communal facilities and amenity space for residents.
  - Vehicle access should be from Council owned car park.
  - Similar applications have been refused then allowed on appeal in the past.
  - Separate vehicle entry and exit required.
  - Constant submissions and increasing scale of applications borders on harassment.
  - Will remove sea views of surrounding residents and will devalue property.
  - Will exacerbate Lower Road traffic issues.
  - Overdevelopment of land.
  - May cause destabilisation of cliffs.
  - What safeguards will be put in place re light pollution from the new development.



- 6.02 One letter of support have been received which are summarised as follows;
- We have been looking for a care home place but cannot find one.
  - There is a shortage of care home space and cannot think of a more perfect position for a home overlooking the sea in a quiet and peaceful area of the Island.

## 7.0 CONSULTATIONS

- 7.01 Minster Parish Council objects to the application for the following summarised reasons;

- Over-intensive development of the site.
- Unacceptable harm to the character and appearance of the area.
- Prejudice to highway safety and convenience.
- Height and mass are questioned as they appear similar to the original application which was refused.
- Loss of green amenity space (garden area) for residents enjoyment which will be replaced by parking.
- Inadequate vehicular access from Seaside Avenue.
- Lack of adequate turning area for service vehicles.
- The siting of refuse bins with the delivery point by the kitchen.
- The impact on the residential amenities householders in neighbouring properties might reasonably be expected to enjoy.

- 7.02 The Council's Environmental Health Manager recommends a condition restricting the construction hours as recommended below.

- 7.03 KCC Highways and Transportation raises no objection to the proposal. It notes the proposal is similar to previous approvals on the site. Its required conditions are recommended below. It states;

*“Currently on street, and footway, parking is taking place on Seaside Avenue and surrounding roads. The proposed development should not cause additional on street parking pressure in the area. Similarly, the on site parking for the existing care home next door, Little Oyster, should not be negatively impacted by the proposed development. According to Kent parking standards 40.5 spaces should be provided to ensure sufficient parking for the 2 care homes, based on staffing numbers detailed in the proposals. 40 spaces do appear to be shown on the proposed site layout plan. The provision and permanent retention of the vehicle parking spaces shown on the submitted plans must be in place prior to the use of the site commencing.”*

- 7.04 KCC SUDS Team raises no objection with regards to the surface water drainage system proposed subject to the conditions recommended below. A related informative is attached below.

- 7.05 KCC Ecology confirm that following the clearance of the vegetation in the south east corner of the site there is no requirement for specific species surveys to be carried out. The amended site plan shows an ecological area. Details of its design and long term management should be secured by condition.

- 7.06 KCC Archaeology states *“The proposed development is located in an area that is archaeological sensitive, close to the former defences of the WW1 Thames and Medway Defences. in particular the disguised battery of Merrymans Hill lay close to this site and the defence lines extended through the site. The site has been relatively*

*undisturbed from past development and given the location there is good potential for prehistoric activity as seen elsewhere in Minster.” A programme of archaeological works condition is recommended.*

- 7.07 The Environment Agency has assessed the application as having low environmental risk therefore it has no comment to make.
- 7.08 Natural England raises no objection to the impact on internationally and nationally designated nature sites including the Swale Special Protection Area, Ramsar site and Site of Special Scientific Interest. It notes no permanent staff accommodation is proposed and C2 use class is proposed with elderly occupants of only limited mobility therefore the proposal is unlikely to result in increased recreational disturbance to the Swale SPA and Ramsar sites.
- 7.09 Southern Water recommends a condition requiring details of foul and surface water drainage, and an informative regarding connection to its network and water supply.
- 7.10 The LMIDB confirm the proposal is unlikely to affect its interests. Surface water run off should be appropriately managed. Soakaways should be designed in accordance with KCC's Soakaway Design Guide July 2000.
- 7.11 Kent Police recommends either a condition or informative regards security measures to be included in the development.

## **8.0 BACKGROUND PAPERS AND PLANS**

- 8.01 The application includes a design and access statement, ecological appraisal and a full set of elevations, floorplans, cross sections and a site layout plan.

## **9.0 APPRAISAL**

### **Principle of Development**

- 9.01 The site is located within the built up area boundary of the adopted local plan where the principle of development is considered acceptable. The adopted local plan forms part of the development plan. To the extent that development plan policies are material to an application for planning permission the decision must be taken in accordance with the development plan unless there are material considerations that indicate otherwise (see section 70(2) of the Town and Country Planning Act 1990 and section 38(6) of the Planning and Compulsory Purchase Act 2004. However, the site is outside the built up area boundary of the emerging local plan, but this does not form part of the development plan until it is adopted therefore permission should not be refused for this reason. Furthermore the care home facility would provide additional care to people with learning difficulties which is broadly supported by policy C1 of the Local Plan which seeks to encourage the provision of community facilities.
- 9.02 It should also be noted that Members approved an almost identical application under reference SW/13/0599 therefore to take a different view of the acceptability of the principle of development would be irrational in my view. For these reasons, the principle of development is acceptable in my opinion. It should be noted that proposals within use Class C2 residential institutions can be counted toward part of the Council's supply of housing land which is a positive element of the proposal.

### **Visual Impact**

- 9.03 The weight of local objection regarding the scale, design and visual impact of the proposal are noted. I consider the test to be applied here is whether the current proposal would be of an acceptable scale and design in its own right with significant consideration given to the previous permission SW/13/0599. Members should note that planning committee approved the earlier development and that the scale, design and position within the site are identical. It would therefore be counterintuitive to form a different conclusion for this application. Notwithstanding the above, there have been no meaningful changes in planning policy or the physical site surroundings that should result in a different decision being made. In my opinion, the scale, design and position of the proposal would be appropriate with no resultant harm to visual amenity including views from The Leas and from the dwellings to the south. For these reasons, I consider the visual impact acceptable.

### **Residential Amenity**

- 9.04 The nature and number of objections from local residents on the grounds of negative impact on residential amenity are noted. Den Briel and Three Rivers on Southsea Avenue are in the region of 50m from the proposed building, and sit at a higher level. The ridgeline of the proposed building (at 9.15m high) would be approximately at the ground floor level of Three Rivers (section B-B) and below the first floor level of Den Briel (section A-A). The properties to the north west comprise bungalows, some with accommodation within the roofspace. Many Kent Planning authorities still consider the former Kent Design standard (that in order for a reasonable degree of amenity to be enjoyed, dwellings should be set a minimum of 21m apart (a measurement reflected in the Council's adopted SPG on domestic extensions)) as a reasonable rule of thumb. I also believe this to be a good pragmatic approach. It is clear that this scheme significantly exceeds this distance, and the difference in relative heights is also a significant material consideration to be taken into account to the extent that they mitigate the impacts of the proposal. I can see no reason to insist that windows facing in this direction should be obscure glazed or fixed shut. The separation distance serves to prevent harm to residential amenity by virtue of a sense of overbearing, overshadowing, loss of outlook, loss of day or sunlight. The impact on residential amenity would be acceptable in my opinion.

### **Highways**

- 9.05 Access is not being considered as part of this application. In respect of the adequacy of the proposed parking arrangements, I note that Kent Highway Services raise no objection to the proposed development. I acknowledge that local residents are concerned about the impact on local roads and congestion/on-street parking especially during the summer months. However, the number of parking spaces and the turning area proposed would meet the standards set out by Kent Highway Services. I cannot identify any demonstrable harm to the highway or pedestrians as a consequence of this proposal. As such, I do not consider that there would be a detrimental impact on highway safety/amenity. I also note that fact that the impact on the highway was not identified as a reason for refusal for the previous schemes at this site. The impact on highway safety and convenience is acceptable in my opinion.

### **Other Matters**

- 9.06 The objections of residents with regards to sewerage capacity are noted. Southern Water are aware that there is a capacity problem with the sewers and water supply in this area and will be seeking a formal agreement from the developer that they will address this matter to enable the development to go ahead.

9.07 KCC SUDS and Ecology are content that both issues can be dealt with by condition. On site ecology will be enhanced by the provision of a fenced of ecological area in the southern corner of the site and the impact on designated nature conservation sites is acceptable as per Natural England's comments with no requirement for financial contributions towards mitigation due to the proposal falling within use class C2 residential institutions where residents have limited ability to participate in recreational activities on the protected areas. The comments of Southern Water and the LMIDB are noted and can be dealt with by condition and informative. The surface water, foul drainage and ecological impacts of the proposal are acceptable in my opinion. Archaeological potential at the site can be dealt with by a programme of archaeological works condition below.

## 10.0 CONCLUSION

10.01 It is considered that the principle of development is acceptable in this location and that there would be no harm arising to visual amenity, residential amenity, highway safety and convenience, ecology and foul and surface water drainage. The proposal is virtually identical to the previous planning permission granted by the Planning Committee and given the lack of meaningful change in planning policy or the physical site surroundings, it is considered that to reach a different decision would be irrational and could not be defended at appeal. The proposal constitutes sustainable development in its own right and therefore planning permission should be granted in my opinion.

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

CONDITIONS to include

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

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

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

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

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

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

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

Reason: In the interest of visual amenity.

5) The building hereby approved shall be constructed to BREEAM 'Good' Standard or an equivalent standard.

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

6) Prior to the commencement of development, details of the design and long term maintenance of the fenced off natural habitat area in the southern corner of the site as shown on plan 11-14-01 rev H shall be submitted to and approved in writing by the Local Planning Authority. The area shall be provided in accordance with the approved details prior to the first use of the development hereby permitted and shall be retained in perpetuity.

Reason: To secure ecological enhancements at the site.

7) Prior to the commencement of development details of foul water drainage shall be submitted to and approved in writing by the Local Planning Authority. The development shall proceed in accordance with the approved details.

Reason: To prevent flooding and secure appropriate foul sewerage infrastructure to service the development.

8) Prior to the commencement of development a detailed sustainable surface water drainage scheme for the site shall have 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 without increase to on site or off site flood risk.

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

9) Prior to the first occupation of the development details of the implementation, maintenance and management of the sustainable drainage scheme shall have been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented and thereafter managed and maintained in accordance with the approved details. Those details shall include:

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

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

10) No construction work in connection with the development shall take place on any Sunday or Bank Holiday, nor on any other day except between the following times:-  
Monday to Friday 0800 - 1800 hours, Saturdays 0830 - 1300 hours unless in association with an emergency or with the prior written approval of the Local Planning Authority.

Reason: In the interests of residential amenity.

11) No impact pile driving in connection with the construction of the development shall take place on the site on any Saturday, Sunday or Bank Holiday, nor 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.

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

Reason: In the interests of highway safety and convenience.

13) The area shown on the submitted plan 11-14-01 rev H as vehicle parking space, turning space and loading/unloading 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 first use of the development hereby permitted.

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

14) Prior to the first use of the development hereby permitted details shall have been submitted to and approved in writing by the Local Planning Authority of secure and covered cycle parking facilities. The agreed details shall be provided prior to the first use of the development and shall be retained in perpetuity.

Reason: To secure appropriate cycling facilities for staff and visitors to the development.

15) Wheel washing facilities shall be provided on the site in advance of the commencement of and for the duration of development.

Reason: To prevent mud and other debris on the highway that would be harmful to highway safety and convenience.

16) The development shall proceed in accordance with the following approved plan numbers: 11-14-01 rev H, 11-14-02 rev E, 11-14-03 rev E, 11-14-04 rev E and 11-14-05 rev B.

Reason: For the sake of clarity.

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

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

## **INFORMATIVES**

Southern Water advises the developer to make contact to discuss a formal agreement regarding sewerage infrastructure and water supply on 0330 303 0119.

KCC SUDS Team wishes to make the applicant aware that any detailed design submitted in pursuance of the SUDS conditions should be based upon a rate of discharge that has been formally agreed in writing with Southern Water; any such agreement should form part of the submission to the LPA. It may be necessary to provide onsite attenuation to control the rate at which the site discharges to the receiving network. Where necessary, we would expect to see the calculations undertaken to determine the capacity of any proposed attenuation feature.

**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:

Where possible, suggesting solutions to secure a successful outcome.

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

In this instance:

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

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

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

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

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**PLANNING COMMITTEE – 8 DECEMBER 2016**

**PART 3**

Report of the Head of Planning

**PART 3**

Applications for which **REFUSAL** is recommended

<b>REFERENCE NO - 16/507410/FULL</b>			
<b>APPLICATION PROPOSAL</b> Construction of a one bedroom bungalow with associated parking			
<b>ADDRESS</b> Land South Of 30 Seaside Avenue Minster-on-sea Kent ME12 2HA			
<b>RECOMMENDATION Refuse</b>			
<b>SUMMARY OF REASON FOR REFUSAL</b> Despite the sustainable location of the site, the Council's policies relevant to the supply of housing land being considered out of date and the small contribution it would make to the Council's 5 year supply of housing land, the benefits of the proposal are considered to be significantly and demonstrably outweighed by the harm caused by the cramped and incongruous form of development and the harm arising to the character and appearance of the streetscene and the visual amenities of the area.			
<b>REASON FOR REFERRAL TO COMMITTEE</b> Minster Parish Council supports the application.			
<b>WARD</b> Minster Cliffs	<b>PARISH/TOWN</b> Minster-On-Sea	<b>COUNCIL</b>	<b>APPLICANT</b> Malro Investments Limited <b>AGENT</b> Kent Design Partnership - Architect
<b>DECISION DUE DATE</b> 07/12/16	<b>PUBLICITY EXPIRY DATE</b> 15/11/16	<b>OFFICER SITE VISIT DATE</b> 27/10/16	
<b>RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):</b>			
<b>App No</b>	<b>Proposal</b>	<b>Decision</b>	<b>Date</b>
None			

**MAIN REPORT**

**1.0 DESCRIPTION OF SITE**

1.01 The site consists of a narrow strip of land fronting Seaside Avenue measuring 6m wide by 30m long. The site is flat and has been cleared of vegetation. The side and rear boundaries are enclosed by a fence. It is entirely surrounded by residential dwellings.

**2.0 PROPOSAL**

2.01 To erect a one bedroom bungalow measuring 4.3m wide, 13.4m long and 5m to ridge height. It would have a dual pitched roof running the length of the building with a gable end fronting Seaside Avenue. The rear garden would measure 10m long. There would

be a single car parking space to the front of the dwelling. The dwelling would not project to the front or rear of 30 Seaside Avenue.

### 3.0 SUMMARY INFORMATION

	Existing	Proposed	Change (+/-)
Site Area (ha)	0.018	0.018	0
No. of Storeys	na	1	+1
Parking Spaces	na	1	+1
No. of Residential Units	na	1	+1

### 4.0 PLANNING CONSTRAINTS

4.01 None.

### 5.0 POLICY AND OTHER CONSIDERATIONS

5.01 The National Planning Policy Framework (NPPF) and the associated guidance within the National Planning Practice Guidance (NPPG) with regards to Achieving sustainable development; 6. Delivering a wide choice of high quality homes; and 7. Requiring good design.

5.02 Development Plan: Policies E1, E19, H2 and T3 of the Swale Borough Local Plan 2008. Policies CP3, CP4, DM7 and DM14 of the Council's emerging local plan Bearing Fruits 2031: The Swale Borough Local Plan Proposed Main Modifications June 2016.

### 6.0 LOCAL REPRESENTATIONS

- 6.01 Eleven letters of objection have been received which are summarised as follows;
- Not in keeping with the area or surrounding properties.
  - Proposed building is half the size of the neighbouring properties and is an overdevelopment of a very small site.
  - It will spoil the look of the properties around it.
  - Insufficient parking facilities. Will result in on street parking.
  - Proposal fails to improve the quality of the area and should be rejected.
  - Would look like a holiday chalet, downgrading the area.
  - Would set unwelcome precedent.
  - Will cause overlooking into neighbouring property.
  - Does not respect pattern of the road.
  - Poorly designed.
  - Human Rights Act, Protocol 1, article 1 states person has a right to peaceful enjoyment of their home and land- this could be compromised by noise, overlooking and lack of privacy.
  - Could be used as a holiday let.

### 7.0 CONSULTATIONS

7.01 Minster Parish Council *“fully supports the proposal. It is pleased to see derelict land being used for a good purpose.”*

7.02 The Council's Environmental Health Manager raises no objection subject to an hours of construction condition.

7.03 KCC Highways and Transportation makes no comment on the application.

## **8.0 BACKGROUND PAPERS AND PLANS**

8.01 The application includes a full set of drawings and a design and access statement.

## **9.0 APPRAISAL**

### **Principle of Development**

9.01 The site is located within the built up area boundary of Minster as defined by the proposals map of the Swale Borough Local Plan 2008 where the principle of residential development is acceptable. Furthermore, the site is located within a very central sustainable location within Minster. The Council cannot demonstrate a 5 year supply of housing land therefore, in accordance with 49 of the NPPF, the Council's policies for the supply of housing are considered out of date. In such circumstances, the NPPF dictates that the proposal should therefore be determined in accordance with the presumption in favour of sustainable development at paragraph 14 of the NPPF. However, the Council's adopted and emerging local plan policies for design are considered to be up to date and are therefore attributed full weight in the decision making process. The small contribution the proposal would make to the Council's 5 year supply of housing land is acknowledged and this should be afforded significant weight in the decision making process.

### **Visual Impact**

9.02 The plot is extremely narrow at 6m wide and the bungalow takes up almost the entire width of the plot except for a 0.8m gap on the southern boundary and a 1m gap on the northern boundary. The development would appear extremely cramped and incongruous in relation to the surrounding dwellings and plot sizes e.g. 26 Seaside Avenue has a plot width of 27m, number 30 13.5m, number 32 12m and number 34 12.5m. There are no dwellings or plot widths similar to the proposal within this section of Seaside Road. Within this context, despite the modest scale and design of the dwelling itself, it would appear as a cramped and incongruous form of development that harms the character and appearance of the streetscene and the visual amenities of the area contrary to policies E1 and E19 of the Swale Borough Local Plan 2008, Policies CP4 and DM14 of the emerging local plan and paragraph 64 of the NPPF. I consider the aforementioned harm arising from the proposal significantly and demonstrably outweighs the benefits of the provision of an additional dwelling in a sustainable location in the context of the lack of a 5 year supply of housing land.

### **Residential Amenity**

9.03 The proposal would be 7m from main body of the dwelling at 26 Seaside Avenue and due to the modest scale of the proposal would not harm the residential amenities of its occupiers.

9.04 The proposal would be located only 2m from 30 Seaside Avenue at the closest point. This neighbouring dwelling has an irregular layout that includes a small courtyard created by the rear elevation of its garage, side elevation of the dwelling which includes a bedroom window and door to a hallway, and the front elevation of the rear

part of the building which includes two lounge windows. The arrangement of this courtyard already creates a sense of enclosure in my opinion. Despite the position of the proposal directly to the south of this courtyard of openings to 30 Seaside Avenue, I do not consider there would be demonstrable harm to residential amenity because the lounge of 30 Seaside Avenue has an alternative light source from the rear facing window and the other openings affected serve a hallway which is a non-habitable room and the bedroom window would be approximately 5m from the proposal thereby reducing the impact to an acceptable degree such that no harm would arise.

- 9.05 With regard to the impact on the dwelling to the rear known as Justem, the proposed rear garden depth of 10 would serve to separate the proposal from this neighbouring dwelling. Furthermore, the proposed bungalow design means that a condition requiring a 2m high fence at the end of the garden would prevent overlooking at ground floor level.
- 9.06 The proposal would not give rise to harm to residential amenity in my opinion. The proposal would not contravene the human rights act in my opinion, contrary to the objectors view.

### **Highways**

- 9.04 The proposed single car parking space accords with adopted KCC Highway and Transportation standards within Interim Guidance Note 3. The number, size and layout of parking provision at the site would have an acceptable impact on highway safety and convenience. I do not consider the provision of all vehicle parking to the front of the proposal to amount to a reason for refusal due to the mixed nature of the parking arrangement in the area such as 35 and 33 Seaside Avenue near the site which have all vehicle parking to the front.

## **10.0 CONCLUSION**

- 10.01 Despite the sustainable location of the site, the Council's policies relevant to the supply of housing land being considered out of date and the small contribution it would make to the Council's 5 year supply of housing land, the benefits of the proposal are considered to be significantly and demonstrably outweighed by the harm caused by the cramped and incongruous form of development and the harm arising to the character and appearance of the streetscene and the visual amenities of the area.

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

Despite the sustainable location of the site, the Council's policies relevant to the supply of housing land being considered out of date and the small contribution it would make to the Council's 5 year supply of housing land, the benefits of the proposal are considered to be significantly and demonstrably outweighed by the harm caused by the cramped and incongruous form of development and the harm arising to the character and appearance of the streetscene and the visual amenities of the area contrary to policies E1 and E19 of the Swale Borough Local Plan 2008, Policies CP4 and DM14 of the emerging Local Plan Bearing Fruits 2031 and paragraph 64 of the NPPF.

## **INFORMATIVES**

None.

### **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:

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

In this instance:

The application was considered to be fundamentally contrary to the provisions of the Development Plan and the NPPF, and these were not considered to be any solutions to resolve this conflict.

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

### **Habitat Regulations Assessment Screening**

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

The application site is located approximately 2.8km north of the Swale Special Protection Area (SPA) and Ramsar site both of which are European designated sites afforded protection under the Conservation of Habitats and Species Regulations 2010 as amended (the Habitat Regulations).

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

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 and site remediation satisfactory to the EA, 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 of 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 would cost substantially 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 single dwellings upwards 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 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, 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.

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

**REPORT SUMMARY**

<b>REFERENCE NO - 16/506592/FULL</b>			
<b>APPLICATION PROPOSAL</b> Demolition of existing bungalow and garage and erection of 2 replacement four bed dwellings.			
<b>ADDRESS</b> 13 Princes Avenue Minster-on-sea Kent ME12 2HJ			
<b>RECOMMENDATION</b> Refuse			
<b>SUMMARY OF REASONS FOR REFUSAL</b> The proposed properties due to their scale in the context of surrounding development and layout would have an unacceptable impact upon the streetscene, visual and residential amenities.			
<b>REASON FOR REFERRAL TO COMMITTEE</b> Recommendation contrary to Parish Council view.			
<b>WARD</b> Minster Cliffs	<b>PARISH/TOWN COUNCIL</b> Minster-On-Sea	<b>APPLICANT</b> Mr Harrison Roach <b>AGENT</b>	
<b>DECISION DUE DATE</b> 10/11/16	<b>PUBLICITY EXPIRY DATE</b> 07/10/16		
<b>RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):</b>			
<b>App No</b>	<b>Proposal</b>	<b>Decision</b>	<b>Date</b>
None			

**MAIN REPORT**

**1.0 DESCRIPTION OF SITE**

- 1.01 The application site comprises a detached bungalow with a detached garage adjacent to the dwelling. There is a landscaped garden in front of the property and hardstanding in front of the garage. To the rear of the bungalow lies private amenity space.
- 1.02 Although there are some two storey dwellings towards the southern end of Princes Avenue, the area immediately surrounding the application site is comprised of detached bungalows. Land levels slope gently downwards from south to north.

**2.0 PROPOSAL**

- 2.01 This application seeks planning permission for the demolition of the existing bungalow and the erection of 2 no. detached two storey dwellings.
- 2.02 The proposed properties would be identical in design with a frontward projecting element. The dwellings would measure 11.45m in depth at their deepest point and 9.22m at their shortest. The properties would have a width of 7.15m. They would have a pitched roof measuring 5.2m to the eaves and 7.2m in overall height.

- 2.03 Both properties would have an identical internal layout with an integral garage, lounge / diner, kitchen and w.c. at ground floor level and 4 bedrooms, an en-suite and a separate bathroom at first floor level.
- 2.04 To the front of the properties a parking area is indicated whilst to the rear would be private amenity space measuring 12m in depth and 9m in width.
- 2.05 The external materials proposed are coloured render, cladding and black concrete interlocking roof tiles.

### **3.0 PLANNING CONSTRAINTS**

- 3.01 None

### **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.
- 4.06 The Swale Borough Local Plan Proposed Main modifications 2016 policies ST3 (The Swale settlement strategy); ST4 (Meeting the Local Plan development targets); CP3 (Delivering a wide choice of high quality homes); DM14 (General development criteria) are also relevant.

### **5.0 LOCAL REPRESENTATIONS**

- 5.01 Objection letters were received from 5 separate addresses and raised the following summarised points:
  - The proposed dwellings would be out of keeping with the existing character of the streetscene;



- The dwellings would lead to a loss of light and overshadowing of adjacent dwellings;
- The proposal would overlook surrounding properties;
- Construction vehicles would cause the existing road surface to deteriorate further and would make accessing surrounding properties difficult;
- The proposal would lead to parking on the highway which would lead to problems accessing the driveway of surrounding properties;
- The proposed dwellings would exacerbate existing parking problems;
- There is a high demand for bungalows and they are in short supply;
- The properties are being built purely for financial gain;
- The submitted drawings are of a poor quality and do not allow for a proper assessment of the proposal;
- The elevations are not suitably sized to comply with nationally recognised room height standards;
- The proposal would lead to a loss of outlook;
- A Design and Access Statement should have been submitted with this application as a validation requirement;

## 6.0 CONSULTATIONS

6.01 **Minster-on-sea Parish Council** support the application.

6.02 The Council's **Environmental Protection** team request conditions related to hours of demolition / construction.

6.03 **Natural England** state that *"it is the Council's responsibility to ensure that the proposals fully adhere to the agreed approach within the Thames, Medway and Swale Estuaries Strategic Access Management and Monitoring Strategy (SAMM) to mitigate for additional recreational impacts on the designated sites and to ensure that adequate means are in place to secure the mitigation before first occupation. Subject to the above, Natural England is happy to advise that the proposals may be screened out as not having a likelihood of significant effects on the designated sites."*

## 7.0 BACKGROUND PAPERS AND PLANS

7.01 Application papers and correspondence relating to planning reference 16/506592/FULL.

## 8.0 APPRAISAL

### Principle of Development

8.01 The application site lies within the built up area boundary as defined by the Proposals Map of the Swale Borough Local Plan 2008, where the principle of residential development is accepted.

### Visual Impact

8.02 As set out above, although there are two storey properties located towards the southern end of Princes Road, in the immediate vicinity of the application site the built form is characterised by single storey development. The result of this is that the closest dwellings to the application site have a very modest impact upon the streetscene and visual amenities.

- 8.03 The proposal would introduce two, two storey dwellings which would measure 5.2m to the eaves and 7.2m in overall height. The result of the introduction of two dwellings in this location at two storey height would in my view be seriously at odds with the immediately surrounding development, would appear incongruous in the streetscene and result in a development which would in my view give rise to significant harm to the existing character of the streetscene and to visual amenities. On this basis I am of the view that the proposal would look significantly out of keeping, is unacceptable and should be refused for this reason.
- 8.04 The submitted drawings show that the entire area to the front of the proposed properties would be given over for car parking. Having assessed the surrounding area I am of the view that although parking arrangements vary, I do not believe that frontage parking in this part of Princes Avenue is especially prevalent. I also take into account that the existing property has a proportion of its frontage comprised of soft landscaping which has a positive impact upon the streetscene in my view. Due to the size of the properties proposed I have serious concerns that parking would dominate the front of the dwellings. Although I appreciate that integral garages are proposed, they are only 2.6m in width internally and as such wouldn't be sufficient to park a vehicle. I also note that there is no landscaping to the front of the proposed dwellings and as such believe that the layout would create a poor appearance in the streetscene and is also unacceptable on this basis.

### **Residential Amenity**

- 8.05 The proposed properties would be approximately 30m from the dwellings to the rear. This is comfortably in excess of the 21m rear to rear distance that the Council usually requires and therefore I believe that the application is acceptable in this regard. However, the proposed dwellings are set rearward of the approximate building line of the adjacent properties in Princes Avenue and extend at two storey height to the rear of No.11 and 15, which adjoin the site. Due to this, very careful consideration will be required in order to assess the impact upon these adjacent properties.
- 8.06 Both proposed properties have windows in the side elevations at first floor level. However, these are shown as being high level and would serve a staircase, a bathroom and an en-suite. If I had been minded to recommend approval for the application then I would have included a condition requiring obscure glazing of the side windows to ensure that unacceptable levels of overlooking would not occur. Therefore I am of the opinion that the proposal would not lead to harmful levels of overlooking or a loss of privacy.
- 8.07 No.11 sits to the southwest of the application site and would be separated from the flank wall of the closest proposed property by a distance of 7m. The nearest proposed dwelling would project by 5m beyond the rear elevation of No.11 at two storey height. Compared to the existing bungalow on the site the introduction of a two storey dwelling in this location would have an additional impact upon the outlook and amenities of the occupants of No.11. However, I give significant weight to the 7m distance between No.11 and the flank wall of the closest proposed property. I have also taken into consideration that the application site lies to the northeast of No.11 and as such the impact in regards to a loss of light received to this adjacent property would in my view not be unacceptable. Therefore, in this case I am of the opinion that the impact upon the residential amenities of the occupants of No.11 would not be so significantly harmful as to warrant a reason for refusal.
- 8.08 On the opposite side of the application site, the flank wall of the closest proposed property to No.15 is separated by a distance of 2.5m and projects past the rear

elevation of this property by a distance of 6.5m at full two storey height. I also take into account that the closest proposed property to No.15 is situated to the southwest of the adjacent dwelling. Furthermore, the land levels slope gently from south to north which means that the application site sits slightly above No.15, exacerbating any impact. Therefore, due to the limited distance between the properties, combined with its rear projection I believe that the proposal would have a significantly overbearing impact, would lead to an unacceptable sense of enclosure and a serious loss of light to the occupiers of No.15. As a result I take the view that the scheme would cause significant harm to the occupiers of this dwelling and believe the proposal to be unacceptable in this regard.

### **Other Matters**

- 8.09 I note the points raised in the objection letters and believe that a number of these have been discussed by virtue of the assessment carried out above. Of those that remain I respond as follows.
- 8.10 I am of the view that although, as discussed above, the layout of the parking provision is not acceptable, the amount of space provided would comply with Kent County Council's Kent Design Guide Review: Interim Guidance Note 3 Residential Parking. As a result I do not consider that the development would give rise to unacceptable harm to highway amenity by virtue of additional parking on the highway. In relation to this I also do not consider that the proposal would lead to surrounding occupiers having significant problems in accessing their driveways. There would be, in my view, a small amount of disruption caused by construction vehicles however, due to the scale of the development I do not consider that this would be significantly harmful to surrounding occupiers or to the highway to substantiate a reason for refusal. The Council does not have a policy which requires the retention of bungalows per se and therefore again, I do not believe that its loss would be a reason for refusal.
- 8.11 I note the comments relating to the quality of the drawings however in my view they provide sufficient detail in order to make a full assessment of the proposal. The point related to the height of the elevations and room heights is not a material planning consideration but would be dealt with by Building Regulations. Additionally, the point raised regarding the properties being built for financial gain is also not a material planning consideration. Finally, a Design and Access Statement is not required for an application for two dwellings in an undesignated area.

### **Impact Upon SPA and Ramsar Sites**

- 8.12 I have for completeness set out a Habitat Regulations Assessment below. This confirms that whilst mitigation could be provided by way of developer contributions, this is not considered appropriate for developments 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.

## **9.0 CONCLUSION**

- 9.01 Overall I consider that although the principle of development is accepted, the scale and layout of the proposed property would have an unacceptable impact on the streetscene, visual amenities and residential amenities. For these reasons I recommend that the application is refused.

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

- (1) The proposed properties by virtue of their two storey height would appear significantly out of character in the context of the surrounding dwellings and would give rise to unacceptable harm to the streetscene and visual amenities contrary to policies E1 and E19 of the Swale Borough Local Plan 2008.
- (2) The layout of the properties would lead to parking being entirely located in front of the proposed dwellings creating a poor appearance in the streetscene and giving rise to unacceptable harm to visual amenities contrary to policies E1 & E19 of the Swale Borough Local Plan 2008.
- (3) The proposed property labelled as 'House 1' by virtue of its layout and projection past the rear elevation of No.15 would have a significantly overbearing impact upon the occupiers of this property leading to an unacceptable sense of enclosure and loss of light contrary to policies E1 and E19 of the Swale Borough Local Plan 2008.

**Habitats Regulations Assessment**

This HRA has been undertaken without information provided by the applicant. The application site is located approximately 5.7km north-east of The Swale Special Protection Area (SPA) and Ramsar site and 5km 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, 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 dwellings 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:

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

In this instance:

The application was considered to be fundamentally contrary to the provisions of the Development Plan and the NPPF, and these were not considered to be any solutions to resolve this conflict.

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

**PLANNING COMMITTEE – 8 DECEMBER 2016**

**PART 5**

Report of the Head of Planning

**PART 5**

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

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- **Item 5.1 – 43 Canute Road, Faversham**

**APPEAL DISMISSED**

**Observations**

DELEGATED REFUSAL

Full support for the Council's decision which was in accordance with our Supplementary Planning Guidance

- **Item 5.2 – Alpaca Farm, Yaugher Lane, Hartlip**

**APPEAL DISMISSED**

**Observations**

DELEGATED REFUSAL

An excellent decision - full support for the Council.

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## Appeal Decision

Site visit made on 26 October 2016

by **Mr Kim Bennett BSc DipTP MRTPI**

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

Decision date: 1 November 2016

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### Appeal Ref: APP/V2255/D/16/3156711

43 Canute Road, Faversham, ME13 8SH

- 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 Nick Lewis against the decision of Swale Borough Council.
  - The application Ref 16/503823/FULL, dated 3 May 2016, was refused by notice dated 4 July 2016.
  - The development proposed is a two storey rear extension.
- 

### Decision

1. The appeal is dismissed.

### Procedural Issue

2. Although the application form was submitted in the name of Mr Nick Lewis, the appeal was submitted in the name of Mr Nick Davies. For the avoidance of doubt, I have referred to the applicant's name as it appears on the application form in my heading above.

### Main Issue

3. The main issue is the effect of the proposal on the living conditions of the occupiers of Number 41 Canute Road.

### Reasons

4. Number 43 Canute Road is a two storey semi-detached house on the eastern side of the road. The adjoining property, No 41 Canute Road, lies to the north and there are similar pairs of properties elsewhere along this side of the road.
5. The proposed extension would be a part single part two storey development which would adjoin the rear common boundary with Number 41. It would extend 4 metres in depth at ground floor and 1.8 metres at first floor with the two elements being linked by a mono pitched roof. The maximum height of the ground floor element to the top of the pitched roof would be just over 3.5 metres, with the two storey element just over 5 metres in height to the eaves. No 41 has a relatively narrow and enclosed rear garden, as do most of the properties on this side of the road, and that is made more so by the presence of two large trees in the garden. It has a pair of patio doors set in approximately 1 metre from the common boundary, which serves a rear living room and a small patio area beyond. I took the opportunity to view the proposal from that vantage point at my site visit.

Appeal Decision APP/V2255/D/16/3156711

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6. Having done that, I consider that the bulk and impact of the proposal, particularly in such close proximity to the common boundary, would undoubtedly affect the outlook from the rear of No 41, both from within the living room and from the patio area. Being located immediately on the northern side of the proposed extension, there would also be a likely loss of afternoon sunlight from reaching those two areas. Such impact would in my view, cause harm to the living conditions of the occupiers of No 41 to an extent which would be unacceptable.
7. I note the appellant's reference to the extent of development which might be possible with the benefit of permitted development rights, but that would not extend to a two storey development in this case, and even a greater depth of extension at ground floor level would, as the appellant notes, be subject to the Prior Approval process and the neighbour consultation scheme. A key component of that scheme is to consider the amenity impact which might be caused by a larger extension and therefore it does not follow that it would necessarily be allowed. I do not therefore afford such a potential fallback position significant weight in this instance, given my findings on the amenity issues as set out above.
8. I am sympathetic to the appellant's desire to increase the level of family accommodation and note the reference to Article 8 of the European Convention on Human Rights in terms of right to respect for family and private life. However, given that my finding above would not result in the loss of the family home and would maintain the current status quo, such considerations also need to be balanced against other material planning interests. In this instance I attach greater weight to the impact of the proposal upon the loss of amenity to the adjoining neighbour, rather than the advantages the additional accommodation would provide to the appellant. Whilst I understand it may well be desirable, there is no evidence before me to suggest that the current level of accommodation is inadequate in itself. In reaching that view, I am also mindful that some level of additional alternative accommodation could be built under permitted development rights, or indeed potentially through an alternative scheme needing planning permission, which might not raise the same concerns as in this case. Such a scenario would of course be a matter for the Council to consider in the first instance.
9. Having regard to the above, the proposal would be contrary to Policies E1, E19 and E24 of the Council's Local Plan 2008 together with its Supplementary Planning Guidance entitled "Designing an Extension: A guide for householders", in that the height and massing would not be appropriate to its context and there would be demonstrable harm to the amenities of the occupiers of No 41 Canute Road. Accordingly, for these reasons, the appeal should be dismissed.

*Kim Bennett*

INSPECTOR




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## Appeal Decision

Hearing held on 5 October 2016

Site visit made on 5 October 2016

by **Richard Aston BSc (Hons) DipTP MRTPI**

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

Decision date: 8<sup>th</sup> November 2016

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**Appeal Ref: APP/V2255/W/16/3147179**

**Alpaca Farm, Yaughar Lane, Hartlip, Sittingbourne, Kent ME9 7XE**

- 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 K Brown against the decision of Swale Borough Council.
  - The application Ref 14/505609/FUL, dated 11 November 2014, was refused by notice dated 2 October 2015.
  - The development proposed is erection of permanent agricultural dwelling.
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### Decision

1. The appeal is dismissed.

### Procedural Matter

2. A 'Financial Test Update' document was submitted by the appellant prior to the hearing to which the Council had responded to in writing. At the hearing the appellant also submitted the full end of year accounts for 2015/16 and both parties produced additional information and representations as set out at the end of this decision. The parties agreed that such evidence was integral to the main issue and an adjournment was taken to consider it. Consequently I find there would be no prejudice to any party from my consideration of these documents in determining the appeal and I have therefore taken them into account.

### Main Issue

3. The main issue is whether the enterprise is financially sound and sustainable in the longer term, so as to justify the need for a rural worker to live permanently at the site.

### Reasons

#### *Background*

4. The appeal before me follows the refusal of permission for a temporary dwelling and a subsequent appeal which was allowed on 20 March 2013 for a temporary period of three years.
  5. The appeal site is an existing Alpaca enterprise operating as Valley Alpacas Ltd. It is part of a wider holding comprising a series of paddocks with stock fencing, various small outbuildings, field shelters, stables and storage facilities. The appellant also keeps other animals and livestock, including chickens, pigs and
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Appeal Decision APP/V2255/W/16/3147179

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horses. The appeal relates to the approved timber cabin style building shown on the plan which is currently resided in by the appellant Mrs Kirsty Brown, her husband, Andrew Brown and their son.

*Policy context and agreed matters*

6. Policy SH1 of the Swale Borough Local Plan 2008 ('LP') pre-dates the National Planning Policy Framework ('the Framework') and sets out a defined settlement hierarchy for development proposals which in this countryside location requires proposals to be considered in accordance with Policy E6. That policy sets out that development proposals in countryside locations will only be permitted in certain circumstances, including where it is demonstrated to be necessary for agriculture. Notwithstanding that it pre-dates the Framework, Policy SH1 is a general policy that relates to the protection of the countryside and both parties agreed that in this regard, the policies are consistent with the Framework. I have no evidence which would lead me to disagree with this view.
7. The Council's reason for refusal also refers to Policy DM12 of the Emerging Local Plan ('ELP'). However, the Council clarified at the hearing that following modifications to the plan, there was no firm timetable for its re-examination. Councillor Wright suggested this would be sometime in the New Year but as the plan is still in the examination process, I can therefore only give it very limited weight.
8. Both parties place significant weight on Planning Policy Statement 7 Annexe A. Although I agree with the parties that it provides a useful and objective basis for considering such proposals, the guidance has been cancelled and no longer has any weight as government policy.
9. The Framework states that new isolated homes in the countryside should be avoided, unless there are special circumstances to justify them such as '*the essential need for a rural worker to live permanently at or near their place of work in the countryside*'. It seems to me that although the test in the Framework is less onerous than in PPS7, the clear reference to '*live permanently*' implies a requirement for the decision maker to be satisfied that the need to do so will or is likely to continue well into the future, or at the very least is capable of doing so. An enterprise cannot do that without being financially viable and sound and have reasonable prospects of remaining so.
10. It is common ground that the appeal proposal would meet a need in terms of full time, on site attendance and that other dwellings are not available to meet this need. Therefore the need for a worker to be at the site for the functioning of the enterprise has been demonstrated and based on the information before me I have no reason to take a different view. The parties also agreed that if I were to find that the enterprise required a permanent presence there were no other countervailing local considerations such as effect on the Area of Outstanding Natural Beauty or any other considerations or objections that would outweigh this and that the proposal would be sustainable development.
11. The Council do not consider that the enterprise is currently financially sound and has a clear prospect of remaining so. They were supported in this by the Parish Council and the observations of the Council's ward member for Hartlip, Newchurch and Newington. The hearing proceeded on the basis that the performance of the enterprise since the temporary permission was granted on 20 March 2013 and its future prospects were a key consideration. Moreover,

Appeal Decision APP/V2255/W/16/3147179

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that the business should demonstrate a minimum agricultural wage, a notional rental return on the original land purchase and a return on capital investment.

### Reasons

#### *Financial viability*

12. At face value the evidence indicates a modest progression in turnover and net profit that is consistent with a growing business, although in 2014/15 this was significantly affected by low birth rates. The Council is concerned that the submitted financial information was not audited and is only an abbreviated version. The appellant explained that this is not a requirement for small businesses and it is normal for accounts to be presented in this manner. I agree that this is typical and in any event, full accounts were produced for the year ending 2015/16.
13. These show that a modest profit was made in 2015 of £6,413 and in 2016 of £6,523. However the Council claimed that depreciation is a proper deduction for assessing financial standing and that this is standard accounting practice. When the Director's salary of £8,000 was included the Council argued that this gave a net profit of £17,773 to provide a wage, a nominal land return and a return on capital.
14. The estimated build costs for the dwelling would not be significant. Moreover, given the nature of the enterprise, there would be no machinery requiring maintenance, and the only other maintenance required, to fencing, the outbuildings and the dwelling, would be carried out by hand by Mr Brown.
15. In this particular case, the depreciation is money that has already been spent on improvements to the property. It is not money that the enterprise needs to find on an annual basis and is not, in my view, a determining factor that demonstrates the future profitability of the enterprise. The fact that the appellant argued that because she pays tax on the Depreciation it should be taken into account is not relevant as tax is paid on profit before depreciation. On this basis, I am persuaded that overall a figure of £24,294 should be used for net profit in the 2015/16 financial year.
16. However, the Council also disputed that £7,358 shown in the accounts as being for 'Other operating income' should not be taken into account as it did not relate to the agricultural enterprise which formed the basis of the grant of temporary permission by the previous Inspector. Mr Brown explained that this figure resulted from a Rural Farm Payment of £658, an income from letting out of a paddock for grazing of a single horse for £5,200 and a sum of £1,500 for the rent of land for a wedding.
17. Cllr Wright also contended that this rental income for grazing was '*at the top end of the market*', having had personal experience of commercial livery enterprises. Whatever the case may be it is a rental income that has been received and forms part of the accounts.
18. The grazing of horses, as opposed to their keeping does not normally require planning permission. The appellant contested that the land in question also benefited from a lawful use relating to an application in 2010<sup>1</sup>. However, the Council were able to produce the approved plan showing the land to which that

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<sup>1</sup> SW/10/0032

Appeal Decision APP/V2255/W/16/3147179

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application relates and it was clear that it did not relate to the grazing land in question, a matter which was also agreed by both parties at the site visit. Furthermore, there is no evidence that there exists an 'essential' need for the appellant to live at the site for the purposes of this grazing land and I am mindful that no formal agreement confirming such an arrangement has been submitted.

19. Turning to the rental sum for the weddings, the appellant stated that the weddings have an integral Alpaca theme and that in any event, the marquee would be permitted development under Part 4 of The Town and Country Planning (General permitted Development) (England) Order 2015 ('GPD'). Whilst I do not doubt that there may be some involvement given the nature of the enterprise, the appellant did not produce any substantive evidence to demonstrate that the Alpacas were the sole reason couples wish to be married at the site or that they were an integral part of such an occasion, as opposed to merely being part of the general setting of a wedding.
20. I have had regard to the appellant's view that diversification should be encouraged and to paragraph 28 of the Framework, which promotes the development and diversification of the rural economy. Nevertheless, it is an established principle that it is the needs of the enterprise which formed the basis for the grant of temporary consent that I must consider. I am not persuaded that the rental income from the grazing land and the use of the barn for weddings should be taken into account. Therefore, it is not necessary for me to consider whether such a use is permitted development or not. Consequently, removing these elements from the £24,294 gives a reduced figure of £17,594.
21. At the hearing in 2013, the appellant agreed that a figure of £18,000 was an appropriate wage although they explained to me that this was done for the purposes of engaging in that event and did not agree with it. The appellant now contends that the national minimum wage should be the benchmark.
22. In my judgement, the grade of worker required for such an enterprise should reflect the full time management of livestock and management responsibilities and on the evidence before me this is £352.95 a week or £18,353 pa as set out in the Agricultural Wages Board<sup>2</sup>. I find this figure quoted by the Council to be a more realistic and reasonable one, as opposed to the national minimum wage and I note that it is consistent with the various appeal decisions set out in 5.41 of the Council's statement and the findings of the previous Inspector in 2013. Although the appellant contends that remuneration takes the form of benefits in kind from Pork meat, logs and clothing made from the Alpaca fibre, I have no substantive basis or justification before me for using such benefits to offset the wage requirement.
23. Both parties had also previously agreed in 2013 that £3,000 was an acceptable figure for such the notional rental return on the original land purchase, although the appellant and the Council gave revised figures at the hearing of £880 and £2,280 respectively. In terms of return on investment, the Council argued that a commercial rate of 3.5% should be applied rather than a return on savings figure of 2.5%, giving an overall figure of £5,600. Mr Willis verbally gave a figure at the hearing, of £1920 or 1.5%. In my view, 2.5% is a

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<sup>2</sup> Paragraph 5.34-5.35 of Council's statement

Appeal Decision APP/V2255/W/16/3147179

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reasonable return on savings giving a figure of £4,000, a figure which I also note is suggested elsewhere in the appellant's evidence<sup>3</sup>.

24. On this basis, using the lower figure for the notional rental return would result in a figure of £12,714 and with the Council's higher figures it would amount to £11,314. Either way, this is insufficient to pay what I consider to be a reasonable wage for a rural worker; given my findings in this regard and even if the national minimum wage of £13,334 was used, as suggested by the appellant.

*Longer term*

25. Turning to future prospects, the appellant contends that income levels will increase and that there is potential for further investment in the business. The submitted 'Sales Forecast' clearly shows that animal sales would be broadly consistent and rising slightly year on year at an average of just above £26,000 per year but with a noticeable reduction in 2021. There would be relatively minor increases in garment and feed sales and from shearing, Alpaca livery, service agreements and further Pork sales but excluding the latter and animal sales, the increase is relatively small at £650 a year until 2022. The land rental from weddings would increase year on year from £6,000 in 2017 to £36,000 in 2022 and the grazing rent would remain constant at £4,680.
26. Agricultural enterprises can exist on relatively low profit margins and the forecasts would appear to demonstrate a relatively similar pattern in future years that is comparable in the 2015/2016 accounts. However, the future viability of the business appears to heavily draw from the land rental for weddings which provides an increasingly significant year on year amount of income, in addition to the rent from grazing and I have already concluded that these should not be taken into account in assessing financial viability.
27. Even with such limited increases in turnover, this is subject to inherent fluctuation in sales prices and birth rates as per 2015 and whilst I do not doubt the sale prices could be achieved, I am mindful that such turnover is also not yet realised. Furthermore, I note that the projections are not significantly different to the actual turnover in this respect as set out in the 2015/16 accounts<sup>4</sup>. Even when taking into account the projected increases I am not persuaded that the additional income that is anticipated would be likely to reduce the shortfall enough, in order to pay the necessary wage, the notional return on land rental and return on investment.

**Conclusion**

28. I note the enthusiasm, knowledge and experience demonstrated by the appellants and I have no doubt that they have a long term commitment towards the running of the enterprise. Nevertheless, I must make a judgement solely on the basis of the evidence put before me by the parties and in this particular case, the evidence does not indicate to me that the enterprise is yet to demonstrate it is planned on a sound financial basis and that it is sustainable in the longer term so as to justify a permanent dwelling. Consequently, I find that the special circumstances to justify an isolated new home in the countryside do not exist and the proposal would therefore conflict with Policies SH1 and E6 of the LP and paragraph 55 of the Framework.

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<sup>3</sup> Part B – Accounts Summary, April 2016.

<sup>4</sup> £29,440 – page 10 of 2015/16 Unaudited Financial Statement for year ended 5 April 2016.

Appeal Decision APP/V2255/W/16/3147179

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29. At the hearing the appellant requested that because the appellant needed to be on site as there was a clear functional need, that I should consider the grant of a further temporary permission. There was no suggestion from the Council that Mrs Brown and her family would need to cease occupation of the dwelling immediately or that action would be taken to secure this and I am also mindful that the Planning Practice Guidance states that it will rarely be justifiable to grant a second temporary permission. Furthermore, the Council were of the view that any justification for grant of a further temporary period, in order to give the enterprise more time to demonstrate its viability, should fall to be assessed by them as part of any future application that may be made on that basis.
30. I share this view and I must determine the appeal on the basis of the development applied for and it should be solely for the Council to decide on the merits of any such application that may be submitted following the dismissal of this particular appeal. The grant of a further temporary permission is therefore not necessary in this particular case and would conflict with paragraph 206 of the Framework.
31. I also recognise that if the appeal is dismissed, it could, at some point in the future potentially result in an interference with Mrs Brown's home and family life. However, this must be balanced against the public interest and I do not consider that any possible effect on the appellant would outweigh the harm caused by permitting an isolated home in the countryside.
32. For the reasons set out above and having considered all other matters raised, the proposal would conflict with the development plan, when taken as a whole and the Framework and therefore I conclude that the appeal should be dismissed.

*Richard Aston*

INSPECTOR



Appeal Decision APP/V2255/W/16/3147179

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### APPEARANCES

#### FOR THE APPELLANT:

Mr Mark Willis BTP MRTPI MBIAC	Willis & Company Ltd
Mrs Kirsty Brown	Appellant
Mr Andrew Brown	Appellant's Spouse

#### FOR THE LOCAL PLANNING AUTHORITY:

Mr Paul Gregory BSc MSc	Swale Borough Council
Mr Richard Lloyd-Hughes BSc Est Man MRICS	Rural Planning Ltd
Cllr John Wright	Swale Borough Council ward member for Hartlip, Newchurch and Newington and Hartlip Parish Councillor

### DOCUMENTS AND PLANS SUBMITTED AT THE HEARING

1. Valley Alpacas Ltd report of the Director and unaudited financial statements for the year ended 5 April 2016.
2. Email representation from Elizabeth Kinney dated 3 October 2016.
3. Email from Michael Studham on behalf of appellant entitled 'Accounts and Planning' dated 3 October 2016.
4. Photocopied extract from 2013 appellant's statement of case relating to wages.
5. Sales invoices from Valley Alpacas Ltd for Alpaca sales dated 29 August, 3 and 21 September 2016.
6. Email representation from Hartlip Parish Council dated 24 September 2015.
7. Approved location plan showing red line boundary of application pursuant to SW/10/0032.

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