

AGENDA

PLANNING COMMITTEE MEETING

Date: Thursday, 19 July 2018

Time: 7.00pm

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

Membership:

Councillors Mike Baldock, Cameron Beart, Bobbin, Andy Booth (Vice-Chairman), Richard Darby, Mike Dendor, James Hall, Nicholas Hampshire, Harrison, Mike Henderson, James Hunt, Ken Ingleton, Nigel Kay, Peter Marchington, Bryan Mulhern (Chairman), Prescott and Ghlin Whelan.

Quorum = 6

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| 1. Fire Evacuation Procedure | |
| <p>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.</p> <p>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.</p> <p>The Chairman will inform the meeting that:</p> <p>(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</p> <p>(b) the lifts must not be used in the event of an evacuation.</p> <p>Any officers present at the meeting will aid with the evacuation.</p> <p>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.</p> | |

2. Apologies for Absence and Confirmation of Substitutes

3. Minutes

To approve the Minutes of the Meeting held on 21 June 2018 (Minute Nos. 67 - 72) as a correct record.

[Link to Minutes](#)

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 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 9 July 2018 (Minute Nos. to follow).

To consider application 18/501494/FULL – St Saviours Church, Whitstable Road, Faversham, ME13 8BD.

6. Report of the Head of Planning Services

1 - 189

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

The Council operates a scheme of public speaking at meetings of the Planning Committee. All applications on which the public has registered to speak will be taken first. Requests to speak at the meeting must be registered with Democratic Services (democraticservices@swale.gov.uk or call 01795 417328) by noon on Wednesday 18 July 2018.

7. 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.
- 7. Information relation to any action in connection with the prevention, investigation or prosecution of crime.

8. Report of the Head of Planning Services

To consider the attached report (Part 6).

Issued on Tuesday, 10 July 2018

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

Chief Executive, 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

19 JULY 2018

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

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

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

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 2017

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PLANNING COMMITTEE – 19TH July 2018

PART 2

Report of the Head of Planning

PART 2

Applications for which **PERMISSION** is recommended

| | | | |
|--|--|---|-------------|
| 2.1 REFERENCE NO - 18/502439/FULL | | | |
| APPLICATION PROPOSAL Variation of Condition 2 of SW/11/0750 (Change of use from agricultural land to operational land for an electricity undertaker) to amend the approved landscaping scheme, to replace the proposed planting to the northern boundary of the site with gravel, in order to maintain access to cables on the site. | | | |
| ADDRESS Electricity Substation Cryalls Lane Sittingbourne Kent ME10 1JU | | | |
| RECOMMENDATION - Approve | | | |
| REASON FOR REFERRAL TO COMMITTEE Local Objections; Request from Ward Member | | | |
| WARD Borden And Grove Park | PARISH/TOWN COUNCIL Borden | APPLICANT UK Power Networks PLC AGENT Adrian Salt & Pang Limited | |
| DECISION DUE DATE 05/07/18 | PUBLICITY EXPIRY DATE 08/06/18 | | |
| RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites): | | | |
| App No | Proposal | Decision | Date |
| SW/11/0750 | Extension of Electricity Substation | Approved | 19.08.2011 |

- 1.01 This application relates to an already implemented 2011 planning permission to extend an existing electricity substation which contains a number of concrete flat roof buildings. The original vehicular access and small parking area to the front of the site was extended into the enlarged area when this was developed. The enlarged site is currently surrounded by a high fence outside of which a planning condition required a scheme of new boundary landscaping. Such a scheme was approved in June 2013.
- 1.02 The land immediately to the south and west of the site is scrub land. Further on in this direction, the land turns into open agricultural fields. A large, well-established residential estate lies to the east of the site, on the other side of Cryalls Lane (known as the Australia Estate). Somerset Close, a small cul-de-sac lies immediately to the north of the application site. The Westlands School lies to the northwest.
- 1.03 In 2011, planning application SW/11/0750 to change the use of an area of land from agricultural use to operational land for an electricity supplier was approved with the following condition (2):

'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 ensure that the existing mature trees along the northern boundary of the site are retained, identification of all other existing trees, shrubs and other features within the site, planting schedules of plants, noting species, plant sizes and numbers where appropriate, means of enclosure, hard surfacing materials, and an implementation programme.'

The details submitted to satisfy this condition showed a 4m wide belt of landscaping to the new outer sides of the site including two rows of shrubs on either side of a central line of new trees; included the planting of fifty trees such as Field Maple, Silver Birch, Holly, Crab Apple, Whitebeam and Rowan, and one hundred shrubs including Dogwood, Hazel, Hawthorn, Spindle, Wayfaring Tree and Guelder Rose. This belt of landscaping extended on the southern, western and short northern (Somerset Close) boundary. However, a site visit confirmed that whilst the physical works have taken place, none of the approved landscaping has been implemented, and the 'landscaping' strip consists of brambles, thistles and weeds, meaning that the applicant is therefore in breach of their permission.

- 1.04 Members will doubtless be aware of ongoing efforts to determine whether or not the land to the south and west of this site should be designated as having Village Green Status. Members will also be aware that the same land to the south and west has been allocated for housing land under Bearing Fruits 2031: The Swale Borough Local Plan 2017. They may also be aware of a current planning application 17/505711/HYBRID for lane on either side of Wises Lane for almost 600 dwellings. This application is not connected to that current application or housing allocation, although Members will note that the objections to the application refer mainly to that large proposed development. Nor does the application affect the potential village green land.

2.0 PROPOSAL

- 2.01 The present proposal is to vary condition (2) of the original planning permission, as the applicant wishes to make a change to the approved landscaping drawing. On the northern side of the site, to the rear of nos. 13 and 14 Somerset Close, the landscaping strip along the short northern site boundary as approved measures 21m by 4.5m. The variation proposed is to cover this strip of land with gravel, rather than landscape it as approved. This is due to the fact that cabling runs under this strip of land and in case of a need to access this cabling, it will have a lesser effect to remove and replace gravel than it would to remove and replace trees, shrubs, etc. No other changes to the approved scheme are proposed.

3.0 PLANNING CONSTRAINTS

- 3.01 Potential Archaeological Importance.

4.0 POLICY AND OTHER CONSIDERATIONS

Bearing Fruits 2031: The Swale Borough Local Plan 2017: Policies CP6 (Providing for utility provision) and DM14 (General development criteria).

5.0 LOCAL REPRESENTATIONS

- 5.01 Four letters and emails of objection have been received from local residents. The contents therein may be summarised as follows:

- *I feel it will have an impact on the local wildlife and there is already a road into the site that is used daily so making another road in I feel will bring more noise and disruption to a quiet road. (NB. The proposal is not for a new access road)*
- Landscaping to the front of the site has not been implemented
- This appears to be necessary for the proposed Wises Lane development, which has not been decided upon
- Loss of natural habitats for wildlife
- Open space needs to be recognised as a Village Green; the Australia estate has no public open green space

The applicants' agent has responded to these objections as follows:

'It would appear that the objectors have mistaken this application to vary planning condition 2 relating to the above planning consent for the Cryalls Lane Substation Site, with the ongoing Cryalls Lane Village Green Application. The two items are geographically separate and unrelated.

With reference to the attached application drawing Fig.3: Proposed Amendment to the Approved Landscaping Scheme, dated 4 May 18, we wish to clarify that the strip of land in question is situated within the existing substation, shaded grey in Fig.3. The land comprises an area measuring 20m in length by 4m in width i.e. 80sqm, all within the substation area. This strip was originally designed to be planted and to form part of the approved planting scheme. However, due to the need to have unimpeded access to the underground electricity cables, as shown in Fig.3, it is necessary to seek the Council's permission to adjust the approved planting scheme by replacing the 80sqm of proposed planting by 80sqm of gravel. The remaining areas of landscaping will be retained in accordance to the approved planting scheme. The cable route extending east-west is underground and is shown for identification purposes only.

I wish to reassure the objectors that there is no current plan to expand the Cryalls Lane Substation beyond the areas marked red and blue, shown in Fig.2: Site Plan.

This application is not related in any way to our Client's comments on the Cryalls Lane Village Green Application which were presented at the Planning Inquiry on 19 June 2018.'

6.0 CONSULTATIONS

- 6.01 No response has been received from Borden Parish Council.
- 6.02 The County Archaeological Officer raises no objection.

7.0 APPRAISAL

- 7.01 The key issues to consider here are the impact of the proposed change on the character and amenities of the area and residential amenity. For the sake of regularity, I shall consider each in turn.
- 7.02 The principle of this development has already been approved under planning application SW/11/0750, which approved the change of use of this small area of land. The permission has been implemented albeit without the necessary and approved

landscaping having been installed. Members will have noted that the proposal before them is to vary a condition to remove the requirement to plant a small boundary strip at the rear of two properties in Somerset Close, and to lay this area to gravel due to the position of underground cables. No other works or changes from the approved plans are envisaged.

- 7.03 With regard to residential amenity Members will note that the proposal is for a change of finish to the landscaping strip at the rear of the suite behind high close boarded fences in Somerset Close, an area that is quite concealed from public views, and that the application does not propose any intensification of use of the site. It should be noted that this is the least visible part of the site, tucked away in the northwestern corner away from Cryalls Lane. It is difficult to see from the road, and I would imagine equally difficult to see from the windows of any property nearby. As such, I am of the opinion that the proposal, if approved would have a negligible effect on visual amenity.
- 7.04 With reference to the concerns expressed with regard to ecological and biodiversity issues, these were again considered under the original application (SW/11/0750). However, with reference to the present application, I note that the strip of land in questions is very small in area (somewhat smaller than the average suburban rear garden) and that existing natural habitat land is immediately adjacent. As such, I do not believe any adverse effect will occur due to the very small area of the site.
- 7.05 I note the concerns raised by local residents with regard to speculation that this proposal may be linked to possible housing development to the south and west, but it should be noted that the application to extend the land available to the substation was made seven years ago, when there were no plans for housing development adjacent to the site. It should also be noted that the proposal is not for any intensification of use for the site or extension of same.
- 7.06 However, I also ask Members' approval to send a strongly worded letter to the applicant, demanding that the landscaping should actually be carried out. This is in addition to Condition (1) noted below.

8.0 CONCLUSION

- 8.01 I believe that whilst the lack of landscaping on this development is regrettable, this very small-scale change to the landscaping scheme is acceptable, and I therefore recommend that the proposal be approved, subject to strict conformity with the conditions noted below.

- 9.0 **RECOMMENDATION** – GRANT Subject to the following conditions:

CONDITIONS

- (1) The landscaping details approved under reference SW/11/0750/CCA relating to the western and southern boundaries to the site shall be implemented in full within six months of the date of this permission.

Reason: In the interests of visual amenity.

- (2) 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.

- (3) The site shall at no time be used as a depot or storage yard whether associated with its use as operational land for an electricity undertaker or not.

Reason: In the interest of highway safety and convenience, and visual amenity.

Council's Approach to the Application

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

Offering pre-application advice

Where possible, suggesting solutions to secure a successful outcome.

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

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

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

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



| | | | |
|---|---|--|--|
| 2.2 REFERENCE NO - 18/502736/OUT | | | |
| APPLICATION PROPOSAL Outline application (some matters reserved) for retention of existing dwelling and erection of 2no. additional dwellings on the site, with associated parking and gardens. Access being sought only. | | | |
| ADDRESS Archirondal Toll Road Lynsted Sittingbourne Kent ME9 0RH | | | |
| RECOMMENDATION - Grant subject to conditions | | | |
| REASON FOR REFERRAL TO COMMITTEE Parish Council Objection | | | |
| WARD Lynsted | Teynham And | PARISH/TOWN COUNCIL Lynsted With Kingsdown | APPLICANT Mrs Eileen Spittles AGENT Kingsley Hughes |
| DECISION DUE DATE 18/07/18 | | PUBLICITY EXPIRY DATE 26/06/18 | |
| RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites): | | | |
| App No | Proposal | Decision | Date |
| 18/500310/OUT | Outline application (Some Matters Reserved) for demolition of existing dwelling and erection of 3no. dwellings with associated car barn, parking, and gardens. Access being sought only. | Approved | 03.04.2018 |
| 17/505194/OUT | Outline application (Some Matters Reserved) for demolition of existing dwelling and erection of 4no. dwellings with associated car barns, parking, and gardens. Access being sought only. | Refused | 08.01.2018 |

1.0 DESCRIPTION OF SITE

- 1.01 The site is currently occupied by a modern detached 3 bedroom chalet bungalow with a large garden to the side and rear. To the front of the property is a long paved driveway which gives access to the property (and to Toll House) from Toll Road at a point close to its junction with Lynsted Lane. The site lies within the defined built-area of the village as defined on the Local Plan’s proposals map.
- 1.02 The site backs on to the rear gardens of four of the properties located in The Vallance and wraps around the rear garden of Toll House which also uses the access from Toll Road. It also adjoins a detached house known as Wrendale House to the north.
- 1.03 A previous application for the demolition of the existing house and erection of 3 detached properties on the site was approved at the Committee meeting held on 29th March 2018 under ref: 18/500310/OUT after an application for 4 detached houses on the site was refused at the Committee meeting held on 4th January 2018 under ref: 17/505194/OUT.

2.0 PROPOSAL

- 2.01 Outline planning permission is sought for residential development with only approval for means of access to the site being sought as part of this application, which would leave matters such as appearance, landscaping and layout to be dealt with under any subsequent reserved matters application. The proposed access is the current driveway to the property.
- 2.02 The principle of the proposed housing is to be assessed at this stage as well as use of the proposed (existing) access point. The number of dwellings would not exceed three 4 bedroom properties. This application differs to that previously approved under ref: 18/500310/OUT as it retains the existing property, demolishing the conservatory and undergoing internal alterations to allow for a fourth bedroom, and the erection of two new 4 bedroom dwellings within the garden space. An indicative site layout has been provided. The Design and Access statement has indicated what materials would be used on the proposed development and these include timber featheredge weatherboarding, hung tiles and hand made red bricks.
- 2.03 As an outline application with all matters apart from access reserved, the application contains little detail. The proposed access is via the existing long drive to the property. The property itself was built within the original garden of Toll House, which is a substantial detached property which retains a large plot. This avoids direct access to the site from Lynsted Lane where land levels are higher than the highway, and means that all access to existing and proposed properties will be from a single point where access has long been established to serve the two current properties (Toll House and Archirondal).

3.0 SUMMARY INFORMATION

| | Existing | Proposed | Change (+/-) |
|--------------------------|----------|----------|--------------|
| Site Area (ha) | 0.22 | 0.22 | 0 |
| No. of Residential Units | 1 | 3 | +2 |
| Parking Spaces | 6 | 8 | +2 |

4.0 PLANNING CONSTRAINTS

- 4.01 None.

5.0 POLICY AND OTHER CONSIDERATIONS

The National Planning Policy Framework (NPPF):

- 5.01 The NPPF relates in terms of achieving sustainable development, building a strong competitive economy, promoting sustainable transport, delivering a wide choice of quality homes, requiring good design, promoting healthy communities, conserving and enhancing the natural environment, and sustainable drainage systems.
- 5.02 The NPPF sets out the Government’s position on the planning system explaining that *“The purpose of the planning system is to contribute to the achievement of sustainable development. The policies in paragraphs 18 to 219 of the NPPF, taken as a whole, constitute the Government’s view of what sustainable development in*

England means in practice for the planning system. At the heart of the National Planning Policy Framework is a presumption in favour of sustainable development (paragraph 14), for decision taking this means:

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

National Planning Practice Guidance (NPPG):

- 5.03 The NPPG also provides general guidance in relation to development. It encourages provision of housing with sustainable areas, subject to consideration of issues such as local and residential amenity, highways, contamination, noise, urban design / architecture, and ecology, amongst others.

The Swale Borough Local Plan “Bearing Fruits 2031” policies:

- 5.04 ST1 (Delivering sustainable development in Swale)
 ST2 (Development targets for jobs and homes 2011-2031)
 ST3 (The Swale settlement strategy)
 ST4 (Meeting the Local Plan development targets)
 CP3 (Delivering a wide choice of high quality homes)
 CP4 (Requiring good design)
 DM6 (Managing transport demand and impact)
 DM7 (Vehicle parking)
 DM19 (Sustainable design and construction)
- 5.05 Supplementary Planning Guidance (SPG): ‘Lynsted Parish Design Statement’. This Statement was published in 2002 and refers to policies of the 2000 Swale Local Plan. It describes the Parish and provides general design guidance for new development both at the village itself and on London Road (Teynham) which is within the Parish. Whilst much of the guidance relates to use of appropriate materials (not engaged here on an outline application) it contains two village specific policies. One is a desire to protect so-called “sensitive edges” at London Road and to the east of the village centre. The other is to maintain a “one building deep” pattern of frontage development throughout the village saying;

“Where the dominant pattern in the locality is for houses to be built adjacent to highways, this pattern should be respected.”

It also suggests that;

“New-build backland development (away from existing highways) should be avoided throughout the Parish, as being inconsistent with the traditional layout of residential and farming development. The traditional settlement for the Parish has no counterpart for “estate style” development. This modern form development should be avoided”.

- 5.06 I should point out that the village does include one estate style development which is The Vallance immediately adjacent to this application site. Here, modern houses of

similar designs sit on generous plots and create a suburban style of development enclosing this site within an enclave of housing, which is distinctly at odds with the general one building deep pattern of frontage development which characterises other parts of the village.

6.0 LOCAL REPRESENTATIONS

6.01 No neighbour representations have been received on this application.

7.0 CONSULTATIONS

7.01 Lynsted Parish Council objects on the following grounds:

This amended application does not address the original concerns of Lynsted with Kingsdown Parish Council as stated in February 2018.

Therefore LKPC still object to this application as the access of the site would increase traffic on Toll Lane and still raise concerns about safety to pedestrians on a narrow lane which does not have any footpath.

7.02 The Environmental Health Manager has raised no objection subject to conditions relating to hours of work and a programme for the suppression of dust.

7.03 Kent Highways and Transportation have stated that the level of development does not warrant their involvement. Due to the objections on the previous applications informal comments were sought from the Highways Officer and I still believe these to be relevant to this application. I therefore list them below:

“I’ve had the report back from our crash team on the serious incident that is plotted at a distance of 150 metres north of the junction in question.

... (it)...has nothing to do with the junction at Toll Lane I’m afraid. Even if this was not the incident that the local resident is referring to, there is simply not the hard evidence to support any suggestion that the junction will be unable to manage the very slight increase in vehicle movements (about one per hour) as a result of the proposals and thus the application cannot reasonably be refused on highway grounds”.

7.04 The comments previously received from Kent Highways (in relation to the original four house scheme) are also noted below, and in my view these comments are even more applicable now given the reduction in the proposed number of dwellings. It should also be noted that these comments from Kent Highways are informal as the level of development does not warrant involvement from the highway authority.

“Having looked at this again I would consider 3 additional dwellings to have a negligible impact in terms of vehicles movements; I’d estimate no more than 1 additional vehicle movement per hour looking across the day. Technically it could be considered an increased usage of the existing access but it would have to be proved that the access onto the Toll Lane is substandard in terms of visibility and that seems quite adequate to me. I can’t imagine that vehicles travel much faster than 15-20 mph down that road anyway and its usage would be very low. The only thing I would suggest here is some form of speed restraint near the other access to allow for their safe egress. The potential for impact though upon the junction with The Street is also minimal, and the level of development could not reasonably exact any obligation to

improve a junction that appears adequate for purpose (according to crash records – 0 reported in last 18 years).

The width of Toll Lane has been questioned and although vehicle movements would be limited to single way working for much of its length, crucially it improves at its western end in terms of room to pass and inter-visibility, and it is along this section that the great majority of the small number of extra vehicle movements will take place. The typical scenario I see in the very small likelihood (in my view) that there is a need for two cars to pass would be a car pulling out of the development to find another is approaching from the junction. It will either wait for a few seconds to allow it to pass or may simply have to reverse a short way, a manoeuvre I consider to pose little risk on this bit of road. Conversely, there is enough widening at the junction to allow a car for momentarily wait off The Street for a car to pass coming the other way.

Parking provision appears adequate and meets the current parking standards. It would be highly unlikely anyway that there would be any parking overflow over 80 metres away on Toll Lane when a delivery driver is presented with two parking courtyards.

Mention is also made of the lack/unsuitability of pedestrian footway provision; I don't believe that a development of this size could be reasonably expected to provide a dedicated pedestrian link to the existing network".

8.0 BACKGROUND PAPERS AND PLANS

- 8.01 All plans and documents relating to 18/502736/OUT.

9.0 APPRAISAL

- 9.01 The site is located within the defined built-up area of Lynsted and in an established position within a residential area. Lynsted is defined as a village in tier (4) of the settlement strategy (villages with built-up area boundaries) where the following approach applies. Policy ST3 states:

"By use of previously developed land within defined built up area boundaries and on sites allocated by the Local Plan, development proposals will be permitted in accordance with the following settlement strategy:

"4. Other villages with built up area boundaries, as shown on the Proposals Map, will provide development on minor infill and redevelopment sites within the built up area boundaries where compatible with the settlements character, amenity, landscape setting, heritage or biodiversity value".

- 9.02 As stated above, the site already forms part of an established residential area within the built up area boundary of the village and therefore this proposed minor residential infill, or redevelopment is acceptable in principle in terms of the newly adopted Local Plan. The village has a primary school, church and public house and is seen as a small but sustainable settlement which can accommodate limited infill development.
- 9.03 At this stage the visual impact of the proposal can only be considered in very broad terms due to the uncertainty of all matters of design, height of buildings, materials and layout. The design and access statement submitted with the application states that materials such as hanging tiles, featheredged weatherboarding and hand made red bricks would be used on the development as per the guidance provided within the Lynsted Parish Design Statement. From the indicative site layout I was concerned

about overlooking issues as the existing property has a number of windows on ground floor level and two Juliet balconies at first floor level on the west facing side elevation. After speaking with the Planning Agent and gaining access to the property to investigate these issues, I am confident that alternative fenestration can be provided to the rear of the property to serve these rooms. The existing conservatory would also be removed in order to locate the driveway to the properties. An appropriate condition can be added below to ensure that these alterations are considered as part of the necessary future reserved matters application to avoid any overlooking.

- 9.04 As the site has already been developed there would be no loss of countryside arising as part of this proposal. The Lynsted Parish Design Statement states that settlements in the Parish are formed along two major routes and are often ‘one building deep’ which this proposal is contrary to. The properties at The Vallance and Toll Road, however, are an exception to this, and to my mind it is not realistic to suggest that this limited development will appear out of keeping with the estate style development which surrounds it. To that extent, I do not consider that the development truly contravenes the spirit of the Parish Design Statement even though that Statement is now quite old and does not (in any case) now form part of the Development Plan. Whilst I do accept that the Design Statement can still be a material planning consideration its guidance can only carry limited weight and I do not consider that this issue can amount to a reason to refuse this application.
- 9.05 With regards to residential amenity the precise impact arising from the design of the dwellings will be dealt with as part of any subsequent reserved matters application. However, the indicative layout provided makes it clear that the proposed number of dwellings as arranged could be accommodated on the site whilst still maintaining the necessary separation distances from existing properties sufficiently to maintain adequate levels of privacy and minimise overshadowing.
- 9.06 I note the objections with regard to the impact of the development on highway safety and convenience, namely the access to the proposed development via Toll Road which is the only matter being sought as part of the outline application. Kent Highways and Transportation have been consulted and are of the opinion that the increase in vehicle movements for the proposed houses would be negligible, and the level of the development could not reasonably justify any improvements to the junction, which appears adequate for its purpose. In view of the above comments I do not find any justifiable reason to refuse the application with regards to the proposed access and highway safety. I am recommending a condition to require a speed restraint in the access route to avoid any conflict with users of the Toll House entrance.
- 9.07 Members previously concluded that a development of four dwellings on this site would appear at odds with the site’s low density surroundings. Now that the scheme has been reduced to three dwellings, as already approved, that argument is harder to support. Furthermore, the secluded nature of this site means that it will be hard to show and justify, where any such harm might be perceived from, and I am of the view that the question of density will not be easily defended at appeal.

The Conservation of Habitats and Species Regulations 2017

- 9.08 The application site is located within 6km of The Medway Estuary and Marshes Special Protection Area (SPA) which is a European designated sites afforded protection under the Conservation of Habitats and Species Regulations 2017 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.

Residential development within 6km of any access point to the SPA has the potential for negative impacts upon that protected area by virtue of increased public access and degradation of special features therein. The HRA carried out by the Council as part of the Local Plan process (at the publication stage in April 2015 and one at the Main Modifications stage in June 2016) considered the imposition of a tariff system to mitigate impacts upon the SPA on developments of 10 or more units, as ultimately agreed by the North Kent Environmental Planning Group and Natural England). These mitigation measures are considered to be ecologically sound.

However, the recent (April 2018) judgement (People Over Wind v Coillte Teoranta, ref. C-323/17) handed down by the Court of Justice of the European Union ruled that, when determining the impacts of a development on protected area, “it is not appropriate, at the screening stage, to take account of the measures intended to avoid or reduce the harmful effects of the plan or project on that site.” The development therefore cannot be screened out of the need to provide an Appropriate Assessment (AA) solely on the basis of the agreed mitigation measures (SAMMS), and needs to progress to consideration under an AA.

In this regard, whilst there are likely to be impacts upon the SPA arising from this development, the scale of development and the mitigation measures to be implemented within the SPA from collection of the standard SAMMS tariff will ensure that there will be no adverse effect on the integrity of the SPA.

10.0 CONCLUSION

- 10.01 The proposal entails development within the built up area boundary which is acceptable as a matter of principle. The area is unusual for Lynsted in being comprised of estate style development which surrounds the site. There is sufficient space on the site for the retention of the existing dwelling and construction of two 4 bedroom homes and their parking demands, and as such I recommend that the application is granted approval.

11.0 RECOMMENDATION – GRANT Subject to the following conditions

CONDITIONS

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

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 the expiration of two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.

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

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

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

- (5) The details submitted pursuant to condition (1) above shall include details of alterations to the existing property including the removal of the existing fenestration and conservatory on the west facing side elevation. The development shall then be completed strictly in accordance with the approved plans including carrying out the approved alterations to the existing property prior to first occupation of either of the additional new properties hereby approved..

Reason: In the interests of residential amenity.

- (6) All hard and soft landscape works submitted and approved under condition (1) above shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any new dwelling or in accordance with a 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.

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

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

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

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

- (9) Details of a method of speed restraint on the access road north of the entrance to Toll House shall be submitted to and approved by the Local Planning Authority and thereafter the approved works shall be provided prior to occupation of any dwelling hereby permitted, and that feature shall be permanently retained.

Reason: In the interests of highway safety.

- (10) No works shall take place until a site specific Construction/Demolition Environmental Management Plan has been submitted to and been approved in writing by the local authority. The plan must demonstrate the adoption and use of the best practicable means to reduce the effects of noise, vibration, dust and site lighting. The plan should include, but not be limited to:

- All works and ancillary operations which are audible at the site boundary or at such other place as may be agreed with the Local Planning Authority, shall be carried out only between the following hours: 08:00 hours and 18:00 hours on Mondays to Fridays, 08:00 and 13:00 hours on Saturdays and at no time on Sundays and Bank Holidays. Unless in association with an emergency or with the prior written approval of the District Planning Authority.
- Deliveries to and removal of plant, equipment, machinery and waste from the site must only take place within the permitted hours detailed above.
- Measures to minimise the production of dust on the site(s).
- 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).
- Design and provision of site hoardings.
- Measures to prevent the transfer of mud and extraneous material onto the public highway.

Reason: In the interests of the amenities of surrounding occupiers.

The Council’s approach to this application:

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

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

In this instance:

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

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

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



| | | |
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| 2.3 REFERENCE NO - 18/502345/FULL | | |
| APPLICATION PROPOSAL Erection of a single storey rear extension and garden shed, including some internal alterations. | | |
| ADDRESS 42 Lammas Gate Faversham Kent ME13 7ND | | |
| RECOMMENDATION - GRANT subject to conditions | | |
| REASON FOR REFERRAL TO COMMITTEE Town Council objection | | |
| WARD Abbey | PARISH/TOWN COUNCIL Faversham Town | APPLICANT Ms Joanna Wood AGENT Affinis Design |
| DECISION DUE DATE 25/07/18 | PUBLICITY EXPIRY DATE 15/06/18 | |

1.0 DESCRIPTION OF SITE

- 1.01 42 Lammas Gate is a modern but traditionally designed two storey mid terraced dwelling fronting Abbey Street. The site lies within the designated Faversham conservation area and within the built up area of Faversham. It is also subject to an Article 4(2) Direction dated May 2007 which was issued in order to prevent piecemeal degradation of the streetscape of the town via incremental Permitted Development changes and, ideally, to raise the standard of appearance of properties when changes are being made.
- 1.02 The property is located within the northern part of Abbey Street which predominately features Victorian terraced and semi-detached dwellings. The part of the Lammas Gate development that faces Abbey Street features a large central three storey building with the entrance driveway into the site passing through it and is flanked on both sides by three two storey terraced dwellings. 42 Lammas Gate is the middle house on the northern wing and has a red brick ground floor and white weatherboard to the upper floor.
- 1.03 The proposals require planning permission by virtue of a condition attached to the permission for the Lammas Gate development removing future Permitted Development rights.
- 1.04 Each of the adjoin properties already has as single storey rear extension in fully glazed conservatory style, although both project further from the respective rear elevation than does the current proposal.. At number 41 this was approved in 2008. At number 43 the conservatory was approved in 2000.

2.0 PROPOSAL

- 2.01 This application is seeking permission to construct a single storey extension to the rear of the property. Also proposed is a small new en-suite window at first floor to the front elevation, two rooflights to the rear roof slope, and a small garden room (summerhouse) at the end of the garden. The rear extension part of the application was the subject of formal pre-application advice.
- 2.02 The single storey rear extension at 5.3m wide would extend across almost the full width of the northwest facing rear elevation of 5.5m It would measure 1.9m in depth

and 3.6m in overall height (2.3m to eaves height) and be constructed of matching brickwork with a clay tiled lean-to roof featuring three roof lights. The doors would be double glazed aluminium/timber composite. The extension will provide additional space to the living/dining area.

- 2.03 The new first floor window proposed to the front elevation will match that of the adjoining properties. It was shown in the original plans for the development but omitted when the property was constructed.
- 2.04 The two roof lights proposed to the rear facing roof slope of the main house will provide light and ventilation to the loft storage space.
- 2.05 The proposed summerhouse will be located at the far end of the garden, abutting the garage court boundary. It will measure 4.8m wide, 2.4m deep with an overall height of 3.2m. The west face of the summerhouse will replace the boundary fence facing a communal parking court, and will provide for pedestrian access to the garden from the garage court. It will be finished in weatherboarding with timber windows, timber stable door and a hipped pitch roof (with five small roof lights) with cedar shingle roof finish. This will be used as a garden room with a worktop/storage area.
- 2.06 The application is supported by a Design and Access Statement and a Heritage Asset Assessment which go into some detail about the proposals, their context and their evolution, and benefits to the applicant.

3.0 PLANNING CONSTRAINTS

Potential Archaeological Importance

Article 4 Faversham Conservation Area

4.0 POLICY AND OTHER CONSIDERATIONS

- 4.01 Bearing Fruits 2031: The Swale Borough Local Plan 2017: Policies CP8, DM14, DM16 and DM33
- 4.02 Supplementary Planning Guidance (spg) entitled “Designing an Extension – A Guide for Householders” and “Conservation Areas”. The Council’s SPG on extensions and alterations explains that a maximum projection of 3.0m will be normally be permitted for single storey rear extensions close to the neighbours’ common boundary.

5.0 LOCAL REPRESENTATIONS

- 5.01 The two neighbours on either side at numbers 41 and 43 Lammas gate have submitted objections, one suggesting that the extension is set at least two feet away from the common boundary and its height is lowered by seven or eight courses of brick. Neighbours from number 41 have sent a photograph of the view taken from their conservatory and a photograph with an impression of how the extension will look from their conservatory. The comments are summarised below:

- When we built our conservatory the current applicant was concerned about its size so we had a low roof and set it in three feet from the boundary
- A brick built extension will butt right up to our common boundary, with its height in line with the second floor window sills, and will be overpowering
- Other extension here are glazed conservatories

- The proposed extension will be imposing and will reduce light into my glass conservatory
- The garden shed is rather like a large summer house and its height is well above the fence line at the bottom of the garden
- The existing large robina tree in the garden of 42 Lammas Gate already blocks sunlight into my garden from 3.00pm. A large, tall outbuilding and the tree will make the situation worse
- We hope our neighbour will show the same consideration as we did to her

6.0 CONSULTATIONS

- 6.01 Faversham Town Council recommends revising the size and height of the proposed rear extension. Their comments are as follows:

'Recommendation: No Objection:

Conditions:

1) That the external wall to the extension does not butt up to the boundaries of 41 and 43 Lammas Gate, but leaves a three foot gap.

2) That the top of the extension roof is lowered to below at least 8 courses of brick from the 2nd floor window sills.'

- 6.02 The agent has responded to the Town Council's suggestions to say that it is a very small extension being proposed which will have very little impact on the neighbours. The extension has been designed to be in-keeping with the architecture of the existing building. However, if the roofing was changed from plain tiles to cedar shingles or slates the height of the roof could be lowered by some 5 courses. The overall width could be reduced by 600mm, giving an extra 300mm (one foot) in distance from the boundary at each end.
- 6.03 I have not asked for the application to be formally amended as in my view at only 1.9m in depth compared to the maximum of 3m that the Council normally advises, the rear extension falls well within normally acceptable criteria as published in the Council's published guidance. Nor do I feel that a reduction in roof pitch and the use of slates would match the architecture of the building. The application is being put to Members for determination as originally submitted.

7.0 BACKGROUND PAPERS AND PLANS

- 7.01 All plans and supporting documents relating to 18/502345/FULL

8.0 APPRAISAL

- 8.01 The main issues to be considered in this application are the impact of the proposed extension, rooflights, summerhouse and new window on the character and appearance of the building, the impact on the character and appearance of the conservation area and the impact on the residential amenity of neighbouring properties.
- 8.02 The proposed extension located to the rear of the property would only be visible from neighbours' gardens and the garage court to north-west of the site. This area to the rear is hidden from the view of the street and in my opinion, the extension would not have a detrimental impact upon the character of the street scene and visual amenities of the area. The rooflights to the rear roofslope will not be visible from the street. The

proposed summerhouse, located at the end of the garden will form part of the boundary fence and provide a walk through to the garage court. In my view, the scale of the summerhouse is acceptable and will not adversely affect the character of the street scene or the visual amenities of the area. The new en-suite window to the front of the property will be over the entrance door, in the same position as similar windows are on both neighbouring properties, and view is that it will not result in any harm to the character and appearance of the street scene.

8.03 A key consideration in this case is whether the proposal meets the aims and objectives of the Article 4(2) Direction and policy DM33 of Bearing Fruits 2031: SBLP 2017 in preventing development that fails to preserve or enhance the special character and appearance of the conservation area. The site is located in a less prominent position than the central part of Lammas Gate and both adjoining properties within this terrace have conservatories to the rear. The proposed rear extension will be constructed in brickwork to match that of the existing building with a lean to tiled roof. I consider that the design of the new structure is very acceptable and will not negatively impact on the character and appearance of the conservation area. The new en-suite window to the front of the property will be of the same design as both neighbouring properties and as such is unlikely to result in any harm to the character and appearance of the conservation area. The rear rooflights on this modern building will not have significant impact on the character of the conservation area. The summerhouse with a cedar shingle clad roof, weatherboarding and timber windows and door is sensitively designed and would fit in with its surroundings.

8.04 I note local concern in regards to the scale and height of the rear extension, and suggestions that it should be made narrower with a lower roof. However, I do not consider that the proposed rear extension as proposed would in fact give rise to any serious overshadowing or loss of sunlight to adjoining properties. The extension will project just 1.9m beyond the rear elevation of the property which is significantly less than the 3.0m maximum stated in the Council's SPG. If the applicant did seek to address the neighbours' concerns by reducing the height of the extension this would have required a change to the roofing materials and in my view, result in a poorer design. Nor do I see any need for the Council to insist in the extension being set away from the boundary on each side. This will leave small unusable areas either side, and as the extension is only 1.9m deep and both neighbours already have extensions, I see no significant harm to their amenity arising from the extension as proposed.

8.10 With regards to the summerhouse, I do not consider that it will have a significantly detrimental impact on the amenities of the adjoining neighbouring properties. The building is single storey with a low pitched roof and I do not consider there to be any overshadowing issues. It does have a window on the south side, however this faces the side boundary fence at the far end of the garden and will be barely visible above the height of the fence or the vegetation meaning that overlooking will not be significant..

9.0 CONCLUSION

9.01 Having taken into account the views of the Town Council and immediate neighbours I consider that the proposals will not adversely affect the special character of the conservation area, or significantly harm the amenities of neighbours, nor is there any need to see the changes to the extension that have been suggested. I consider that the proposals as submitted are acceptable in terms of its impact upon the building, the conservation area and on the residential amenity of neighbours. I therefore recommend that planning permission is granted subject to the imposition of appropriate planning conditions..

10.0 RECOMMENDATION – GRANT Subject to the following conditions:

CONDITIONS

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

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 facing bricks and roofing tiles to be used in the construction of the external surfaces of the extension hereby permitted shall match those on the existing building in terms of type, colour and texture.

Reason: In the interest of conserving the character of the conservation area

- (3) The joinery to be used in the construction of the new en-suite window hereby permitted shall match that on the existing building in terms of frame dimensions, style and finish.

Reason: In the interest of conserving the character of the conservation area

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

1706/32B; 1706/41 and 1706/42

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

- (5) The weatherboarding to be used in the construction of the summerhouse hereby approved shall be featheredged weatherboarding.

Reason: In the interest of conserving the character of the conservation area

Council’s Approach to the Application

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

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

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

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



| | | | |
|---|---|--|-------------|
| 2.4 REFERENCE NO - 16/503808/FULL | | | |
| APPLICATION PROPOSAL Removal of conditions 1 and 4 of planning permission SW/01/0561 (decided at appeal ref APP/V2235/A/01/1071677) to enable residential use of the site by any gypsy or traveller, and parking of a work vehicle of not more than 3.5 tons; and variation of condition 2 to allow stationing of more than one static caravan and one touring caravan. | | | |
| ADDRESS The Orchard Holywell Lane Upchurch Kent ME9 7HP | | | |
| RECOMMENDATION Grant, subject to receipt of an updated block plan and further comments from the Parish Council. | | | |
| SUMMARY OF REASONS FOR RECOMMENDATION The site already has permission for use as a residential gypsy or traveller site. Amending the conditions attached to the original permission would not seriously affect the nature of the existing use or the character or appearance of the wider countryside, or give rise to any significant amenity impacts. | | | |
| REASON FOR REFERRAL TO COMMITTEE Parish Council objection. | | | |
| WARD Hartlip, Newington And Upchurch | PARISH/TOWN COUNCIL Upchurch | APPLICANT Mr Miles Cash AGENT BFSGC | |
| DECISION DUE DATE 28/06/16 | PUBLICITY EXPIRY DATE 08/06/17 | | |
| RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites): | | | |
| App No | Proposal | Decision | Date |
| SW/01/0561 | Permission granted at appeal for change of use from grazing to residential use by gypsy traveller family. | Allowed at appeal | 04.01.2002 |
| A personal permission was granted at appeal for use of the land by a gypsy/traveller family, with condition 1 of the appeal decision restricting occupation to Mr Bob Friend and his family only. The land has subsequently been sold and divided, as set out in the detailed history at 1.03 of the main report. | | | |

1.0 DESCRIPTION OF SITE

- 1.01 The application site is a roughly rectangular parcel of land situated in the countryside to the east of Upchurch, and currently in use as a residential gypsy/traveller site known as The Orchard. The site lies off Holywell Lane but is largely screened in views from the highway by sloping land levels, roadside hedgerow planting, and a gate erected to the front of the site. There are a number of public footpaths within the area, in particular ZR23 (which runs SE-NW) and ZR24 (which runs NE-SW) but these are separated from the application site on all sides by the neighbouring properties. The wider area is generally verdant.
- 1.02 In total the site extends to roughly 100m deep and a maximum of 40m wide. It is divided up into three distinct sections: the front third is laid to hard standing and houses four static caravans, two touring caravans, and two timber sheds/storage

buildings, as well as parking / turning space. The middle third comprises compacted earth. The rear third of the site is laid to lawn. A narrow band of orchard planting separates the front and middle sections, and a laurel hedge has been planted along the southern boundary, inside the fence line. A close-boarded fence separates the site from the land to the south (St Thomas Yard), and a mixture of close-boarded and post-and-rail fencing runs along the boundary with Greenacres to the north.

1.03 The planning history of the site is somewhat convoluted and intrinsically tied to the history of neighbouring plots:

- Greenacres, to the north, is owned and occupied by Mr Friend and family, having been granted permission at appeal under application SW/01/0561 (PINS ref. 1071677). Condition 1 of that permission restricted occupancy of Greenacres (which at the time encompassed the sites now known as The Orchard and St Thomas Yard) to Mr Friend and his family only.
- Planning permission SW/04/1049 amended condition 2 of the appeal decision (under S.73 of the Act) to permit a total of two residential caravans and one touring caravan.
- The site was then notionally subdivided, albeit with limited physical structures to indicate the division, with the northern area being occupied by Mr Friend and his family and the southern area occupied by Mr Friend's sister and her children, all still within the auspice of "Greenacres."
- It is my understanding that at some stage in the late 2000's the sister vacated her part of the site for personal reasons, and sold the land to a third party. Mr Friend secured his site (Greenacres) from the remainder of the land, as he was unrelated to the new occupants. (Mr Friend was granted planning permission in 2016 under ref. 15/505703/FULL for the stationing of two static caravans and one touring caravan on his site – this was to accommodate an elderly relative in addition to the existing household.)
- St Thomas Yard is another part of the original Greenacres site which lies to the south of the current application site, is occupied by Mr Delaney and family, and is the subject of a current application to regularise their occupation of the land (ref. 17/503860/FULL) in breach of condition 1 of SW/01/0601. Members may also recall this particular site as the one against which the Council won an appeal against the insertion of a new vehicle entrance by way of substantially excavating the roadside verge;
- A further site known as Hedgerows lies to the south beyond St Thomas Yard and is occupied by Mr Hedges, having been granted consent by application SW/12/1472.
- The Paddock is a separate site further to the south along Holywell Lane, beyond a couple of residential bungalows, and occupied by the Dennard and Millen families. This site has a completely separate planning history.

1.04 It must be stressed that St Thomas Yard and the unlawful access have no relation to the current application site other than previously being part of Greenacres. The Orchard benefits from its own dedicated access which has been in situ since the site was originally set up by Mr Friend and his sister.

2.0 PROPOSAL

2.01 This application seeks to:

- Vary condition 1 of SW/01/0561 to allow occupation by any gypsy or traveller (rather than personal restriction to Mr Friend only);
- Vary condition 2 of SW/01/0561 to allow more than one static caravan and one tourer to be stationed on the site; and
- Variation of condition 4 of SW/01/0561 to allow a work vehicle to be parked on the site (rather than residential vehicles only).

2.02 Variation of condition 1 would allow the applicant – Mr Cash and his family – to lawfully occupy the site now that Mr Friend’s sister has vacated and sold the land on.

2.03 Variation of condition 2 would regularise the number of caravans currently stationed on the site, which amount to four static caravans and two tourers.

2.04 Variation of condition 4 would enable the applicant to park his work vehicle (a small flat-bed truck) on the site, as the condition currently restricts them to *“no vehicles other than those required for purposes ordinarily incidental to the use of the site as a residential caravan site for one family.”* I have discussed this with the applicant and he would be happy to accept the Council’s standard condition restricting them to stationing vehicles of not more than 3.5 tonnes.

3.0 SUMMARY INFORMATION

| | Proposed |
|-------------------------|--------------------------------------|
| Site area | Approx. 4000sqm / 0.9 acres / 0.4ha. |
| No. of static caravans | 4 |
| No. of touring caravans | 2 |

4.0 PLANNING CONSTRAINTS

4.01 None.

5.0 POLICY AND OTHER CONSIDERATIONS

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

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

5.02 I consider that the following extracts from paragraph 7 are particularly pertinent:

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

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

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

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

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

- The planning system should contribute to and enhance the natural and local environment by:*
- *protecting and enhancing valued landscapes, geological conservation interests and soils;*
 - *recognising the wider benefits of ecosystem services;*
 - *minimising impacts on biodiversity and providing net gains in biodiversity where possible, contributing to the Government’s commitment to halt the*

overall decline in biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures;

- *preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of soil, air, water or noise pollution or land instability; and*
- *remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate. .*

Planning Policy for Traveller Sites (PPTS)

- 5.05 The PPTS was originally published in March 2012 but it was re-issued in August 2015 with minor changes. Its main aims now are:

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

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

- a. *that local planning authorities should make their own assessment of need for the purposes of planning*
- b. *to ensure that local planning authorities, working collaboratively, develop fair and effective strategies to meet need through the identification of land for sites*
- c. *to encourage local planning authorities to plan for sites over a reasonable timescale*
- d. *that plan-making and decision-taking should protect Green Belt from inappropriate development*
- e. *to promote more private traveller site provision while recognising that there will always be those travellers who cannot provide their own sites*
- f. *that plan-making and decision-taking should aim to reduce the number of unauthorised developments and encampments and make enforcement more effective*
- g. *for local planning authorities to ensure that their Local Plan includes fair, realistic and inclusive policies*
- h. *to increase the number of traveller sites in appropriate locations with planning permission, to address under provision and maintain an appropriate level of supply*
- i. *to reduce tensions between settled and traveller communities in plan-making and planning decisions*
- j. *to enable provision of suitable accommodation from which travellers can access education, health, welfare and employment infrastructure*
- k. *for local planning authorities to have due regard to the protection of local amenity and local environment.” (para 4 PPTS)*

- 5.06 In terms of plan making the PPTS advice is that;

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

- a) *promote peaceful and integrated co-existence between the site and the local community*

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

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

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

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

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

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

- a) *the existing level of local provision and need for sites*
- b) *the availability (or lack) of alternative accommodation for the applicants*
- c) *other personal circumstances of the applicant*
- d) *that the locally specific criteria used to guide the allocation of sites in plans or which form the policy where there is no identified need for pitches/plots should be used to assess applications that may come forward on unallocated sites*
- e) *that they should determine applications for sites from any travellers and not just those with local connections”*

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

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

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

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

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

- 5.09 The Council responded positively and quickly to the changes in the national policy position in respect of Gypsy and Traveller accommodation. The Local Development Framework Panel quickly supported the commissioning of a new Gypsy and Traveller Accommodation Assessment (GTAA), which was completed in June 2013 and identified a need for 82 pitches to be provided during the plan period (adjusted down from 85 pitches in reflection of those sites granted permanent permission whilst the document was under preparation). This need figure was incorporated within the draft Bearing Fruits Swale Borough Local Plan: Part 1 alongside a policy introducing provision for pitches on certain major development sites. An additional net 47 permanent pitches (some with personal use conditions) had also been approved up to March 2015, reducing the outstanding need to 35 pitches over the Plan period. Further permanent permissions have since been granted. A further number of pitches enjoy temporary permissions.
- 5.10 Shortly after publication of the GTAA in 2013 the Council began work on Part 2 of the Swale Borough Local Plan which was intended to deal with site allocations for Gypsy and Traveller pitch provision only. This process began with a call for sites between September and December 2013, and the publication of an issues and options paper which was subject to public consultation (this finished on 25 April 2014). The Local Plan was subject to examination in November 2015 and the latest position on this is referred to below.

Swale Landscape Character and Biodiversity Appraisal SPD 2011

- 5.11 The site and surrounding area are identified within the Swale Landscape and Biodiversity Appraisal Supplementary Planning Document (SPD) as falling within the Upchurch and Lower Halstow fruit belt area where the document advises opportunities should be sought to create features to restore a strong landscape structure with tree and hedge planting, and the overall aim should be towards conservation of the landscape. I do not consider that landscape impact is a significant potential objection to development here.

Bearing Fruits 2031: The Swale Borough Local Plan 2017 adopted 26 July 2017

- 5.12 The Council's GTAAs published in 2013 and suggested a pitch target of 85 pitches to 2031. The revised PPTS (2015) changed the planning definition of a gypsy and traveller, and therefore changed the number of pitches that needed to be identified. Evidence to the Local Plan's Examinations In Public (EIP) in 2015 and 2017 was that the Council had re-interrogated the original GTAA data to determine the appropriate level of pitch provision based on the new 2015 PPTS revised definition of gypsies and travellers. The data revealed that for all but unauthorised sites some two-thirds of households surveyed for the GTAA either never travel or travel not more than once a year. Overall, only 31% of respondents travel a few times a year, and 55% never travel, meaning that in Swale the gypsy and traveller population is quite settled, slightly more so than elsewhere in the country. Many current site occupants no longer meet the new PPTS definition of having a nomadic habit of life
- 5.13 Accordingly, the need for pitches in Swale was re-evaluated, resulting in a reduced estimate of pitch need from 85 pitches down to 61 pitches over the Plan period to 2031; this being the most generous (highest) of the possible reduced pitch number scenarios considered. As a result of this analysis the future need for new pitches throughout the Local Plan period is based on a figure of 61 pitches to 2031, leaving (at the time of the Local Plan EIP) a need per year of less than one pitch, meaning that no formal pitch allocations will be needed, and future site provision could reasonably be expected to be catered for via windfall planning applications. Draft Local Plan Policy DM10 was then revised to deal with these windfall applications. The Inspector confirmed that the Council's approach to this matter was well reasoned and pragmatic and she also accepted that the Council's approach would result in a Plan that will be effective and consistent with national policy.
- 5.14 The Local Plan has now been adopted, and thus the position has been formalised. The key adopted plan policy to deal with windfall planning applications for new sites now is DM 10 (Gypsy and Traveller sites). Policy DM10 of the adopted Local Plan states:

Part A: Retention of sites for Gypsies and Travellers

Existing permanent sites and those granted permanent planning permission will be safeguarded for use by Gypsies and Travellers, unless it is demonstrated the site is no longer suitable for such use.

Part B: Gypsy and Traveller sites

The Council will grant planning permission for sites for Gypsies, Travellers and Travelling Show People, where it is demonstrated that proposals:

1. *Are in accordance with Policy ST3 by reference to the deliverability of potential or existing sites at each settlement tier(s) above that proposed by the application, unless:*
 - a. *there are exceptional mitigating and/or personal circumstances where the applicant has demonstrated that a particular site is required to meet their needs and where there is no overriding harm to the locality; or*
 - b. *where required to meet an affordable housing need either via a rural exception site in accordance with Policy DM9 or specific allocation; or*
 - c. *the proposal is for an extension to, or stationing of, additional caravans at an existing site.*

2. *Can establish that the applicants have previously led a nomadic lifestyle, the reasons for ceasing a nomadic lifestyle and/or an intention to return to a nomadic lifestyle in accordance with Annex 1 of Planning Policy for Traveller Sites (2015);*
3. *Can achieve an integrated co-existence between all communities;*
4. *Are of a scale appropriate to meet the accommodation need identified and not introduce a scale of development that singly or cumulatively dominates the nearest settlement or causes significant harm to the character of an area, its landscape, or the capacity of local services;*
5. *Can, where appropriate, accommodate living and working in the same location, either through a mixed use site or on land nearby, whilst having regard to the safety and amenity of occupants and neighbouring residents;*
6. *Cause no significant harm to the health and wellbeing of occupants or others by noise, disturbance, vibration, air quality or other circumstances;*
7. *Cause no significant harm to the Area of Outstanding Natural Beauty, national/local landscape or biodiversity designations and other natural or built environment that cannot be adequately mitigated;*
8. *Provide landscaping to enhance the environment in a way that increases openness and avoids exclusion and isolation from the rest of the community;*
9. *Provide for healthy lifestyles through open space, amenity areas for each pitch and play areas;*
10. *Would be safe from flooding by meeting both the exceptions and sequential tests in accordance with national policy and Policy DM22;*
11. *Achieve safe and convenient parking and pedestrian and/or vehicular access without unacceptable impact on highway safety; and*
12. *Where appropriate, include visitor or transit pitches and/or sufficient areas for future expansion. Planning conditions may be used to limit the length of time that caravans can stop at transit sites and on visitor pitches.*

Five year supply position

- 5.15 The revised pitch requirement to 2031 that was accepted by the Local Plan Inspector amounted to 61 pitches. In the Council's Hearing Statement submitted in January 2018 the total number of pitches approved since 2013 with permanent planning permission was 63. This figure has now changed.
- 5.16 In February 2018 an appeal decision granted a permanent personal planning permission for two pitches at Windmill Farm, Yaugher Lane, Hartlip. In May 2018 the Council approved a revised site layout for 40 pitches at Brotherhood Woodyard (BW), Dunkirk resulting in a net pitch increase of 11 pitches (each with a static and touring caravan). Finally, in June 2018 the Council approved a brand new twin pitch site at London Road, Newington. The result of this is that 15 further pitches have been approved in 2018, taking the overall supply since 2013 to 78 pitches, 17 above the agreed need.
- 5.17 Of these, 21 pitches have not been implemented including one at Breach Farm Paddocks (previously classed as implemented), 11 at BW, and two at Newington. Total completions stand at 57 including the 2013 permission for 19 additional pitches at BW, or 38 without those 19 pitches which have been disputed at recent appeals. For the sake of caution (and to replicate the approach taken by the Spade Lane Inspector) I have worked out the five year supply figures with and without assuming implementation of the 2013 planning permission at the BW site.

5.18 If the five year supply is now calculated on the basis of the **last monitoring year**, the maths is as follows:

- GTAA target to 2031 = 61
- Completions to May 2018 = 38 (excluding BW, but including two pitches at Windmill Farm and discounting one pitch at Breach Farm Paddocks)
- Residual Requirement = 23 (61 minus 38)
- 5 yr requirement $[(23/ 14 \text{ years}) \times 5] = 8.21$ pitches
- Annual need $[6.57/5] = 1.64$
- Total 5 yr supply = 8
- Land supply in yrs $(8/1.64) = \underline{\underline{4.88 \text{ years}}}$

5.19 If supply is being calculated “live”, we should include the whole of the recent approval at Brotherhood Woodyard (BW) in supply (a net increase of 30 pitches), rather than the existing 19 pitches (assumed not to be delivered or suitable for gypsies and travellers with caravans in the wrong place, possibly occupied by non-gypsies/travellers, and with no space for tourers), and the following updates are required:

- Need should come down by one pitch, reflecting the approval at Windmill Farm of two pitches, but the removal of Breach Farm Paddocks.
- The supply of sites should be increased by 32 (30 at Brotherhood Woodyard, and two at Newington) from 8 to 40.

5.20 The maths is then as follows:

- GTAA target to 2030/31 = 61
- Completions to May 2018 = 38 (excluding BW, but including two pitches at Windmill Farm and discounting one pitch at Breach Farm Paddocks)
- Residual Requirement = 23 (61 minus 38)
- 5 yr requirement $[(23/ 13) \times 5] = 8.85$ pitches
- Annual need $[8.85/5] = 1.77$
- Total 5 yr supply = 40
- Land supply in yrs $(40/1.77) = \underline{\underline{22.6 \text{ years}}}$

5.21 In other words the Council can show almost 5yrs supply, or well in excess of 5yrs supply, either way the numbers are calculated, even if the 2013 approval at BW is deleted from the figures as per the logic of the Spade Lane decision.

5.22 If you assume the 2013 permission at BW was implemented, 19 is added to the end of year completions figure and live figure (57) and deducted from the live supply (now 21). And then recalculate – still well over 5 years in either case.

5.23 Finally, the Government’s Chief Planner announced on 31 August 2015 (the same day PPTS was re-issued) a policy that from that date all applications and appeals that involve intentional unauthorised development this fact can be a material planning consideration. In this case the site was originally occupied without the necessary planning permission, and after the temporary planning permission was granted the site was occupied by the current appellant who is not one of those people that the personal permission authorised, without further approval. Nor was the site vacated when the temporary planning permission expired; even though the occupants had made no attempt to seek a further planning permission. These facts should weigh against the appellant in this case.

6.0 LOCAL REPRESENTATIONS

- 6.01 Swale Footpaths group notes the nearby public footpaths but don't consider they would be affected.

7.0 CONSULTATIONS

- 7.01 Upchurch Parish Council originally commented that;

“they have no objections to condition 1 being removed as we are mindful that Mr Friend does not wish to be associated with this site. The members do however have concerns regarding the removal of condition 4 as there have already been enforcement issues with the unauthorised access that was made at the site. It is felt that the site should have no reason to require vehicles other than those used for residential purposes to be parked on the land.”

- 7.02 I have gone back to them to seek further comments in respect of the revised application description which includes condition 2 (number of caravans) and clarified that, in respect of condition 4, the applicant wants the condition relaxed so he can park his LGV/flatbed truck and would be happy to accept the Council's standard condition preventing vehicles of more than 3.5 tonnes. I've also clarified that the unauthorised access is not associated with this site. I will update Members on their further comments at the meeting.

- 7.03 Kent Highways and Transportation state: *“it would appear that this development proposal does not meet the criteria to warrant involvement from the Highway Authority in accordance with the current consultation protocol arrangements.”*

8.0 BACKGROUND PAPERS AND PLANS

- 8.01 The historic applications noted above are of relevance, and the current application is supported by a site location plan and Design & Access Statement. I have requested a further drawing from the agent to show the layout of the site as existing.

9.0 APPRAISAL

- 9.01 The principle of using this parcel of land as a residential traveller site has been established through the original grant of permission (at appeal) under SW/01/0561. Although the permission was on a personal basis for named individuals the Inspector's decision set out (para.9) *“the principle of the provision of sites for gypsies in this area is acceptable.”*

- 9.02 The Inspector did give significant weight to the personal circumstances of the applicant at the time of the 2001 appeal, but under current planning guidance I consider the site to be acceptable in its own right: it is close to Upchurch with its local shops, school, pub, etc.; is generally well-sited in relation to surrounding development; is well screened by hedgerow and boundary planting (the applicant has additionally planted a number of fruit trees within the site) and does not seriously affect the character and appearance of the wide countryside; and continued residential use of the site would not give rise to significant amenity concerns for neighbouring residents. In that regard I have no serious concerns in respect of amending condition 1 to allow use by any gypsies or travellers instead of being restricted to named individuals.

- 9.03 The Council's supply of traveller sites is set out above, and is a complicated issue which can be summarised as showing that the Council either has a significant over-supply or a slight under supply.
- 9.04 The applicant is looking to station 4 static caravans and 2 tourers on the land in total, which equates to 3 pitches in total (calculated at 1.7 caravans per pitch) or two additional pitches net gain. This would be a small but valuable contribution to the Council's site provision which would take our lower estimate of supply to over 5yrs (see 5.22 above). Where a site is otherwise acceptable the mere fact that pitch need has been met should not be seen as an obstacle to approval. The Council has successfully argued that the pitch need is a target not a ceiling, and this approach has stood us in good stead when opposing unsuitable and unsustainable sites.
- 9.05 Variation of condition 2 to regularise the number of caravans on the site (4 static and 2 tourers) is, in my opinion, acceptable. The site is of sufficient size to comfortably accommodate these caravans while retaining space for parking, turning, amenity, and boundary landscaping. An increase in the number of caravans would not change the nature of the use, i.e. it remains as a residential traveller site, and would not significantly increase the vehicle movements along Holywell Lane to unsustainable levels, in my opinion. The caravans house the applicant's immediate family:
1. Mr Cash, his partner, and two young sons.
 2. Mr Cash's son, Jimmy.
 3. Mr Cash' son Patrick and his partner.
 4. Empty. Used for storage. No plans for it to be occupied.
- 9.06 The site also contains two storage sheds, one of which houses a washing machine, tumble dryer, and general household storage; the other contains a lawnmower, garden equipment, outdoor play equipment, etc. I have no serious concerns about these.
- 9.07 The Parish Council has expressed concern about variation of condition 4 to allow non-residential vehicles to be parked on the site. I discussed this with the applicant, who confirmed that he has a flat-bed truck used in in association with his business laying driveways, and wants to vary the condition so that he is not in breach when coming home from work each day and parking on the site. This, to me, is a reasonable request and I note that his vehicle is not an HGV or very large vehicle that would likely cause damage to or obstruct the lane. The applicant has also confirmed to me that he would be happy to abide by the Council's standard condition restricting him to vehicles of "not more than 3.5 tonnes." I therefore have no serious concerns in respect of this element.

The Conservation of Habitats and Species Regulations 2017

- 9.08 The application site is located within 6km of The Medway Estuary and Marshes Special Protection Area (SPA) which is a European designated sites afforded protection under the Conservation of Habitats and Species Regulations 2017 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.

- 9.09 Residential development within 6km of *any* access point to the SPA has the potential for negative impacts upon that protected area by virtue of increased public access and degradation of special features therein. The HRA carried out by the Council as part of the Local Plan process (at the publication stage in April 2015 and one at the Main Mods stage in June 2016) considered the imposition of a tariff system to mitigate impacts upon the SPA (£301 per dwelling on developments of 10 or more units, as ultimately agreed by the North Kent Environmental Planning Group and Natural England) – these mitigation measures are considered to be ecologically sound.
- 9.10 However, the recent (April 2018) judgement (*People Over Wind v Coillte Teoranta*, ref. C-323/17) handed down by the Court of Justice of the European Union ruled that, when determining the impacts of a development on protected area, “*it is not appropriate, at the screening stage, to take account of the measures intended to avoid or reduce the harmful effects of the plan or project on that site.*” The development therefore cannot be screened out of the need to provide an Appropriate Assessment (AA) solely on the basis of the agreed mitigation measures (SAMMS), and needs to progress to consideration under an AA.
- 9.11 In this regard, whilst there are likely to be impacts upon the SPA arising from this development, the scale of development (a small residential caravan site on a previously permitted parcel of land) and the mitigation measures to be implemented within the SPA from collection of the standard SAMMS tariff will ensure that these impacts will not be significant or long-term. I therefore consider that, subject to mitigation, there will be no adverse effect on the integrity of the SPA.
- 9.12 It can be noted that the required mitigation works will be carried out by Bird Wise, the brand name of the North Kent Strategic Access Management and Monitoring Scheme (SAMMS) Board, which itself is a partnership of local authorities, developers and environmental organisations, including SBC, KCC, Medway Council, Canterbury Council, the RSPB, Kent Wildlife Trust, and others. (<https://birdwise.org.uk/>)

10.0 CONCLUSION

- 10.01 This application seeks to regularise the applicant’s use of an existing residential traveller site in breach of conditions restricting it to named occupants only; and to regularise the number of caravans and the parking of a work vehicle. These are all acceptable in my opinion, and would not give rise to any serious issues of landscape character harm, local amenity, or highway safety and amenity.
- 10.02 Taking the above into account I recommend that (subject to receipt of further comments from the Parish Council and an updated block plan showing the current site layout) planning permission should be granted.

11.0 RECOMMENDATION – GRANT Subject to the following conditions:

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

Reason: In recognition of the terms of the application, and because an uncontrolled use of the land would be unacceptably detrimental to the character and amenities of the area.

- 2) No more than four static caravans and two touring caravans shall be stationed on the site at any one time.

Reason: In recognition of the terms of the application, and because an uncontrolled use of the land would be unacceptably detrimental to the character and amenities of the area.

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

Reason: In recognition of the terms of the application, and because an uncontrolled use of the land would be unacceptably detrimental to the character and amenities of the area.

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

Reason: In the interests of preventing light pollution.

The Council's approach to this application:

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

Offering pre-application advice.

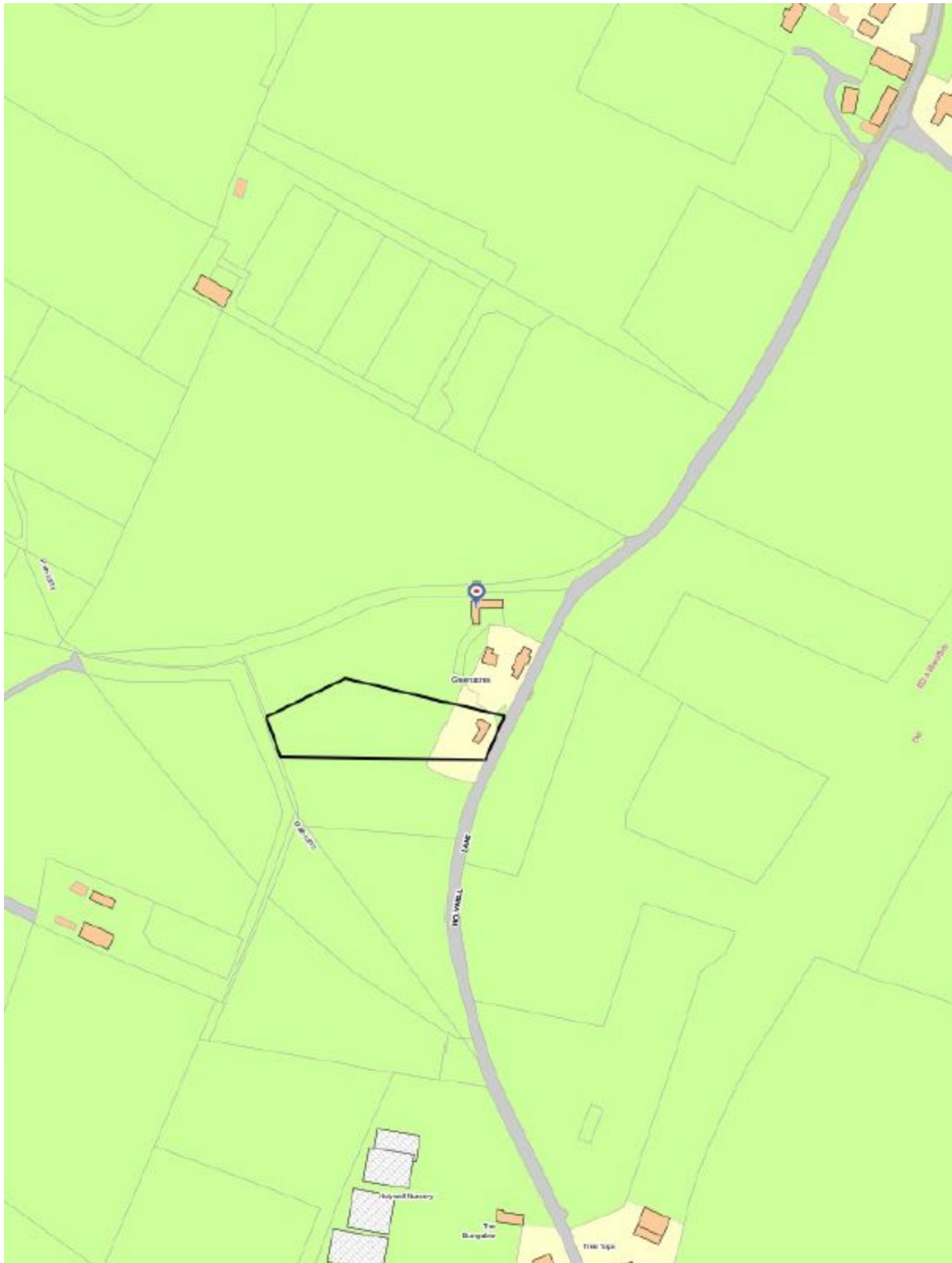
Where possible, suggesting solutions to secure a successful outcome.

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

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

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

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



| | | | |
|---|--|---|-------------|
| 2.5 REFERENCE NO - 18/501300/REM | | | |
| APPLICATION PROPOSAL Reserved matters of appearance, landscaping, layout and scale pursuant to outline permission 15/506945/OUT for residential development of 8 new dwellings with access and parking. | | | |
| ADDRESS Land East Of Morris Court School Lane Bapchild Kent ME9 9JN | | | |
| RECOMMENDATION – Approve SUBJECT TO receipt of further amended landscaping proposals | | | |
| REASON FOR REFERRAL TO COMMITTEE Contrary Representations from Parish Council; Local objections | | | |
| WARD West Downs | PARISH/TOWN COUNCIL Bapchild | APPLICANT Fernfield Homes Ltd AGENT Kent Design Studio Ltd | |
| DECISION DUE DATE 08/05/18 | PUBLICITY EXPIRY DATE 04/05/18 | | |
| RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites): | | | |
| App No | Proposal | Decision | Date |
| 15/506945/OUT | Outline application for up to eight houses | Approved | 26/08/2018 |

1.0 DESCRIPTION OF SITE

- 1.01 The site is at present an open field, situated within the corner of School Lane and opposite the junction with St Laurence Close. It is located just outside the established built-up area boundary, and is adjacent to the edge of the village of Bapchild.
- 1.02 The principle of development and the access arrangements for the site have already been approved under outline planning permission 15/506945/OUT. This is a Reserved Matters application, to deal with the matters of appearance, landscaping, layout and scale.
- 1.03 The site is located at a prominent location at the junction of School Lane, Church Street, and Panteny Lane. The site lies directly opposite a village green. To the north of the site is an established residential development of the village of Bapchild. To the east, south and beyond the converted buildings at Morris Court Farm the site is surrounded by the countryside and land that is in agricultural use. Morris Court Farmhouse is a Grade II listed building. Bapchild and Tonge Church of England Primary School is located approximately 500m away.
- 1.04 The application site is gently sloping, and rises southwards from School Lane into the site. A belt of tall mature trees lines the frontage of the site with School Lane. These trees are protected by a Tree Preservation order (Group Tree Preservation Order of 23 Poplar Trees Group 1 of TPO no. 2 of 1998) and they provide an effective landscape barrier to the site. The site area is approximately 0.69 hectares (or 1.7 acres).

2.0 PROPOSAL

- 2.01 The proposal is for the details of eight houses on this site. The submitted drawings show a terrace of three 3 bedroom houses; one detached 4 bedroom house; two 4 bedroom semi-detached houses; and two 5 bedroom detached houses.
- 2.02 Each house would be provided with car parking spaces or car barns, and the submitted drawings also show three visitor parking spaces. Each house would also have its own private amenity space.
- 2.03 The houses are all of differing styles, with different sizes, architectural features, finishes, etc The layout attempts to adhere to conditions on the outline permission that require buffer zones between the western site boundary with Morris Court Farm, and from the trees on the site frontage.
- 2.04 The site will be accessed from the entrance point agreed under the outline planning permission, and will sweep past the three terraced houses before turning south into the centre of the site.
- 2.05 The application is submitted with proposed street scene drawings; hard and soft landscape plans; drainage and engineering plans; drawings showing a new footway/pavement on the corner of St Laurence Close (required under section 278); drainage details; a construction statement; a tree survey; and a Secured by Design Statement. These cover a number of conditions attached to the Outline planning application.
- 2.06 The application has latterly been amended to address concern over garden sizes and parking provision for the site. Revised native landscaping details are also anticipated.

3.0 SUMMARY INFORMATION

| | Existing | Proposed | Change (+/-) |
|--------------------------|----------|----------|--------------|
| Site Area (ha) | 0.69h | 0.69h | - |
| No. of Residential Units | Nil | 8 | +8 |

4.0 PLANNING CONSTRAINTS

- 4.01 The entire site lies just outside the defined built up area boundary of Bapchild, within the countryside.
 - The application site is within land designated as an Important Local Countryside Gap in the adopted Swale Local Plan 2008, and the emerging Local Plan ‘Bearing Fruits’ 2031.
 - Site is within the Rodmersham Mixed Farmlands
 - Trees with a Group Tree Preservation Order
 - There is potential for important Archaeological remains to be on site.
 - The site is within Groundwater Outer Protection Zone II
 - The site is located within 2km of the Swale Special Protection Area (SPA), Ramsar site and the Swale Site of Special Scientific Interest (SSSI).

5.0 POLICY AND OTHER CONSIDERATIONS

- 5.01 The NPPF relates in terms of achieving sustainable development, delivering a wide choice of quality homes, requiring good design, promoting healthy communities, conserving and enhancing the natural environment, and sustainable drainage systems.
- 5.02 Paragraph 14 the NPPF makes it clear that there is a presumption in favour of sustainable development, which has three dimensions: economic, social and environmental.
- 5.03 Paragraph 56 attached great importance to quality of design, and Paragraph 64 states that poor design should be refused, particularly if it does not contribute positively to the area and does not improve the character and setting of the area.
- 5.04 With regard to Bearing Fruits 2031 – The Swale Borough Local Plan 2017, Policy CP3 requires a wide choice of high quality homes, whilst Policy CP4 requires good design which will contribute to making places better for people.

6.0 LOCAL REPRESENTATIONS

- 6.01 Three letters and emails of objection have been received from local residents. The contents therein may be summarised as follows:
- Site is on a dangerous bend
 - Traffic speed is a danger
 - Gridlock in Church Lane outside the school at the beginning and the end of the school day
 - The land shifts after heavy rain, with mudslides
 - Possible harm to setting of adjacent listed building
 - *'I wanted to say that there are lots of foxes, badgers, owls, squirrels, nesting birds and bats in that area along with a row of protected trees which have been there for years and should not be pulled down although the potential developer has picked out a few that he thinks are "less protected" - what?. What will he do? Cut through the roots and kill the trees to get them out his way to line his own pocket'*
 - *'You'll probably take no notice of my concerns but I wanted to try and say something. We don't need any more houses built in Sittingbourne, the roads are solid traffic now as it is, with basic facilities under strain already. Don't kill all those trees and animals, please....'*

7.0 CONSULTATIONS

- 7.01 Bapchild Parish Council objects to the application. Their comments, in full, are as follows:

'We would like the following points noted and as an appendix to this letter we wish to place on the record within the online planning portal;

- *Symonds Open Space School Lane Bapchild Report 1995*
- *Swale Information Leaflet Contaminated Land*

Environmental Concerns – Referencing Symonds Report 1995

We have previously notified the original project sponsor Crabtree & Crabtree (Bapchild Ltd) before the site was sold the possibility redundant mine workings adjacent to this location with some recorded anecdotal evidence that might suggest these tunnels could extend under the land where the new homes are to be built?

The site was originally owned by the Gascoyne family and after the adjacent Denehole/Chalk/Mine Workings ceased the site was then filled by Sittingbourne & Milton Urban District Council with landfill rubbish closing around 1960.

The 1995 Report suggests KCC or Swale Council the successor to the original waste depositor do not hold any records of what was dumped in this area.

Page 10 Point 6.1 – Engineers propose a monitoring borehole is provided to check on gas levels was never installed.

Therefore, the question we wish to raise is the possibility of old mine workings being located under the proposed development. It is confirmed the old chalk pit was filled with household waste. However, if the underground tunnels as reported exist it is highly probable these would not have been filled or sealed, so in turn could prove a pathway for any gasses being produced by the deposited waste material degrading.

*The **legal definition** of ‘contaminated land’, as provided by Part IIA of the Environmental Protection Act 1990, is: Land which appears to the local authority in whose area it is situated to be in such a condition, by reason of substances in, on or under the land that significant harm is being caused or there is a significant possibility of such harm being caused or by pollution of controlled water is being, or is likely to be caused.*

The attached Swale Information Leaflet on Contaminated Land suggests the Council may hold records for this site and we would be pleased to view any details you may retain about this area. It could also be of interest to existing residents and prospective purchasers of the new houses.

***Traffic Management Plan** - We would like the original condition for full on-site parking during construction retained and not allow for parking in St Laurence Close at busy times as being requested by the new developer of this Scheme.*

***Design Statement** - Opposite the development, a new footway is shown on the village amenity area. This area has been the subject of discussion as to the ownership of the land and we feel a definitive answer to the precise rights of title needs to be established.*

The proposed new footway assumes residents will walk towards St Laurence Close to access the existing village footways, however most residents will want to walk in the opposite direction towards the A2, the school, village hall, church, bus stop and other village amenities. So, the approved design appears to promote the possibility of people more likely due to human nature to just walk down School Lane without the safety of a footway. We have raised these concerns with Andrew Bowles our County Councillor.

However, if the ownership of all the land required for the new footway cannot be established or provided, then the following planning condition cannot be complied with.

Prior to the first occupation of a dwelling / premises the following works between that dwelling or premises and the adopted highway shall be completed as follows:

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

Site Maintenance and Management Plan - *It is unclear who will be responsible for the upkeep of the green spaces and landscaping after the specified 5 years. We have experienced countless problems with existing village green spaces and would urge implementation of a robust ongoing management/maintenance plan.*

Highway Issues - *We have requested a site meeting to clarify several issues but, in the event, that this is not possible – we request the traffic calming in School Lane be extended up to the development together with street lighting, as speeding traffic close to a blind corner is a regular problem in this area?*

Protection of the Countryside Gap - *We request a restriction be placed on the boundary of the site between plots 5 and 8 to ensure there is no future housing precedent set by way of an established access point from this development. This strip of land could be handed over to the Parish?*

Infrastructure - *Superfast broadband to each dwelling was originally required as a planning condition, but we find no mention of this. The original approval required;*

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

Site Working Hours – *Due to the proximity of the development to Morris Court Farmhouse and the occupier who, due to his disabilities must spend much of his time at home and we note he has asked for a home visit to give his objections orally, which we trust will be afforded to him.*

We therefore request in the interests of residential amenity the site working hours are amended thus;

*No demolition or construction work in connection with the development shall take place on any Sunday or Bank Holiday, nor on any other day except between the following times: Monday to Friday 0730 - 1800 hours, **No Weekend Working** unless in association with an emergency or with the prior written approval of the Local Planning Authority.'*

- 7.02 The Council's Tree Consultant comments as follows: *'The landscaping as proposed on the detailed planting plan by PJC Consulting (DWG No PJC-0706-002, dated 06/09/2017) is acceptable and provides a good mix of native and non-native planting that is in-keeping with the landscape character of the area. Therefore, from an arboricultural perspective I have no objections to the planting proposals.'* However, knowing Members' desire to have native species within landscaping, I have requested a new drawing from the applicant showing same. I expect to receive this before the meeting, and will report to Members at that meeting.
- 7.03 The Parish Council also submitted a report from 1995, detailing the site's geology and hydrogeology. This notes that the site was once used for landfill, and that some form of quarrying/mineworking has taken place near the site in the past, and that certain

tunnels may have been constructed near the site. I note that the Council's Environmental Health Manager raised no objection to the proposal at outline stage. I acknowledge the possible existence of short tunnels near the site, but no specific information as to where these tunnels might be, or even whether or not their existence can be confirmed, accompanies the statement. This is a matter that was not brought up at outline stage and cannot be material to this application.

- 7.04 I have also received eighteen emails from the Vice Chairman of the Parish Council, commenting on highways issues, access issues, the need for street lighting, land ownership issues and traffic calming. These emails also include concerns with regard to highways and footpaths arrangements. Kent Highways and Transportation have responded as follows:

'I have spoken to my colleagues in the Agreements Team who will oversee the construction of the off-site highway works and the access, and they have confirmed that they are currently assessing the technical details that have been submitted to them in order that the developer may carry out the proposed works. The works will be carried out under a Section 278 Agreement, which is the appropriate mechanism that is used to allow a third party to undertake works on the adopted public highway.

The S278 submission and approval process is separate to the planning procedure, and it is this submission and its associated details that will ensure that the proposals are in accordance with highway design standards and is fit for purpose. Drainage details will form part of that submission, and the measures proposed will need to demonstrate that they are suitable. Once we are satisfied that the details are acceptable, and technical approval for the S278 has been given, we will notify the Planning Authority that the relevant planning condition can be discharged.

Please note though, that the developer will not be required to address any existing drainage issues that are not directly related to their development, such as disposing of the run-off from Panteny Lane and Church Street that you have referenced. They are only required to mitigate their own impact.

The informative that was requested to be included on the decision notice regarding highway boundaries is used to make developers aware that they are not able to construct development or carry out works on the public highway without gaining the Highway Authority's approval to do so first. This is in order to eliminate the risk of development proposals encroaching onto the highway, and the Highway Authority subsequently having to take enforcement action against them to have it removed. In this case, it appears to be land outside of the adopted public highway that is being questioned, so the same concerns regarding enforcement action do not apply.

Ultimately, to build the access and footway on the southern side of School Lane, the developer will have to enter into a S278 Agreement with KCC, and satisfy any technical and legal matters associated with the delivery of this. If there is any unregistered land that is outside of the public highway and the developer's ownership that is required to accommodate the proposed S278 works, there are measures included within the S278 to cover this. It is a common feature of S278 agreements, and involves the use of an indemnity policy to compensate a landowner of unregistered land, should one make themselves known at some point in the future with paper documentation to prove their ownership.

Realistically, it is unlikely that constructing on the thin sliver of land will flush out another landowner, and it is entirely possible that the discrepancy between the boundaries shown on the Land Registry title and the highway definition records could

just be down to the accuracy of the plotting. Due to the rural position of the site, the original OS mapping that both sets of data would have been plotted onto at the time would have been at a scale of 1:2500. The thickness of a pen line on those paper maps could be a couple of meters wide, so the accuracy of the boundaries once scaled up and shown on the digitised records may explain the apparent gap.'

8.0 APPRAISAL

- 8.01 It is important that Members understand that the main concerns raised now by the three objectors and the Parish Council have been or should have been flagged up at the outline stage. The highways and access issues, and the principle of development, have already been accepted and approved under planning reference 15/506945/OUT. It should be remembered that this is a Reserved Matters application, with only issues of appearance, landscaping, layout and scale being the issues for decision at this stage.
- 8.02 As such this report only considers issues relating to appearance/design, layout, landscaping and scale.
- 8.03 In terms of density, this is very low on this site, working out to be 11 dwellings per hectare (eight dwellings on 0.69 hectares). Developments in Sittingbourne have recently been between 25 and 40 dwellings per hectare, so the density here is low, as would be expected on this edge of village location.
- 8.04 With regard to appearance and design, I am of the opinion that the designs are acceptable. The use of fenestration is good, with a number of 'feature' windows. I have included a condition regarding the implementation of the external material samples submitted, to ensure that these further complement the appearance of the new dwellings.
- 8.05 I have requested and received the following minor amendments to the original submitted drawings:
- I was concerned by the small amount of amenity space allocated to Plot 5, particularly considering that this is a five-bedroom house. However, by moving plot 5 forward and plot 8 back, this has been easily rectified.
 - Similarly, I felt that the northern end wall of the proposed car barn to serve plots 1, 2 and 3 should be left open. Again, this has now been rectified.
 - An extra parking space has been shown for Plot 8
 - All planting should be of native species only. I await a new drawing showing this, and hope to report this to Members at the meeting.
 - Samples and specifications of final facing materials have also been submitted, and I have suggested a condition to see these used.

With regard to layout, as noted above, the site has a very low density. As such the layout is fairly spacious, and gives an impression of development along a roadway and around a courtyard, which I believe sits well within this site, situated as it is right on the edge of an established village. As noted above, the Council's Tree Consultant is satisfied that the proposed landscaping is acceptable. My overall view is that the proposals now represent an acceptable way of developing the site. Therefore, I am satisfied that the proposed scale, layout, appearance and landscaping are all acceptable.

- 8.06 I also acknowledge the Parish Council's concerns with regard to the protection of the countryside gap, but I do not agree that the small area of land suggested by the Parish

Council should be passed to the Parish. I do not believe there will be a further erosion of the countryside gap here; when the outline application was granted, the Council did not have a 5 year supply of housing land. With the publication of bearing Fruits 2031: the Swale Borough Local Plan 2017, that supply of housing land has been achieved; as such, further encroachment into the countryside is less likely to be successful, and the previous approval does not create a precedent; all proposals have to be assessed on their own merits.

9.0 CONCLUSION

9.01 I am of the opinion that all of the reserved matters now proposed, with the exception of native landscaping, have been addressed satisfactorily, and I recommend that the proposal be approved, subject to the receipt of satisfactory landscaping details,

10.0 RECOMMENDATION – GRANT Subject to the following conditions:

- (1) The development hereby permitted shall be carried out incorporating the sustainable construction techniques submitted to and approved by the Local Planning Authority.

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

- (2) The development hereby permitted shall be carried out using the following approved external facing materials: natural slate; Premium Black Featheredge timber weatherboarding; Phalempin Vintage clay roof tiles; lightly stippled white render; and Forterra Hampton Rural Blend bricks.

Reason: In the interest of visual amenity.

- (3) The development hereby approved shall be carried out in accordance with the following approved drawings;

1505-04B; 1505-10A; 1505-11A; 1505-12A; 1505-13A; 1505-14A; 1505-15B; 1505-16B; 1505-17B; 1505-18B **and revised landscaping drawings to be confirmed.**

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

- (4) Notwithstanding the provisions of Part 2 of The Town and Country Planning (General Permitted Development)(England) Order 2015 (as amended) the 10m wide landscaping strip on the site's western boundary and adjacent to pots 1, 4 and 5 shall not be subdivided by fences, wall or other means of enclosure.

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

- (5) The car barn intended to serve plots 1, 2 and 3 shall not be enclosed by either walls or doors on its northern (end) or western (front) at any time.

Reason; To ensure that the car barn remains available for car parking and is not used for domestic storage or other uses.

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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| | | | |
|--|--|--|-------------|
| 2.6 REFERENCE NO - 17/506010/FULL | | | |
| APPLICATION PROPOSAL Erection of an 74 suite Care Home (use class C2) with associated car parking, refuse and external landscaping. | | | |
| ADDRESS Southlands Rook Lane Bobbing Sittingbourne Kent ME9 8DZ | | | |
| RECOMMENDATION – That planning permission is GRANTED subject to completion of a S106 agreement to secure NHS contributions. | | | |
| SUMMARY OF REASONS FOR RECOMMENDATION/REASONS FOR REFUSAL Whilst the site falls outside of any defined settlement, there is an identified need for such accommodation, the development would partially be on previously developed land, the site is in a reasonably accessible location, and the countryside / landscape impacts would not be significantly adverse. | | | |
| REASON FOR REFERRAL TO COMMITTEE The recommendation is contrary to the views of Bobbing Parish Council | | | |
| WARD Bobbing, Iwade And Lower Halstow | PARISH/TOWN COUNCIL Bobbing | APPLICANT Graham Land & Development AGENT Carless & Adams Partnership | |
| DECISION DUE DATE 16/03/18 | PUBLICITY EXPIRY DATE 26/01/18 | OFFICER SITE VISIT DATE | |
| RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites): | | | |
| App No | Proposal | Decision | Date |
| 16/503411/DEMREQ | Prior Notification for demolition of former Southlands Medical Assessment Centre | Granted | 08/09/16 |
| 14/501647/OUT | Demolition of existing building. Outline planning application for re-development of the site for 12 detached dwellings with appearance, landscaping and scale reserved | Withdrawn | 07/12/15 |
| <i>This related to residential development of the land currently occupied by the former Southlands centre, and not the greenfield land to the west. The planning committee had resolved to grant permission for the development, subject to a S106 agreement. However the land was sold to another party prior to determination and the application was withdrawn.</i> | | | |
| SW/04/1580 | Alterations to provide 24 bed unit and clinic facilities for swale elderly people | Granted | 15/02/05 |
| SW/03/0755 | New vehicle access road and 45 vehicle parking spaces. | Granted | 19/09/03 |
| SW/03/0826 | Non illuminated entrance sign | Granted | |
| SW/03/0227 | Single storey extension | Granted | 18/04/03 |

| | | | |
|------------|--|---------|--|
| SW/99/0116 | Relocation of generator, demolition of redundant buildings | Granted | |
| SW/99/1144 | Outline application for 36 dwellings (on what is now Rooks View) | Granted | |

MAIN REPORT

1.0 DESCRIPTION OF SITE

- 1.01 The application site is a rectangular shaped parcel of land measuring 1.57 Ha in area. The eastern part of the site is previously developed land, occupied by the former Southlands centre, and this is a single storey building occupying a large footprint, with associated car parking. This part of the site is relatively flat and contains a number of mature trees that are protected by an area TPO. The western part of the site slopes substantially downwards to the rear (western) boundary of the site. This is undeveloped land containing largely grassland but also in part an orchard. The difference in levels is some 10 metres from east to west across the site, and some 7 metres from south to north.
- 1.02 The existing building was built in 1990 to provide residential care for dementia sufferers who could no longer reside at home. The residential element was closed some 11 years ago. The building was then used as a day centre for dementia assessment serving Sittingbourne and the surrounding area. It provided a range of functions such as one on one and group counselling and assessment, memory clinics and similar services. It took GP referrals and also accepted self-referrals. Its closure in October 2013 resulted from a reorganisation of service provision in the Swale area with the services provided elsewhere such as the Memorial Hospital.
- 1.03 The site is accessed via Rook Lane and is located behind the Rooks View housing development, so does not have a frontage onto the road. The dwellings at Rooks View also flank the site to the south, and Demelza house is located to the north. Land to the west is undeveloped – and this land rises to the west. As a result, the rear part of the site effectively sits in a valley. A belt of trees line the boundary with Demelza House. The west (rear boundary) is open.
- 1.04 The site (in part) forms part of a cluster of buildings accessed via Rook Lane, but is not located within a defined settlement and therefore falls to be considered as countryside under the local plan. Rook Lane is also designated as a rural lane.

2.0 PROPOSAL

- 2.01 The application seeks permission to demolish the former southlands centre and erect a 74 suite care home, for elderly people requiring specialist nursing and dementia care. Whereas the existing building is located on the eastern side of the site, the proposed care home would be sited on the western side, on what is presently undeveloped land. The care home would be arranged over three storeys, with the top floor contained within the roof space. Due to the significant levels changes, the building would be cut into land levels so that effectively the ground floor of the east facing elevation would be hidden by the rising land to the east. Due to cut and fill, the land levels would also be raised towards the north of the site to provide a level platform for the building.

- 2.02 The building would contain 74 “care suites”, and the applicant sets out that residents would benefit from much more space than traditional nursing homes bedrooms, to provide greater social space, dining space, and a kitchenette. The suites – which come in two formats - would measure a minimum of 23 sqm, which exceed minimum National Care Standards of 12 sqm. Other facilities would include communal lounge / dining areas, a tea bar, cinema room, hair and beauty treatment room, and a training room. The building would also accommodate a Day Centre for local elderly people, measuring some 50 sqm in size.
- 2.03 The building would be roughly “J” shaped in footprint, with two large wings at either end. It would measure some 67 metres in width and 40 metres in depth, approximately 5.5 metres in height to the eaves, and up to 12.5 metres in height to the tallest ridge lines. The building has been designed with varying ridge lines, gable features, dormers windows and hipped roofs. The elevations would be finished in a combination of brickwork, render and boarding, and the roof would be in clay tiles. It would be sited between 13 and 21 metres from the southern boundary with dwellings at Rooks View, and a similar distance to the northern boundary with Demelza House.
- 2.04 The application proposes to utilise much of the land occupied by the existing building at Southlands as a communal garden / orchard area, and would provide 50 car parking spaces, including overspill parking to be finished with seeded geocellular paving.
- 2.05 The existing orchard would be removed from the site, as would three Birch Trees, a Hawthorn tree and a multi-stemmed crack willow tree. All other trees are shown for retention.
- 2.06 The proposed care building would be set into land level so that the ground floor would be approximately 7-8 metres below the ground floor level of dwellings at Rooks View.

3.0 PLANNING CONSTRAINTS

- 3.01 Outside of designated built confines
 3.02 Rook Lane is a designated rural lane
 3.03 Site is within a Groundwater Source Protection Zone
 3.04 The eastern part of the site (and Rooks View) is subject to Area TPO 1 of 2000

4.0 POLICY AND OTHER CONSIDERATIONS

- 4.01 **The National Planning Policy Framework (NPPF)** – paragraphs 7 (3 dimensions to sustainable development), 14 (presumption in favour of sustainable development), 17 (core planning principles), 18-20 (economic growth), 28 (supporting a prosperous rural economy), 32 (traffic impacts / sustainable transport options), 50 (providing a mix of housing including needs for older persons), 55 (avoiding isolated new homes in the countryside), 56 (good design), 70 (guarding against the loss of community facilities), 109 (protecting the natural environment), 111 (effective use of brownfield land), 117-118 (biodiversity)
- 4.02 **The Swale Borough Local Plan – Bearing Fruits 2031** – Policies ST2, ST3, ST5, CP3, CP4, CP5, DM6, DM7, DM14, DM24, DM26, DM28.
- 4.03 **Supplementary Planning Documents:** - The Swale Landscape Character and Biodiversity Appraisal 2011

5.0 LOCAL REPRESENTATIONS

- 5.01 8 letters of objection were received following the original notification process. Following amendments to the scheme, a further 7 letters of objection have been received, raising the following concerns –
- Size and scale of building is excessive
 - There are already 3 other care homes nearby
 - Overlooking of properties and gardens in Rooks View
 - The access between Rook Lane and the A2 is dangerous
 - Additional traffic will be generated from the development
 - Disturbance during construction
 - Trees must be retained on the site
 - Excavation works will undermine properties on Rooks View, where there is a history of subsidence
 - Impact of the development on surrounding trees
 - Numerous windows in the new building will face directly towards existing dwellings on Rooks View, where there are currently no such windows.
 - Disturbance from day to day operation of the care home
 - Light pollution
 - Rook Lane is not designed for HGV's
 - Improvements to Rook Lane / the A2 junction must be made if this is approved
 - The proposal to allow Demelza House to use part of the car park is not required
 - Impact / loss of a rural setting
 - Size, scale and mass will be overbearing
 - Unacceptable visual impact
 - The building would be out of keeping with the area
 - Loss of views for residents in Rooks View
 - This will result in financial reward for the applicant at the expense of local residents
 - The site is not allocated in the Local Plan and is in the open countryside and should be protected against development.
 - The brownfield land is only on the eastern side of the development.
 - The design is not in keeping with the low density character of the area, or the barn / oast-like character of Demelza House
 - Over-use of dormer windows on the building
 - Landscaping offers limited screening
 - The site is a BAP habitat, and there are bats present. The orchard has remained undisturbed.
 - Transport links are insufficient – infrequent bus / train services – which will not suit people working shifts
 - The traffic survey was carried out at the end of school holidays
 - The development fails to protect Rook Lane as a designated rural lane.
 - Mutual overlooking between the care home and properties in Rooks View
 - The refuse point is sited unacceptably close to existing dwellings
 - Impact on a secondary aquifer
 - The community garden would present a security issue
 - No need for additional care homes. Permission exists for a 60 bed care home in Iwade (on land adjacent Coleshall Farm)
 - Concern over occupancy of care home, and how this can change under the Use Classes Order
 - The west part of the site was never part of the Southlands site and was purchased at a later date.

- Impact on biodiversity / wildlife
- Cumulative impact of development in the area, including the new dwellings on Rook Lane, and the proposals for housing on the opposite side of the lane (see reference 18/500258/FULL, which envisages 23 dwellings, a car park and outdoor area for events).

6.0 CONSULTATIONS

6.01 **Bobbing Parish Council** – raise objection to the application for the following reasons

–

- The site is not allocated for housing in the adopted Local Plan and is outside of the built-up area boundary.
- The actual proposed building is not on previously developed land (i.e. Southlands footprint).
- The size, scale and mass are not in character with the surrounding developments.
- The Parish Council understands from residents that at certain times of the year numerous bats are present on the site, the survey does not really support this.
- The Parish Council understands that the orchard part of the site may contain historic and rare fruit trees. It would like to see a professional survey and report covering this aspect. Are there plans to save any rare trees? This area (Orchard) may also be the home of a rare beetle (the noble chafer beetle) which is extremely rare. These have been found in a neighbouring parish and this needs to be investigated.
- Access to public transport is poor. The Medway to Sittingbourne bus service is limited, a considerable walking distance away and with poor access to bus stops. There are no pavements for pedestrians.
- Concern regarding traffic generated by the care home - all of which would enter or leave the area from the A2 - Rooks Lane junction or the Bobbing Hill - Key Street roundabout junction, two of the most notorious junctions in the local area for accidents.
- This application should not be considered in isolation - within a short distance approval has recently been given to five more detached houses, on the old waterworks site adjacent to the Rook View development. The Parish Council has recently had a presentation of a proposed planning application for a development of twenty houses, plus a large car park and worker accommodation to the east side of Rook view. This whole area is in danger of being transformed from one with a rural character to one, which is being over developed without the infrastructure to cope with this.
- Concerns over future use which could be changed under Permitted Development rights. The Parish Council requests that if approved these are removed so that this cannot be changed from a Care Home unless planning permission is first obtained.

6.02 **KCC Drainage** - No objections raised, subject to conditions

6.03 **KCC Commissioning Officer – Accommodation Solutions** - Kent County Council would like to express its support for this development in Swale. It fits with the need for modern care home provision locally and demographic projections as laid out in our Accommodation Strategy.

- 6.04 **Kent Police** - Do not raise objection but observes that the application does not demonstrate how crime prevention has been designed out. Recommend the imposition of a planning condition to deal with this.
- 6.05 **Rural Planning Ltd** – advises that the undeveloped part of the site is approximately 0.8 ha and has not been in productive commercial use for many years. The 1976 Soil Survey study indicates that this land is unlikely to fall as best and most versatile agricultural land. On this basis the loss of agricultural land is not considered to be a significant consideration in this instance.
- 6.06 **UK Power Networks** - No objection
- 6.07 **Environment Agency** - No objection subject to conditions
- 6.08 **KCC Highways and Transportation** – advise that no objection is raised to the development. The submitted Transport Assessment considers the previous use as a care home and demonstrates that predicted peak traffic movements arising from the new care home are likely to be less than those generated by the former use in the AM peak and just 2 more during the PM peak. It is also noted that the most recent use of the site was as a specialised EMI (Elderly, mentally, infirm) day centre, with potential to generate over 50 movements in the AM peak and 40 movements at PM peak. Typically this could also generate similar numbers throughout each hour of the working day. Historic aerial photos also show that actual parking was much greater reported in the Transport Assessment, indicative of the more intensive use of the building as a day centre.
- 6.09 There is therefore no justification to raise concerns over traffic impact. The access and internal layout are suitable and parking provision is in line with relevant standards for this use. Recommend conditions to require parking / loading turning details during construction works, to take precautions to guard against mud on the highway, retention of car parking for the development, and cycle parking. Would also raise no objection to improvements to Rook Lane as suggested by the applicant, to change priority arrangements near the junction with the A2.
- 6.10 **KCC Ecology** – advise that the applicant has submitted a Traditional Orchard Mitigation and Compensation Strategy which confirms that an orchard will be planted elsewhere on site and created with a mixture of translocating existing trees and planting new trees. Subject to a condition to set out the methodology of for creating the orchard and subsequent management, no objection is raised to this.
- 6.11 Emergence surveys demonstrate that 1 bat was roosting in the existing building. No objection is raised to the mitigation measures in the ecology report to deal with this. Reptiles are present on site and the report details that a mitigation area within the site will be created. Overall, and subject to conditions, KCC Ecology do not object to the development.
- 6.12 **Natural England** - No Objection. Since this application will result in a net increase in residential accommodation, impacts to the coastal Special Protection Area(s) and Ramsar Site(s) may result from increased recreational disturbance. As your authority has measures in place to manage these potential impacts through the agreed strategic solution, subject to the appropriate financial contribution being secured, Natural England is satisfied that the proposal will mitigate against the potential effects

of the development on the site(s) and that the proposal should not result in a likely significant effect.

- 6.13 **Southern Water** – comment that an initial study indicates that Southern Water cannot currently accommodate the needs of this application without the development providing additional infrastructure, otherwise the development would increase flows into the wastewater sewerage system and increase the risk of flooding.
- 6.14 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.
- 6.15 Should the Local Planning Authority be minded to approve the application, a condition should be attached to require a drainage strategy to be submitted and approved.
- 6.16 **SBC Tree Officer** – raises no objection to the removal of the old orchard trees, and is satisfied that important existing trees on site (including those protected by a TPO) will be retained, subject to conditions relating to tree protection measures. No objection to the new soft landscaping scheme as revised.
- 6.17 **Environmental Protection Team Leader** – No objections, subject to conditions to control hours of construction, suppression of dust, and to deal with any land contamination.
- 6.18 **NHS England** -Request a contribution of £36,000 to mitigate the likely additional impacts upon services in the area.

7.0 APPRAISAL

Principle of Development

- 7.01 The site is located outside of the defined settlement boundaries and falls to be considered as open countryside under policy ST3 of the adopted Local Plan. This policy states that in such locations, development will not be permitted unless supported by national policy and where it would contribute to protecting the intrinsic value, setting, tranquillity and beauty of the countryside.
- 7.02 Part of the site (extending to 0.75 hectares) falls to be considered as previously developed land. Paragraph 111 of the NPPF encourages the effective use of such land, provided it is not of high environmental value.
- 7.03 The proposal would deliver a residential led development with additional employment benefits - the application states that upwards of 100 staff would be employed. Paragraph 28 of the NPPF supports sustainable economic growth in rural areas. Paragraph 47 of the NPPF seeks to significantly boost housing supply. Paragraph 50 seeks to deliver a wide choice of housing, including the needs of different groups, such as older persons. Policy CP3 of the adopted Local Plan similarly seeks to provide a range of housing to meet needs, and seeks to prioritise the development of previously developed land.
- 7.04 Policy ST2 of the adopted Local Plan sets out the development targets in Swale for the plan period, including housing, but does not include specific targets for care homes.

- 7.05 The applicant has provided a needs assessment for care home proposals in the Borough. This sets out that within a 5 mile radius of the site, the population of persons aged 65 years and above is set to increase by 1,100 persons by 2027, and those persons aged 85 years plus by 1000 persons during the same period. In turn, forecast demand for persons requiring care will increase from 646 to 928 persons by 2027.
- 7.06 The report sets out that there is currently a supply of 556 care bed spaces in the catchment area, of which 7% are shared rooms. In addition, a number of single bedrooms have no ensuite facilities, or are less than the current size standard of 12 sqm per room. The report identifies a current shortfall of 70 beds in 2017 and a projected shortfall of up to 332 single room spaces in the 5-mile catchment area.
- 7.07 Kent County Council has been consulted on the application and advises – as set out at Paragraph 6.03 above - that it would fit in with the needs for care home provision and demographic projections as set out in the KCC Accommodation Strategy.
- 7.08 The applicant has also submitted an alternative site assessment, which has considered other sites within urban confines in the catchment area. These have been discounted as either not fitting relevant site area criteria, not being available, or being allocated / with permission for conventional housing. Although permission has been granted for a care home at Coleshall Farm, Iwade, this would be a 60 bed unit and would not address forecast needs.
- 7.09 Taking the above into account, there are a number of competing issues to be balanced. Whilst the site is located outside of the built confines, it falls within a cluster of development on Rook Lane and part of the site represents previously developed land. The proposal would provide a form of accommodation for which a clear need has been identified, and which is expected to grow in coming years. The scheme would also provide employment benefits. Balanced against this is the impact of a large development on the intrinsic value, character and landscape setting of the countryside, whether the site is in an accessible location, as well as localised impacts including residential amenity, and highways movements. These are considered in greater detail below.

Visual and Landscape Impact

- 7.10 Policy DM14 of the adopted plan states that developments should respect the positive features of a site and locality, be well sited, and of a scale, design and appearance that is sympathetic and appropriate to the location. Policy CP4 states that all developments should be of high quality design and appropriate to their surroundings.
- 7.11 As a purpose-built care home, the building would occupy a large footprint and would be substantial in scale and form. The scale of the building is mitigated in part by the topography of the site and the design to build into the lower slope of the site. The effect of this is that building would appear no taller than the existing building on site, when viewed from Rook Lane, and much of the building would be lower than the road level of Rooks View.
- 7.12 The building has been designed in a rough J shape with a series of projecting gable features and use of different materials on the elevations – render, brick and weatherboarding. Rooflines are varied throughout the building, with a series of dormer windows in the roof to provide the third floor of accommodation. The building footprint, projections, varying rooflines and elevational materials all help to add interest and break up the scale of the building, which is architecturally superior to the existing building on site, albeit on a much larger scale.

- 7.13 Although the building is much greater in scale and form than the dwellings to the south, it does provide a care facility use which would have some similarities with the Demelza House complex to the north.
- 7.14 The land to the east of the site would be largely provided as a garden / green setting to the building. It includes retention of existing mature trees protected by a TPO, and provision of an area of new orchard planting to replace the orchard to be removed. In addition, areas of green space providing a residents' gardens would be provided to the north, south and west of the building.
- 7.15 In landscape terms, the site is a non-designated landscape. Policy DM28 of the adopted plan states that such landscapes will be protected and enhanced, and that planning permission will be granted subject to the minimisation and mitigation of adverse landscape impacts, or where significant adverse impacts remain, that the social and / or economic benefits of the proposal significantly outweigh any landscape harm.
- 7.16 The Swale Landscape Character and Biodiversity Appraisal (which is adopted as a supplementary planning document) designates the site within the Iwade Arable Farmlands. It describes the landscape as a gently undulating rural landscape, with medium and large scale fields providing long views across open the landscape; buildings of mixed style built in the mid to late 20th Century, the dominance of several major transport links through the area; a sense of isolation and a sense of tranquillity due in part to topography. The overall condition of the landscape is rated as poor, and landscape sensitivity is rated as moderate.
- 7.17 The applicant has provided a Landscape and Visual Impact Assessment (LVIA) for the site. This makes reference to the following characteristics –
- That the building would be no taller in the landscape than the existing building on site (due to levels changes)
 - That the site benefits from mature landscaping, which is a key landscape feature of the site
 - That replacement of the existing building with a larger building to the west of the site would give rise to adverse impacts. However the design of the scheme and existing / proposed landscaping would mitigate this, with an overall minor adverse impact on landscape character arising.
 - In visual amenity terms, the assessment sets out the main public visual receptors to be from the road and public right of way network. From the road network, the development would have a limited effect due to the backland location of the building, and falling topography. From the public right of way network, particularly to the north [on PROW ZR105], the impact of the development would be mitigated by landscaping and by existing built form surrounding the site.
 - The assessment concludes that there would not be any significant landscape or visual effects arising from the development.
- 7.18 I would generally agree with the findings of the LVIA. Whilst the building is extensive in size, it would not have significant landscape impacts from the east or west due to the topography of the site and surrounding area, which helps to screen the building. From the south, the building would be screened by the Rooks View development, and would be on lower ground than this housing. In my opinion, the greatest landscape impact would be from the north and from the public footpath network, where short and medium distance views can be attained of the site. Whilst existing landscaping would provide some screening, the building would still be visible through this. However the

building would be lower in height than the dwelling at Rooks View seen in the backdrop of such views, and the tallest buildings in the Demelza House complex. The scheme has also been amended to lower the height of the building in the north corner of the site, to help reduce its wider visual impact. Taking the above into account, whilst there would be an adverse impact on the countryside through the act of developing a partially undeveloped site, I am satisfied that adverse landscape impacts are minimised by the design of the building, removal of the existing building, the topography of the site, the screening effect of existing mature landscaping (and ability to strengthen this with new landscaping), and surrounding built form. As such, I consider that the scheme would accord with policy DM24 of the adopted Local Plan.

- 7.19 In design and scale terms, the building is large and different to the residential housing to the south and east of the site. However as a care home use, it does share some similarities with the Demelza House complex to the north. I consider the building to be well designed, and the scheme respects existing site features through the retention of landscaping and use of the sloping site to manage the scale and visual impact of the development. In my opinion, the scheme would not be in conflict with Policies CP4 or DM14 of the adopted plan.

Residential Amenity

- 7.20 Policy DM14 of the adopted Local Plan states that developments shall cause no significant harm to surrounding amenities or other sensitive uses. In this instance, the key impacts relate to those on the dwellings at Rooks View, and on Demelza House which is clearly sensitive due to the nature of hospice care that it provides.
- 7.21 The proposed care home building would be sited immediately to the rear of the dwellings at 19, 20 and 21 Rooks View. A separation gap of between 28 metres and 33 metres would be maintained between the flank wall of the care home and these dwellings. In addition, due to differing land levels, the dwellings are sited at a much higher level than the care home - to the effect that the first two floors of the care home would be set lower than the ground floor levels of these dwellings. As such, the main outlook from the ground floor of these dwellings would be the roof of the proposed building.
- 7.22 Following concerns raised by residents, the applicant has amended the scheme to remove the large gable features originally shown in this elevation facing Rooks View, and to lower part of the building. Whilst I acknowledge that residents currently enjoy a view over an undeveloped area of land, Members will appreciate that protection of views is not a material planning consideration. In privacy terms, given the differences in levels and the separation distance of at least 28 metres, I do not consider that this would result in an unacceptable impact on existing dwellings. In terms of light and outlook, given the changes in land levels the care home would be sited well below the roofline of these dwellings, and at a distance of at least 28 metres I do not consider there to be unacceptable light or outlook impacts. Whilst the proposal would clearly change the view and outlook from these dwellings, this cannot be protected in absolute terms under the planning system.
- 7.23 The dwellings on Rooks View that border the eastern side of the site, where the existing building, is sited would face onto the orchard, gardens and parking area. In my opinion, this would have no greater impact on amenity than the existing building and historic use of the site, and would be likely to have much less impact.

- 7.24 Some residents have complained about disturbance during construction, disturbance from the care home operation, and the effects of light pollution. Whilst there would be some disturbance arising from activities connected to the care home use, as this is primarily a residential use I do not consider such disturbance would be significant, and I note that the Environmental Protection Team Leader (see Paragraph 6.17 above) does not raise objection on such grounds. Disturbance during construction can be managed via a condition requiring a construction management plan. I do not consider light pollution to be significant given the existing lawful use of part of the site, the changes in land level which mean that any lighting is likely to be at a lower level, and the use of modern lighting technology which limits light spill. Again, a condition would control this.
- 7.25 Demelza House, as a childrens' hospice, has particular characteristics that should also be given weight - it is set in rural and relatively tranquil surroundings (notwithstanding background noise from the A2 and A249) and it is important that the impacts of the development on patients and their families are fully considered. In this respect, the proposal would provide a residential care facility that, by its nature, would be unlikely to raise significant noise or amenity issues. The proposed care home building would be sited some 50 metres from the buildings at Demelza House, with intervening landscaping. Overall, I do not consider this would be likely to impact upon the particularly sensitive nature of the Demelza House use.
- 7.26 Taking the above factors into account, I do not consider that the development would result in any unacceptable impacts on surrounding properties and uses, and this would accord with policy DM14 of the adopted Local Plan.

Highways and locational sustainability

- 7.27 Policies DM6 and DM7 of the adopted Local Plan require that development proposals generating significant traffic are submitted with a Transport Assessment (TA), that opportunities for sustainable transport modes have been taken up, that any adverse impacts on the highway are mitigated, that air quality is not worsened, and that appropriate parking is provided.
- 7.28 The application has been submitted with a TA This demonstrates that traffic generated by the development in the morning peak hour is likely to be less than the former use of the Southlands centre, and particularly its last use as an EMI day centre. KCC Highways and Transportation are satisfied that such vehicle generation is acceptable.
- 7.29 The site is located approximately 2kms from Newington station and a bus service operates along the A2, providing transport links to Medway and Sittingbourne. The A2 is a lit road with a dedicated pavement. Whilst Rook Lane does not provide a pavement connection to the A2, it is possible to walk through the Rooks View development to the A2 via a pedestrian link. In my opinion, this provides some transport choice for staff and visitors, albeit I recognise that some staff working shifts may not benefit from this.
- 7.30 The scheme proposes 50 parking spaces to serve the development, and KCC Highways and Transportation advise that this is acceptable.
- 7.31 The applicant has offered to implement an improvement scheme to the existing priority road narrowing in Rook Lane, to give priority to vehicles turning from the A2 onto Rook Lane. However I note that this arrangement has been secured under the

terms of the planning permission for 5 houses on the Southern Water site on Rook Lane.

Landscaping

- 7.32 The proposal would involve retention of many of the trees on site, and those on the eastern side of the site, as well as those off-site trees on the southern boundary are protected by an area Tree Preservation Order. Five trees are shown for removal, and although they are covered by the TPO, Members will note that they are rated Category B and C trees in the arboricultural report submitted with the application. As noted above, the Tree Officer raises no objection to this, and I am satisfied that the mature landscaped character of the eastern part of the site and site boundaries would not be adversely affected by the development.
- 7.33 The scheme includes large areas of new landscaping particularly on the eastern side of the site, to incorporate a communal garden, new orchard and wildlife mitigation area. Further tree planting is also proposed on the western and southern boundaries of the site. The Tree Officer is satisfied that such planting is appropriate.

Ecology

- 7.34 A mature fruit orchard, extending to 0.8 hectares, is sited on part of the western side of the site, and will be removed as a result of the development. Traditional orchards are a habitat of principle importance and a BAP Habitat. The application includes a Traditional Orchard Mitigation and Compensation Strategy which sets out that a new orchard, of 0.13 hectares, will be planted to the east of the site, and created through translocation of existing trees and planting new trees.
- 7.35 In addition, ecological surveys have revealed a bat roost in the existing building and a population of slow worms. The reports identify mitigation, to provide a receptor area for slow worms to the east side of the site, and provision of a bat box in a tree and bat access roof tiles in the proposed building.
- 7.36 Policy DM28 of the adopted plan sets out that adverse impacts on biodiversity must be mitigated, and that the preservation, restoration or re-creation of priority habitats (including BAP Habitats) should be promoted. The KCC Ecologist is satisfied that the above mitigation measures are acceptable and on this basis I consider the impacts on biodiversity to be in accordance with this policy.
- 7.37 I note that Natural England has made reference to the potential for recreational disturbance on the Swale and Medway SPA and Ramsar sites. However, as this application is for specialised elderly and dementia care accommodation, I do not consider that residents would be likely to materially add to recreational disturbance, and on this basis I am satisfied that there would not be any negative impacts.

Other Matters

- 7.38 As a former day centre, the existing building offered a healthcare facility for the public. Policy CP6 of the adopted Local Plan seeks to retain such facilities to meet local needs. In this instance, I note that the premises have been closed for almost 5 years and that the services previously provided have been located elsewhere. I also note that Members had resolved in principle to allow the site to be developed for housing under application 14/501647, albeit that application was eventually withdrawn. On this basis, I do not raise objection in principle to the loss of this former use.

- 7.39 Rook Lane is a designated Rural Lane under Policy DM26 of the adopted Local Plan. The policy states that permission will not be granted for development that physically or through traffic levels would significantly harm the character of rural lanes. In this instance, KCC Highways do not raise concern that the development would increase traffic levels, and no physical works are required to the lane to accommodate the development. On this basis, I do not consider the scheme would conflict with this policy.
- 7.40 Some residents of Rooks View have raised concern that the development could impact upon land stability, given the changes in level. Some also report historical problems with subsidence. Any excavation and retaining wall structures will need to be engineered to avoid this. However, this is not a matter that falls under planning control.
- 7.41 Concern has been raised that the proposal should be considered cumulatively with other developments in the area, including the 5 dwellings on Rook Lane, and the current application for housing development on the east side of Rook Lane. Each application should be considered on its own merits, but in any case, this scheme demonstrates that there would be no material highway impacts, and I have set out above why I consider the visual impacts of the development to be limited.
- 7.42 NHS England advises that the development would generate a need for a contribution towards local services and facilities. The applicant has agreed to pay such costs.

8.0 CONCLUSION AND FINAL BALANCING

- 8.01 The site falls outside of any defined settlement boundary under policy ST3 of the development plan and in the open countryside where there is a general presumption against development unless supported by the NPPF and where impacts on the countryside are acceptable. The scheme would result in the partial development of previously developed land and the application also sets out that there is an identified need for this type of accommodation in the local area. The scheme would provide employment opportunities and I consider the site to be relatively accessible and provide travel options, albeit I note that some services are limited.
- 8.02 I consider that this scheme hinges on the extent of harm to the countryside and landscape, balanced against the need for such accommodation and partial re-use of brownfield land. In this respect, I have concluded in the sections above that the countryside / landscape harm is limited due to topography, design, screening and surrounding built form. In addition, I note that the site does not fall within a designated landscape and would involve the removal of an existing building of no merit. In my opinion, the need for such accommodation in a location that is reasonably accessible would outweigh the limited harmful impact on the countryside and landscape.
- 8.03 I have also concluded that the scheme is acceptable in highways, ecology and landscape terms, and that whilst there would be an impact on neighbouring dwellings, such impact would not be unacceptable in planning terms.
- 8.04 Paragraph 7 of the NPPF sets out the three dimensions to sustainable development, and paragraph 14 sets out how such development should be seen as a golden thread through plan-making and decision-taking.
- 8.05 In economic terms, the development would provide short-term construction employment, and long-term employment opportunities for care home staff. In social terms, the development would provide a form of accommodation for older persons.

This is recognised as a sector of the population that is forecast to grow, and the development would help address such accommodation needs. In environmental terms, there would be some adverse impacts to the countryside and landscape, however these are not considered to be significant.

8.06 As I have assessed this specifically on the basis of an identified need for care home accommodation for persons aged 65 years +, I consider it would be appropriate to attach conditions to prevent use of the building for any other purpose, and to prevent occupation by persons under this age.

8.07 Taking the above into account, I would conclude that the development is acceptable, subject to completion of a S106 agreement to secure NHS contributions.

9.0 RECOMMENDATION – GRANT Subject to the signing of a suitably-worded Section 106 agreement and the following conditions -

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

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

- 2) No development beyond the construction of foundations shall take place until details in the form of samples of external finishing materials to be used in the construction of the development hereby approved have been 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.

- 3) The development hereby permitted shall be carried out in accordance with the following approved plans: A-684 02B, 03B, 04B, 11B, 12C, 22C and LC/00185 001 Rev D.

Reason In the interests of proper planning

- 4) No development (including demolition or earthworks) shall take place until tree protection measures have been installed in full accordance with the arboricultural statement reports (AR/3841rgL2, dated 17th May 2017 and AR/3481d/jq, dated 8th November 2017). No equipment, machinery or materials shall be brought on to the site until the protection measures are installed, and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed, nor fires lit, within any of the area fenced in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavation be made, without the written consent of the Local Planning Authority.

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

- 5) No tree shown for retention shall be damaged, cut down, uprooted or destroyed, nor shall any retained tree be pruned other than in accordance with the Arboricultural Statement Reports (AR/3841rgL2, dated 17th May 2017 and AR/3481d/jq, dated 8th November 2017), without the written approval of the Local Planning Authority. Any pruning approved shall be carried out in accordance with British Standard 3998:2010

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

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

6) No development shall commence until the developer has (at their own expense):

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

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

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

7) Landscaping of the site shall be in accordance with the details shown on the soft landscaping proposals drawing LC/00185 001 Revision D. 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.

8) 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.

9) No development beyond the construction of foundations shall take place until full details of hard landscape works have been submitted to and approved in writing by the Local Planning Authority. These details shall include means of enclosure, hard surfacing materials, retaining wall structures, site levels changes and an implementation programme.

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

10) 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.

- 11) No development shall take place, including any works of demolition, until a Construction 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. The Statement shall provide for:
- i. the parking of vehicles of site operatives and visitors
 - ii. loading and unloading of plant and materials
 - iii. storage of plant and materials used in constructing the development
 - iv. the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
 - v. wheel washing facilities and measures to guard against the deposit of mud and similar substances on the highway
 - vi. measures to control the emission of dust and dirt during construction
 - vii. a scheme for recycling/disposing of waste resulting from demolition and construction works

Reason : In the interests of residential amenity.

- 12) No demolition or construction work in connection with the development shall take place on any Sunday or Bank Holiday, nor on any other day except between the following times :-
Monday to Friday 0730 - 1800 hours, Saturdays 0830 - 1300 hours unless in association with an emergency or with the prior written approval of the District Planning Authority.

Reason : In the interests of residential amenity.

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

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

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

Reason: To ensure any contaminated land is adequately dealt with

- 15) 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.

- 16) 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 a remediation strategy detailing how this contamination will be dealt with has been submitted to and approved in writing by the Local Planning Authority. The remediation strategy shall be implemented as approved.

Reasons: To ensure that the development does not contribute to, or is not put at unacceptable risk from, or adversely affected by, unacceptable levels of water pollution from previously unidentified contamination sources at the development site in line with paragraph 109 of the National Planning Policy Framework.

- 17) Development shall not commence until a drainage strategy detailing the proposed means of foul disposal, any off site works required and a implementation timetable, has been submitted to and approved in writing by, the local planning authority in consultation with the sewerage undertaker. The development shall be carried out in accordance with the approved scheme and timetable.

Reason: To ensure suitable capacity in the drainage network

- 18) Development shall not begin until a detailed sustainable surface water drainage scheme for the site has been submitted to (and approved in writing by) the local planning authority. The detailed drainage scheme shall demonstrate that the surface water generated by this development (for all rainfall durations and intensities up to and including the climate change adjusted critical 100 year storm) can be accommodated and disposed of within the curtilage of the site without increase to flood risk on or off-site. The drainage scheme shall also demonstrate that silt and pollutants resulting from the site use and construction can be adequately managed to ensure there is no pollution risk to receiving waters.

Reason: To ensure the development is served by satisfactory arrangements for the disposal of surface water and to ensure that the development does not exacerbate the risk of on/off site flooding. These details and accompanying calculations are required prior to the commencement of the development as they form an intrinsic part of the proposal, the approval of which cannot be disaggregated from the carrying out of the rest of the development.

- 19) No building hereby permitted shall be occupied until details of the implementation, maintenance and management of the sustainable drainage scheme have been

submitted to and approved in writing by the local planning authority. The scheme shall be implemented and thereafter managed and maintained in accordance with the approved details. Those details shall include:

- a) a timetable for its implementation, and
- b) 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 any measures to mitigate flood risk and protect water quality on/off the site are fully implemented and maintained (both during and after construction), as per the requirements of paragraph 103 of the NPPF and its associated Non-Statutory Technical Standards.

- 20) No infiltration of surface water drainage into the ground is permitted other than with the written consent of the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reasons: To ensure that the development does not contribute to, or is not put at unacceptable risk from, or adversely affected by, unacceptable levels of water pollution caused by mobilised contaminants in line with paragraph 109 of the National Planning Policy Framework.

- 21) 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: To protect the underlying groundwater from the risk of pollution.

- 22) The area shown on the submitted layout as vehicle parking and turning space shall be provided, surfaced and drained to the satisfaction of the Local Planning Authority before the use is commenced or the premises occupied, and shall be retained for the use of the occupiers of, and visitors to, the premises, and no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order), shall be carried out on that area of land so shown or in such a position as to preclude vehicular access to this reserved parking space.

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

- 23) The development hereby approved shall not be occupied or the approved use commenced until space has been laid out for cycles to be securely sheltered and stored in accordance with details to be submitted to and approved in writing by the Local Planning Authority.

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

- 24) 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 principle and physical security requirements of Crime Prevention through Environmental Design (CPTED) have been submitted to and approved in writing by the Local Planning Authority. The approved measures shall be implemented before the development is occupied and thereafter retained.

Reason: In order to minimise opportunities for crime or anti-social behaviour.

- 25) Prior to commencement of development of the new building hereby permitted, the existing buildings shown on the approved site plan shall be demolished and all material removed from the site.

Reason: To avoid an accumulation of buildings on the site, to accord with the terms of the application and protect the character and appearance of the area and wider countryside.

- 26) The premises shall be used for the purposes of a care home and ancillary elderly persons day centre as shown on the approved plans, and for no other purpose whatsoever, including any other purposes in Class C2 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended) and any other use 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.

Reason: In the interests of the amenities of the area, and to accord with the terms of the application which identifies substantial need for care home accommodation and which carries particular weight in the decision making process.

- 27) The development shall only be occupied by residents aged 65 years and above.

Reason: To accord with the terms of the application which identifies substantial need for accommodation for such persons and which carries particular weight in the decision making process.

- 28) The development shall be constructed to achieve the BREEAM “very good” standard or equivalent as a minimum.

Reason: to deliver a sustainable form of design and construction

- 29) The development shall be carried out in strict accordance with the bat mitigation measures detailed within the Bat Emergence Survey and Mitigation Strategy Report (Corylus Ecology; June 2018). If no the development is not commenced on the site by 31st December 2019, an updated bat survey shall be submitted to and approved in writing by the Local Planning Authority prior to such commencement.

Reason: In the interests of biodiversity

- 30) No development shall take place until -
 i) a method statement for the translocation / grafting of the existing trees as set out in the Traditional Orchard Mitigation and Compensation Strategy and Reptile Mitigation Strategy by Corylus Ecology has been submitted to and approved in writing by the Local Planning Authority.

- ii) all mitigation measures as set out in the Traditional Orchard Mitigation and Compensation Strategy and Reptile Mitigation Strategy; Corylus; April 2018 have been carried out.

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

Reason: In the interests of biodiversity

- 31) Within 6 months of works commencing on site an ecological management and enhancement plan must be submitted to the Local Planning Authority for written approval. The plan must include the following information:
- Overview of the habitats present on site
 - Details of the mitigation implemented within the site
 - Aims and objectives of the management plans
 - Details of the management required to be implemented in the site
 - 5yr management programme – capable of being rolled forward
 - Details of enhancements to be incorporated in to the site
 - Site plan clearly showing the management areas and ecological enhancements

The plan must be implemented as detailed within the approved plan.

- 32) Prior to first occupation of the development, the details and specification of any external lighting shall be submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of biodiversity and surrounding amenity.

INFORMATIVES

- 1) It is the responsibility of the applicant to ensure, before the development hereby approved is commenced, that all necessary highway approvals and consents where required are obtained and that the limits of highway boundary are clearly established in order to avoid any enforcement action being taken by the Highway Authority. Across the county there are pieces of land next to private homes and gardens that do not look like roads or pavements but are actually part of the road. This is called 'highway land'. Some of this land is owned by The Kent County Council (KCC) whilst some are owned by third party owners. Irrespective of the ownership, this land may have 'highway rights' over the topsoil. Information about how to clarify the highway boundary can be found at <https://www.kent.gov.uk/roads-and-travel/what-we-look-after/highway-land/highway-boundary-enquiries>
- 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
- 2) The applicant is reminded that, under the Wildlife and Countryside Act 1981, as amended (section 1), it is an offence to remove, damage or destroy the nest of any wild bird while that nest is in use or being built. Planning consent for a development does not provide a defence against prosecution under this act. Trees and scrub are likely to contain nesting birds between 1st March and 31st August inclusive. Trees and scrub are present on the application site and are to be assumed to contain nesting birds between the above dates, unless a recent survey has been undertaken by a competent ecologist to assess the nesting bird

activity on site during this period and has shown it is absolutely certain that nesting birds are not present.

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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| | | | |
|---|---|--|-------------|
| 2.7 REFERENCE NO - 18/500973/FULL | | | |
| APPLICATION PROPOSAL Demolition of former residential care home building and erection of 21 dwellings with associated new access, car parking and amenity areas (Resubmission to 16/507706/FULL) (Part Retrospective). | | | |
| ADDRESS Doubleday Lodge Glebe Lane Sittingbourne Kent ME10 4JW | | | |
| RECOMMENDATION Refuse | | | |
| SUMMARY OF REASONS FOR RECOMMENDATION Although the viability of the scheme is threatened, the failure to provide developer contributions and the resultant harmful impact upon local infrastructure would in my view outweigh the benefits of the proposal. The scheme, because of this, would not represent sustainable development. | | | |
| REASON FOR REFERRAL TO COMMITTEE Called in by Councillors Sarah Aldridge and Paul Fleming | | | |
| WARD Roman | PARISH/TOWN COUNCIL | APPLICANT Stonechart Property Ltd AGENT Ubique Architects | |
| DECISION DUE DATE 01/06/18 | PUBLICITY EXPIRY DATE 13/04/18 | | |
| RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites): | | | |
| App No | Proposal | Decision | Date |
| 16/507706/FULL | Demolition of former residential care home building and erection of 21 new dwellings, associated new access road, car parking and amenity areas | Approved | 30.06.2017 |

MAIN REPORT

1.0 DESCRIPTION OF SITE

- 1.01 The application site totals 0.41 ha and lies within a residential area, bounded to the north, south and west by existing dwellings, predominantly terraced, and flats. The front of the site faces onto Glebe Lane and there are currently two vehicular accesses onto this road. Rectory Playing Field (6.04ha) lies a walking distance of 130 m to the west of the application site. There is a difference in ground levels of approximately 3m from the northwest corner to the southeast corner which represents a gradual fall across the site from west to east. The site is currently being constructed in accordance with planning permission 16/507706/FULL and as such the frames of a number of the dwellings are currently visible.
- 1.02 The front of the site is roughly the same ground level as the adjacent property - 40 Glebe Lane and the houses opposite. The application site is though at a lower level than the properties to the rear at Wadham Place by 2m. There are a number of mature Larch, Birch and Ash trees within the site, along its boundaries as well as Beech hedges.

2.0 PROPOSAL

- 2.01 As set out above, the proposal is retrospective on the basis that the previous permission has been implemented. The development proposed in terms of its physical form is identical to that approved under 16/507706/FULL, which for clarity is as follows:
- 2.02 Demolition of the existing derelict care home (which has already taken place) and erection of 21 no. 2.5 storey 3 bedroom dwellings (the construction of which has begun).
- 2.03 Each dwelling would have a reasonably sized rear garden and there would be 38 parking spaces in total (1.8 spaces per dwelling). The layout would consist of five separate blocks of terraced properties, blocks A-E. Blocks A and B would front onto Glebe Lane, either side of the new central access into the site.
- 2.04 Fourteen parking spaces would be provided to the front of these blocks in groups of 2 and 3 interspersed with hedges and trees. Block C, a row of three terraced properties, is to the rear of block B, orientated northeast-southwest, at right-angles to block B. Blocks D and E are to the rear of block A and are orientated east-west, to match the orientation of blocks A and B. The parking for blocks C-E is provided off-plot in groups/parking courts. All properties are similarly designed with simple architecture, brick work, cladding and rendering and modestly sized flat roof rear dormers to the rear roof slopes.
- 2.05 The application is however seeking a reduction in the Developer Contributions that the developer is able to provide. For clarity the scheme approved under 16/507706/FULL was subject to a signed Section 106 Agreement which secured the following:
- 2 Affordable Rented Units;
 - SAMM SPA recreational disturbance - £4,695.18
 - NHS - £18,144
 - KCC Libraries - £1,008.33
 - Off Site Open Space - £18,081
 - Primary Education Contribution - £49,580.16
 - Secondary Education Contribution - £49,555.80
 - Bins - £1,932
 - Admin and Monitoring Fee - £7,104.79
 - Total - £150,101.26
- 2.06 The applicant has confirmed that due to viability issues they are only able to provide the following:
- 2 Affordable Rented Units;
 - SAMM SPA recreational disturbance - £6,323.94
 - KCC Libraries - £1,008.33
 - Bins - £1,932
- 2.07 The remaining 19 units will be delivered as Shared Ownership units in partnership with Moat Housing.

3.0 PLANNING CONSTRAINTS

3.01 There are no planning constraints for this site.

4.0 POLICY AND OTHER CONSIDERATIONS

4.01 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), 32 (sustainable transport), 34, 47 (delivering a wide choice of high quality homes), 49, 50, 55, 56 (good design), 58, 69 (healthy communities), 131, 159 (housing), 162 (infrastructure), 186 (decision taking), 187, 196 (determining applications); 197, 204 (planning obligations) & 216 (weight to emerging policies).

4.02 National Planning Practice Guidance (NPPG): National Planning Policy Guidance (NPPG): Design; Natural environment; Housing and Economic Development needs assessment; Planning Obligations; Use of planning conditions; Water supply, waste water and water quality land affected by contamination.

4.03 Development Plan: Bearing Fruits 2031: The Swale Borough Local Plan 2017: ST1 (Delivering sustainable development in Swale), ST2 (Development targets for jobs and homes 2014-2031), ST3 (The Swale settlement strategy), ST4 (Meeting the Local Plan development targets), ST5 (The Sittingbourne area strategy), CP3 (Delivering a wide choice of high quality homes), CP4 (Requiring good design), CP6 (Community facilities and services to meet local needs), 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) & IMP1 (Implementation and delivery plan).

4.04 Supplementary Planning Documents: Developer Contributions (2009)

5.0 LOCAL REPRESENTATIONS

5.01 Two letters of objection have been received from local residents. Their comments are summarised as follows:

- The dwellings will overlook existing properties and lead to a loss of privacy;
- The development will be overbearing on surrounding properties, cause overshadowing and lead to a loss of sunlight;
- The proposal will lead to an increase in traffic;
- Building work has already begun;
- There should have been an offer of compensation.

5.02 Cllr Sarah Aldridge has commented *“My recommendation is for the above application to be reported to the planning committee please.”*

5.03 Cllr Paul Fleming stated *“Yes I agree report back to planning committee.”*

6.0 CONSULTATIONS

6.01 **Environment Agency** made no comment.

6.02 **KCC Highways & Transportation** have commented that the scheme is identical and as such they remain of the view, as they did for the application submitted under

16/507706/FULL, that as there have not been any material changes in highway conditions since this time that the access, layout and parking levels are considered acceptable. Raised the issue of the cycle storage which required confirmation.

- 6.03 The Council's **Strategic Housing and Health Manager** states that *“My understanding is that Moat were due to provide two Affordable Rent Tenure homes (as per the s106), with the remaining dwellings delivered as shared ownership, providing 19 additional affordable (low cost home ownership) units in Sittingbourne which would not have been provided if a private developer had completed the scheme. Therefore, Moats delivery on this site can be seen as positive for local residents who will have an opportunity to purchase these SO homes in the first instance.”*
- 6.04 **UK Power Networks** raise no objection.
- 6.05 **KCC Lead Local Flood Authority** raise no objection to the development from being implemented in accordance with the approved details in relation to drainage.
- 6.06 **Natural England** set out that subject to the appropriate financial contribution being secured, Natural England is satisfied that the proposal will mitigate against potential effects of the development on the SPA.
- 6.07 **The NHS Strategic Estates Advisor** states that *“Swale Borough Council has already agreed a S106 Contribution of £19,008 for the benefit of Chestnuts Practice for this development. We note that the applicant is submitting a new application to reduce the quantum of S106 contributions. It is the CCG's strongly held view that S106 contributions must be awarded for health to recognise the significant impact on health resources this development will have.”*
- 6.08 **Kent Police** state that they have not had contact from the applicant in regards to crime prevention.
- 6.09 **Southern Water** set out that the exact position of public sewers must be determined on site and that initial investigations indicate that Southern Water can provide foul sewerage disposal to service the proposed development. An Informative is requested regarding a formal application for connection to the public sewerage system.
- 6.10 **KCC Development Contributions Team** seek contributions as £69,804 for Primary Education (towards the enhancement of Borden Primary School); £86,415 for Secondary Education, towards the Phase 3 expansion of Westlands Secondary School; £1008.33 for libraries. They also recommend that Broadband is provided for the site and recommend an informative to encourage this.
- 6.11 **The Environmental Services Manager** has no objection to the proposal subject to conditions to restrict hours of construction, to minimise the risks from asbestos and, to require the submission of a code of construction practice.
- 6.12 **KCC Ecology** confirm that sufficient information has been submitted in order to determine the planning application. A number of ecological conditions which were attached to the previous consent and have been discharged and as such recommended that the details agreed shall be incorporated into this development. They also refer to the recent decision from the Court of Justice which means that an Appropriate Assessment in relation to recreational impacts on designated sites will need to be carried out.

- 6.13 **Greenspaces Manager** has confirmed that *“we would continue to seek a contribution toward an increase in capacity of the play facilities at Rectory Playing Field, however this would now be in alignment with the Council’s new and recently adopted Open Spaces & Play Strategy that identifies contributions at a level of £446 per dwelling - £9,366.00.”*

7.0 BACKGROUND PAPERS AND PLANS

- 7.01 Proposed plans and elevations; Tree Constraints Plan; Tree Protection Plan; Proposed Drainage; Contaminated Land Report; Planning, Design and Access Statement; Ecology Survey.
- 7.02 In addition to the above a Financial Viability Report was submitted.
- 7.03 A supporting statement has also been submitted which sets out national policy and guidance in relation to viability and undertakes a balancing exercise in respect of whether the proposal represents sustainable development. The conclusion drawn is that the delivery of much needed affordable housing, in the context of the viability of the development, which has been assessed by the Council’s consultants, would outweigh the harm that would be caused by failure to provide requested developer contributions. An appeal decision is also attached to this correspondence which relates to a scheme involving a number of the same issues.

8.0 APPRAISAL

- 8.01 As set out in the ‘Proposals Section’ above this application in terms of its physical elements is identical to the scheme which was approved under reference number 16/507706/FULL. As a result of this, I reach the same conclusions as I did in the previous report that the scheme is acceptable in respect of the principle of development, impact upon visual and residential amenities, highway amenity and safety, surface water drainage and ecology. I have appended this report for ease of reference. In my view, this assessment of the proposal also deals with the comments raised by neighbours in relation to the impact upon residential amenity.
- 8.02 As detailed in the proposal section above, the application approved under 16/507706/FULL was subject to a signed Section 106 Agreement which secured financial contributions totalling £150,101.26. This application, due to viability issues, is now seeking to reduce the contributions that can be paid to the following:
- Libraries - £1,008.33;
 - SAMM SPA recreational disturbance - £6,323.94;
 - Bins - £1,932;
 - 2 affordable rented units.
- 8.03 In support of the application a financial viability report has been submitted by the applicant which has been independently assessed by the Council’s consultants. A copy of this report is attached under Part 6, as Members will appreciate that it includes sensitive financial information.
- 8.04 In summary, the applicant’s appraisal concludes that the development would result in a deficit against the Benchmark Land Value (BLV). BLV (or what is sometimes referred to as Threshold Land Value) should represent the value at which a typical willing landowner is likely to release land for development. It is worth noting at this point that the application approved under 16/507706/FULL was only ‘marginally

viable'. Since this time, the demolition costs have increased significantly and base build costs have risen and the deficit is now more substantial than when it was previously assessed under 16/507706/FULL. The Council's consultants have assessed the applicant's appraisal and carried out their own calculation. Members will note from the viability assessment carried out by the Council's consultant that this shows an even greater negative value against the Benchmark Land Value. The sums that have been calculated have been done so on the basis that the scheme provides the above contributions, and therefore, if the full range of developer contributions were required it logically follows that the negative value would be even greater.

- 8.05 The practical impact of this is that the negative value would be required to be absorbed within the developer's profit margin, which is already lower than what would generally be accepted (typically 20%) as this is an affordable housing scheme. This under normal circumstances creates significant risk that the development would not proceed. However, in this case I note that the development has begun under the terms of the permission that has been granted under 16/507706/FULL and has continued to what is now a fairly advanced stage. Further to this, I have not received any notification that development will be required to cease.
- 8.06 Government advice is contained within the National Planning Practice Guidance on Viability. This sets out that a site is viable if the value generated by its development exceeds the costs of developing it and also provides sufficient incentive for the land to come forward and the development to be undertaken. It states that where an applicant is able to demonstrate that S106 requirements would cause the development to be unviable, then the Local Planning Authority should be flexible in seeking such agreements.
- 8.07 In addition to the above, the National Planning Policy Framework states at paragraph 173 that *"To ensure viability, the costs of any requirements likely to be applied to development, such as requirements for affordable housing, standards, infrastructure contributions or other requirements should, when taking account of the normal cost of development and mitigation, provide competitive returns to a willing land owner and willing developer to enable the development to be deliverable."* In addition to this, paragraph 205 sets out that *"Where obligations are being sought or revised, local planning authorities should take account of changes in market conditions over time and, wherever appropriate, be sufficiently flexible to prevent planned development being stalled."*
- 8.08 Policy CP6 of the adopted Local Plan sets out that development proposals will deliver timely infrastructure, especially those forming part of the Local Plan implementation and delivery schedule. It also sets out that where the viability of development may be threatened as a result of requirements of the Local Plan that if this financial position is demonstrated via an open book assessment then contributions should be prioritised in accordance with the Local Plan implementation and delivery plan.
- 8.09 I also note in the supporting text to Policy CP6, it is stated at paragraph 5.5.17 that *"In cases where developer contributions may need to be reduced for viability reasons, the Council will only agree to this where the advantages of proceeding with the development would significantly outweigh the disadvantages."*
- 8.10 As such, although both local and national policies recognise that a degree of flexibility should be applied when the viability of a scheme is threatened, the proposal in respect of the above quoted paragraph contained within the Local Plan and the requirements of paragraph 14 of the NPPF will need to be assessed in order to

conclude whether the benefits of the proposal would outweigh the harm and whether the proposal would represent sustainable development.

- 8.11 Paragraph 14 of the NPPF sets out that *“At the heart of the National Planning Policy Framework is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking.”* Paragraph 7 of the NPPF sets out that there are three dimensions to sustainable development which are an economic role, a social role and an environmental role. I will run through each of these three dimensions as follows in order to reach to view as to whether the harm would outweigh the benefits.
- 8.12 In terms of the economic role, the proposal would lead to benefits, albeit limited in my view during the construction phase by virtue of the creation of construction jobs. In addition to this, the future residents of the scheme would contribute to the local economy. However, this would be the case with any residential development and therefore I do not believe that this should be given significant weight.
- 8.13 In relation to the social role, the application would provide 21 dwellings and as such gives rise to benefits in terms of boosting the Council’s housing supply. However, I also take into consideration that the Council is currently able to demonstrate a five year supply of housing site. As such, I am of the view that the weight given to this proposal, simply in terms of boosting housing supply should not be considerable.
- 8.14 I also take into account that the proposal will provide 2 affordable rented units, secured by the Section 106 Agreement, which will benefit those in need of affordable housing and as such should be given weight in the decision making process. However, this figure of 10% is compliant with policy DM8, therefore, this level of affordable housing would be expected in Sittingbourne and as such although I give this weight this has to be balanced against the fact that this is not over and above what other sites in similar location are likely to provide.
- 8.15 Notwithstanding the above, it should also be considered that the scheme, in partnership with Moat Housing will deliver the remainder of the 19 units on a shared ownership basis. I have enquired with the applicant as to whether it would be possible to secure these dwellings in the Section 106 Agreement to which I have received the following response:
- “I am writing to confirm that our application is offering 2 affordable rented units, being included in the section 106 agreement. The remaining 19 units will also provide affordable housing via shared ownership, but will not be included in the section 106 agreement as including the 19 units in the section 106 would result in the units not be applicable for grant funding, therefore further effecting the viability of the application.”*
- 8.16 As such, although I take the details as set out above into account, ultimately the Council will have no control over the way in which the 19 units are delivered as these will fall outside of the Section 106 Agreement. Therefore, although the scheme will potentially be 100% affordable and accordingly weight should be given to the affordable housing being provided, this in my opinion should be considered by Members in light of the above circumstances, namely that the Council will not be able to control the delivery of 19 of the units as affordable housing.
- 8.17 The NPPF in terms of the social role that the planning system should perform also sets out the need for *“accessible local services that reflect the community’s needs and support its health, social and cultural well-being.”* In this respect, although the site, by virtue of its location in the built up area boundary is well connected to local

services, I note that the application is seeking to remove contributions to primary and secondary education, the NHS and the Council's request for open space improvements. In terms of these requests, KCC have specifically identified the primary and secondary schools and projects which the contributions will be put towards, the NHS has specifically identified the healthcare facility that the contribution will be put towards and the Council has specifically identified the open space requirements.

- 8.18 In respect of the above contributions, the development proposes 21, 3 bedroom dwellings and as such, the likelihood of these dwellings being occupied by families would be extremely high. Therefore, it is extremely likely in my view that the development would give rise to demand upon local schools, as well as healthcare facilities and the increased use of open space. The failure to provide contributions for these facilities and the harm that this would cause should in my view be given very significant weight in the decision making process.
- 8.19 In terms of the environmental role, I give some weight to the potential for the scheme to enhance biodiversity through the landscaping scheme which has been approved. However, the weight I give is limited as I do not believe these benefits would be in addition to what would be expected upon alternative developments.

The Conservation of Habitats and Species Regulations 2017

- 8.20 The application site is located within 6km of The Medway Estuary and Marshes Special Protection Area (SPA) and the Swale Special Protection Area which are European designated sites afforded protection under the Conservation of Habitats and Species Regulations 2017 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.
- 8.21 Residential development within 6km of any access point to the SPAs has the potential for negative impacts upon those protected areas by virtue of increased public access and degradation of special features therein. The HRA carried out by the Council as part of the Local Plan process (at the publication stage in April 2015 and one at the Main Mods stage in June 2016) considered the imposition of a tariff system to mitigate impacts upon the SPA (£301.14 per dwelling on developments of 10 or more units, as ultimately agreed by the North Kent Environmental Planning Group and Natural England) – these mitigation measures are considered to be ecologically sound.
- 8.22 However, the recent (April 2018) judgement (People Over Wind v Coillte Teoranta, ref. C-323/17) handed down by the Court of Justice of the European Union ruled that, when determining the impacts of a development on protected area, "it is not appropriate, at the screening stage, to take account of the measures intended to avoid or reduce the harmful effects of the plan or project on that site." The development therefore cannot be screened out of the need to provide an Appropriate Assessment (AA) solely on the basis of the agreed mitigation measures (SAMMS), and needs to progress to consideration under an AA.
- 8.23 In this regard, whilst there are likely to be impacts upon the SPAs arising from this development, the scale of development (21 houses on a previously developed site

within the built up area, with access to other recreation areas) and the mitigation measures to be implemented within the SPAs from collection of the standard SAMMS tariff will ensure that these impacts will not be significant or long-term. I therefore consider that, subject to mitigation, there will be no adverse effect on the integrity of the SPAs.

- 8.24 It can be noted that the required mitigation works will be carried out by Bird Wise, the brand name of the North Kent Strategic Access Management and Monitoring Scheme (SAMMS) Board, which itself is a partnership of local authorities, developers and environmental organisations, including SBC, KCC, Medway Council, Canterbury Council, the RSPB, Kent Wildlife Trust, and others. (<https://birdwise.org.uk/>).

9.0 CONCLUSION

- 9.01 In reaching a decision on this application, Members should give consideration to both sides of what in my view is a balanced case. In the first instance, the viability of the development, which was shown to be marginal when assessed under the previous application, is now showing a bigger deficit. This conclusion has been agreed by the Council's consultants and as such, on the basis of local and national policies in relation to viability I give this weight in the decision making process.

- 9.02 Further to the above, the proposal would boost the Council's housing supply whilst providing affordable housing. Although the scheme will provide 2 units as affordable rented housing to be secured under the Section 106, there is a reasonable possibility that the proposal would also provide a further 19 units as shared ownership. However, the weight to be given to this must be considered in light of the inability to secure this under the Section 106. In addition to this, the scheme will provide some limited economic benefits in terms of job creation during the construction and future residents would contribute to the local economy.

- 9.03 However, these benefits have to be weighed against the failure of the proposal to provide contributions to primary and secondary education, healthcare and open space facilities. In my view, despite the above benefits, the harm that would be caused in this case would be substantial and the resultant impact of the development upon specifically identified local services and infrastructure significant and unacceptable. It is for Members to decide whether they, in this balanced case, give more weight to the lack of viability and boosting the Council's housing supply, including the provision for affordable housing or whether they believe that the lack of contributions to key infrastructure would outweigh these benefits. Based upon the above appraisal, I am of the view that the harm identified would outweigh the benefits and as result the proposal does not represent sustainable development and should be refused.

10.0 RECOMMENDATION – REFUSE for the following reasons:

- 1) Despite the lack of viability that has been demonstrated, the proposal, in failing to provide developer contributions to specifically identified local infrastructure would give rise to unacceptable harm which would outweigh the benefits of the scheme. The proposal would be contrary to policy CP6 of Bearing Fruits 2031: The Swale Borough Local Plan 2017 and would fail to represent sustainable development as set out in paragraph 7 of the National Planning Policy Framework.

The Council's approach to this application:

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

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

In this instance:

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

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



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APPENDIX 1

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| 2.6 REFERENCE NO - 16/507706/FULL | | |
| APPLICATION PROPOSAL Demolition of former residential care home building and erection of 21 new dwellings, associated new access road, car parking and amenity areas | | |
| ADDRESS Doubleday Lodge Glebe Lane Sittingbourne Kent ME10 4JW | | |
| RECOMMENDATION Grant subject to further comments from Kent Highways and Transportation on the amended plans, and a Section 106 agreement seeking contributions towards primary and secondary education, libraries, open space improvement, NHS, bins a monitoring fee and SAMM. | | |
| SUMMARY OF REASONS FOR RECOMMENDATION The development of this site for housing would involve the loss of a care home for the elderly. Whilst this is regrettable, KCC took the decision to close it in January 2014. The site has been vacant since September 2014 with alternative care homes found for existing residents. Its use for housing would go some way towards meeting the housing needs of the Borough. In addition, the scheme would offer much needed affordable housing. These factors weigh heavily in favour of the development. The density, layout and design of the scheme has been carefully considered and amendments provided to address officer's concerns. The scheme is now considered to offer a good quality environment for the future residents of the scheme, whilst protecting the residential amenities of the existing properties that are adjacent to the site. The proposal would be of a good design that would add to the visual amenities of the area. The parking provision would be adequate in number and layout. Other considerations such as contaminated land, drainage and ecology are adequately deal with. The developer has agreed to pay the various development contributions that are required for this scheme. | | |
| REASON FOR REFERRAL TO COMMITTEE Section 106 agreement | | |
| WARD Roman | PARISH/TOWN COUNCIL | APPLICANT Stonechart Property Ltd AGENT Ubique Architects |
| DECISION DUE DATE 13/02/17 | PUBLICITY EXPIRY DATE 30/01/17 | OFFICER SITE VISIT DATE 02.12.16 |
| RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites): There is no relevant planning history for this site. | | |

MAIN REPORT

1.0 DESCRIPTION OF SITE

- 1.01 The application site totals 0.41 ha and lies within a residential area, bounded to the north, south and west by existing dwellings, predominantly terraced, and flats. The front of the site faces onto Glebe Lane and there are currently two vehicular accesses onto this road. Rectory Playing Field (6.04ha) lies a walking distance of 130 m to the west of the application site. There is a difference in ground levels of approximately 3m from the northwest corner to the southeast corner which represents a gradual fall across the site from west to east. The site is currently occupied by a large two storey care home with single storey projections to the front. This building is sited close to the north and west boundaries of the site. The building has been boarded-up and the site is overgrown with evidence of trespass and vandalism.
- 1.02 The front of the site is roughly the same ground level as the adjacent property - 40 Glebe Lane and the houses opposite. The application site is though at a lower level than the properties to the rear at Wadham Place by 2m. There are a number of

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mature Larch, Birch and Ash trees within the site, along its boundaries as well as Beech hedges.

2.0 PROPOSAL

2.01 The proposal is to demolish the existing derelict care home and erect 21 no. 2.5 storey 3 bedroom dwellings. The applicant is in partnership with Moat Housing and as such, all of the dwellings are intended to be affordable with 2 as affordable rented and 19 shared ownership. Each dwelling would have a reasonably sized rear garden and there would be 38 parking spaces in total (1.8 spaces per dwelling). The layout would consist of five separate blocks of terraced properties, blocks A-E. Blocks A and B would front onto Glebe Lane, either side of the new central access into the site. Fourteen parking spaces would be provided to the front of these blocks in groups of 2 and 3 interspersed with hedges and trees. Block C, a row of three terraced properties, is to the rear of block B, orientated northeast-southwest, at right-angles to block B. Blocks D and E are to the rear of block A and are orientated east-west, to match the orientation of blocks A and B. The parking for blocks C-E is provided off-plot in groups/parking courts. All properties are similarly designed with simple architecture, brick work, cladding and rendering and modestly sized flat roof rear dormers to the rear roof slopes.

2.02 The scheme has been amended by increasing distance between the dwellings and existing neighbouring properties. The amendments have resulted in the loss of one of the dwellings so the scheme has reduced from 22 to 21 units. Additional landscaping has been introduced to the parking areas and efforts made to improve the appearance of the hard-surfaced area. The architect has added different finishing materials to the elevations and has changed the design of the canopies to add interest to the appearance of the dwellings. Where possible, existing trees and hedges are to be retained.

3.0 SUMMARY INFORMATION

| | Existing | Proposed | Change (+/-) |
|------------------------------|--------------------|-------------------|---------------------|
| Approximate Ridge Height (m) | Approx. 8m | 8.8m | +800mm |
| Approximate Eaves Height (m) | Approx. 6m | 4.8m | -1.2m |
| No. of Storeys | 2 | 2.5 | +0.5 |
| Net Floor Area | 1035m ² | 883m ² | -152m ² |
| Parking Spaces | Approx. 15 | 38 | +23 |
| No. of Residential Units | N/A | 21 | 21 |
| No. of Affordable Units | N/A | 21 | 21 |

4.0 PLANNING CONSTRAINTS

There are no planning constraints for this site.

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), 32 (sustainable transport), 34, 47 (delivering a wide choice of high quality homes), 49, 50, 55, 56 (good design), 58, 69 (healthy communities), 131, 159 (housing), 162 (infrastructure), 186 (decision taking), 187, 196

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(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; 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), SP7 (community services and facilities), SH1 (settlement hierarchy), E1 (general development criteria), E11 (biodiversity and geological interests), E12 (designated biodiversity and geological conservation sites), H2 (new housing), H3 (affordable housing), T1 (safe access), T3 (parking), T4 (cyclists and pedestrians), C3 (open space on new housing developments) & C1 (community services and facilities).
- 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), CP3 (high quality homes), CP4 (good design), CP6 (community facilities and services to meet local needs), 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) & IMP1 (implementation and delivery plan).

Supplementary Planning Documents

Developer Contributions (2009)

6.0 LOCAL REPRESENTATIONS

- 6.01 Four representations have been received from local residents. A summary of their comments is as follows:

- The site should be redeveloped as a residential home for the elderly;
- The extra traffic would be too much for this small road;
- Overlooking of gardens;
- Noise and mess during construction;
- There is currently an overbearing beech hedge within the site that is not maintained. The owners of no. 26 Wadham Place ask for a wall along their boundary instead;
- Anything on this site will be an improvement on its current state;
- Potential overshadowing;
- Not enough parking, causing on-street parking problems for existing residents.

7.0 CONSULTATIONS

- 7.01 The Environmental Services Manager has no objection to the proposal subject to conditions to restrict hours of construction, to minimise the risks from asbestos and, to require the submission of a code of construction practice.

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- 7.02 The NHS Strategic Estates Advisor asks for a contribution of £19,008 (based on the original scheme of 22 units) towards the Chestnuts Practice.
- 7.03 KCC Ecology note that there is a low risk of bats being present within the existing building to be demolished and recommended a condition to ensure the submission of a detailed bat mitigation strategy informed by an up to date valid bat surveys. They also ask for a condition to control details of external lighting in order to protect bats. Informatives advising the applicant of the protection of breeding birds are recommended. Biodiversity enhancements are also recommended.
- 7.04 The Greenspaces Manager requests that £861 per dwelling is sort for contributions towards improving capacity and play value of the play facilities at Rectory Playing Field. He also notes that there is no open space provision on the application site but that it is within walking distance of Rectory Playing Field.
- 7.05 The Environment Agency has no comment.
- 7.06 Southern Water note that a foul sewer is in the vicinity of the site and provide advice on the distances necessary for development, soakaways and tree planting. They also note that there is a communication pipe within the site. They confirm that they can provide sewage disposal to the development and recommend an informative to alert the applicant to the need for their consent to connect to the sewage system. There is no need for additional infrastructure but ask for a condition to require the submission of a drainage strategy dealing with surface water disposal and also foul sewage. Long-term maintenance of the SUDs is necessary.
- 7.07 KCC Development Contributions Team seek contributions towards primary and secondary education and libraries (details set out at para 9.13 below). They also recommend that Broadband is provided for the site and recommend an informative to encourage this.
- 7.08 Kent Highways and Transportation are satisfied with the overall level of parking provision for the site but are concerned that there could be overspill onto Glebe Lane which could lead to an impact on highway amenity for local residents. They note that on-street parking would be displaced by the new drives at the front of the site. In order to address these concerns, they recommended that one space per dwelling is allocated for blocks A and B so that each dwelling has a parking space immediately in front of them. They also ask that suitable lighting is provided to the parking areas. They also query the width of some of the spaces where they are next to fences, walls or hedges. They ask for secure cycle parking for each property and details of bin storage.
- 7.09 The Head of Housing considered that the mix of affordable housing proposed – 2 social rented and 20 shared ownership is acceptable (the scheme has since been amended to 21 units with 2 social rented and 19 shared ownership).
- 7.10 Kent Police have considered the commitment of the developer to achieve ‘secure by design’ and therefore have no immediate concerns regarding the proposal.
- 7.11 UK Power Networks have no objection to the proposal.

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- 7.12 Natural England note that the site lies within 6km of the SPAs and Ramsar sites. They consider that subject to payment of the SAMM contribution, the site can be screened out as not having a likelihood of significant effects on the designated sites.
- 7.13 Southern Gas Networks provide information about safe digging practices close to gas pipes that may be close to the site.
- 7.14 Lower Medway Internal Drainage Board note that the site is outside of their district but seek to ensure that surface water runoff is attenuated to no more than 5l/s with on-site storage provided to accommodate the 1 in 100 year rainfall event.
- 7.15 KCC Flood Risk and Drainage are generally satisfied with the majority of the drainage strategy. However, they recommend that there should be no discharge to foul sewage. They recommend a condition to require a details surface water drainage strategy to preclude discharge to foul sewage. Also, a condition to require details of the implementation, maintenance and management of the SUDs. Lastly a condition to prevent surface water drainage into ground without the permission of the LPA (in consultation with the EA) due to the risk to controlled ground waters.

8.0 BACKGROUND PAPERS AND PLANS

- 8.01 Existing and proposed plans and elevations; Tree Constraints Plan; Drainage Strategy & Maintenance Statement; Contaminated Land Report; Tree Report; Planning, Design and Access Statement; Details of KCC's decision to close the care home; Ecology Survey; Minerals Assessment; Ecology Assessment Update.

9.0 APPRAISAL**Principle of Development**

- 9.01 The application site lies within the built-up area boundary and is surrounded by residential properties. The development of this site for housing would be in line with the aims and objectives of the Development Plan and National Policy in so far as much needed affordable housing is being provided on a brownfield site. The loss of the care home facility should though be considered against policy C1 of the Swale Borough Local Plan 2008 which seeks to retain existing community facilities and services. This policy states:

“The Borough Council will not permit proposals that involve the loss, or change of use, of a local community facility, where this would be detrimental to the social well being of the community, unless a suitable and equivalent replacement facility is to be provided both in a location and period of time as agreed by the Borough Council. Before agreeing to its loss or change of use, the Borough Council will require evidence that the current use is no longer needed and is neither viable, nor likely to become viable.”

- 9.02 The applicant has submitted information about the closure of Doubleday Lodge care home. This details the circumstances under which KCC decided to close the facility which was primarily as a consequence of low occupancy and also its inability to meet the national minimum standards of the Care Standards Act 2000. KCC carried out a public consultation on the closure of the home in September 2013 and the decision to close the home was made at the KCC Social Care & Public Health Committee on 16th January 2014. The care home would have required significant investment to bring it

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up to standard and it was noted that there was adequate capacity to relocate the existing residents in existing homes nearby. The new care home – Regis Gate in Milton Regis, Sittingbourne was considered to provide a much better quality of accommodation to meet the needs of existing and future residents. At the time KCC are quoted in a local newspaper as stating that *“within 10 miles of the home (Doubleday Lodge) there are 15 care homes, with 629 beds, and 153 more care home beds are planned in the area.”* The minutes of the committee meeting referred to above noted that Officer’s considered that *“better value for public money could be achieved by purchasing equivalent services from the independent sector”*.

- 9.03 KCC have now sold the site to private developers and it is therefore highly unlikely that the use of the site will be for a care home once again. I am of the view that the applicant has demonstrated that a suitable replacement facility has been provided in line with policy C1 of the adopted local plan. Indeed, all residents were relocated over 2 years ago and the new care home at Milton Regis offers 45 bedrooms. Doubleday lodge offered 36 bedrooms but in 2013, there were only 2 permanent residents and 8 short-term (respite) residents. An extract from the committee report by KCC referred to above is as follows:

“Respite (short term) residents: Data from Swift (KCC Case management systems) indicate that for the period 1 December 2012- 30 November 2013, there have been a total of 68 short term (respite) placements in the home (an average of between 1-2 people per week Respite bed days total 2,690 over the same period. Most people have had one period of stay during this year (76%) and have stayed for between 1-2 weeks (26 out of 68 or 38%). On this basis, it is estimated that KCC would need to secure three respite beds within the Swale area to replace the existing provision. All residents have been referred from either Swale or Canterbury case management teams.

KCC has secured the use of one short term bed for respite at the new Extra Care Housing development at Wyllie Court/Regis Gate, Sittingbourne. This facility will be opening in September 2014.

Two additional respite beds will be secured via a competitive tendering process to secure high quality, best value services. From a soft market testing exercise undertaken by Strategic Commissioning in November 2013, there is sufficient interest from care homes within a five mile radius of Doubleday Lodge to indicate that KCC would not face barriers to securing these services. There are two other residential care homes in Swale that offer short term services of which case managers promote the use of. Kiln Court is seven miles away from Doubleday Lodge and Blackburn Lodge is eleven miles away. These beds could be used should there be no interest from the market in Sittingbourne to provide short term beds as a contingency arrangement.”

- 9.04 Balanced against the loss of the care home is the significant need for houses, in particular affordable housing, in the Borough. This brownfield site will go some way towards reducing pressure from greenfield sites being developed for housing. I therefore consider that the proposed development is acceptable in principle.

Visual Impact

- 9.05 The housing surrounding the application site is of a medium-high density and the architecture is of a simple, typically suburban design. It is my view that the proposed

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development at a density of 51 d/ha, would sit comfortably within this environment. The elevations of the dwellings have been amended to improve the detailing to the front and side elevations as they were considered to be too bland. The gable ends and terraced form would reflect the properties opposite and adjacent to the site. Although dormer windows are not a common feature of the street scene, the proposed dwellings would have dormers to the rear roof slopes meaning that they would not be prominent features when viewed from the Glebe Lane. The proposed dormers would be of a size that would sit comfortably within the roof slopes in my view and their flat roof design would not be offensive to the overall architectural design of the dwellings. Exact finishing materials are to be agreed but the drawings indicate that brickwork, cladding and render would be predominant which would be appropriate for this residential area in my view.

- 9.06 The scheme has been amended to increase the amount of soft landscaping within the the public areas, including the parking bays which would be interspersed with street trees. I also note that many of the existing trees are to be retained as part of the development. The Tree Survey indicates that there are no category A trees (best quality) within the site but that there are a number of category B and C trees (trees of moderate to low quality respectively). The submitted tree constraints plan shows that although a number of lower grade trees and 3 category B trees would be removed from the site, 9 category B trees would be retained. These include Larch, Birch and Ash trees. The comments of the Tree Consultant are awaited and will be reported at the meeting. The retained trees would add to the amenity value of the area, support ecology and biodiversity and would also offer some level of privacy between the application site and the surrounding residents. The amended scheme also introduced a more varied hard-surface to the access and parking areas in an attempt to improve the appearance somewhat. I consider that overall, the amendments to the scheme have improved the environment within which the future residents would live. The development would be of a good design that would assimilate well into the existing suburban environment and would certainly be a vast improvement on the appearance of the site as it currently stands.

Residential Amenity

- 9.07 Very careful consideration has been given to the impact of the development on the existing surrounding residents, of which there are 12 whose boundaries adjoin the application site as well as the flats that are adjacent to the southern boundary. In addition, the different site levels meant that section drawings were required to adequately assess the relationship between the proposed and existing dwellings. Following the submission of the section drawings the scheme was amended to address a number of instances where there would have been overlooking, overshadowing and an overbearing effect. The unit adjacent to no. 40 Glebe Lane was taken out of the scheme and blocks D and E moved forward within the site. I am now confident that the scheme provides adequate separation distances of 21m for back to back relationships and avoids any harmful overlooking as a consequence. The separation distance also now ensure that instances of harmful overshadowing are avoided. I also consider that there would be no instances of an overbearing effect.
- 9.08 As well as assessing the impact of the proposal on existing surrounding properties, I have considered the relationships between the dwellings within the scheme. Flank to rear distances of 11m are now met and where I had identified overlooking from unit 11 into the rear garden of unit 12, the amended plans show a pergola to be positioned to the rear of unit 12 thereby creating a private area immediately to the rear of this

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property. There may be some overlooking into the development from the existing flats to the south of the site but I do not consider that this would be materially harmful to the residents of block C or unit 11 (the most affected), noting that some overlooking from the flats would be unavoidable if this site is to be developed and also the presence of tall trees that are to be retained along the southern boundary. Tree planting would be provided within the rear garden of unit 11 along the southern and western boundaries and there would be a tree within the rear garden of unit 12. This planting will help to protect the private amenity space to these properties.

- 9.09 It must also be acknowledged that the two storey element of Doubleday Lodge would have overlooked the surrounding properties to some extent and, at points, this building is closer to the neighbouring properties than the current dwellings would be. I therefore consider that for nos. 37, 39 and 41 Wadham Place in particular, the new development would offer more privacy than before. I note the request of no. 26 Wadham Place to remove the beech hedge along their boundary and replace it with a wall. I have asked the applicant to consider this but do not consider that difficulties with maintaining the hedge is a material planning concern.
- 9.10 The proposed dwellings would all have reasonably sized gardens, some with larger than average gardens for this area and all of which would have a depth of no less than the standard 10m. The internal spaces provided within the proposed dwellings would offer a good living environment in my view.

Highways

- 9.11 I note the concerns of local residents in respect of potential for overspill of parking from this development onto Glebe Lane. Being realistic, I do not disagree with this conclusion. However, the key consideration here is whether on-street parking would be increased by this development to the extent that there would be significant harm to the amenity of local residents. Quite a high number of properties along Glebe Lane do not have frontage parking but have access to a garage court or parking to the rear. This has the advantage of a number of cars being able to park on the street without blocking driveways. Glebe Lane is also fairly wide and able to cope with cars parked on the street. As such, it is my view that there is good capacity to accommodate on-street parking along Glebe Lane. I note that Kent Highways and Transportation do not object to the proposal but ask that the parking that comes directly off Glebe Lane is allocated so that there is at least one space per dwelling for blocks A and B. I have recommended a suitably worded condition to address this. I have also imposed a condition requiring the provision of cycle parking for each property. The site is also a 10/15minute walk (0.8mile) from the town centre/East Street and therefore, close enough to local amenities to enable a reduced reliance on the car.
- 9.12 The parking provision and layout within the site is considered to be adequate and I note the comments from Kent Highways and Transportation in this respect. The applicant has amended the scheme to increase the width of the parking bays where they are adjacent to fences, wall and hedges as was requested. I therefore consider that the development would cause no material harm to highway safety and amenity.

Developer Contributions

- 9.13 The applicant is required to pay the following contributions which have been adjusted to account for the reduction in the number of proposed dwellings:

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| | |
|--|------------------------------|
| SAMM SPA recreational disturbance | £223.58/dwelling: -£4,694.42 |
| Bins | £92/dwelling: -£1,932.00 |
| KCC Primary education | £49,580.16 |
| KCC Secondary education | £49,555.80 |
| Libraries | £1,008.33 |
| NHS | £18,144.00 |
| Off-site open space contribution | £861/dwelling: - £18,081.00 |
| Sub Total | £142,095.71 |
| Administration fee - 5% of total contributions | £7,104.79 |
| Total | £149,200.50 |

9.14 The applicant has agreed to pay these contributions as well as committing to securing 10% affordable housing (2 social rented) through the Section 106 agreement. Although, Members will have noted that the scheme is being provided in partnership with Moat Housing who will be securing all of the dwellings as affordable. Members may wonder why we are not securing all 21 of the dwellings as affordable through the Section 106. This is because the emerging planning policy DM8 (Bearing Fruits 2031) only requires sites within Sittingbourne to provide 10% affordable housing. I consider that it is therefore reasonable to apply 10% to this scheme given the advanced stages of the emerging local plan noting that the development would actually be providing 100% affordable housing at least initially.

9.15 I am content that the above contributions meet the tests for planning obligations as set out at paragraph 204 of the NPPF and that a section 106 Agreement is the best mechanism for addressing the SAMM contribution, the details of which are set out with the appended Habitat Regulations Assessment.

Other issues

9.16 With regards to surface water drainage, KCC ask for a condition that would prevent all surface water from discharging to the foul sewer. The applicant is resisting such a condition stating that if the development does need to resort to this form of drainage, the permission would be rendered undeliverable. KCC point out that the condition could be varied under such circumstances. It is my view that there would have to be material and demonstrable harm arising from surface water drainage to foul sewers for such an imposition to be reasonable. I have no evidence that this would be the case here and Members will also note that Southern Water do not require this. As such, I am inclined to apply a condition that would encourage other forms of drainage but that does not prevent drainage to foul sewers.

9.17 The potential for contamination on the site has been assessed and the Head of Environmental Services has no concerns in this respect.

9.18 A Minerals Assessment has been submitted with the application as the site has potential for brickearth. This concludes that the site is too small to be a viable extraction site, the mineral has been sterilised and lies within a residential area which would make it difficult to extract from. The site also lies within the built up area boundary and is therefore compliant with Policy DM7 of the Kent Minerals and Waste Local Plan.

9.19 An Ecology Survey has been submitted with the application. This concludes that there is low potential for protected species at the site but that it is possible that bats might be present within the existing building. KCC Ecology acknowledge this and

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given the very low potential for this, accept that further survey work can be carried out after the permission is issued with appropriate mitigation put in place if necessary. I have included all of the conditions suggested by KCC Ecology below.

- 9.20 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.* An Appropriate assessment is appended with details of the likely impact of the development on the SPA and the applicant's agreement to pay the Strategic Access Management and Monitoring Strategy.

10.0 CONCLUSION

- 10.01 The proposed development would provide much needed housing within the built-up area of Sittingbourne. Members will also note that the site is within reasonable walking distance of the town centre. It is therefore considered to be sustainable development on a sustainable site. The loss of the elderly care home is regrettable but the site has been vacant for in excess of two years. In deciding to close the site, KCC were able to demonstrate that there was sufficient care home provision elsewhere within the Borough. I consider that the proposal would not therefore disadvantage the local community through the loss of the care home. Moreover, I consider that the need for affordable housing weighs strongly in favour of the proposal. The proposal has been amended to address concerns regarding the quality of the design and the impact on adjacent dwellings. I consider that the scheme would be of a good quality design that would not lead to material harm to residential amenities. The scheme would be likely to increase on-street parking in Glebe Lane but I consider that this road can accommodate some additional on-street parking and would not materially harm the amenities of local residents in this respect. The applicant has committed to the payment of the developer contributions as set out above and I have no concerns in respect of drainage, contaminated land and ecology.
- 10.02 I therefore consider that planning permission should be granted for this development subject to the conditions set out below and a Section 106 to include all matters set out at paragraph 9.13 above.

11.0 RECOMMENDATION – GRANT Subject to the signing of a Section 106 agreement to include all the measures set out at Paragraph 9.13 above and 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 approved shall be carried out in accordance with the following approved drawings: to be completed.

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

3. Notwithstanding the provisions of Class A, Part 2, Schedule 2 to the Town and Country Planning (General Permitted Development) Order 1995 (as amended), no gates, fences, walls or other means of enclosure shall be erected or provided in

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advance of any wall or any dwelling fronting on a highway without the consent in writing of the Local Planning Authority.

Reason: In the interests of residential amenity.

4. Details in the form of cross-sectional drawings through the site, of the existing and proposed site levels shall be submitted to and approved in writing by the Local Planning Authority before work commences (with the exception of demolition) 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.

5. No demolition or construction work in connection with the development shall take place on any Sunday or Bank Holiday, nor on any other day except between the following times:-
Monday to Friday 0730 - 1900 hours, Saturdays 0730 - 1300 hours unless in association with an emergency or with the prior written approval of the District Planning Authority.

Reason: In the interests of residential amenity.

6. The development shall be carried out in accordance with the submitted Code of Construction Practice, Site Waste Management Plan and on site car parking plan (for contractor parking during construction) submitted on 7th February 2017. The construction of the development shall be carried out in accordance with 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.

Reason: In the interests of residential amenity.

7. The area shown on the submitted plan – namely Proposed Site Plan, no.005 Revision N 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. In addition, the parking to the front of Blocks A and B shall be allocated so that each dwelling within these blocks has at least one of these parking spaces. Such land and access thereto shall be provided (and allocated where necessary) prior to the occupation of the dwelling(s) 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 detrimental to amenity.

8. Lighting shall be provided to the parking areas as shown on the approved plans, the details of which shall be submitted to the Local Planning Authority for approval in writing. The approved details shall be implemented prior to the first use of the parking area.

Reason: In the interests of highway amenity.

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9. Prior to the occupation of the dwellings hereby approved, details of a covered secure cycle parking facility shall be submitted to the Local Planning Authority for approval in writing and the approved facility shall be provided prior to the occupation of the dwellings hereby approved and shall be retained in perpetuity.

Reason: To ensure that there is sufficient cycle parking at the site in the interests of sustainable development.

10. Prior to the demolition of any building a detailed bat mitigation strategy must be submitted to the Local Planning Authority for approval. The bat mitigation strategy must include the following:
- Bat Emergence survey (following best practice guidelines)
 - Details of the bat roosting features to be incorporated in to the site and buildings
 - Building plans demonstrating the bat roosting features will be incorporated in to the site
 - Methodology of soft strip of the building (map showing the areas where an ecologist needs to be present for the works)
 - Time of year the works to be carried out
 - Follow up monitoring

The works must be implemented as detailed within the approved mitigation strategy.

Reason: In the interest of ecology and biodiversity.

11. Prior to occupation a lighting design strategy for biodiversity shall be submitted to and approved in writing by the Local Planning Authority. The 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, e.g., for foraging.
 - b) Show how and where external lighting will be installed (through the provision of appropriate lighting contour plans and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent the above species using their territory or having access to their breeding sites and resting places.

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. Under no circumstances should any other external lighting be installed without prior to consent from the Local Planning Authority.

Reason: In the interests of ecology and biodiversity.

12. The biodiversity enhancements as set out on page 30 of the submitted Preliminary Ecological Appraisal shall be implemented on site prior to the occupation of the 1st of the dwellings hereby approved.

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

13. Prior to the commencement of development (with demolition being permitted to commence) 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

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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.

14. No development (with demolition being permitted to commence) 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, the pergola to unit 12, hard surfacing materials, and an implementation programme.

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

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

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

16. 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.

17. Prior to the commencement of development (with demolition being permitted to commence) 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.

18. Development shall not commence (with the exception of demolition) until a detailed sustainable surface water drainage strategy been submitted to (and approved in writing by) the local planning authority. The detailed drainage scheme shall demonstrate that the surface water generated by this development (for all rainfall durations and intensities up to and including the climate change adjusted critical 100yr storm) can be accommodated and disposed of within the curtilage of the site. The sizing and functionality of the system shall be determined through site-specific infiltration testing.

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

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

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

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

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

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

Reason: In order to prevent pollution of water supplies.

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

Reason: In the interests of visual amenity.

23. All trees to be retained must be protected by barriers and ground protection at the recommended distances as specified in BS5837: 2012 'Trees in relation to design, demolition and Construction - Recommendations' before any equipment, machinery or materials are brought on to the site and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed, nor fires lit, within any of the area fenced in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavation be made, without the written consent of the Local Planning Authority.

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

INFORMATIVES

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Planning Committee Report – 2 March 2017

ITEM 2.6

1. The applicant is advised to consider the contents of Southern Gas Networks comments dated 30th November 2016 and the Southern Water letter of 14th December 2016.
2. Adequate and suitable measures should 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 should be employed. Any redundant materials removed from the site should be transported by a registered waste carrier and disposed of at an appropriate legal tipping site.

The Council's approach to this application:

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

Offering pre-application advice.

Where possible, suggesting solutions to secure a successful outcome.

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

In this instance:

The applicant/agent was advised of 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.

APPENDIX 1**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

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Planning Committee Report – 2 March 2017

ITEM 2.6

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’s ecological appraisal dated June 2016 contains information to assist the HRA. Importantly, it clarifies that the applicant is willing to commit to contributions towards the strategic mitigation noted above.

Natural England’s letter to SBC dated 3rd August 2016 has also been considered; in particular that they have raised no objections subject to contributions towards strategic mitigation.

The Assessment of Doubleday Lodge, Glebe Lane, Sittingbourne

The application site is located 2.2km to the south The Swale Special Protection Area (SPA) and 5km from the Medway Estuary and Marshes SPA. 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 providing the development contributes towards the SAMM, 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. 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 through strategic mitigation in line with recommendations of the Thames Medway and Swale Estuaries SAMM as detailed above, will offset 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/SAC. At this stage it can therefore be concluded that the proposals can be screened out for purposes of Appropriate Assessment.

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PLANNING COMMITTEE

MINUTES of the Meeting held in the Council Chamber, Swale House, East Street, Sittingbourne, Kent, ME10 3HT on Thursday, 2 March 2017 from 7.00 pm - 10.41 pm.

PRESENT: Councillors Mike Baldock, Cameron Beart, Bobbin, Andy Booth (Vice-Chairman), Tina Booth (substitute for Councillor 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.

OFFICERS PRESENT: Andy Byrne, Emma Eisinger, Russell Fitzpatrick, Andrew Jeffers, Kellie MacKenzie, Graham Thomas and Steve Wilcock.

ALSO IN ATTENDANCE: Councillors Andrew Bowles, Gerry Lewin and John Wright.

APOLOGY: Councillor Roger Clark.

| | | |
|---|----------------------------|--|
| 2.6 REFERENCE NO - 16/507706/FULL | | |
| APPLICATION PROPOSAL | | |
| Demolition of former residential care home building and erection of 21 new dwellings, associated new access road, car parking and amenity areas | | |
| ADDRESS Doubleday Lodge Glebe Lane Sittingbourne Kent ME10 4JW | | |
| WARD Roman | PARISH/TOWN COUNCIL | APPLICANT Stonechart Property Ltd AGENT Ubique Architects |

The Senior Planning Officer reported that comments from KCC Highways and Transportation had been received. They requested conditions requiring that parking was allocated for the properties fronting onto Glebe Lane, and also that cycle parking was provided for each property. The Senior Planning Officer advised that conditions (7) and (9) already covered these matters.

The Senior Planning Officer stated that Members were asked to consider the slight variation of condition (21) which referred to the method of disposal of foul waters. She proposed that it was amended to allow demolition to take place before the submission of details was required. This was in-line with the wording of a number of the other conditions for this application and would allow the site to be cleared soon after the application was determined. The Senior Planning Officer advised that the site was currently a health and safety hazard and attracted anti-social behaviour, and removing the building and securing the site would help to address this problem.

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

Mr Roger Spencer, an Objector, spoke against the application.

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Planning Committee

2 March 2017

In response to a request from the speaker to remove the beech hedging along their boundary, the Senior Planning Officer reported that she had spoken to the applicant's agent about this matter. They had advised that they would try to avoid the removal of the hedge, but if this was necessary they would consider erecting a 1.8 metre closeboarded fence, rather than a wall.

The Lawyer – Team Leader (Planning) suggested that management of the hedge could be included within a landscape condition if approved.

Members considered the application and raised the following points: welcomed KCC Highways and Transportation request for parking; welcomed the affordable housing; the hedging should be retained; needed to ensure the height of the buildings was adequately conditioned and monitored; and half of the properties should be for social rent and half for equity share.

Councillor Mike Henderson moved the following addendum: That 30% affordable housing be provided. This was seconded by Councillor Andy Booth. On being put to the vote the addendum was agreed.

A Member requested that if officers were not able to secure 30% affordable housing, the application should be reported back to Committee.

Resolved: That application 16/507706/FULL be delegated to officers to approve subject to conditions (1) to (23) in the report, (where necessary) tidy-up the conditions to vary condition (21), to allow demolition to take place before the submission of details was required, to include a landscape management condition, such condition to ensure the management of hedging and, with further delegated powers being given to officers to secure a Section 106 Agreement to include contributions towards primary and secondary education, libraries, off-site open space, NHS, bins, Special Protection Area mitigation and 30% affordable housing (if less than 30% then report back to Committee) and a monitoring and administration fee.

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DEFERRED ITEMS

Reports shown in previous Minutes as being deferred from that Meeting

| | | |
|---|--|--|
| DEF ITEM 1 REFERENCE NO - 16/507706/FULL | | |
| APPLICATION PROPOSAL Demolition of former residential care home building and erection of 21 new dwellings, associated new access road, car parking and amenity areas | | |
| ADDRESS Doubleday Lodge Glebe Lane Sittingbourne Kent ME10 4JW | | |
| RECOMMENDATION Grant subject to a Section 106 agreement. | | |
| SUMMARY OF REASONS FOR RECOMMENDATION The development of this site for housing would involve the loss of a care home for the elderly. Whilst this is regrettable, KCC took the decision to close it in January 2014. The site has been vacant since September 2014 with alternative care homes found for existing residents. Its use for housing would go some way towards meeting the housing needs of the Borough. In addition, the scheme would offer much needed affordable housing. These factors weigh heavily in favour of the development. The density, layout and design of the scheme has been carefully considered and amendments provided to address officers' concerns. The scheme is now considered to offer a good quality environment for the future residents of the scheme, whilst protecting the residential amenities of the existing properties that are adjacent to the site. The proposal would be of a good design that would add to the visual amenities of the area. The parking provision would be adequate in number and layout. Other considerations such as contaminated land, drainage and ecology are adequately dealt with. The developer has agreed to pay the various development contributions that are required for this scheme. | | |
| REASON FOR REFERRAL TO COMMITTEE Section 106 agreement | | |
| WARD Roman | PARISH/TOWN COUNCIL | APPLICANT Stonechart Property Ltd AGENT Ubique Architects |
| DECISION DUE DATE 13/02/17 | PUBLICITY EXPIRY DATE 30/01/17 | OFFICER SITE VISIT DATE 02.12.16 |
| RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites): There is no relevant planning history for this site. | | |

MAIN REPORT

1.0 INTRODUCTION

- 1.01 Members will recall that this application was reported to the Planning Committee on 2nd March 2017. This report is appended (appendix B) and includes full details of the application site, the proposal, planning constraints, local representations, consultations, policies, background papers, appraisal, conclusion and the appended Habitats Regulations Assessment.
- 1.02 Members discussed all aspects of the application and resolved to approve the development subject to the conditions in the report (with a slight amendment to condition 21), the obligations within the Section 106 agreement and also subject to securing 30% affordable rented accommodation on the application site (6 units).

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The application presented to Members had sought to secure 10% (2 units) affordable rented housing through the Section 106 agreement but Members considered that this was insufficient, especially considering that the scheme would provide 100% of the dwellings as affordable at the outset (90% of which would not be secured through the S.106). Officers were therefore tasked with seeking a higher level of affordable rented accommodation on the site and have been in negotiations with the developer since the meeting. In response, the developer has submitted a Viability Assessment to consider all of the costs of the scheme, including the Section 106 contributions, in order to present a case for the provision of 10% affordable rented accommodation on the site as originally proposed. Officers have commissioned an independent review by CBRE of this Viability Assessment and we have received their report which will be discussed below.

- 1.03 It is important to draw Members' attention to the fact that the printed minutes (appendix A) of the 2nd March Planning Committee meeting have not included specific reference to 'affordable rented' accommodation, instead referring to Member's resolution to ensure that 30% affordable housing is secured on site. This is a drafting error as confirmed by Democratic Services and I have checked with the Member who proposed the addendum that it was his wish that the 30% affordable housing should be entirely affordable rented accommodation. Negotiations have continued on this basis.

2.0 DISCUSSION

- 2.01 National Planning Policy Guidance - Viability, notes that viability can be important where planning obligations or other costs are being introduced. In these cases decisions must be underpinned by an understanding of viability, ensuring realistic decisions are made to support development and promote economic growth. The guidance states that where the viability of a development is in question, local planning authorities should look to be flexible in applying policy requirements wherever possible. Where an applicant is able to demonstrate to the satisfaction of the local planning authority that the planning obligation would cause the development to be unviable, the local planning authority should be flexible in seeking planning obligations. This is particularly relevant for affordable housing contributions which are often the largest single item sought on housing developments. These contributions should not be sought without regard to individual scheme viability. The financial viability of the individual scheme should be carefully considered in line with the principles in this guidance.
- 2.02 Paragraph 173 of the NPPF states:
- "...To ensure viability, the costs of any requirements likely to be applied to development, such as requirements for affordable housing, standards, infrastructure contributions or other requirements should, when taking account of the normal cost of development and mitigation, provide competitive returns to a willing land owner and willing developer to enable the development to be deliverable."*
- 2.03 The applicant is arguing that the delivery of this housing development would be unviable if they have to increase the amount of affordable rented accommodation on site. The applicant is offering to provide 10% (2 units) affordable rented accommodation with the remaining 90% (19 units) being provided as shared ownership. My understanding is that the applicant will be building the development

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and it will then be taken over by Moat Housing Association who will pay the applicant a set amount for the shared ownership properties and a separate, much reduced, amount for the affordable rented properties. In this case, the likely difference between the amounts paid by Moat for a shared ownership, compared to affordable rented, is in the region of £135,000. As such, on this factor alone it is clear to see that an increase in the number of affordable rented properties on the site would have a significant impact on the viability of the scheme.

- 2.04 Members are reminded of the contributions that the developer has agreed to pay under the Section 106 agreement. For ease of reference these are repeated below:

| | |
|---|------------------------|
| SAMM SPA recreational disturbance - £223.58/dwelling: - | £4,694.42 |
| Bins - £92/dwelling: - | £1,932.00 |
| KCC Primary education: - | £49,580.16 |
| KCC Secondary education: - | £49,555.80 |
| Libraries: - | £1,008.33 |
| NHS: – | £18,144.00 |
| Off-site open space contribution - £861/dwelling: - | £18,081.00 |
| Sub Total: - | £142,095.71 |
| Monitoring and administration fee: - | £7,104.79 |
| Total: - | £149,200.50 |

- 2.05 The applicant is still fully committed to paying the total amount of Section 106 contributions.

- 2.06 The submitted Viability Assessment is clear that the cost of the development, including the above Section 106 contributions, with the developer taking a very modest 6% profit on the scheme, means that any increase in affordable rented affordable housing would result in an unviable scheme with a deficit in the region of £442,000. CBRE have considered the submitted Viability Assessment, carefully examining the costs and other assumptions. They have undertaken their own appraisal of the scheme concluding that there would be a deficit of circa £570,800 if 6 affordable rented units and 15 shared ownership units are provided on site. CBRE have also considered the scheme with the 2 no. affordable rented units and 19 shared ownership units (including the full Section 106 contributions) and have found that there would be a deficit of £20,106 and would therefore only be “marginally viable”. As such, CBRE conclude that:

“the applicant’s proposal of 2 no. affordable rented units and 19 no. shared ownership units together with a S106 contribution of £149,200 to be reasonable. We would recommend that SBC proceeds on this basis.”

- 2.07 Members are reminded that the emerging planning policy DM8 (Bearing Fruits 2031) requires sites within Sittingbourne to provide 10% affordable housing. This is based on the most up-to-date evidence compiled for the Local Plan Examination. Members should be clear that the adopted policy H3 of the Local Plan 2008 (requires 30% affordable housing on site of 15 or more units) is considered to be out of date and should therefore be given very limited weight. In comparison, Officers consider that

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emerging policy DM8 (10% affordable housing on sites of 15 or more units) should be given significant weight. I consider that it is therefore reasonable to apply 10% to this scheme given the advanced stages of the emerging local plan as well as the evidence submitted in the form of the Viability Assessment as detailed above.

- 2.08 With both the status of the emerging policy DM8 and the evidence in respect of the Viability Assessment I consider that it would be unreasonable for Members to insist on a higher percentage of affordable rented housing on this site. Should Members insist on this and should the applicant appeal against non-determination of this application, or appeal against a refusal on affordable housing grounds, the Council would be highly vulnerable to an award of costs against us. Members are reminded of the references to the NPPG and NPPF above (paras. 2.01 and 2.02) and the Government's acknowledgment that where the viability of an individual scheme is demonstrated to be at risk, Local Planning Authorities should be flexible in their approach.
- 2.09 Members are urged to consider the benefits of this scheme which would bring about much needed housing to the Borough. Moreover, the scheme will initially be provided by Moat Housing Association as a 100% affordable housing scheme. This must be given some significant weight.

3.0 CONCLUSION

- 3.01 The proposed development would provide much needed housing within the built-up area of Sittingbourne. Members will also note that the site is within reasonable walking distance of the town centre. It is therefore considered to be sustainable development on a sustainable site. The loss of the elderly care home is regrettable but the site has been vacant for in excess of two years. In deciding to close the site, KCC were able to demonstrate that there was sufficient care home provision elsewhere within the Borough. I consider that the proposal would not therefore disadvantage the local community through the loss of the care home. Moreover, I consider that the need for affordable housing weighs strongly in favour of the proposal. The proposal has been amended to address concerns regarding the quality of the design and the impact on adjacent dwellings. I consider that the scheme would be of a good quality design that would not lead to material harm to residential amenities. The scheme would be likely to increase on-street parking in Glebe Lane but I consider that this road can accommodate some additional on-street parking and would not materially harm the amenities of local residents in this respect. The applicant has committed to the payment of the developer contributions as set out above and I have no concerns in respect of drainage, contaminated land and ecology.
- 3.02 The applicant has demonstrated through the submission of a Viability Assessment that increasing the number of affordable rented units on site would be unviable. Moreover, the provision of 10% affordable rented units on site would comply with emerging policy DM8 which can be given significant weight. I therefore consider that planning permission should be granted for this development.
- 4.0 RECOMMENDATION – GRANT** Subject to the signing of a Section 106 agreement to include all the measures set out at Paragraph 2.04 above, securing 10% affordable rented accommodation and subject to the following conditions:

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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: to be completed.

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

3. Notwithstanding the provisions of Class A, Part 2, Schedule 2 to the Town and Country Planning (General Permitted Development) Order 1995 (as amended), no gates, fences, walls or other means of enclosure shall be erected or provided in advance of any wall or any dwelling fronting on a highway without the consent in writing of the Local Planning Authority.

Reason: In the interests of residential amenity.

4. Details in the form of cross-sectional drawings through the site, of the existing and proposed site levels shall be submitted to and approved in writing by the Local Planning Authority before work commences (with the exception of demolition) 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.

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

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

Reason: In the interests of residential amenity.

6. The development shall be carried out in accordance with the submitted Code of Construction Practice, Site Waste Management Plan and on site car parking plan (for contractor parking during construction) submitted on 7th February 2017. The construction of the development shall be carried out in accordance with 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.

Reason: In the interests of residential amenity.

7. The area shown on the submitted plan – namely Proposed Site Plan, no.005 Revision N 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. In addition, the parking to the front

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of Blocks A and B shall be allocated so that each dwelling within these blocks has at least one of these parking spaces. Such land and access thereto shall be provided (and allocated where necessary) prior to the occupation of the dwelling(s) 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 detrimental to amenity.

8. Lighting shall be provided to the parking areas as shown on the approved plans, the details of which shall be submitted to the Local Planning Authority for approval in writing. The approved details shall be implemented prior to the first use of the parking area.

Reason: In the interests of highway amenity.

9. Prior to the occupation of the dwellings hereby approved, details of a covered secure cycle parking facility shall be submitted to the Local Planning Authority for approval in writing and the approved facility shall be provided prior to the occupation of the dwellings hereby approved and shall be retained in perpetuity.

Reason: To ensure that there is sufficient cycle parking at the site in the interests of sustainable development.

10. Prior to the demolition of any building a detailed bat mitigation strategy must be submitted to the Local Planning Authority for approval. The bat mitigation strategy must include the following:
 - Bat Emergence survey (following best practice guidelines)
 - Details of the bat roosting features to be incorporated in to the site and buildings
 - Building plans demonstrating the bat roosting features will be incorporated in to the site
 - Methodology of soft strip of the building (map showing the areas where an ecologist needs to be present for the works)
 - Time of year the works to be carried out
 - Follow up monitoring

The works must be implemented as detailed within the approved mitigation strategy.

Reason: In the interest of ecology and biodiversity.

11. Prior to occupation a lighting design strategy for biodiversity shall be submitted to and approved in writing by the Local Planning Authority. The 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, e.g., for foraging.
 - b) Show how and where external lighting will be installed (through the provision of appropriate lighting contour plans and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent the above species using their territory or having access to their breeding sites and resting places.

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

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accordance with the strategy. Under no circumstances should any other external lighting be installed without prior to consent from the Local Planning Authority.

Reason: In the interests of ecology and biodiversity.

12. The biodiversity enhancements as set out on page 30 of the submitted Preliminary Ecological Appraisal shall be implemented on site prior to the occupation of the 1st of the dwellings hereby approved.

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

13. Prior to the commencement of development (with demolition being permitted to commence) 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.

14. No development (with demolition being permitted to commence) 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, the pergola to unit 12, hard surfacing materials, and an implementation programme.

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

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

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

16. 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.

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17. Prior to the commencement of development (with demolition being permitted to commence) 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.

18. Development shall not commence (with the exception of demolition) until a detailed sustainable surface water drainage strategy been submitted to (and approved in writing by) the local planning authority. The detailed drainage scheme shall demonstrate that the surface water generated by this development (for all rainfall durations and intensities up to and including the climate change adjusted critical 100yr storm) can be accommodated and disposed of within the curtilage of the site. The sizing and functionality of the system shall be determined through site-specific infiltration testing.

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

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

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

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

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

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

Reason: In order to prevent pollution of water supplies.

22. The trees shown on the plans hereby approved as "existing trees to be retained" shall be retained and maintained to the satisfaction of the planning authority. Any trees

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removed, dying, being severely damaged or becoming seriously diseased within five years of the date of this permission shall be replaced with trees or shrubs of such size and species as may be agreed with the Local Planning Authority.

Reason: In the interests of visual amenity.

23. All trees to be retained must be protected by barriers and ground protection at the recommended distances as specified in BS5837: 2012 ‘ Trees in relation to design, demolition and Construction - Recommendations’ before any equipment, machinery or materials are brought on to the site and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed, nor fires lit, within any of the area fenced in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavation be made, without the written consent of the Local Planning Authority.

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

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INFORMATIVES

1. The applicant is advised to consider the contents of Southern Gas Networks comments dated 30th November 2016 and the Southern Water letter of 14th December 2016.
2. Adequate and suitable measures should 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 should be employed. Any redundant materials removed from the site should be transported by a registered waste carrier and disposed of at an appropriate legal tipping site.

The Council's approach to this application:

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

Offering pre-application advice.

Where possible, suggesting solutions to secure a successful outcome.

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

In this instance:

The applicant/agent was advised of 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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APPENDIX A

Appendix A – Printed minutes for Planning Committee 2nd March 2017

**2.6 REFERENCE NO - 16/507706/FULL
APPLICATION PROPOSAL**

Demolition of former residential care home building and erection of 21 new dwellings, associated new access road, car parking and amenity areas

ADDRESS Doubleday Lodge Glebe Lane Sittingbourne Kent ME10 4JW

WARD - Roman

PARISH/TOWN COUNCIL APPLICANT Stonechart Property Ltd

AGENT Ubique Architects

The Senior Planning Officer reported that comments from KCC Highways and Transportation had been received. They requested conditions requiring that parking was allocated for the properties fronting onto Glebe Lane, and also that cycle parking was provided for each property. The Senior Planning Officer advised that conditions (7) and (9) already covered these matters.

The Senior Planning Officer stated that Members were asked to consider the slight variation of condition (21) which referred to the method of disposal of foul waters. She proposed that it was amended to allow demolition to take place before the submission of details was required. This was in line with the wording of a number of the other conditions for this application and would allow the site to be cleared soon after the application was determined. The Senior Planning Officer advised that the site was currently a health and safety hazard and attracted anti-social behaviour, and removing the building and securing the site would help to address this problem.

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

Mr Roger Spencer, an Objector, spoke against the application.

In response to a request from the speaker to remove the beech hedging along their boundary, the Senior Planning Officer reported that she had spoken to the applicant's agent about this matter. They had advised that they would try to avoid the removal of the hedge, but if this was necessary they would consider erecting a 1.8 metre closeboarded fence, rather than a wall.

The Lawyer – Team Leader (Planning) suggested that management of the hedge could be included within a landscape condition if approved.

Members considered the application and raised the following points: welcomed KCC Highways and Transportation request for parking; welcomed the affordable housing; the hedging should be retained; needed to ensure the height of the buildings was adequately conditioned and monitored; and half of the properties should be for social rent and half for equity share.

Councillor Mike Henderson moved the following addendum: That 30% affordable housing be provided. This was seconded by Councillor Andy Booth. On being put to the vote the addendum was agreed.

A Member requested that if officers were not able to secure 30% affordable housing, the application should be reported back to Committee.

Resolved: That application 16/507706/FULL be delegated to officers to approve subject to conditions (1) to (23) in the report, (where necessary) tidy up the conditions to vary condition (21), to allow demolition to take place before the submission of details was required, to include a landscape management condition, such condition to ensure the management of hedging and, with further delegated powers being given to officers to secure a Section 106 Agreement to include contributions towards primary and secondary education, libraries, off-site open space,

Planning Committee Report – 19th July 2018

ITEM 2.7

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Planning Committee Report – 27 April 2017

DEF ITEM 1

NHS, bins, Special Protection Area mitigation and 30% affordable housing (if less than 30% then report back to Committee) and a monitoring and administration fee.

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| | | |
|--|--|--|
| 2.6 REFERENCE NO - 16/507706/FULL | | |
| APPLICATION PROPOSAL Demolition of former residential care home building and erection of 21 new dwellings, associated new access road, car parking and amenity areas | | |
| ADDRESS Doubleday Lodge Glebe Lane Sittingbourne Kent ME10 4JW | | |
| RECOMMENDATION Grant subject to further comments from Kent Highways and Transportation on the amended plans, and a Section 106 agreement seeking contributions towards primary and secondary education, libraries, open space improvement, NHS, bins a monitoring fee and SAMM. | | |
| SUMMARY OF REASONS FOR RECOMMENDATION The development of this site for housing would involve the loss of a care home for the elderly. Whilst this is regrettable, KCC took the decision to close it in January 2014. The site has been vacant since September 2014 with alternative care homes found for existing residents. Its use for housing would go some way towards meeting the housing needs of the Borough. In addition, the scheme would offer much needed affordable housing. These factors weigh heavily in favour of the development. The density, layout and design of the scheme has been carefully considered and amendments provided to address officer's concerns. The scheme is now considered to offer a good quality environment for the future residents of the scheme, whilst protecting the residential amenities of the existing properties that are adjacent to the site. The proposal would be of a good design that would add to the visual amenities of the area. The parking provision would be adequate in number and layout. Other considerations such as contaminated land, drainage and ecology are adequately deal with. The developer has agreed to pay the various development contributions that are required for this scheme. | | |
| REASON FOR REFERRAL TO COMMITTEE Section 106 agreement | | |
| WARD Roman | PARISH/TOWN COUNCIL | APPLICANT Stonechart Property Ltd AGENT Ubique Architects |
| DECISION DUE DATE 13/02/17 | PUBLICITY EXPIRY DATE 30/01/17 | OFFICER SITE VISIT DATE 02.12.16 |
| RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites): There is no relevant planning history for this site. | | |

MAIN REPORT

2.0 DESCRIPTION OF SITE

1.01 The application site totals 0.41 ha and lies within a residential area, bounded to the north, south and west by existing dwellings, predominantly terraced, and flats. The front of the site faces onto Glebe Lane and there are currently two vehicular accesses onto this road. Rectory Playing Field (6.04ha) lies a walking distance of 130 m to the west of the application site. There is a difference in ground levels of approximately 3m from the northwest corner to the southeast corner which represents a gradual fall across the site from west to east. The site is currently occupied by a large two storey care home with single storey projections to the front. This building is sited close to the north and west boundaries of the site. The building has been boarded-up and the site is overgrown with evidence of trespass and vandalism.

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1.02 The front of the site is roughly the same ground level as the adjacent property - 40 Glebe Lane and the houses opposite. The application site is though at a lower level than the properties to the rear at Wadham Place by 2m. There are a number of mature Larch, Birch and Ash trees within the site, along its boundaries as well as Beech hedges.

2.0 PROPOSAL

2.01 The proposal is to demolish the existing derelict care home and erect 21 no. 2.5 storey 3 bedroom dwellings. The applicant is in partnership with Moat Housing and as such, all of the dwellings are intended to be affordable with 2 as affordable rented and 19 shared ownership. Each dwelling would have a reasonably sized rear garden and there would be 38 parking spaces in total (1.8 spaces per dwelling). The layout would consist of five separate blocks of terraced properties, blocks A-E. Blocks A and B would front onto Glebe Lane, either side of the new central access into the site. Fourteen parking spaces would be provided to the front of these blocks in groups of 2 and 3 interspersed with hedges and trees. Block C, a row of three terraced properties, is to the rear of block B, orientated northeast-southwest, at right-angles to block B. Blocks D and E are to the rear of block A and are orientated east-west, to match the orientation of blocks A and B. The parking for blocks C-E is provided off-plot in groups/parking courts. All properties are similarly designed with simple architecture, brick work, cladding and rendering and modestly sized flat roof rear dormers to the rear roof slopes.

2.02 The scheme has been amended by increasing distance between the dwellings and existing neighbouring properties. The amendments have resulted in the loss of one of the dwellings so the scheme has reduced from 22 to 21 units. Additional landscaping has been introduced to the parking areas and efforts made to improve the appearance of the hard-surfaced area. The architect has added different finishing materials to the elevations and has changed the design of the canopies to add interest to the appearance of the dwellings. Where possible, existing trees and hedges are to be retained.

3.0 SUMMARY INFORMATION

| | Existing | Proposed | Change (+/-) |
|------------------------------|--------------------|-------------------|---------------------|
| Approximate Ridge Height (m) | Approx. 8m | 8.8m | +800mm |
| Approximate Eaves Height (m) | Approx. 6m | 4.8m | -1.2m |
| No. of Storeys | 2 | 2.5 | +0.5 |
| Net Floor Area | 1035m ² | 883m ² | -152m ² |
| Parking Spaces | Approx. 15 | 38 | +23 |
| No. of Residential Units | N/A | 21 | 21 |
| No. of Affordable Units | N/A | 21 | 21 |

4.0 PLANNING CONSTRAINTS

There are no planning constraints for this site.

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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), 32 (sustainable transport), 34, 47 (delivering a wide choice of high quality homes), 49, 50, 55, 56 (good design), 58, 69 (healthy communities), 131, 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; 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), SP7 (community services and facilities), SH1 (settlement hierarchy), E1 (general development criteria), E11 (biodiversity and geological interests), E12 (designated biodiversity and geological conservation sites), H2 (new housing), H3 (affordable housing), T1 (safe access), T3 (parking), T4 (cyclists and pedestrians), C3 (open space on new housing developments) & C1 (community services and facilities).
- 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), CP3 (high quality homes), CP4 (good design), CP6 (community facilities and services to meet local needs), 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) & IMP1 (implementation and delivery plan).

Supplementary Planning Documents

Developer Contributions (2009)

6.0 LOCAL REPRESENTATIONS

- 6.01 Four representations have been received from local residents. A summary of their comments is as follows:
- The site should be redeveloped as a residential home for the elderly;
 - The extra traffic would be too much for this small road;
 - Overlooking of gardens;
 - Noise and mess during construction;
 - There is currently an overbearing beech hedge within the site that is not maintained. The owners of no. 26 Wadham Place ask for a wall along their boundary instead;
 - Anything on this site will be an improvement on its current state;

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- Potential overshadowing;
- Not enough parking, causing on-street parking problems for existing residents.

7.0 CONSULTATIONS

- 7.01 The Environmental Services Manager has no objection to the proposal subject to conditions to restrict hours of construction, to minimise the risks from asbestos and, to require the submission of a code of construction practice.
- 7.02 The NHS Strategic Estates Advisor asks for a contribution of £19,008 (based on the original scheme of 22 units) towards the Chestnuts Practice.
- 7.03 KCC Ecology note that there is a low risk of bats being present within the existing building to be demolished and recommended a condition to ensure the submission of a detailed bat mitigation strategy informed by an up to date valid bat surveys. They also ask for a condition to control details of external lighting in order to protect bats. Informatives advising the applicant of the protection of breeding birds are recommended. Biodiversity enhancements are also recommended.
- 7.04 The Greenspaces Manager requests that £861 per dwelling is sort for contributions towards improving capacity and play value of the play facilities at Rectory Playing Field. He also notes that there is no open space provision on the application site but that it is within walking distance of Rectory Playing Field.
- 7.05 The Environment Agency has no comment.
- 7.06 Southern Water note that a foul sewer is in the vicinity of the site and provide advice on the distances necessary for development, soakaways and tree planting. They also note that there is a communication pipe within the site. They confirm that they can provide sewage disposal to the development and recommend an informative to alert the applicant to the need for their consent to connect to the sewage system. There is no need for additional infrastructure but ask for a condition to require the submission of a drainage strategy dealing with surface water disposal and also foul sewage. Long-term maintenance of the SUDs is necessary.
- 7.07 KCC Development Contributions Team seek contributions towards primary and secondary education and libraries (details set out at para 9.13 below). They also recommend that Broadband is provided for the site and recommend an informative to encourage this.
- 7.08 Kent Highways and Transportation are satisfied with the overall level of parking provision for the site but are concerned that there could be overspill onto Glebe Lane which could lead to an impact on highway amenity for local residents. They note that on-street parking would be displaced by the new drives at the front of the site. In order to address these concerns, they recommended that one space per dwelling is allocated for blocks A and B so that each dwelling has a parking space immediately in front of them. They also ask that suitable lighting is provided to the parking areas. They also query the width of some of the spaces where they are next to fences, walls or hedges. They ask for secure cycle parking for each property and details of bin storage.

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- 7.09 The Head of Housing considered that the mix of affordable housing proposed – 2 social rented and 20 shared ownership is acceptable (the scheme has since been amended to 21 units with 2 social rented and 19 shared ownership).
- 7.10 Kent Police have considered the commitment of the developer to achieve ‘secure by design’ and therefore have no immediate concerns regarding the proposal.
- 7.11 UK Power Networks have no objection to the proposal.
- 7.12 Natural England note that the site lies within 6km of the SPAs and Ramsar sites. They consider that subject to payment of the SAMM contribution, the site can be screened out as not having a likelihood of significant effects on the designated sites.
- 7.13 Southern Gas Networks provide information about safe digging practices close to gas pipes that may be close to the site.
- 7.14 Lower Medway Internal Drainage Board note that the site is outside of their district but seek to ensure that surface water runoff is attenuated to no more than 5l/s with on-site storage provided to accommodate the 1 in 100 year rainfall event.
- 7.15 KCC Flood Risk and Drainage are generally satisfied with the majority of the drainage strategy. However, they recommend that there should be no discharge to foul sewage. They recommend a condition to require a details surface water drainage strategy to preclude discharge to foul sewage. Also, a condition to require details of the implementation, maintenance and management of the SUDs. Lastly a condition to prevent surface water drainage into ground without the permission of the LPA (in consultation with the EA) due to the risk to controlled ground waters.

8.0 BACKGROUND PAPERS AND PLANS

- 8.01 Existing and proposed plans and elevations; Tree Constraints Plan; Drainage Strategy & Maintenance Statement; Contaminated Land Report; Tree Report; Planning, Design and Access Statement; Details of KCC’s decision to close the care home; Ecology Survey; Minerals Assessment; Ecology Assessment Update.

9.0 APPRAISAL

Principle of Development

- 9.01 The application site lies within the built-up area boundary and is surrounded by residential properties. The development of this site for housing would be in line with the aims and objectives of the Development Plan and National Policy in so far as much needed affordable housing is being provided on a brownfield site. The loss of the care home facility should though be considered against policy C1 of the Swale Borough Local Plan 2008 which seeks to retain existing community facilities and services. This policy states:

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“The Borough Council will not permit proposals that involve the loss, or change of use, of a local community facility, where this would be detrimental to the social well being of the community, unless a suitable and equivalent replacement facility is to be provided both in a location and period of time as agreed by the Borough Council. Before agreeing to its loss or change of use, the Borough Council will require evidence that the current use is no longer needed and is neither viable, nor likely to become viable.”

9.02 The applicant has submitted information about the closure of Doubleday Lodge care home. This details the circumstances under which KCC decided to close the facility which was primarily as a consequence of low occupancy and also its inability to meet the national minimum standards of the Care Standards Act 2000. KCC carried out a public consultation on the closure of the home in September 2013 and the decision to close the home was made at the KCC Social Care & Public Health Committee on 16th January 2014. The care home would have required significant investment to bring it up to standard and it was noted that there was adequate capacity to relocate the existing residents in existing homes nearby. The new care home – Regis Gate in Milton Regis, Sittingbourne was considered to provide a much better quality of accommodation to meet the needs of existing and future residents. At the time KCC are quoted in a local newspaper as stating that *“within 10 miles of the home (Doubleday Lodge) there are 15 care homes, with 629 beds, and 153 more care home beds are planned in the area.”* The minutes of the committee meeting referred to above noted that Officer’s considered that *“better value for public money could be achieved by purchasing equivalent services from the independent sector”*.

- 9.03 KCC have now sold the site to private developers and it is therefore highly unlikely that the use of the site will be for a care home once again. I am of the view that the applicant has demonstrated that a suitable replacement facility has been provided in line with policy C1 of the adopted local plan. Indeed, all residents were relocated over 2 years ago and the new care home at Milton Regis offers 45 bedrooms. Doubleday lodge offered 36 bedrooms but in 2013, there were only 2 permanent residents and 8 short-term (respite) residents. An extract from the committee report by KCC referred to above is as follows:

“Respite (short term) residents: Data from Swift (KCC Case management systems) indicate that for the period 1 December 2012- 30 November 2013, there have been a total of 68 short term (respite) placements in the home (an average of between 1-2 people per week Respite bed days total 2,690 over the same period. Most people have had one period of stay during this year (76%) and have stayed for between 1-2 weeks (26 out of 68 or 38%). On this basis, it is estimated that KCC would need to secure three respite beds within the Swale area to replace the existing provision. All residents have been referred from either Swale or Canterbury case management teams.

KCC has secured the use of one short term bed for respite at the new Extra Care Housing development at Wyllie Court/Regis Gate, Sittingbourne. This facility will be opening in September 2014.

Two additional respite beds will be secured via a competitive tendering process to secure high quality, best value services. From a soft market testing exercise undertaken by Strategic Commissioning in November 2013, there is sufficient interest from care homes within a five mile radius of Doubleday Lodge to indicate that KCC would not face barriers to securing these services. There are two other residential

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care homes in Swale that offer short term services of which case managers promote the use of. Kiln Court is seven miles away from Doubleday Lodge and Blackburn Lodge is

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eleven miles away. These beds could be used should there be no interest from the market in Sittingbourne to provide short term beds as a contingency arrangement.”

- 9.04 Balanced against the loss of the care home is the significant need for houses, in particular affordable housing, in the Borough. This brownfield site will go some way towards reducing pressure from greenfield sites being developed for housing. I therefore consider that the proposed development is acceptable in principle.

Visual Impact

- 9.05 The housing surrounding the application site is of a medium-high density and the architecture is of a simple, typically suburban design. It is my view that the proposed development at a density of 51 d/ha, would sit comfortably within this environment. The elevations of the dwellings have been amended to improve the detailing to the front and side elevations as they were considered to be too bland. The gable ends and terraced form would reflect the properties opposite and adjacent to the site. Although dormer windows are not a common feature of the street scene, the proposed dwellings would have dormers to the rear roof slopes meaning that they would not be prominent features when viewed from the Glebe Lane. The proposed dormers would be of a size that would sit comfortably within the roof slopes in my view and their flat roof design would not be offensive to the overall architectural design of the dwellings. Exact finishing materials are to be agreed but the drawings indicate that brickwork, cladding and render would be predominant which would be appropriate for this residential area in my view.
- 9.06 The scheme has been amended to increase the amount of soft landscaping within the the public areas, including the parking bays which would be interspersed with street trees. I also note that many of the existing trees are to be retained as part of the development. The Tree Survey indicates that there are no category A trees (best quality) within the site but that there are a number of category B and C trees (trees of moderate to low quality respectively). The submitted tree constraints plan shows that although a number of lower grade trees and 3 category B trees would be removed from the site, 9 category B trees would be retained. These include Larch, Birch and Ash trees. The comments of the Tree Consultant are awaited and will be reported at the meeting. The retained trees would add to the amenity value of the area, support ecology and biodiversity and would also offer some level of privacy between the application site and the surrounding residents. The amended scheme also introduced a more varied hard-surface to the access and parking areas in an attempt to improve the appearance somewhat. I consider that overall, the amendments to the scheme have improved the environment within which the future residents would live. The development would be of a good design that would assimilate well into the existing suburban environment and would certainly be a vast improvement on the appearance of the site as it currently stands.

Residential Amenity

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- 9.07 Very careful consideration has been given to the impact of the development on the existing surrounding residents, of which there are 12 whose boundaries adjoin the application site as well as the flats that are adjacent to the southern boundary. In addition, the different site levels meant that section drawings were required to adequately assess the relationship between the proposed and existing dwellings. Following the submission of the section drawings the scheme was amended to address a number of instances where there would have been overlooking, overshadowing and an overbearing effect. The unit adjacent to no. 40 Glebe Lane was taken out of the scheme and blocks D and E moved forward within the site. I am now confident that the scheme provides adequate separation distances of 21m for back to back relationships and avoids any harmful overlooking as a consequence. The separation distance also now ensure that instances of harmful overshadowing are avoided. I also consider that there would be no instances of an overbearing effect.
- 9.08 As well as assessing the impact of the proposal on existing surrounding properties, I have considered the relationships between the dwellings within the scheme. Flank to rear distances of 11m are now met and where I had identified overlooking from unit 11 into the rear garden of unit 12, the amended plans show a pergola to be positioned to the rear of unit 12 thereby creating a private area immediately to the rear of this property. There may be some overlooking into the development from the existing flats to the south of the site but I do not consider that this would be materially harmful to the residents of block C or unit 11 (the most affected), noting that some overlooking from the flats would be unavoidable if this site is to be developed and also the presence of tall trees that are to be retained along the southern boundary. Tree planting would be provided within the rear garden of unit 11 along the southern and western boundaries and there would be a tree within the rear garden of unit 12. This planting will help to protect the private amenity space to these properties.
- 9.09 It must also be acknowledged that the two storey element of Doubleday Lodge would have overlooked the surrounding properties to some extent and, at points, this building is closer to the neighbouring properties than the current dwellings would be. I therefore consider that for nos. 37, 39 and 41 Wadham Place in particular, the new development would offer more privacy than before. I note the request of no. 26 Wadham Place to remove the beech hedge along their boundary and replace it with a wall. I have asked the applicant to consider this but do not consider that difficulties with maintaining the hedge is a material planning concern.
- 9.10 The proposed dwellings would all have reasonably sized gardens, some with larger than average gardens for this area and all of which would have a depth of no less than the standard 10m. The internal spaces provided within the proposed dwellings would offer a good living environment in my view.

Highways

- 9.11 I note the concerns of local residents in respect of potential for overspill of parking from this development onto Glebe Lane. Being realistic, I do not disagree with this conclusion. However, the key consideration here is whether on-street parking would be increased by this development to the extent that there would be significant harm to the amenity of local residents. Quite a high number of properties along Glebe Lane do not have frontage parking but have access to a garage court or parking to the rear. This has the advantage of a number of cars being able to park on the street without blocking driveways. Glebe Lane is also fairly wide and able to cope with cars parked

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on the street. As such, it is my view that there is good capacity to accommodate on-street parking along Glebe Lane. I note that Kent Highways and Transportation do not object to the proposal but ask that the parking that comes directly off Glebe Lane is

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allocated so that there is at least one space per dwelling for blocks A and B. I have recommended a suitably worded condition to address this. I have also imposed a condition requiring the provision of cycle parking for each property. The site is also a 10/15minute walk (0.8mile) from the town centre/East Street and therefore, close enough to local amenities to enable a reduced reliance on the car.

- 9.12 The parking provision and layout within the site is considered to be adequate and I note the comments from Kent Highways and Transportation in this respect. The applicant has amended the scheme to increase the width of the parking bays where they are adjacent to fences, wall and hedges as was requested. I therefore consider that the development would cause no material harm to highway safety and amenity.

Developer Contributions

- 9.13 The applicant is required to pay the following contributions which have been adjusted to account for the reduction in the number of proposed dwellings:

| | |
|--|------------------------------|
| SAMM SPA recreational disturbance | £223.58/dwelling: -£4,694.42 |
| Bins | £92/dwelling: -£1,932.00 |
| KCC Primary education | £49,580.16 |
| KCC Secondary education | £49,555.80 |
| Libraries | £1,008.33 |
| NHS | £18,144.00 |
| Off-site open space contribution | £861/dwelling: - £18,081.00 |
| Sub Total | £142,095.71 |
| Administration fee - 5% of total contributions | £7,104.79 |
| Total | £149,200.50 |

- 9.14 The applicant has agreed to pay these contributions as well as committing to securing 10% affordable housing (2 social rented) through the Section 106 agreement. Although, Members will have noted that the scheme is being provided in partnership with Moat Housing who will be securing all of the dwellings as affordable. Members may wonder why we are not securing all 21 of the dwellings as affordable through the Section 106. This is because the emerging planning policy DM8 (Bearing Fruits 2031) only requires sites within Sittingbourne to provide 10% affordable housing. I consider that it is therefore reasonable to apply 10% to this scheme given the advanced stages of the emerging local plan noting that the development would actually be providing 100% affordable housing at least initially.
- 9.15 I am content that the above contributions meet the tests for planning obligations as set out at paragraph 204 of the NPPF and that a section 106 Agreement is the best mechanism for addressing the SAMM contribution, the details of which are set out with the appended Habitat Regulations Assessment.

Other issues

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- 9.16 With regards to surface water drainage, KCC ask for a condition that would prevent all surface water from discharging to the foul sewer. The applicant is resisting such a condition stating that if the development does need to resort to this form of drainage,

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the permission would be rendered undeliverable. KCC point out that the condition could be varied under such circumstances. It is my view that there would have to be material and demonstrable harm arising from surface water drainage to foul sewers for such an imposition to be reasonable. I have no evidence that this would be the case here and Members will also note that Southern Water do not require this. As such, I am inclined to apply a condition that would encourage other forms of drainage but that does not prevent drainage to foul sewers.

- 9.17 The potential for contamination on the site has been assessed and the Head of Environmental Services has no concerns in this respect.
- 9.18 A Minerals Assessment has been submitted with the application as the site has potential for brickearth. This concludes that the site is too small to be a viable extraction site, the mineral has been sterilised and lies within a residential area which would make it difficult to extract from. The site also lies within the built up area boundary and is therefore compliant with Policy DM7 of the Kent Minerals and Waste Local Plan.
- 9.19 An Ecology Survey has been submitted with the application. This concludes that there is low potential for protected species at the site but that it is possible that bats might be present within the existing building. KCC Ecology acknowledge this and given the very low potential for this, accept that further survey work can be carried out after the permission is issued with appropriate mitigation put in place if necessary. I have included all of the conditions suggested by KCC Ecology below.
- 9.20 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.* An Appropriate assessment is appended with details of the likely impact of the development on the SPA and the applicant's agreement to pay the Strategic Access Management and Monitoring Strategy.

10.0 CONCLUSION

- 10.01 The proposed development would provide much needed housing within the built-up area of Sittingbourne. Members will also note that the site is within reasonable walking distance of the town centre. It is therefore considered to be sustainable development on a sustainable site. The loss of the elderly care home is regrettable but the site has been vacant for in excess of two years. In deciding to close the site, KCC were able to demonstrate that there was sufficient care home provision elsewhere within the Borough. I consider that the proposal would not therefore disadvantage the local community through the loss of the care home. Moreover, I consider that the need for affordable housing weighs strongly in favour of the proposal. The proposal has been amended to address concerns regarding the quality of the design and the impact on adjacent dwellings. I consider that the scheme would be of a good quality design that would not lead to material harm to

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residential amenities. The scheme would be likely to increase on-street parking in Glebe Lane but I consider that this road can accommodate some additional on-street parking and would not materially harm the amenities of local residents in this respect. The applicant has committed to the

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payment of the developer contributions as set out above and I have no concerns in respect of drainage, contaminated land and ecology.

10.02 I therefore consider that planning permission should be granted for this development subject to the conditions set out below and a Section 106 to include all matters set out at paragraph 9.13 above.

11.0 RECOMMENDATION – GRANT Subject to the signing of a Section 106 agreement to include all the measures set out at Paragraph 9.13 above and the following conditions:

11. 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.

12. The development hereby approved shall be carried out in accordance with the following approved drawings: to be completed.

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

13. Notwithstanding the provisions of Class A, Part 2, Schedule 2 to the Town and Country Planning (General Permitted Development) Order 1995 (as amended), no gates, fences, walls or other means of enclosure shall be erected or provided in advance of any wall or any dwelling fronting on a highway without the consent in writing of the Local Planning Authority.

Reason: In the interests of residential amenity.

14. Details in the form of cross-sectional drawings through the site, of the existing and proposed site levels shall be submitted to and approved in writing by the Local Planning Authority before work commences (with the exception of demolition) 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.

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

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

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Reason: In the interests of residential amenity.

16. The development shall be carried out in accordance with the submitted Code of Construction Practice, Site Waste Management Plan and on site car parking plan (for contractor parking during construction) submitted on 7th February 2017. The

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17. construction of the development shall be carried out in accordance with 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.

Reason: In the interests of residential amenity.

18. The area shown on the submitted plan – namely Proposed Site Plan, no.005 Revision N 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. In addition, the parking to the front of Blocks A and B shall be allocated so that each dwelling within these blocks has at least one of these parking spaces. Such land and access thereto shall be provided (and allocated where necessary) prior to the occupation of the dwelling(s) 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 detrimental to amenity.

19. Lighting shall be provided to the parking areas as shown on the approved plans, the details of which shall be submitted to the Local Planning Authority for approval in writing. The approved details shall be implemented prior to the first use of the parking area.

Reason: In the interests of highway amenity.

20. Prior to the occupation of the dwellings hereby approved, details of a covered secure cycle parking facility shall be submitted to the Local Planning Authority for approval in writing and the approved facility shall be provided prior to the occupation of the dwellings hereby approved and shall be retained in perpetuity.

Reason: To ensure that there is sufficient cycle parking at the site in the interests of sustainable development.

21. Prior to the demolition of any building a detailed bat mitigation strategy must be submitted to the Local Planning Authority for approval. The bat mitigation strategy must include the following:
- Bat Emergence survey (following best practice guidelines)
 - Details of the bat roosting features to be incorporated in to the site and buildings
 - Building plans demonstrating the bat roosting features will be incorporated in to the site
 - Methodology of soft strip of the building (map showing the areas where an ecologist needs to be present for the works)

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- Time of year the works to be carried out
- Follow up monitoring

The works must be implemented as detailed within the approved mitigation strategy.

Reason: In the interest of ecology and biodiversity.

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21. Prior to occupation a lighting design strategy for biodiversity shall be submitted to and approved in writing by the Local Planning Authority. The 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, e.g., for foraging.
 - b) Show how and where external lighting will be installed (through the provision of appropriate lighting contour plans and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent the above species using their territory or having access to their breeding sites and resting places.

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. Under no circumstances should any other external lighting be installed without prior to consent from the Local Planning Authority.

Reason: In the interests of ecology and biodiversity.

22. The biodiversity enhancements as set out on page 30 of the submitted Preliminary Ecological Appraisal shall be implemented on site prior to the occupation of the 1st of the dwellings hereby approved.

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

23. Prior to the commencement of development (with demolition being permitted to commence) 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.

24. No development (with demolition being permitted to commence) 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, the pergola to unit 12, hard surfacing materials, and an implementation programme.

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

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25. 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.

26. 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.

27. Prior to the commencement of development (with demolition being permitted to commence) 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.

28. Development shall not commence (with the exception of demolition) until a detailed sustainable surface water drainage strategy been submitted to (and approved in writing by) the local planning authority. The detailed drainage scheme shall demonstrate that the surface water generated by this development (for all rainfall durations and intensities up to and including the climate change adjusted critical 100yr storm) can be accommodated and disposed of within the curtilage of the site. The sizing and functionality of the system shall be determined through site-specific infiltration testing.

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

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

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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.

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

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

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

Reason: In order to prevent pollution of water supplies.

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

Reason: In the interests of visual amenity.

33. All trees to be retained must be protected by barriers and ground protection at the recommended distances as specified in BS5837: 2012 'Trees in relation to design, demolition and Construction - Recommendations' before any equipment, machinery or materials are brought on to the site and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed, nor fires lit, within any of the area fenced in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavation be made, without the written consent of the Local Planning Authority.

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

INFORMATIVES

3. The applicant is advised to consider the contents of Southern Gas Networks comments dated 30th November 2016 and the Southern Water letter of 14th December 2016.

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4. Adequate and suitable measures should 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 should be employed. Any redundant materials removed from the site should be transported by a registered waste carrier and disposed of at an appropriate legal tipping site.

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The Council's approach to this application:

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

Offering pre-application advice.

Where possible, suggesting solutions to secure a successful outcome.

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

In this instance:

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

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

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

APPENDIX 3**APPENDIX B****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.

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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's ecological appraisal dated June 2016 contains information to assist the HRA. Importantly, it clarifies that the applicant is willing to commit to contributions towards the strategic mitigation noted above.

Natural England's letter to SBC dated 3rd August 2016 has also been considered; in particular that they have raised no objections subject to contributions towards strategic mitigation.

The Assessment of Doubleday Lodge, Glebe Lane, Sittingbourne

The application site is located 2.2km to the south The Swale Special Protection Area (SPA) and 5km from the Medway Estuary and Marshes SPA. 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 providing the development contributes towards the SAMM, 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. 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 through strategic mitigation in line with recommendations of the Thames Medway and Swale Estuaries SAMM as detailed above, will offset 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.

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Conclusions

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

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APPENDIX 4

PLANNING COMMITTEE

MINUTES of the Meeting held in the Council Chamber, Swale House, East Street, Sittingbourne, Kent, ME10 3HT on Thursday, 27 April 2017 from 7.00 pm - 9.00 pm.

PRESENT: Councillors Mike Baldock, Cameron Beart, Bobbin, Andy Booth (Vice-Chairman), Tina Booth (Substitute for Councillor Prescott), Roger Clark, Richard Darby, James Hall, Mike Henderson, James Hunt, Ken Ingleton, Nigel Kay, Samuel Koffie-Williams, Peter Marchington, Bryan Mulhern (Chairman), Ghlin Whelan and Mike Whiting (Substitute for Councillor Mike Dendor).

OFFICERS PRESENT: Andrew Jeffers, Benedict King, Kellie MacKenzie, Ross McCardle, Graham Thomas, Steve Wilcock and Jim Wilson.

ALSO IN ATTENDANCE: Councillor Paul Fleming.

APOLOGIES: Councillors Mike Dendor and Prescott.

1303 DEFERRED ITEM

| | | |
|---|----------------------------|--|
| REFERENCE NO - 16/507706/FULL | | |
| APPLICATION PROPOSAL Demolition of former residential care home building and erection of 21 new dwellings, associated new access road, car parking and amenity areas. | | |
| ADDRESS Doubleday Lodge Glebe Lane Sittingbourne Kent ME10 4JW | | |
| WARD Roman | PARISH/TOWN COUNCIL | APPLICANT Stonechart Property Ltd AGENT Ubique Architects |

The Major Projects Officer advised that following consideration of the application at the 2 March 2017 meeting, the affordable housing issue was the only one that had not been resolved. The applicant had advised that 30% affordable rented units on the site would render the scheme unviable.

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

Resolved: *That application 16/507706/FULL be approved subject to conditions (1) to (23) in the report, and the signing of a suitably worded Section 106 Agreement.*

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| | | | |
|---|--|---|-------------|
| 2.8 REFERENCE NO - 16/506946/FULL | | | |
| APPLICATION PROPOSAL Proposed mixed use development comprising 165 no. residential apartments, medical centre and pharmacy across three blocks with associated parking and landscaping, refurbishment of existing Bell House with retention of offices and an additional storey. | | | |
| ADDRESS Bell House Bell Road Sittingbourne Kent ME10 4DH | | | |
| RECOMMENDATION Approve, subject to signing of appropriately worded Section 106 Agreement , the conditions listed below and no objection being raised by KCC Highways & Transportation, KCC Ecology and Kent Police and no fresh issues being raised from latest consultation, expiry date 24th July 2018. | | | |
| SUMMARY OF REASONS FOR RECOMMENDATION The application provides the opportunity to regenerate a long term derelict site and would give rise to wider regeneration benefits. The harm that has been identified, which includes the developer not being able to provide the fully requested range of contributions or affordable housing, would not, when the viability of the site is taken into account, outweigh the benefits of the scheme in my view. | | | |
| REASON FOR REFERRAL TO COMMITTEE This application raises a number of issues which require Member determination. | | | |
| WARD Homewood | PARISH/TOWN COUNCIL | APPLICANT Aria Group AGENT The JTS Partnership | |
| DECISION DUE DATE 26/01/17 | PUBLICITY EXPIRY DATE 24/07/18 | | |
| RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites): | | | |
| App No | Proposal | Decision | Date |
| SW/11/1193 | Variation of condition 2 of planning permission SW/10/1403 seeking approval of revised elevations to approved hotel development. | Approved | 09.12.2011 |
| SW/10/1400 | Outline planning permission for the demolition of existing buildings and erection of part four/part five storey sheltered housing building (Class C2), four storey residential building (Class C3), new pedestrian link and public square with associated landscaping, public realm, parking access. | Approved | 02.02.2011 |
| SW/10/1403 | Redevelopment to provide four storey hotel (56 rooms) and public car park with associated landscaping and access. | Approved | 02.02.2011 |
| SW/10/1479 | Conservation Area Consent for part demolition and erection of a four storey building for a medical centre use (Class D1) with 6 flats above; extension of existing public house to | Approved | 02.02.2011 |

| | | | |
|------------|---|----------|------------|
| | create outdoor seating area, refurbishment and extension of existing upper floor area (B1/D1/D2 Use) and refurbishment of retained shop units within arcade (A1-A5 use) with associated access and landscaping. | | |
| SW/10/1402 | External alterations to building Bell House following demolition of adjoining property, The Bell Centre, and changes to car parking provision. | Approved | 21.12.2010 |

MAIN REPORT

1.0 DESCRIPTION OF SITE

1.01 The application site is 0.9 hectares, largely flat, and includes Bell House, a four storey office building which fronts Bell Road, and part of the remaining element of what was formally known as the Bell Shopping Centre, an enclosed shopping parade which fronts onto the High Street. Due to the demolition of the majority of the Bell Shopping Centre which formally occupied the site it is now largely vacant.

1.02 The site abuts Bell Road to the east, residential dwellings in Trotts Hall Gardens to the south, an informal area of car parking to the west and the High Street to the north. The site lies within the Sittingbourne Town Centre boundary and the Central Sittingbourne Regeneration Area. The northern part of the site also lies within the Sittingbourne High Street conservation area. A number of listed buildings are located along the southern side of the High Street close to the application site, whilst on the northern side sits the Grade II* listed St Michael’s Church.

1.03 The surrounding built form is mixed and comprised of two storey dwellings in Trotts Hall Gardens, 3-4 storey retirement dwellings in Riverbourne Court on the opposite side of Bell Road and 2-3 storey commercial buildings on the corner of Bell Road / High Street.

2.0 PROPOSAL

2.01 This application seeks planning permission for 165 residential units, a medical centre and a pharmacy.

2.02 The proposed development will comprise of three separate blocks as follows:

- Block 1: This will contain 47, 2 bed residential units ranging between 66sqm and 76 sqm and front onto Bell Road. It will be five storeys in height, although the fifth storey will be set back from the front elevation. The main front elevation will be set back from the edge of the footway so that the ground floor units will benefit from private gardens. The block will be 15m in height to the top of the fifth floor, which will be set back from the front elevation of the building by 5m. The building will measure 12.1m to the top of the fourth storey. The footprint of the block will be 47.5m x 21.2m. The proposed materials would be brick and cladding.
- Block 2: This will contain 106 residential units (39 x 1 bed, 67 x 2 bed) which will range between 51sqm and 74sqm, and will sit behind Bell House and Block 1 as set out above. It will be seven stories in height although the seventh storey will be set back from the front elevation. This block will also include a basement level

which along with the ground floor will be used for vehicle parking. The block will measure 21m in height to the top of the seventh floor, which will be set back from the front and rear elevation of the building by 5.8m and 6.5m respectively. The building will measure 18m to the top of the sixth floor. This block will be an approximate L shape and measure 61.6m in length and 37.7m at its widest point. The first floor will include a roof terrace facing towards the internal courtyard area. The proposed materials would be brick and render.

- Block 3: This will contain a medical centre on the ground and first floor with 4 x 1 bed units and 8 x 2 bed residential units, ranging between 50sqm and 81sqm on the second and third floor. This block will be located to the north of block 1 and 2 and sit behind No.7-13 High Street. The block will measure 13.3m in height. Its footprint would be 32m in depth and 16m in width. The block will be predominately rendered.
- A pharmacy is proposed which will front onto the High Street and link through to meet the proposed medical centre within block 3.

2.03 The proposal also includes the refurbishment of the existing 4 storey Bell House office block and the construction of a fifth storey to provide 3 x 2 bed residential units, ranging between 73sqm and 105sqm. The external changes to the building will include cladding and alterations to the fenestration.

2.04 A pedestrianised internal courtyard will be located between the buildings in the central part of the site which will incorporate planting and seating. Collapsible bollards will be located at the northern and southern entrances to the site to enable emergency vehicle access if required. Pedestrian access will be available from Bell Road to the rear of the site, connecting with the route into Sainsbury's car park and beyond.

2.05 The application proposes a total of 100 car parking spaces. 85 of these spaces will be located at the ground floor and basement floor level of block 2. 12 parking spaces will be located on the access road in the southern part of the site. Vehicular access will taken from the existing access road, which connects to Bell Road in the southern part of the site.

3.0 PLANNING CONSTRAINTS

- 3.01 Potential Archaeological Importance
- 3.02 Conservation Area Sittingbourne High Street

4.0 POLICY AND OTHER CONSIDERATIONS

- 4.01 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 (good design), 58, 69 (healthy communities), 118, 119, 120, 121, 123, 125, 129, 132, 133 (heritage assets), 131, 159 (housing), 162 (infrastructure), 173 (viability); 186 (decision taking), 187, 196 (determining applications) & 197, 204 (planning obligations).
- 4.02 National Planning Practice Guidance (NPPG): Air Quality; Conserving and enhancing the historic environment; Design; Ensuring the vitality of town centres; Land affected by contamination; Natural environment; Noise; Open space, sports and recreation

facilities, public rights of way and local green space; Planning obligations; Travel Plans, Transport Assessments and Statements and Viability.

4.03 Development Plan: Bearing Fruits 2031: The Swale Borough Local Plan 2017 - Policies ST1 (Delivering sustainable development in Swale); ST2 (Development targets for jobs and homes 2014-2031); ST3 (The Swale settlement strategy); ST4 (Meeting the Local Plan development targets); ST5 (The Sittingbourne area strategy); CP2 (Promoting sustainable transport); CP3 (Delivering a wide choice of high quality homes); CP4 (Requiring good design); CP 8 (Conserving and enhancing the historic environment); Regen 1 (Central Sittingbourne: Regeneration Area); DM1 (Maintaining and enhancing the vitality and viability of town and other areas); DM2 (Proposals for main town centre uses); DM6 (Managing transport demand and impact); DM7 (Vehicle parking); DM8 (Affordable housing); DM14 (General development criteria); DM17 (Open space, sports and recreation provision); DM19 (Sustainable design and construction); DM21 (Water, flooding and drainage); DM28 (Biodiversity and geological conservation); DM29 (Woodlands, trees and hedges); DM32 (Development involving listed buildings); and DM33 (Development affecting a conservation area).

4.04 Supplementary Planning Documents: Listed Building, Conservation Areas, Developer Contributions (2009).

5.0 LOCAL REPRESENTATIONS

5.01 When the application was originally consulted upon, 12 letters of objection were received, raising the following summarised concerns:

- The proposal would lead to unacceptable levels of overlooking of surrounding properties and a loss of light;
- The level of parking proposed is inadequate;
- There is inadequate parking capacity in the surrounding area;
- The surrounding roads are already at capacity and unable to deal with the increased traffic;
- The additional traffic would increase the potential for accidents;
- The development will be located on an existing car park;
- The scale of the proposal is too large and not in keeping with the surrounding area;
- The existing Bell House is an eyesore and already too high before the proposal for an additional storey;
- The proposal would increase noise levels in the area;
- The hub of the development creates an opportunity for criminals;
- The underground car park provides opportunities for criminals;
- The location of the development close to the Probation Service would increase the potential for crime;
- The density of the development is too high;
- A medical centre has been proposed on this site before and approval should not be given without assurances that the medical centre is delivered at an early stage of the development;
- The submitted Transport Assessment (TA) is flawed;
- The site is at risk of flooding;
- Local services will not be able to absorb the additional residents;
- The proposal would devalue surrounding properties;

5.02 Upon receipt of amended drawings, I have re-consulted and received a further 7 letters of objection. 4 of these were from addresses which responded to the initial

consultation and one of the letters of objection, raising concerns regarding the impact upon the local highway network, the scale of the development and loss of privacy includes 17 signatures stating that they agree with these concerns. In the remaining letters, a number of the concerns raised are as already set out above, however, additional points are as follows:

- The public consultation was not wide enough;
- Would like confirmation that the Council is not planning on building a car park on the open space fronting Trotts Hall Gardens;
- The proposal will give rise to dust and dirt;
- Public transport in Sittingbourne is inadequate;
- The TA is flawed, over-estimating parking spaces in the surrounding area;
- What are the proposed opening times for the medical centre and pharmacy?

5.03 In addition to the above, I have received a letter of objection on behalf of the Ministry of Justice, who occupy offices within Bell House in the form of an Offender Contact Centre. This objection is based upon the future occupants of the proposed development being able to overlook the entrance which offenders will need to access. Secondly, the noise and disruption from the building / conversion works will have a negative impact upon the working conditions and health / wellbeing of the employees as well as be to the detriment of the sensitive nature of the operations carried out. Concerns are also raised in relation to Bell House only having one entrance which will need to be shared between the proposed residential use on the top floor of Bell House and the offenders and how the internal security arrangements will be implemented.

6.0 CONSULTATIONS

6.01 **KCC Highways & Transportation** initially responded stating further information is required and raised a number of points as follows: a full Transport Assessment (TA) is required for a development of this size; on street parking demand is greater than identified; the management of the access road will need to be clarified; tracking for a 11.2m long refuse collection vehicle should be shown; discrepancies in the documentation regarding the parking numbers; some of the parking bays are inadequate; crash data should be sought from KCC; a minimum of 165 cycle spaces will be need to be provided.

Further to the above, a TA was submitted. KCC Highways were re-consulted and generally accept the findings as presented in the document. However, they commented that TRICS analysis should be carried out for the medical centre element of the proposal. A parking provision of around 60% is considered in line with what is generally accepted in this town centre location. However, this is on the assumption that measures are in place to restrict overspill parking from the development. Parking will be required to be managed and it may be appropriate to allocate parking to certain units to provide certainty upon purchase. The parking for the medical centre, which is intended to be accommodated through the shared use of the on-site residential and Bell House parking spaces, on-street provision, and local public car parks, may prove problematic from a management point of view as the on-site spaces could be open to abuse from non-medical centre parking. There are public car parks in the vicinity but do not believe that on-street parking will be available to much extent as this is generally located further away than the public car parks and spaces are likely to be already taken by local residents or people working in the town centre. The comments in the previous response regarding the study overestimating the on-street parking spaces in the area are reiterated.

- 6.02 **KCC Lead Local Flood Authority** raise no objection in principle to the proposed surface water drainage strategy. The discharge rates off site are controlled as close as possible to greenfield rates. Although the Flood Risk Assessment has considered the risk of flooding to be low, our experience of the area suggests the risk of flooding may be higher than considered in the report. The development proposals should consider the safe routing of flows from off-site to ensure that there is no adverse effect upon the development or the surrounding areas and properties. If permission is granted then two conditions are recommended, one related to a detailed sustainable surface water drainage scheme and a second requiring details of an implementation, maintenance and management of the sustainable drainage scheme.
- 6.03 **Historic England** comments that the site as it currently stands has a negative impact upon the significance of the conservation area and welcome the opportunity to develop this and seek enhancements to the site. Recommend that, in particular, due to the seven storey block 2 that further clarity is sought to establish the visibility and any consequent effects of the scheme upon the setting of the High Street and its most significant listed building, the grade II* St Michaels Church. It is suggested that photomontages of the development of the development from these vantage points would help in understanding any impacts. Recommend that the application is determined in accordance with national and local policy and on the basis of the Council's conservation advice.
- 6.04 **Natural England** state that the application site is within the zone of influence of The Swale Special Protection Area (SPA) and Ramsar site and Medway Estuary and Marshes SPA/Ramsar site, and therefore has the potential to affect their interest features. However, subject to appropriate financial contributions the proposals are unlikely to have a significant impact upon these sites. In addition, the proposal will not damage or destroy the interest feature of the SSSI.
- 6.05 **Medway Lower Internal Drainage Board** confirm that the site is outside of the Internal Drainage Boards district and is unlikely to affect their interests.
- 6.06 **Southern Water** request a condition relating to the protection and diversion of public sewers and an informative relating to a formal connection to the public sewerage system.
- 6.07 **KCC Archaeology Officer** states that there is potential for archaeological remains to be located on the site. A condition is recommended securing the implementation of a programme of archaeological work.
- 6.08 The Council's **Environmental Protection Team Leader** has commented that the Air Quality Assessment has been written using the preferred methodology. Due to the difference between predicted levels and objective value the conclusion drawn is that Air Quality is not an issue.

In respect of Noise, the report which was originally submitted set out that some parts of the site, notably some of the balconies, did not, and probably could not be designed to comply with the external amenity levels in respect of decibel levels and as such an objection was raised. However, an amended report has been submitted which sets out the exceptions to this scenario, e.g. if the balcony area is too small for the noise levels to be unacceptably high. Sufficient mitigation would then be provided by sealing the balustrades. Therefore, as an explanation as to why this solution would be likely to provide the necessary protection has been given, no objection is now raised on noise grounds.

In respect of land contamination, a phase 1 desk study has been carried out and identified some pollutants. The report recommends that a discovery and remediation strategy is put in place if any further contamination is found during ground works. This approach is agreed with and a condition to this effect is recommended.

- 6.09 **NHS Strategic Estates Advisor** sets out that the contribution requested for this development is £142,560.

The following comments were subsequently received in relation to the medical facility: *“I wanted to update the Council on the Practice and CCG thinking around this site and planning application. We met with the developer to explore the development proposal and it is clear from that meeting that the developer’s proposals are unlikely to offer value for money for the Practice or CCG. The Practice has in the meantime undertaken a review of the existing facility and is of the opinion that they can reconfigure the facility to meet there requirements going forward. The CCG has not yet seen those proposals but if this is the case this will be a more affordable and sustainable solution. In the meantime the Practice has advised the developer that they are not wanting to progress the Bell House site.”*

- 6.10 **KCC Developer Contributions** have requested developer contributions for Primary Education - £101,382; Secondary Education - £125,538; Community Learning - £9,970.39; Youth Services - £6,201.21; Libraries - £37,455; 2 wheelchair adaptable homes; a consulting room within the medical centre.
- 6.11 The Council’s **Greenspaces Manager** seeks contributions for both Play and Formal Sports as follow - £30,000 to replace toddler play equipment at Sittingbourne Recreation Ground; £97,845 for changing provision and pitch quality improvements at Sittingbourne Recreation Ground.
- 6.12 The Council’s **Strategic Housing and Health Manager** states that if the adopted affordable housing policy was applied then 17 units (15 affordable rent and 2 shared ownership) would be required. However, it is recognised that due to viability it is likely that affordable housing will not be able to be provided.
- 6.13 **UK Power Networks** *“objects to the planning application for the Development, as the Applicant has neither served Notice in accordance with the Party Wall etc. Act 1996 nor satisfied the Company that the works are not notifiable. The Applicant should provide details of the proposed works and liaise with the Company to ensure that appropriate protective measures and mitigation solutions are agreed in accordance with the Act. The Applicant would need to be responsible for any costs associated with any appropriate measures required.”*
- 6.14 **Environment Agency** initially raised an objection to the scheme on the basis that the application failed to provide assurance that the risks of pollution of controlled water were understood.
- Further to this a contamination report was submitted and on re-consulting the EA the objection has been removed subject to conditions relating to contamination; measures in regards to infiltration of surface water and protection of groundwater.
- 6.15 **Scotia Gas Networks** have provided details of the low/medium/intermediate gas main near to the site and that there should be no mechanical excavations taking place above or within 0.5m of a low/medium pressure system or above or within 3m of an intermediate pressure system.

- 6.16 The Council's **Streetscene Officer** states that a development of this scale would require 28 x 1100ltr refuse bins and 28 1100ltr recycling bins.

7.0 BACKGROUND PAPERS AND PLANS

- 7.01 The following has been submitted in support of the application:

- Existing and proposed layout and floorplans;
- Streetscene Elevations;
- Proposed Photo Montages;
- Planning Statement;
- Transport Assessment;
- Air Quality Assessment;
- Noise Assessment;
- Contamination Report;
- Viability Assessment;
- Landscape Strategy;
- Landscape Masterplan;
- Archaeological Desk Based Assessment;
- Heritage Impact Assessment;
- Flood Risk Assessment.

8.0 APPRAISAL

Principle of Development

- 8.01 The application site lies within the built up area boundary, the Sittingbourne Town Centre boundary and the Central Sittingbourne regeneration area. Policy ST4 of the Local Plan sets out that within the regeneration area as a whole, 567 dwellings will be provided. Policy Regen 1 breaks this down further and refers to the Bell Centre specifically and states *"The redevelopment of this site for residential development, offices and community facilities, in particular a medical centre to replace existing inadequate space in East Street, will be able to provide a minimum of 120 dwellings."* The National Planning Policy Framework at paragraph 23 also sets out that residential development upon appropriate sites within the town centre can play an important role in ensuring the vitality of town centres.
- 8.02 The pharmacy element of the proposal will be located within the Primary Shopping Frontage. Pharmacy's can fall within either use class A1 or D1, dependant upon it's linkages to a medical facility. Although the planning statement sets out the pharmacy will be linked to the medical centre, in this case I am of the view that as it has a frontage onto the High Street and would likely also draw in other people, unrelated to the medical centre and therefore it could be argued in this case that the use class is A1. Notwithstanding this the way that the pharmacy would operate will in my view accord with the aims of the policy DM1. I also take into account that the pharmacy would occupy existing vacant floorspace on the High Street frontage and in overall terms that it will contribute to the vitality and viability of the town centre.
- 8.03 In terms of the end user of the medical centre, I note the response received from the NHS Strategic Estate Advisor insofar as the NHS will not be pursuing the option to take on this facility. As set out above, the medical centre element was envisaged by policy ST4 to replace inadequate facilities. However, I note the comments from the NHS which now set out that they believe that the existing facility can be reconfigured to meet their requirements going forward. Due to this I liaised with the agent, asking whether they still wished to include this element of the proposal within the application

which they confirmed that they did. As such, due to the correspondence received from the NHS I am of the view that this element of the application is policy compliant.

- 8.04 On the basis of the above, I am of the very firm view that taking the above proposals into account alongside adopted local and national policies that the scheme is acceptable in principle.

The quantum of housing and mix of units

- 8.05 The application site measures 0.9 hectares and proposes 165 residential units, this equates to a density 183 dwelling per hectare. Whilst this is considered a very high density, I firstly note the aspirations of policy ST4 which seeks a minimum of 120 dwellings on the site (which if that minimum figure was calculated would equate to 133 dwellings per hectare). Secondly with the site being close to the town centre and the regeneration area where other high density schemes have been previously approved, I am of the view that this level of development would be acceptable in these circumstances. Finally the following discussion fully assesses the implications of this level of density on this site.
- 8.06 Policy CP3 requires that a wide choice of high quality homes will be provided. In this case, although the development is limited to 1 and 2 bedroom units, as noted above, I give weight to the requirements of policy ST4 for a minimum of 120 units on this site. Bearing this in mind, units of the proposed size are in my opinion to be expected on this site for it to come forward and I consider the proposal acceptable in this regard.

Visual Impact and impact upon designated heritage assets

- 8.07 The application site currently includes Bell House, a four storey office block, vacant land and partially demolished buildings at the rear of the High Street. The current site, in my view, has a significantly harmful impact upon visual amenities and detracts from the surrounding area to a considerable degree. Members should note that the scheme has been presented to the Design Panel at the pre application stage and the comments which they made are included as an Appendix to this report.
- 8.08 The proposed development would be best described in my view as contemporary. The various elements of the scheme have a rectangular form and the external finishing materials would be in keeping with this modern approach. There is a wide range of styles and designs of built form in the local area and as such I am of the overall view that this approach is acceptable. The contemporary design was also an approach which the Design Panel endorsed.
- 8.09 The refurbishment of Bell House will in my view lead to a significant improvement along its Bell Road frontage. It is currently a building of limited architectural merit and the northern flank elevation has exposed blockwork as a result of the demolition of the Bell Centre which formally adjoined it. The proposal does include an additional storey of development, creating a fifth storey. This increase in scale is balanced against the proposed modern external finishing materials of the building in its entirety, and the fact that Bell House as existing already has plant at fifth storey level means in my view that this would not lead to any demonstrable harm to the street-scene or visual amenities.
- 8.10 Block 1 will largely infill the gap between Bell House and No.4 Bell Road. The scale of the block will match that of Bell House as proposed being five storeys in height with the fifth storey set back from the front elevation. This element of the proposal

will be higher than the assisted living apartments on the opposite side of Bell Road, known as Riverbourne Court which is a combination of three and four storeys in height. Although this building will be taller than surrounding buildings, I note that there are buildings in the vicinity of the site that are three or four storeys in height. This includes Swale House, the Cinema building in the High Street and the buildings fronting the southern side of the High Street. Overall, given the height and scale of these buildings I am of the view that block 1 would not be significantly out of keeping with the surrounding form of development.

- 8.11 I also take into account that block 1 does not immediately adjoin Bell Road but has been set back to allow for small private gardens at ground floor level for the residential units located here. This will mirror the approach that has been taken at Riverbourne Court on the opposite side of Bell Road and will help Block 1 to appear less oppressive within the streetscene of Bell Road. This will allow for small front gardens to the ground floor units and landscaping, which although limited in scale will be over and above what the site currently provides. These features of Block 1 together with setting the fifth storey back from the front elevation will result in my opinion in this element of the proposal being acceptable.
- 8.12 Block 3 will, due to its location and scale represent the least prominent part of the proposed development. It will be largely finished in render and have a modern appearance. There will be views available of this block from Bell Road but this will be read in the context of block 1. Overall I am of the view that the impact of this block is acceptable. The pharmacy element of the scheme will front onto the High Street and will in my view enhance the character of the conservation area by replacing a vacant frontage of little architectural merit. I therefore consider this element of the scheme to be acceptable.
- 8.13 Block 2 is the largest element of the proposal and has required extremely careful consideration in the context of this site and its impact upon the surrounding area, including the designated heritage assets which the Council has a duty to preserve. I note the comments of the Design Panel in relation to this block and the potential for its increased height if parking was to be provided within the building. However, the building at seven stories will be prominent within the streetscene. Having said this, from the Bell Road frontage views towards it will be screened by block 1 whilst from the north views will largely be screened by both existing buildings and block 1.
- 8.14 However, when approaching the site from the south, this block will be read in the context of the two storey houses in Trotts Hall Gardens and I consider that the relationship in visual terms is not particularly comfortable. Although the view of most concern in my opinion from public vantage points is when the site is viewed from the Sainsburys access road to the west. From this viewpoint this block would in my opinion be at its most prominent, would abut an area of informal car parking and be close to the boundary of the conservation area. I believe that the impact upon visual amenities in this respect would be fairly harsh, with hardstanding abutting a seven storey block of development. I also consider that this element of the proposal especially, due to its design, scale and bulk gives rise to some harm to both visual amenities and the setting of the conservation area.
- 8.15 Officer's did raise concern during the pre application process regarding the lack of comprehensiveness of the development by virtue of not including an area of informal car parking to the west into the application site. A request was made to the applicant's to liaise with adjoining landowners in order to extend the developable area. The Planning Statement sets out that discussions with the adjoining land owner took place, however, they were not willing to enter into any agreement with the

applicants. It is in my view unfortunate that this is the case, a view which was shared by the Design Panel. However, I do not believe that the failure to include this piece of land should render the entire scheme unacceptable.

- 8.16 In terms of assessing the impact of the overall development upon designated heritage assets, I believe that the impact upon St Michael's Church would be extremely limited due to the intervening buildings, however there would be some harm caused to the setting of the conservation area by virtue of the bulk and scale of block 2. In regards to whether this would render the scheme unacceptable I note the Council's statutory duty to pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area. A development that merely maintains the status quo, for example by replacing an area of derelict land with development that restores a degree of the townscape, but is considered less than ideal in scale, as it could be argued in this case could potentially be considered to satisfy the statutory consideration.
- 8.17 However, in a number of ways, the policies in the NPPF seek positive improvement from new developments within conservation areas. Most explicitly paragraphs 126 and 131 require that Council's should take into account "*the desirability of new development making a positive contribution to local character and distinctiveness*". In addition, paragraph 9 says that pursuing "*sustainable development involves seeking positive improvements in the quality of the...historic environment...*". The design policies in the NPPF further reinforce the objective of enhancement of an area's character and local distinctiveness, concluding that "*Permission should be refused for development of poor design that fails to take opportunities available for improving the character and quality of an area...*" (para. 64).
- 8.18 I also note and give weight to paragraph 134 of the National Planning Policy Framework which states "*Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.*"
- 8.19 In my view, on the basis of the above assessment I believe that the harm identified, in the context of the development as a whole would fall into the 'less than substantial' category and therefore it will need to be weighed against both the public benefits of the proposal and securing its optimum viable use. In terms of this, I have to give considerable weight to not only the regeneration benefits in the context of the site itself, taking into account it's history, but also that the development will meet many of the aims for the Sittingbourne Town Centre regeneration area. For these reasons, I believe that the proposal, despite some identified harm is acceptable in terms of its impact upon designated heritage assets and visual amenities. I have included a number of conditions in relation to both materials and design details to ensure that the development is carried out to an appropriate standard.

Residential Amenity

- 8.20 The application site is located within the town centre with development relatively closely surrounding the site on three sides. As such, careful consideration will need to be taken in respect of the impact of the proposals upon existing residential amenities.
- 8.21 Residents within the two storey residential properties to the south of the application site in Trotts Hall Gardens would be impacted upon by the development and I note the concern that has been raised in this regard in the objections received. Therefore

consideration needs to be given to whether or not this impact is unacceptable, which I assess below.

- 8.22 I note that the existing flank elevation of Bell House is 13m away from the central part of the rear garden of No.1 Trotts Hall Gardens and has existing flank windows which would lead to an element of overlooking from the current office use. In terms of the proposed additional storey, there are windows which would look south towards these properties. However, due to the existing windows in this flank elevation of Bell House facing these properties, I do not consider that there would be a significant amount of additional opportunities for overlooking. In respect of this elevation, there has been, during the previous consultation some discrepancies in terms of the floorplans and the elevations. Due to this appropriately amended plans have been received from the agent and for the avoidance of doubt have re-consulted with those neighbours that I believe would be impacted by this. This consultation period will not close until after the meeting, however, I will update Members of the responses received up to that point. Further to the above, as Bell House is already four storeys in height, having a fifth storey set back from the main external elevations, combined with Bell House being located to the north of these dwellings. I am of the view that this element of the development would not give rise to a significant loss of sunlight to properties in Trotts Hall Gardens. In reaching this view, I also give weight to the fact there is existing plant at what would be the fifth storey, further limiting any additional harm from this element of the proposal.
- 8.23 In terms of block 2, the southern elevation of this would face towards the rear gardens of No.7-13 Trotts Hall Gardens. This block would, as set out above, be a full six stories in height with a seventh storey set back from the main external elevation. The closest rear elevation to block 2 will be No.11 Trotts Hall Gardens, which will be separated by a distance of 43m. There would also be some angled views available from block 2 towards the rear of No.1-6 Trotts Hall Gardens which would be 29m away at the very closest point. In my view, this separation distance would be sufficient to not significantly harm the residential amenities of properties in Trotts Hill Gardens.
- 8.24 In terms of a potential loss of sunlight to No.s 7-13 Trotts Hall Gardens, I firstly take into consideration that as set out above, block 2 would be at its closest point 43m away from No.11, the remaining separation distances would be in excess of this. I also note the Daylight and Sunlight Analysis that has been submitted with the application that shows that in terms of the windows in the dwellings listed above, that they would meet the Building Research Establishment (BRE) guidance in terms of light. In addition to this, as the block is located to the north of these existing dwellings I am of the view that the properties would not experience any significant loss of daylight.
- 8.25 The north western element of block 2 would at its closest point be 14m away from the residential units within 21 High Street. In respect of this I note that there are two windows on the southern flank elevation, although these would not face directly towards the closest part of block 2. I am of the view that there would be some degree of harm to the amenities of the two end units within No.21 High Street. However this impact will need to be weighed in the balance of the scheme as a whole.
- 8.26 In relation to block 1, it's eastern elevation will predominately face towards the three storey Riverbourne Court on the opposite side of Bell Road. Block 1 would be five stories in height although the fifth storey is set back from the main elevation. The distance between these two buildings would be approximately 23m, with Bell Road

running between them. As such I am of the view that taking into account the respective heights of the existing and proposed building that block 1 would not give rise to unacceptable harm to residential amenities.

- 8.27 Block 3 will be located to the rear of the buildings which front the High Street and 23m away from the residential dwellings within No.21 High Street. This is above the minimum separation distance that the Council requires and as such I consider this relationship to be acceptable. As such I do not believe that block 3 will give rise to an unacceptable impact upon the residential amenities of existing dwellings.
- 8.28 As well as the impact upon existing residents discussed above, due to the density of the development, the residential amenities of the future occupants will also need to be carefully considered.
- 8.29 In the majority of instances, a minimum 21m separation distance has been achieved. However, there are some cases where this has not been achieved which I will assess as follows. The first of these is on the eastern elevation of block 2 which faces Bell House. At the very closest point these two buildings would only be separated by 6m. I have examined the proposed units located in this area of block two and note that of the three units on each floor, 2 of them, as they are located on the corner of the buildings will have full dual aspects and therefore a good degree of outlook that is not towards Bell House. The unit located centrally will have a partial dual aspect. Although I do not consider this arrangement to be ideal, in the context of the separation distance I take the above circumstances into account. I also consider that in terms of overlooking, Bell House is occupied by offices and as such I do not believe that privacy is such an issue as if it was entirely occupied by residential units. In respect of the closet units in block 2 as discussed above, there will be an element of harm caused. However, this would be mitigated against by the dual aspect arrangement and that during evenings and weekends this overlooking would likely not occur due to usual office opening times. In terms of light received and the outlook that these units would have I also raise concern but believe that this would again be mitigated against to some extent by the dual aspect arrangement as described above.
- 8.30 There are also some limited instances where the distance between blocks 1 and 3 and blocks 2 and 3 fall below the 21m separation distance. However, in terms of blocks 1 and 3, this relationship is limited to 1 unit in each floor of block 1 and 3. I also consider that the units in question do not directly face each other and have some windows which would not face the closest unit at all.
- 8.31 In respect of the relationship between blocks 2 and 3, although there would be instances where the 21m separation distance was not met, I do take into account that none of the units directly face each other and as such do not consider the relationship to be unacceptably harmful.
- 8.32 In terms of the internal layout of the dwellings – the sizes of which are summarised above - I note that they have been designed to meet London Design Standards which are in excess of National Standards. As such I am of the view that the floor area of the units are acceptable. All units will also benefit from balconies to provide a limited amount of external amenity space.
- 8.33 I do also note in the Daylight and Sunlight Analysis that some of the units within the proposed development will fall short of BRE Guidance in relation to daylight received. However, the results demonstrate that 90% of the rooms will either meet the BRE Guidance or fall short by a negligible amount. However, if kitchens are removed from

the equations in scenarios where there are living / kitchen / dining rooms then this figure of 90% would be increased. As such, due to the limited number of units which would receive what is less than ideal levels of daylight and the fact that prospective purchases will be aware of this I believe that the harm would be limited.

- 8.34 The application also proposes a medical centre and a pharmacy. The medical centre will be located on the ground and first floor of block 3 which will have a further two stories of residential development above this. In my view, a medical centre will have no significant impact upon residential amenities of either the future occupants of the development or existing residents. I have considered controlling the hours of use but do not believe that this would be necessary as the use is not in my opinion noisy or likely to lead to issues from an amenity perspective. However, I do believe that if the use was to change, even to an alternative within use class D1 then there is the possibility that harm to residential amenities could arise. As such, I have recommended a condition which would remove permitted development rights to change the use of this element of the proposal.
- 8.35 The pharmacy would front the High Street and then occupy the area to the south of this. Again, in the context of the High Street and the uses which operate here I do not at all consider that this use would give rise to any significant harm to residential amenities. As such, I do not believe that controlling the hours of use would be necessary.

Highways

- 8.36 I note a number of the objections received relate to the impact of the proposal upon the surrounding highway network either by way of the volume of traffic or by virtue of exacerbating existing parking pressures.
- 8.37 I take into account the response of KCC Highways & Transportation who when consulted upon the original scheme raised a number of queries and concerns as set out in paragraph 6.01 above. A full Transport Assessment has now been submitted and KCC Highways and Transportation have confirmed that they are in general agreement with its conclusions and accordingly confirm that the proposed 100 car parking spaces are acceptable given the sustainable, town centre location, close to local amenities and public transport nodes.
- 8.39 However, KCC Highways & Transportation have raised concerns regarding the potential implications for the surrounding area given the pressures on car parking and two conditions have been drafted to ameliorate such concerns. These conditions are aimed at providing details in respect of a parking management plan and a travel plan to ensure that the impact upon the surrounding highway network would not be unacceptable. I have re-consulted with KCC Highways & Transportation for further comment on the suggested conditions and will update Members at the meeting .

Landscaping, Sustainable Drainage and Ecology

- 8.40 Due to the density of the scheme, the site provides limited potential for landscaping. Having said this, by retaining the central part of the site for pedestrian access and emergency access only, this has provided the opportunity for a focal landscaped area central to the scheme development, something which the Design Panel were keen to see brought forward. An Illustrative Landscape Masterplan has been submitted which sets out that the area between blocks 1 and 2 will be comprised of a mixture of hard landscaping and planting. I am of the view that in the context of this

form of development that this is an appropriate approach to take. I also take into account that to the south of block 2, close to Bell Road, street trees have been proposed and furthermore, as block 1 is set back from Bell Road, trees have been proposed along this frontage. In addition to the retention of the existing trees located to the front of Bell House, I am of the view that the limited opportunities for landscaping improvements that exist have been taken. In relation to the existing trees, no details have been submitted in respect of these and as such I have recommended a condition below to ensure their protection during construction. I believe that the trees along Bell Road will assist in softening the impact of the development here and will help to provide some limited biodiversity benefits.

- 8.41 The inclusion of a roof garden on the first floor of block 2 provides amenity benefits for residents. Overall I am of the view that in the context of the site that the landscaping proposed is acceptable. I have included related landscaping conditions to ensure that the details can be robustly assessed in order to achieve benefits in this regard.
- 8.42 No ecological information has been submitted with the application. Due to the site conditions and the context within which it is located, I am of the view that the potential for protected species to be present is limited. However, to ensure that this is adequately dealt with, I have consulted KCC Ecology and will update Members of the response at the meeting.

Viability

- 8.43 Members will note from the consultation responses above that, in line with normal procedures for a development of this size, it would generate a requirement for financial contributions to deal with additional demand on local infrastructure. The contributions requested are as follows:
- KCC Primary Education - £101,382;
 - KCC Secondary Education - £125,538;
 - KCC Community Learning - £9,970.39;
 - KCC Youth Services - £6,201.21
 - Libraries - £37,455;
 - NHS - £142,560;
 - SBC Play Equipment - £30,000;
 - SBC Formal Sports - £97,845;
 - Refuse Bins - £24,360;
 - SAMM SPA recreational disturbance - £49,688.10
 - Total – £624,999.70
- 8.44 The developer has submitted a viability appraisal setting out that the development is unable to viably meet these costs and is unable, also due to a lack of viability, to provide any affordable housing. The policy compliant level of affordable housing in this location is 10% and as such, the Council would usually require 17 units in this case.
- 8.45 The appraisal that has been submitted has been revised during the course of the application and has been assessed by the consultants appointed by the Council. A copy of the latest report on viability by the Council's consultants is attached under Part 6 of this Committee Agenda, as Members will appreciate that it includes sensitive financial information.

- 8.46 In short, the appraisal concludes that the proposal would result in a negative residual land value. As such, the inclusion of any Section 106 contributions or affordable housing would further impact upon this figure. The Council's consultant, in assessing the viability, has also run this calculation and although the figure which is produced does allow for a marginal profit it is concluded that this falls significantly below a reasonable level of profit for a scheme of this size / complexity. A reasonable level of profit that has been adopted in this case is 15% - 18% on the gross development value. Again, as set out above, the imposition of Section 106 contributions or affordable housing would further impact upon the return. As such, there is, on the basis of the assessment that has been carried out, significant risk in this case that the development would not proceed.
- 8.47 The Council's consultant does raise the issue that the gross to net ratio of the units is lower than would normally be expected. I have queried this with the applicant who has responded stating that any increase in this ratio would increase the density of the development further and as such is concerned of the resultant impact of this. I believe that this is a reasonable response on the basis of the discussion regarding visual amenities above and as such have not challenged this further.
- 8.48 Government advice is contained within the National Planning Practice Guidance on Viability. This sets out that a site is viable if the value generated by its development exceeds the costs of developing it and also provides sufficient incentive for the land to come forward and the development to be undertaken. It states that where an applicant is able to demonstrate that S106 requirements would cause the development to be unviable, then the Local Planning Authority should be flexible in seeking such agreements.
- 8.49 It is clearly a disadvantage of the application that local services and infrastructure would potentially not benefit from contributions. On this basis, Officers raised concerns with the applicant / agent that the harm to local infrastructure, by not securing these payments, would be substantial. However further to this, the applicant has now offered £250,000 in developer contributions which can be prioritised in a way that Members deem most appropriate (although the SAMMS payment would be required to be taken from this figure as this requirement is non-negotiable). In addition to this, the applicant has accepted a review mechanism within the Section 106 Agreement should viability on the site improve, something which is allowed for under policy CP6 of the Local Plan.
- 8.50 I do still have some concern in this regard as the amount offered does fall some way short of the total requirements which are listed above. However, I firstly give weight to the NPPG and NPPF in terms of setting out that the Local Planning Authority should be flexible in circumstances such as these. Secondly, I am acutely aware of the negative impact that this site has within Sittingbourne town centre and the length of time that it has been in derelict state. I also take into account the location of the site within the Central Sittingbourne regeneration area and the wider benefits of the site being developed that it would lead to in this respect in terms of increased spend in the local area. As such, on balance, I am of the view that in these very specific circumstances, the application should not be refused due to the development not meeting its full local infrastructure contributions.

Noise, Air Quality and Contamination

- 8.51 The application has been supported by air quality, noise and contamination reports and I have consulted with the Council's Environmental Protection Team Leader and Environmental Health.

- 8.52 In relation to Air Quality, I firstly note that the assessment uses a methodology that was agreed with the Council's Environmental Protection Team Leader. The assessment uses a worst case scenario and finds that at all locations on this site, mean concentrations of pollutants are significantly lower than the objectives. I note that the Council's Environmental Protection Team Leader raises no concerns in regards to air quality and as such I believe that this issue has been adequately dealt with. I have also liaised with the Council's Environmental Protection Team Leader in respect of the two Air Quality Management Areas in Sittingbourne (St Pauls Street and East Street/Canterbury Road) and he is of the opinion that the levels of the relevant pollutants will not be materially affected by this proposal at these locations.
- 8.53 In respect of noise, an acoustic report was submitted which assessed both internal and external impacts. In respect of some of the balconies that are proposed, the report states that they exceed the outside amenity area limit but concludes that the development provides adequate levels of external acoustic amenity. On this basis, the Council's Environmental Protection Team Leader objected to the proposal due to the lack of clear noise mitigation measures.
- 8.54 To address this, additional information was received which sought to clarify noise mitigation measures. This found that although some of the balconies, particularly those on the eastern façade of Bell House, do exceed the outside amenity noise level limit of 55db, given their modest size and the use of sealed balustrades being incorporated into the design of the balconies, the Council's Environmental Protection Team Leader's objection has been removed. To ensure that this is incorporated adequately into the proposal, I have recommended a condition that requires details of the balcony design.
- 8.55 The EA and Environmental Protection Team Leader have removed their objections subject to conditions regarding contamination following the submission of an appropriate contamination report.

Archaeology

- 8.56 Due to the location of the site, at the historic core of Sittingbourne, there is potential for medieval and post medieval remains associated with the town's development. There is also the possibility that remains from an earlier date could be present, in part due to the Roman road corridor along the A2. As a result I have consulted with the KCC Archaeological Officer who, given the potential for buried archaeological remains on the site recommends a condition relating to an implementation of a programme of archaeological works. I have recommended this condition and as such take the view that the archaeological potential of the site will not be unacceptably impacted upon.

The Conservation of Habitats and Species Regulations 2017

- 8.57 The application site is located within 6km of The Medway Estuary and Marshes Special Protection Area (SPA) and the Swale SPA which are European designated sites afforded protection under the Conservation of Habitats and Species Regulations 2017 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.

- 8.58 Residential development within 6km of any access point to the SPAs has the potential for negative impacts upon that protected area by virtue of increased public access and degradation of special features therein. The HRA carried out by the Council as part of the Local Plan process (at the publication stage in April 2015 and one at the Main Mods stage in June 2016) considered the imposition of a tariff system to mitigate impacts upon the SPA (£301.14 per dwelling on developments of 10 or more units, as ultimately agreed by the North Kent Environmental Planning Group and Natural England) – these mitigation measures are considered to be ecologically sound.
- 8.59 However, the recent (April 2018) judgement (People Over Wind v Coillte Teoranta, ref. C-323/17) handed down by the Court of Justice of the European Union ruled that, when determining the impacts of a development on protected area, “it is not appropriate, at the screening stage, to take account of the measures intended to avoid or reduce the harmful effects of the plan or project on that site.” The development therefore cannot be screened out of the need to provide an Appropriate Assessment (AA) solely on the basis of the agreed mitigation measures (SAMMS), and needs to progress to consideration under an AA.
- 8.60 In this regard, whilst there are likely to be impacts upon the SPAs arising from this development, the scale of development (165 dwellings on a previously developed site within the built up area, with access to other recreation areas) and the mitigation measures to be implemented within the SPA from collection of the standard SAMMS tariff will ensure that these impacts will not be significant or long-term. I also note that the site is referred to explicitly in the Local Plan and as such would have been considered during the adoption process of the Local Plan. I therefore consider that, subject to mitigation, there will be no adverse effect on the integrity of the SPAs.
- 8.61 It can be noted that the required mitigation works will be carried out by Bird Wise, the brand name of the North Kent Strategic Access Management and Monitoring Scheme (SAMMS) Board, which itself is a partnership of local authorities, developers and environmental organisations, including SBC, KCC, Medway Council, Canterbury Council, the RSPB, Kent Wildlife Trust, and others.

Other Matters

- 8.62 A number of the issues raised by objectors have been addressed above, of those that remain I respond as follows. The possibility of an increase in crime has been raised, in terms of the car parking location within the development and because of the layout of the development itself. In response to this, I have consulted with Kent Police and await their comments. I will update Members at the meeting.
- 8.63 In relation to the comments made regarding the medical centre, as set out above, this will not be taken on by the NHS and as such the future operator is unknown. Therefore, in these circumstances although it could be delivered at an early stage, I do not believe this to be reasonable as there is no named operator. In terms of confirmation in regards to a car park in Trotts Hall Gardens, there is no current application for this and does not form part of this proposal. Finally, in response to the point raised regarding residents being notified of the application, the consultation undertaken was in accordance with the Council’s statutory requirements.
- 8.64 I also note the objection received on behalf of the Ministry of Justice. In terms of overlooking of the entrance, in this town centre location with surrounding residential

occupants, I do not believe that the proposal would overlook the entrance to any significant degree over and above existing levels. In terms of the noise and disruption caused by the building works, there will of course be an impact. However, I do not believe that this will be so significant as to lead to a reason for refusal, especially considering the condition imposed to limit working hours and the Construction and Environmental Management Plan condition. Finally, in regards to there only being one entrance to Bell House, I consider that this is already the case in terms of other offices sharing this building. Furthermore, it has been considered outside of the planning process that the persons using the Offenders Contact Centre are not such a significant risk to the public by virtue of them being able to visit Bell House, presumably unaccompanied. As such, I am of the opinion that this would not be an unacceptable arrangement.

- 8.65 An objection has also been received from UK Power Networks who operate a substation near to the application site. However, this objection is based upon notification in relation to the Party Wall Act which falls outside of what can materially impact upon a planning application and as such I do not believe that this point requires further elaboration.

9.0 CONCLUSION

- 9.01 In terms of reaching a decision on this application Members will need to carefully consider and weigh the benefits of this proposal as set out against the concerns that have been identified in the discussion above.
- 9.02 Firstly, I consider that substantial weight must be given to the derelict and harmful impact that the site currently has upon visual amenities. Furthermore I also give significant weight to the opportunity that this application provides to regenerate this site whilst also leading to additional regeneration benefits for the wider town centre. Furthermore, I give weight to the benefits of providing residential units within a sustainably located site, including adding to vitality of the local area.
- 9.03 However, as set out above, I am of the view that due to the density and scale of the development a degree of harm will be caused. This has been identified in the discussion above and relates to the impact that block 2 will have upon the setting of the conservation area and visual amenities. I am also of the view that a limited number of the units within the proposed development would be impacted by low levels of outlook and light.
- 9.04 The scale of the development has undoubtedly been informed by the viability of this site which should be taken into account, especially within the context of its long term vacant nature. Furthermore, as set out above, I do have some concern in terms of the lack of developer contributions, however this must be weighed against the specifics of this site and wider regeneration potential that this development could unlock.
- 9.05 On balance, I am of the view that despite the harm that has been identified, this would not outweigh the benefits of the proposal. This application presents an opportunity to develop a problematic site in a prominent location – and in so doing deliver a number of benefits - and I do not believe that any of the harm identified would be so significant as to make the proposal unacceptable. On the basis of the above and subject to signing of satisfactory Section 106 Agreement, no objection being raised by KCC Highways & Transportation, KCC Ecology and Kent Police and no fresh issues being raised resulting from latest consultation, I recommend that planning permission be granted.

10.0 RECOMMENDATION – GRANT Subject to Signing of Section 106 Agreement, no objection being raised by KCC Highways & Transportation, KCC Ecology, Kent Police and no fresh issues being raised from latest consultation, expiry date 23rd July 2018 and 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 approved shall be carried out in accordance with the following drawings: 15/0356/02 Rev P6; 15/0356/50 Rev P5; 15/0356/52 Rev P5; 15/0356/53 Rev P5; 15/0356/54 Rev P5; 15/0356/70 Rev P5; 15/0356/71 Rev P5; 15/0356/10 Rev P8; 15/0356/11 P7; 15/0356/110 P4; 15/0356/111 P4; 15/0356/112 P5; 15/0356/113 Rev P4; 15/0356/12 P7; 15/0356/13 Rev P7; 15/0356/14 Rev P7; 15/0356/15 Rev P7; 15/0356/16 Rev P6; 15/0356/60 Rev P8; 15/0356/61 Rev P6; 15/0356/62 Rev P6; 15/0356/63 Rev P6; 15/0356/64 P6; 15/0356/66 P6; 15/0356/72 P7; 15/0356/73 P7; 15/0356/09; 15/0356 – 104 Rev P4; 15/0356 – 105 Rev P3.

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

- 3) No development beyond the construction of foundations shall take place until a sample panel of the facing and roofing materials to be used on each block of the scheme, (including for the refurbishment and extension of Bell House) has been submitted to and agreed in writing by the Local Planning Authority. This will include samples of the brickwork and railings to be used for the boundary treatment at the road frontage of block 1, and samples of the balcony screen product(s) (which shall show the balustrades facing Bell Road to be sealed) to be used. The works shall thereafter be implemented in accordance with the approved details.

Reason: In the interests of visual amenities and to preserve the character of the conservation area.

- 4) No development beyond the construction of foundations shall take place until the manufacturer's brochure and technical specifications (along with details of the proposed colour finish) of the window system(s)/product(s) to be used have been submitted and agreed in writing by the Local Planning Authority. Submitted details to shall also include additional 1:1 or 1:2 part vertical and/or plan section drawings showing the typical detail of the window frame in relation to the surrounding wall construction, in order to show the typical depth of reveal. The works shall thereafter be implemented in accordance with the approved details.

Reason: In the interests of visual amenities and to preserve the character of the conservation area.

- 5) No development beyond the construction of foundations shall take place until the manufacturer's brochure and technical specifications (along with details of the proposed colour finish) of the external doors to be used has been submitted to and agreed in writing by the Local Planning Authority. The works shall thereafter be implemented in accordance with the approved details.

Reason: In the interests of visual amenities and to preserve the character of the conservation area.

- 6) No development beyond the construction of foundations shall take place until 1:50 scale coloured elevations of each element of the scheme (including the remodelled Bell House and the pharmacy frontage on to the High Street), showing, if applicable, any externally mounted rainwater goods to be used have been submitted to and agreed in writing by the Local Planning Authority. The works shall thereafter be implemented in accordance with the approved details.

Reason: In the interests of visual amenities and to preserve the character of the conservation area.

- 7) No development beyond the construction of foundations shall take place until a 1:10 vertical section of the construction detail for the parapet and top floor wall and roof junction of each block (including for the re-modelled Bell House) has been submitted to and agreed in writing by the Local Planning Authority. The works shall thereafter be implemented in accordance with the approved details.
Reason: In the interests of visual amenities and to preserve the character of the conservation area.

- 8) No development beyond the construction of foundations 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.

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

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

- 10) 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.

- 11) 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 based upon the proposals of the Flood Risk Assessment & Drainage Strategy by MLM, ref. 617510-REP-CIV-FRA (dated 29th July 2016) and shall demonstrate that the

surface water generated by this development (for all rainfall durations and intensities up to and including the climate change adjusted critical 100yr storm) can be accommodated and disposed of without increase to flood risk on or off-site. The drainage scheme shall also demonstrate that overland flows from off-site can be safely routed through the development without significant effects upon flood risk both within the development and the surrounding area.

Reason: To ensure that flood risks from development to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development as constructed is compliant with the National Planning Policy Framework.

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

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

- 13) 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.

- 14) No development shall take place until the Local Planning Authority (in consultation with Southern Water) has been advised of and agreed to the measures which will be undertaken to protect and divert the public sewers and apparatus.

Reason: To ensure that drainage and water apparatus is adequately diverted and protected.

- 15) No development approved by this planning permission shall commence until a remediation strategy to deal with the risks associated with contamination of the site has been submitted to, and approved in writing by, the Local Planning Authority. This strategy will include the following components:
1. The preliminary risk assessment submitted by Southern Testing entitled 'Supplementary Contamination Investigation Report' August 2016'
 2. The site investigation scheme submitted by Southern Testing entitled 'Supplementary Contamination Investigation Report' August 2016'
 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 as provided in the report entitled Southern Testing entitled 'Supplementary Contamination Investigation Report' August 2016'

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 written consent of the Local Planning Authority. The scheme shall be implemented as approved.

Reason: To ensure that the development does not contribute to, or is not put at unacceptable risk from, or adversely affected by, unacceptable levels of water pollution in line with paragraph 109 of the National Planning Policy Framework.

- 16) Prior to any part of the development hereby permitted being occupied a verification report demonstrating the completion of works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to, and approved in writing, by the Local Planning Authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met.

Reason: To ensure that the site does not pose any further risk to human health or the water environment by demonstrating that the requirements of the approved verification plan have been met and that remediation of the site is complete. This is in line with paragraph 109 of the National Planning Policy Framework.

- 17) 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 a remediation strategy detailing how this contamination will be dealt with has been submitted to and approved in writing by the Local Planning Authority. The remediation strategy shall be implemented as approved.

Reason: To ensure that the development does not contribute to, or is not put at unacceptable risk from, or adversely affected by, unacceptable levels of water pollution from previously unidentified contamination sources at the development site in line with paragraph 109 of the National Planning Policy Framework.

- 18) No infiltration of surface water drainage into the ground is permitted other than with the written consent of the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: To ensure that the development does not contribute to, or is not put at unacceptable risk from, or adversely affected by, unacceptable levels of water pollution caused by mobilised contaminants in line with paragraph 109 of the National Planning Policy Framework.

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

Reason: To ensure that the development does not contribute to, or is not put at unacceptable risk from, or adversely affected by, unacceptable levels of water pollution caused by mobilised contaminants in line with paragraph 109 of the National Planning Policy Framework.

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

Monday to Friday 08:00 – 18:00 hours, Saturdays 08:00 – 13:00 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.

- 21) The health centre hereby approved shall be used solely for that purpose and not for any other use, including any other use within use class D1 of the schedule to the Town and Country Planning (Use Classes) Order 1987 or any provisions equivalent to that class in any statutory instrument revoking or re-enacting that Order with or without modification) unless otherwise agreed in writing by the Local Planning Authority.

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

- 22) Access to satellite and/or cable provided media services to be provided to each apartment in the scheme via a communal and centralised connection point and associated connection system, the details of which shall be submitted to and agreed in writing by the Local Planning Authority, and implemented before any of the apartments are first occupied.

Reason: In the interests of visual amenities.

- 23) Notwithstanding the provisions of Class A, B and C, Part 16, Schedule 2, of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) or any order revoking and re-enacting that Order, no antenna shall be located upon any of the buildings hereby approved.

Reason: In the interests of visual amenities.

- 24) Notwithstanding the provisions of Class A, Part 2, Schedule 2, of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) or any order revoking and re-enacting that Order, no fences, gates walls or other means of enclosure shall be erected within the application site.

Reason: In the interests of residential amenity.

- 25) No development beyond the construction of foundations 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 in accordance with the approved details prior to the first use of any dwelling.

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

- 26) The development hereby approved shall not commence until details of tree protection in accordance with the current edition of BS 5837 have been submitted to and approved in writing by the local planning authority. All trees to be retained must be protected by barriers and/or ground protection. No equipment, plant, machinery or materials shall be brought onto the site prior to the erection of approved barriers and/or ground protection except to carry out pre commencement operations approved in writing by the Local Planning Authority. Nothing shall be stored or placed, nor fires lit, within any of the protected areas. No alterations shall be made to the siting of barriers and/or ground protection, nor ground levels changed, nor excavations made within these areas without the written consent of the local planning authority. These measures shall be maintained until all equipment, machinery and surplus materials have been removed from the site.

Reason: In the interests of landscape, visual impact and amenity of the area and to ensure a satisfactory appearance to the development

- 27) No development shall take place, including any works of demolition, until a Construction 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. The Statement shall provide for:
- i. the parking of vehicles of site operatives and visitors
 - ii. loading and unloading of plant and materials
 - iii. storage of plant and materials used in constructing the development
 - iv. the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
 - v. wheel washing facilities
 - vi. measures to control the emission of dust and dirt during construction
 - vii. a scheme for recycling/disposing of waste resulting from demolition and construction works

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

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

Reason: In the interests of residential amenity.

INFORMATIVES

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

The Council's approach to this application:

In accordance with paragraphs 186 and 187 of the National Planning Policy Framework (NPPF), the Council takes a positive and proactive approach to development proposals

focused on solutions. We work with applicants/agents in a positive and proactive manner by:

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

In this instance:

The 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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Design Review

**Land at Bell Road
Sittingbourne**

21 June 2016



Land at Bell Road, Sittingbourne

Reference: 556-871

Report of Design Review Meeting

Date: 2 June 2016

Location: Swale Borough Council, Swale House, East Street, Sittingbourne

Panel

Allan Atlee (Chair), Architect/ Urban Designer

Luke Engleback, Landscape Architect

Angela Koch, Urban Designer/Planner

Alan Legg, Architect/Planner/Urban Designer

Colin Shields, Engineer/Transport Planner/Infrastructure

Presenting team

Keith Owen, OSG

Rachael Dickson, JTS

Kain Kassam, KRK

Other attendees

David Tittle, Design South East

Rizven Kassam, KRK

Jason Chandler, OSG

Pam Gregory, Swale Borough Council

Simon Algar, Swale Borough Council

James Freeman, Swale Borough Council

Cllr Sue Gent, Swale Borough Council

Cllr Paul Flemming, Swale Borough Council

Cllr Mike Henderson, Swale Borough Council

Cllr Ghlin Whelan, Swale Borough Council

Cllr Mike Baldock, Swale Borough Council

Cllr Nigel Kay, Swale Borough Council

Cllr Nicholas Hampshire, Swale Borough Council

Cllr Alan Horton, Swale Borough Council

Site visit

A full site visit was conducted by the Panel ahead of the review.

This report is confidential as the scheme is not yet the subject of a planning application



Summary

A higher density residential development to the rear of the High Street would be a positive addition to Sittingbourne and we commend the quality of accommodation and ambition of the developer and their design team. Our main concerns focus around the quality of the public realm and shared amenity spaces to be created and we believe that the scheme would be severely compromised if the central courtyard had to become a car park.

Our comments are as follows:

Background

This is a proposal for a development of 143 apartments and a medical centre comprising of three blocks situated off Bell Road to the rear of Sittingbourne High Street. One block will abut Bell House, a small office block and another will abut the rear of the retail buildings and snooker hall on the High Street.

Principle of development

We strongly support the principle of development on this site which is precisely the type of site that Swale Borough Council should be encouraging for development. It is not only in a sustainable location close to public transport links and amenities but also has the potential to help animate the High Street and improve its viability. It is unfortunate that a comprehensive scheme cannot be developed including the adjoining car park site.

We also applaud the ambition of the developer in providing apartments that meet London Design Guide standards which are more generous than the nationally described space standard.

Access and connectivity

It is unfortunate that a more direct connection cannot be secured from the High Street but we appreciate that the previous connection did not work well with the very small shop units difficult to operate viably and the risk of the covered walkway attracting anti-social behaviour. The loss of the Weatherspoon investment in the premises to the front makes their future uncertain and the prospect of a unit that faces two ways unlikely.

In the absence of that direct connection the route via Bell Lane and via the small square (marked 4 in the drawings) becomes significant. We were not convinced by how this is configured at the moment. The small square appears rather blank and isolated and the route through from Bell Lane across the back of the shops is not straightforward and legible. This part of the plan should be re-examined to see if more animation and clarity can be achieved. This might involve looking at the design of the medical centre and the location of the entrance of the eastern block. We were critical of the design of the entrance to the medical centre which seemed constrained. More clarity and legibility regarding the configuration of access to the blocks and inner courtyard might be achieved by providing two open courtyards along Bell Road, on both ends of the building facing the street and exploring access to the other blocks via the same routes.



Public realm and parking

A car-free scheme was originally proposed for this site but has not been accepted by Kent County Council who have instead conceded to a level of parking that is below policy requirements. This is a difficult issue. It should be possible to have zero parking in a town centre location close to the railway station and a minute's walk from a supermarket but, given the lack of other amenities within walking distance, it is important to be realistic about the behaviour of future residents. The effect of introducing parking is to lose the central square which is the residents only shared amenity space. We were not convinced that it could fulfil this function and act as a car park.

We were informed that a basement car-parking arrangement would make the scheme unviable but that this could be resolved by putting an extra floor on the western block to provide 19 more units. In principle we would support such a move subject to the consequent design implications being carefully considered and resolved. These would include the effect of the additional height and massing, the design of any ventilation grilles at ground floor level and the design and management of the car park to ensure it remained safe to use. If this strategy had the effect of raising the ground floor flats slightly as they face the car park to the west this would be a positive consequence as it would improve the residents' privacy and surveillance of the car park. We wonder whether more parking might be provided through an agreement with Sainsbury or indeed extending the footprint of the block between the Sainsbury' car park and Bell House. This would result in reduced permeability, but an increased footprint, privacy by enclosing the inner courtyard and opportunity to introduce more of a vertical rhythm.

Whether or not the courtyard can be freed of cars, its detailed design is critical. We appreciate that because of uncertainty over the car parking a landscape architect has only just been engaged. There is an opportunity to make better use of water in the scheme, incorporating water run-off into rain-garden arrangements. Sustainable drainage is a requirement for developments over 10 dwellings and it would be better if this was seen as an opportunity to improve the overall attractiveness of the place, facades and roof spaces rather than an obligation.

The thresholds to the blocks and sequence of arrival for residents should be considered. If the east-west route behind the High Street becomes more legible as well as the east-west route to the south of the development, there is the possibility of seeing this wholly or partly a private shared courtyard. While we would normally be pushing for greater connectivity, the overall size of this development is not huge and there will remain plenty of permeability across the site.

Architecture

We support the decision to go for a contemporary approach which does not attempt to pick up on the character of the High Street or neighbouring suburban housing which is eclectic and of variable quality. However, we did feel that the blocks had a very horizontal feel in the way they were articulated and that introducing more of a vertical rhythm would reflect the grain of Sittingbourne. We feel that there should be variation in the sizes of openings on different sides of the blocks with more generosity on the courtyard side where light will be more limited and the feel is more private.



We were concerned that bicycle parking should be sufficient to cope with a potential future growth of cycling. The arrangement of having two cores but only one bicycle store is questionable. If we want to make cycling a natural thing to do then the sequence of being able to pick up or drop off one's bicycle on leaving or returning is important.

This review was commissioned by KRK Ltd with the knowledge and agreement of Swale Borough Council.

CONFIDENTIALITY

Since the scheme was not the subject of a planning application when it came to the Panel, this report is offered in confidence to the addressee and those listed as being sent copies. There is no objection to the report being shared within respective practices/organisations. DSE reserves the right to make the guidance known should the views contained in this report be made public in whole or in part (either accurately or inaccurately). Unless previously agreed to remain confidential, this report will be publicly available if the scheme becomes the subject of a planning application and to any public inquiry concerning the scheme. DSE also reserves the right to make guidance available to another design review panel should the scheme go before them. If you do not require this report to be kept confidential, please let us know.

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PLANNING COMMITTEE – 19TH July 2018

PART 3

Report of the Head of Planning

PART 3

Applications for which **REFUSAL** is recommended

| | | | |
|---|--|---|-------------|
| 3.1 REFERENCE NO - 18/501788/FULL | | | |
| APPLICATION PROPOSAL Erection of a first floor rear extension over existing ground floor extension. A loft conversion with the insertion of two new windows and 5 no. roof lights. | | | |
| ADDRESS 89 Chaffes Lane Upchurch Kent ME9 7BG | | | |
| RECOMMENDATION Refuse | | | |
| SUMMARY OF REASONS FOR RECOMMENDATION/REASONS FOR REFUSAL The proposal, by virtue of its scale, will negatively impact on the residential amenity of neighboring dwelling no. 87 Chaffes Lane due to its excessive depth. | | | |
| REASON FOR REFERRAL TO COMMITTEE The Parish Council support the application | | | |
| WARD Hartlip, Newington And Upchurch | PARISH/TOWN COUNCIL Upchurch | APPLICANT Mr M Parsons AGENT Mr N G Hatton | |
| DECISION DUE DATE 20/06/18 | PUBLICITY EXPIRY DATE 04/06/18 | | |
| RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites): | | | |
| App No | Proposal | Decision | Date |
| SW/78/0289 | Rear extension | Approved | 08/05/78 |

1.0 DESCRIPTION OF SITE

1.01 89 Chaffes Lane is a semi detached, two storey dwelling located within the built up area boundary of Upchurch. The property has a hardstanding driveway to the front and private amenity space to the rear. The dwelling has an existing single storey flat-roofed rear extension spanning the full width of the rear elevation to a depth of almost 3m..

1.02 The east side of Chaffes Lane where no. 89 is situated is characterised by pairs of brick built two storey semi detached dwellings, well spaced in their plots.

2.0 PROPOSAL

2.01 The application seeks to erect a first floor rear extension over the entirety of the existing ground floor rear extension, so projecting almost 3m to the rear along the shared boundary with no. 87 Chaffes Lane. The extension will be 6m in width across the rear of the existing dwelling with a gable end (including a second floor window)

facing down the garden. Also proposed is a loft conversion with the insertion of two new windows and six. roof lights in the existing and new roofslopes.

2.03 The proposed extension will allow for the enlargement of two bedrooms on the first floor and provide a new master bedroom and en suite in the loft space.

2.04 The proposed materials include tiles to match the existing roof, matching brickwork with new render and matching UPVC windows.

3.0 PLANNING CONSTRAINTS

4.01 None relevant.

4.0 POLICY AND OTHER CONSIDERATIONS

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

5.02 Development Plan: Policies CP4, DM14 and DM16 of “Bearing Fruits 2031: The Swale Borough Local Plan 2017”.

5.03 The Council’s adopted Supplementary Planning Guidance (SPG) entitled “Designing an Extension – A Guide for Householders”.

6.0 LOCAL REPRESENTATIONS

6.01 No representations have been received from local residents.

7.0 CONSULTATIONS

7.01 Upchurch Parish Council supports the application, subject to residential comments.

8.0 BACKGROUND PAPERS AND PLANS

8.01 Application papers for application 18/501788/FULL.

9.0 APPRAISAL

Principle of Development

9.01 The application site is located within the defined built up area boundary of Upchurch where the principle of development is acceptable subject to relevant policy considerations and local amenity impacts.

Visual Impact

9.02 The proposed extension will be located all to the rear of no. 89 so will not be visible in the streetscene. The new roof will be pitched and remain subservient to the existing dwelling and will be tiled to match the original roof. Although the addition of roof lights to the front elevation will be visible in the streetscene, I consider that this will be a minor alteration and will not have a significant impact on the appearance of the dwelling and consider it acceptable. Overall, I consider the application acceptable in relation to its impact on visual amenity.

Residential Amenity

- 9.03 The proposed extension will impact upon the neighbouring property at no. 87 Chaffes Lane. The Council's SPG entitled "Designing an Extension" states that for rear extensions close to the common boundary, a maximum projection of 1.8m at first floor level is allowed. This extension would sit right on the common boundary with no. 87 and would extend almost 3m to the rear at first floor level which I consider will cause unacceptable harm, giving rise to overshadowing, loss of outlook and would be significantly overbearing.
- 9.04 The agent was advised that the 3m projection would not be accepted but did not wish to submit amended drawings.
- 9.05 I have no objections to the insertion of velux windows associated with the loft conversion as I do not believe that any significant harm will be caused to residential amenity as a result of these, however, were I to be minded to recommend the application for approval I would insist on obscure glazed windows for the two windows in the side elevations. The additional windows proposed to the rear do not result in any additional overlooking and therefore I consider them acceptable.

Parking

- 9.06 The proposal includes the addition of another bedroom, turning the property into a four bedroom dwelling. However, the driveway to the front of the dwelling is large enough to comfortably park two cars which is compliant with the KCC standards which state two parking spaces are required for a four bedroom property. Therefore I consider this aspect of the proposal acceptable.

10.0 CONCLUSION

- 10.01 I consider that the proposal is acceptable with regard to its impact on visual amenities and has adequate parking provision for a four bedroom dwelling. However the extension will project rearwards by an unacceptable amount in relation to the amenities of the neighbouring property no. 87. Therefore I recommend that planning permission should be refused.

11.0 RECOMMENDATION –REFUSE for the following reasons:

- (1) The proposed rear extension by virtue of its excessive depth and positioning would amount to an oppressive and overbearing structure that would give rise to a loss of outlook and overshadowing and would therefore have an adverse impact on the residential amenity of the occupiers of 87 Chaffes Lane. The proposal would therefore be contrary to policies CP4, DM14, DM16 of "Bearing Fruits 2031: The Swale Borough Local Plan 2017" and the Council's adopted Supplementary Planning Guidance entitled "Designing an Extension: A Guide for Householders".

The Council's approach to this application:

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

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

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

In this instance:

The application was considered by the Planning Committee where the applicant/agent has 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 – 19 JULY 2018

PART 5

Report of the Head of Planning

PART 5

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

- **Item 5.1 – 76 Alexandra Road, Sheerness**

APPEAL DISMISSED

Delegated Refusal

Observations

Partial support for the Council's decision.

The Inspector considered that the small room sizes proposed were acceptable, but that the risk to life in the event of a flood amounted to a reason to dismiss the appeal.

- **Item 5.2 – Hill Top Farm, Elverland Lane, Ospringe**
APPEAL DISMISSED – Enforcement Notice Upheld

Observations

Full support for the Council's enforcement action and suggested period for compliance on this prominent site in the Kent Downs AONB.

- **Item 5.3 – McDonald's Restaurant, Sittingbourne Retail Park, Mill Way**
APPEAL PART DISMISSED / PART ALLOWED

Delegated Refusal

Observations

A split decision, granting consent for a sign which faces into the retail park and refusing consent for the more harmful of the two signs proposed, facing the road. In this respect, a welcome decision.

- **Item 5.4 – 27 Hilton Close, Faversham**
APPEAL DISMISSED

Committee Refusal – Against Officer Recommendation

Observations

A decision which supports some of Members' views, but does not agree that design standards, Local Green Space, or highway safety would be compromised.

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The Planning Inspectorate

Appeal Decision

Site visit made on 15 May 2018

by **N A Holdsworth MCD MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 14 June 2018

Appeal Ref: APP/V2255/W/17/3189784
76 Alexandra Road, Sheerness, ME12 2AT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr D Noyes against the decision of Swale Borough Council.
 - The application Ref 17/501447/FULL, dated 23 March 2017, was refused by notice dated 30 May 2017
 - The development proposed is conversion of existing 3-bedroom terraced property into 2 no. 2-bedroom self-contained flats
-

Decision

1. The appeal is dismissed.

Preliminary Matter

2. Following its refusal of planning permission the Council have adopted the *Bearing Fruits 2031: The Swale Borough Local Plan (Adopted July 2017)* ("Local Plan"). The policies referred to in the *Swale Borough Local Plan (Adopted February 2008)* are no longer part of the development plan, and have no weight. I have dealt with the appeal accordingly. In the course of the appeal, the appellant has had the opportunity of commenting on the recently adopted Local Plan policies identified by the Council as being relevant to this decision.

Main Issues

3. The main issues in the appeal are:
 - Whether sufficient measures are provided to protect future inhabitants of the development in the event of a flood; and
 - Whether the layout and room sizes associated with the new residential accommodation provide satisfactory living conditions for future occupants.

Reasons

Flood Risk

4. The parties agree that the site is located in Flood Zone 3. The appellant argues that there are sea defences which make flooding very unlikely, maintaining that the road has not flooded since 1953. However the Environment Agency (EA) advise that there remains a risk of tidal flooding to the property. Given the remit of the EA, I attach significant weight to their advice, in this regard.

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5. The proposed development provides a self-contained residential unit at ground floor level, including sleeping accommodation. I consider that future occupants of the ground floor unit would be at significant risk, in the event of a flood. There would be no guaranteed access to the upper floors of the building as it would comprise a separate residential unit. The rear garden would be unlikely to be a safe place, as it is also at ground floor level.
6. The appellant suggests that flood gates could be installed to the front of the property, and flood resilient materials could be implemented during renovation works. However, no Flood Risk Assessment is provided and I have no technical evidence before me to demonstrate that such measures would be effective at managing the risk to life in the event of a flood. Whilst there is a flood warning system in place, this would not eliminate all risk associated with tidal flooding.
7. The evidence before me indicates that there are a number of properties on Alexandra Road and other roads in the surrounding area which comprise residential accommodation at ground floor level. I accept that the Council may have previously granted planning permission in some of the other examples cited without a Flood Risk Assessment. However, this does not justify acceptance of further development that would create its own risks. The current planning policy framework emphasises a precautionary approach, where planning permission for new development is required.
8. These considerations lead me to the view that the development would fail to provide sufficient measures to protect future inhabitants of the development in the event of a flood. The proposed development therefore conflicts with policy DM 14 and DM 21 of the Local Plan and the relevant parts of the National Planning Policy Framework ("the Framework") which, amongst other things, require that inappropriate development in areas at risk of flooding is avoided.

Living Conditions

9. The Council argue that the ground floor accommodation would fail to meet the internal space standards set out in Supplementary Planning Guidance entitled *The Conversion of Buildings into Flats & Houses in Multiple Occupation* ("Building Conversion SPG"). This requires that, in the case of a 3 person, 2 bedroom flat 40 sqm of habitable floorspace is provided. The Council maintain that the ground floor unit would provide around 37 sqm of such floorspace, thus departing slightly from this guidance.
10. However, the copy of the Building Conversion SPG provided by the Council is dated February 2011. It predates the publication of the *Technical housing standards – nationally described space standard* in 2015. Planning Practice Guidance¹ states that, where a local planning authority wishes to require an internal space standard, they should only do so by reference to the nationally described space standard. The Council have not identified a planning policy which enacts the relevant national standard.
11. In this case, the ground floor flat would have access to external amenity space, in the form of a garden. This compensates for the limited amount of internal space within the flat. A good degree of natural light and outlook to each of the rooms at ground floor level would be provided. None of these rooms would, to my mind, appear unacceptably cramped.

¹ Reference: Paragraph: 018 Reference ID: 56-018-20150327

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12. Consequently, I find that the layout and room sizes would provide satisfactory living conditions for its future occupants. Whilst the proposal would depart slightly from the internal space standards set out in the Building Conversions SPG, having regard to Planning Practice Guidance I give these standards little weight. Overall, the proposal would comply with policy DM14 of the Local Plan which requires that, amongst other things, development does not cause significant harm to amenity.

Other Matters

13. The appellant argues that the development would bring the property back in to use, making effective use of previously developed land and enhancing the surrounding residential environment. I do not dispute that this would be the case, however these considerations do not outweigh the harm identified in the first main issue.

14. The Council advise that the site is located approximately 4.8km north-east of the Swale Special Protection Area ("SPA") and Ramsar Site, and 1.9km east of Medway Estuary and Marshes SPA. I note that the officer report suggests that the proposal could lead to bird disturbance within these protected areas and that off-site mitigation is required, although none is provided. As the appeal is failing for other reasons, I have not pursued this matter further.

Conclusion

15. I have found that the proposed layout and room sizes associated with the new residential accommodation would provide satisfactory living conditions for future occupants. However, the proposal would fail to ensure sufficient measures are provided to protect future inhabitants of the development in the event of a flood and conflicts with development plan policies, in this regard. There are no other considerations that outweigh the harm identified. For the reasons given above and having had regard to all other matters raised, I conclude that the appeal shall be dismissed.

Neil Holdsworth

INSPECTOR

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The Planning Inspectorate

Appeal Decision

Hearing held on 24 April 2018

Site visit made on 24 April 2018

by Diane Fleming BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 June 2018

Appeal Ref: APP/V2255/C/17/3179355

Hill Top Farm, Elverland Lane, Ospringe, Faversham, Kent ME13 0SP

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mr John Howard against an enforcement notice issued by Swale Borough Council.
 - The enforcement notice was issued on 5 June 2017.
 - The breach of planning control alleged in the notice is failure to comply with condition No 1 of a planning permission, Ref SW/10/1446, granted on 23 February 2012.
 - The development to which the permission relates is the
 - *Use of land for one mobile home and one tourer for a Gypsy family without compliance with condition number 1 previously imposed on permission SW/05/1316, dated 7 October 2005, granted on appeal on 15 November 2007 under reference APP/V2255/A/07/2035766.* The condition in question is No 1 which states that:
 - *The use hereby permitted shall be for a limited period being the period of four years from the date of this decision. At the end of this period the use hereby permitted shall cease, all caravans, buildings structures, materials and equipment brought on to, or erected on the land, or works undertaken to it in connection with the use shall be removed, and the land restored to its condition before the development took place.* The notice alleges that the condition has not been complied with in that the use has continued.
 - The requirements of the notice are to:
 - Cease the use of any part of the Land as a caravan site for the stationing of any mobile homes or caravans for residential use;
 - Remove from the Site all caravans, buildings, structures, materials and equipment brought on to or erected on the Land or works undertaken to it in connection with the stationing of any caravan and the Site shall be restored to the condition before the use commenced.
 - The period for compliance with the requirements is 12 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) of the Town and Country Planning Act 1990 as amended.
-

Decision

1. It is directed that the enforcement notice be corrected by the deletion of '(a)' within the first paragraph and the substitution of '(b)'. Subject to this correction the appeal is dismissed and the enforcement notice is upheld, and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

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Procedural Matters

2. An enforcement notice must enable every person who receives a copy to know exactly what, in the Council's view, constitutes the breach of planning control. In this case, the opening paragraph of the notice states that there has been a breach of planning control under section 171A(1)(a), which is the carrying out of development without planning permission. It should have cited section 171A(1)(b), which deals with the failure to comply with planning permissions. At the Hearing the Council explained that this was an oversight on their part and the error had gone unnoticed by the appellant. The parties agreed that this could be corrected as it will not cause injustice to the appellant or the local planning authority.
3. When the notice was issued the Council relied on its policies within the Swale Borough Local Plan 2008. This has now been replaced by the adoption of a new local plan (LP) on 26 July 2017¹ to which I will have regard in reaching my decision.
4. The Hearing was adjourned at the end of the first day and closed in writing afterwards as the Council had received, very late in the day from a third party, information about alternative sites which the appellant had not seen. In addition, there was also a detailed letter of representation from a local resident handed in at the Hearing as the resident could not attend in person. The appellant was therefore given extra time to consider these submissions and make comments. These were exchanged with the Council and the last word was given to the appellant.

Background

Planning history of the site

5. The appellant and his mother purchased the appeal site around July 2012. Mr Howard has occupied it with his wife and two children continuously since then. The site was previously known as Tootsie Farm. On 6 March 2007 the Council issued a notice alleging a material change of use from agricultural land to land used as a caravan site for the stationing of caravans/mobile homes used residentially and land used for the keeping of horses. A temporary planning permission was granted on appeal² on 15 November 2007 subject to a number of conditions including that the use of the site should cease by 15 November 2010.
6. On 15 August 2011 the Council issued a second notice alleging a failure to comply with previous conditions requiring the use as a caravan site to cease, the occupiers effects to be removed from the site and the site to be restored to the condition it was before the breach took place. A second temporary planning permission was granted on appeal³ on 23 February 2012. This was subject to a number of conditions including that the use of the site should cease by 23 February 2016.
7. On 6 March 2017 planning permission was refused to vary or remove the time limiting condition attached in 2012 so as to continue the use of the

¹ Bearing Fruits 2031: The Swale Borough Local Plan 2017

² APP/V2255/C/07/2040928

³ APP/V2255/C/11/2159720

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land as a caravan site. Following this decision the Council issued the notice the subject of this appeal.

Planning history of other nearby sites

8. During the Hearing, the Council drew my attention to three other gypsy sites along Elverland Lane within the vicinity of the appeal site. At The Retreat to the west of the appeal site a notice alleging a material change of use to land used as a caravan site for the stationing of caravans for residential use was upheld on appeal⁴ and the use of that site must cease by 3 March 2018. A subsequent refusal of planning permission for the same use was also dismissed on appeal⁵ on 24 January 2018. At The Meads Farm to the south of the appeal site planning permission was allowed on appeal⁶ on 23 January 2018 for a temporary period of four years. Directly adjacent to The Meads is Horseshoe Farm where planning permission has been refused to continue the use of the land as a caravan site for the stationing of caravans for residential use.

Policy changes since 2007

9. There have been significant policy changes and other publications since the 2007 and 2012 appeal decisions in relation to Hill Top Farm. These are the publication of the National Planning Policy Framework in March 2012 (the Framework); the production of the Gypsy, Traveller and Travelling Showpeople Accommodation Assessment 2013, reviewed 2015 (GTAA); the publication of the Kent Downs Area of Outstanding Natural Beauty Management Plan 2014-2019 in April 2014(KDMP); the publication of the Planning policy for traveller sites August 2015 (PPTS); and the adoption of the Council's LP. Whilst the findings of the previous Inspectors are material and there is a need for consistency in the planning process, I am not bound to reach the same conclusions provided there are sound planning reasons for departing from their approach.

Status of the appellant

10. The Council do not contest the appellant's claim to be a gypsy. However third parties have raised this in their representations. Mr Howard states he is a Romany Gypsy and was born on a traveller site. He grew up at various sites around the country including at Gravesend, Kent and Preston, Lancashire. He left school at age 13 and his father introduced him to the keeping and breeding of horses. These are a large part of his identity and a source of income as he goes to trade at several horse fairs such as Appleby, Barnet, Stow and Kenilworth amongst others. He currently has three mares and in addition to grazing horses on the 7 acres he owns adjacent to the appeal site, he rents a field nearby to keep another 8 horses.
11. The appellant also buys and sells vehicles and lays tarmacadam. This enabled him to buy a house in Connaught Road, Chatham where he tried 'bricks and mortar' but it proved unsuitable and so he rented it out and occupied a caravan in the garden adjacent to his father's house in

⁴ APP/V2255/c/16/3142907

⁵ APP/V2255/w/17/3172935

⁶ APP/V2255/w/17/3174468

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Connaught Road until he bought the appeal site. Now his children are at school he travels to the horse fairs in the school summer holidays with all the family. He also travels for work on his own during term time so as not to interrupt his children's education.

12. On the basis of the oral and written evidence put to me I am satisfied that the appellant has a nomadic habit of life that accords with the definition of gypsies and travellers as set out in Annex A of the PPTS and the other occupiers of the site are his dependents.

Main Issue

13. Against that background the main issue raised by this appeal is whether the development represents an acceptable form of development having particular regard to the following matters:
- The objectives of the development plan in respect of gypsy and traveller accommodation;
 - The character and appearance of the area, having regard to the location of the site within the Kent Downs Area of Outstanding Natural beauty (AONB) wherein the statutory purpose of an AONB is to conserve and enhance the natural beauty of an area;
 - The suitability of the access point, having regard to the safety and convenience of highway users; and
 - Whether any harm arising from the above matters is outweighed by other considerations, including the level of need for gypsy and traveller sites, availability of alternative sites, personal circumstances and Human Rights considerations.

Reasons

Appropriateness of development: Site location

14. The appeal site was previously part of a larger field and is situated on the north side of Elverland Lane which connects Faversham Road in the west to Eastling Road in the east and the village of Painter's Forstal. The site is approximately midway between the villages of Painter's Forstal and Newnham. There are no permanent dwellings along Elverland Lane. The only residential use along the lane, in addition to the appeal site, are the three other gypsy sites as described in paragraph 8, of which only one has a temporary planning permission. The parties accept that the site lies within open countryside, outside the built-up area boundaries shown on the LP Proposals Map and also within the Kent Downs AONB, a nationally important landscape.
15. Policy ST 3 from the LP sets out the Council's settlement strategy and directs growth to the main urban centre of Sittingbourne followed by smaller urban centres and rural local service centres. Minor infill development will be permitted in other villages with settlement boundaries but development will not be permitted in open countryside unless it can be demonstrated that it would protect and where appropriate enhance the intrinsic value, landscape setting, tranquillity and beauty of the countryside.

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16. The supporting text to the policy states that when considering development for gypsy and traveller provision, Policy ST 3 should be read in conjunction with Policy DM 10 and there may be a need for some flexibility to take into account specific business or personal requirements.
17. Policy DM 10 is intended to act as a criteria based policy to guide windfall sites that may come forward, amongst other matters. It explains that applicants are required to consider the availability of sites at each tier of settlement category before a site in the next lower tier is considered and permitted.
18. The appellant submits that there are no alternatives to the use of sites in open countryside as there is an absence of allocated or existing gypsy sites in existing settlements. However, the basis of the LP, which has only recently been adopted, is not to allocate sites but to test windfall applications against the criteria in Policy DM 10. With that in mind, and the PPTS policy that Councils should very strictly limit new traveller site development in open countryside that is away from existing settlements, the Council submitted that they have granted planning permission for gypsy sites nearer to urban centres. This is because these are more sustainable locations not only in terms of reduced distances to travel but also when considering the social and economic aspects of sustainability as set out in paragraph 13 of the PPTS.
19. Having regard to those aspects, I find that the appellant's residential use of his land comprising a static caravan and a tourer on its own does not dominate either of the nearby villages or the surrounding wider area of isolated dwellings. It has also not been demonstrated that the single household on the site causes significant harm to the capacity of local services. The appellant explained he had no difficulty in obtaining places for his children at the nearby primary school.
20. Whilst the appellant submitted mixed use gypsy sites can be more sustainable, in that working from a settled base can reduce the need to travel, I consider this does not take account of all aspects of sustainability and a mixed use is not the allegation in this instance. The parties agreed that it was 2.8 miles to the nearest school and 4.5 miles to Faversham. Newnham has a village hall and a public house but Painter's Forstal has fewer facilities, therefore it is necessary to travel to Faversham for day to day needs including social and economic requirements. In that regard the residential use of the appeal site does not contribute towards establishing a sustainable pattern of development as envisaged by the LP. This is the case even though it has not been demonstrated that the use dominates either of the nearby villages or the surrounding area and it does not have an adverse effect on the capacity of local services. I therefore give this finding substantial weight.

Character and appearance

21. The site is approximately rectangular in shape, fenced on three sides with a short side facing the lane where there are timber gates. It lies on the side of a dry valley chalk slope against the backdrop of an indigenous hedge. It is recognised by the KDMP as being in an attractive, remote and undeveloped part of the district. The former five bar gate field access was widened at the time of the first breach of planning control to create a

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hard-surfaced access in the shape of a large bell mouth. The shape of the access remains but the surface beyond the gate has softened. The current appellant has also refurbished the existing sheep shelter that was on the site at the time of the first breach of control by cladding it in black boarding. The distinctive character and appearance of the general surroundings is that of arable land enclosed by hedging, interspersed with small woods on high ground, the remnants of orchards and isolated traditional buildings.

22. Elverland Lane is recognised as an attractive rural lane by the LP. It is one of many such lanes along the side of the valley which were probably developed as herding routes from the high ground to the valley floor. It is a sunken single track road, with few formal passing places, which gently climbs the side of the valley. It is flanked by mature trees and hedges which in parts have grown over the lane to enclose it. In one section of the lane in the vicinity of the appeal site there is a long line of overgrown prominent conifer trees which are at odds with the natural beauty of the area.
23. Policy DM 6 of the LP seeks to prevent development that would either physically alter or result in levels of traffic that would significantly harm the character of this lane. I consider the shape of the access into the appeal site is intrusive and harms the special qualities of the lane. Although there is an established wide access point at The Meads Farm further along the lane, such accesses are not features generally common to rural lanes in the AONB.
24. At the site visit I was taken to a bridge over the motorway where it is possible to look across the valley towards the appeal site. My two previous Inspector colleagues were taken to the same spot. The 2007 Inspector could clearly see the appeal site and a mobile home situated prominently towards the top of the valley side. A laurel hedge had been planted just below it to screen it but the Inspector concluded that the screen, once established, would not be in keeping with the natural qualities of the landscape.
25. The 2012 Inspector recognised that the laurel hedge was now a more effective screen though the caravans could still be seen. He echoed the 2007 Inspector's view that the laurel hedge was an unnatural feature in the area. My observations are that the laurel hedge is now so tall that from across the valley the mobile home and tourer sited to the north of the refurbished sheep shelter are extremely well screened with only the entrance to the shelter being visible through a gap in the laurel hedge. Alongside the motorway the trees have also matured compared to images in previous photographs from 2006. However these only add to the screening of the site in spring and summer. I concur with my colleague Inspectors in that the evergreen laurel hedge is an incongruous feature in the AONB where the primary purpose of the designation is to conserve and enhance the natural beauty.⁷ The hedge may also die back over time which would reveal the full extent of the use and as such cannot be relied upon for screening.

⁷ Kent Downs Area of Outstanding Natural Beauty Management Plan 2014-2019, April 2014

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26. The appellant submits that allowing the use of the site to continue would not result in significant harm to the AONB as PPTS accepts the principle of traveller sites in rural areas provided they respect the scale of and do not dominate the nearest settled community. The mobile home and tourer are not visible from the lane as they are situated behind the shelter. Should planning permission be refused, the use would cease but the hedge would remain together with the access point.
27. This argument was dealt with by the Inspector in 2007 who said that gypsies have long been a part of the agricultural landscape of Kent but a traditional working presence is very different to a mobile home in a fenced off area complete with domestic artefacts. In this case there is a large mobile home and tourer plus parked cars. I note whilst there is hedging on the western and eastern boundaries of the site, the northern boundary comprises a low fence. The mobile home and tourer together with parked cars and the appellant's domestic paraphernalia to the north of the shelter are therefore open to view from the north. I consider their modern appearance and the development of this site in this remote, generally undeveloped area is at odds with the identified sensitive natural landscape, scenic beauty and the traditional buildings in the wider area.
28. Furthermore, the notice requires that the site should be restored to its condition before the use commenced. Policy DM 24 from the LP also emphasises that planning permission will only be granted for development in the AONB provided it conserves and enhances the special qualities and distinctive character for the AONB. For the reasons given I consider the residential use of the appeal site for the stationing of caravans harms the distinctive character and appearance of the AONB and undermines its designation. I therefore give this finding great weight.

Highway safety

29. The Council are concerned that the site access lacks sufficient visibility to enable safe use and adequate visibility splays cannot be provided on land within the appellant's control. At the site visit I parked on the appeal site together with the Council's officer and experienced for myself the limited visibility either side of the access. The appellant and the Council also pointed out the extent of the appeal site in relation to the boundary of the road and the neighbouring land.
30. The Highway Authority require a visibility splay of 2.4m x 33m either side of the access on the basis of 25mph traffic speeds. The restricted width and gradient of the lane discourages but does not prevent higher traffic speeds. The parties agreed that such splays could not be provided on land within the appellant's control. Whilst he has erected mirrors to facilitate safer access, he submits that traffic flows are light and there is no record of any accidents in over 10 years that the access has been used for residential purposes.
31. Notwithstanding these points, I concur with the previous Inspectors. Whilst a visibility splay of about 2.4 x 30m is possible to the west of the access, this is only around 10m to the east. Consequently, in order to leave the site it is necessary to ease out into the lane, a harmful manoeuvre in itself made more difficult by the steep gradient of the access. I consider mirrors are no substitute for actual safe viewing as they can be obscured by poor

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light, glare or inclement weather. Highway standards are necessary for safety reasons and whilst they can be relaxed on occasion, as referred to by the appellant, this is not at the expense of safety and is usually where other aspects of road design are manipulated to reduce traffic speeds which is not the case here. For these reasons I conclude that the access is unsatisfactory and I give this substantial weight.

Other considerations

The need for sites and whether a 5 year supply is demonstrated

32. The Council's GTAA was published in 2013 and was reviewed in 2015 following the revised definition of a gypsy and traveller in the PPTS. It was also re-interrogated to inform the Examination In Public of the LP. The conclusion was that over the plan period to 2031 there is a need for 61 pitches. As 51 have already been completed or had permission granted it was accepted by the examining Inspector that the remaining 10 pitches could reasonably be provided through windfall applications and that this was a pragmatic approach. There would also be an early review of the plan due to the need to consider strategic highway capacity to meet the borough's proposed housing targets so need and supply in relation to gypsies and travellers would be assessed again.
33. At the Hearing the Council advised that 63 pitches have been granted planning permission so far in the LP period. They also stated that they would continue to grant planning permission for pitches if suitable sites came forward as they do not regard the need figure to be a ceiling.
34. The appellant submits that around 64 pitches have been granted planning permission but 19 of these are at the Brotherhood Woodyard site. However, it appears that these 19 pitches will not come forward as the site has not been laid out in accordance with the approved plans.
35. The Council have been robust in dealing with this site and have issued an Enforcement Notice to address the unauthorised use and have negotiated the submission of a revised planning application for a new layout of pitches. They are therefore confident that following the grant of planning permission⁸ to increase the number of authorised pitches from 29 to 40, the significant number of pitches that this site would deliver would address the unmet need identified by the appellant. This has been described by the appellant as arising from household formation, the number of pitches with temporary planning permissions and the number of unauthorised sites.
36. Whilst there was a recent count of traveller sites in the borough in January 2018, these figures have not been processed and therefore the appellant relied on figures put to the Inspector who dealt with the recent appeal at The Retreat. These figures were that at July 2017 there were 73 unauthorised caravans. In addition, as at the date of the current Hearing 37 caravans had been granted temporary planning permission of which only 4 remain current, the remaining 33, in the appellant's view demonstrate unmet need.
37. I consider even if the number of pitches at the Brotherhood Woodyard site are not deliverable, the Council has calculated that the number of pitches

⁸ Application 7/502338/FULL granted 3 May 2018

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approved and occupied since the publication of the GTAA is still 44. The shortfall figure is derived from the need figure of 61 minus those provided, which equals 17. Over the plan period of 14 years this equates to a need of 1.21 per year which means the number of pitches required for the 5 year supply is 6.05. The Council advise that this can be met as there are currently 7 unimplemented planning permissions for pitches in their supply. I concur with my fellow Inspector at The Retreat in terms of my conclusion on this issue. While the Council can demonstrate a 5 year supply of sites to meet the established need, as examined through the development plan process, there is evidence at the moment of unmet need for gypsy and traveller accommodation on the ground.

Availability of alternative sites

38. PPTS paragraph 24 requires consideration of the availability of alternative accommodation for the appellant. Alternative sites must be available, affordable, acceptable and suitable. To be available a pitch must have planning permission, be vacant and be actually available to the proposed occupier.
39. The information supplied about alternative sites relates to two double pitches on a site owned by Kent County Council (KCC) at Murston, Sittingbourne; three yards for sale at Eastry, Deal and Minster; and agricultural land advertised for sale with equestrian potential at Breach Farm, Rainham and Four Acre Stables at Bredgar.
40. Firstly the appellant submits that even if the Brotherhood Woodyard site was deliverable, it is unlikely that the appellant would be able to access a pitch. This is because there are 47 households on the site and 40 pitches have been permitted. Furthermore, a pitch on that site would not be suitable for two reasons. Firstly, the appellant would have to sell his mobile home as anyone taking a pitch has to make use of the mobile home already provided on the pitch. Secondly, the site is owned by Irish Travellers and the appellant is a Romany Gypsy.
41. However, other than the inconvenience of having to sell a mobile home, no specific evidence was offered as to why this site would be unsuitable or why it would be not be possible to integrate with the owners of the site. With regard to the Murston site, whilst KCC no longer operate a waiting list, sites are now allocated to those in most need in accordance with KCC's allocation policy. The appellant though does not state whether he would meet any criteria in the allocation policy.
42. With regard to what are described as 'yards for sale' which appear to be gypsy pitches, one is a considerable distance from the appellant's home area, one site no longer appears to be for sale and the third is unaffordable. I note the site in Deal would mean that the children would have to change school. Whilst the Council submit site value is not a relevant indicator of suitability, if it is beyond the means of the appellant then it is my view it is unavailable to him. Finally with regard to the agricultural land sites, the appellant submits that neither has planning permission and as such they are not available.
43. On the basis of these submissions, the appellant has not adequately explained why two of the options would not be viable. I am therefore

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unable to conclude that there does not appear to be any reasonable alternative accommodation for the appellant.

Personal circumstances

44. The appellant and his family have no particular health problems but a stable base would enable them to continue to have regular access to doctors and proper medical care. The children appear to have made good progress at school and have enjoyed a continuity of education. The appellant is ambitious for his children and wants them to have the benefit of a complete education including further education. Whilst there is no requirement to show that educational needs are unusual or exceptional, the best interests of the children are a primary consideration.
45. Although the circumstances surrounding alternative sites are not clear, it is possible that as a consequence of dismissing the appeal the appellant and his family would have to take up a roadside existence. He could not double up with his parents as they also live on the roadside. This could be harmful to the educational progress of the children and limit their expectations. It could also result in harm to the character and appearance of an area and relations with the settled community.

Planning balance

46. I have borne in mind the requirements of the Public Sector Equality Duty and have considered the best interests of the children living on the site as a primary consideration. Article 8 of the European Convention of Human Rights (as incorporated by the Human Rights Act 1998) provides the right to respect for private and family life.
47. It is clear that a refusal of planning permission would interfere with the Article 8 rights of the appellant. Indeed the Courts have held that Article 8 imposes a positive duty to facilitate the Gypsy way of life, as defined by race and ethnicity rather than planning policy. Any interference in this regard must be balanced against the public interest in upholding planning policy to protect the environment generally.
48. I have found conflict with development plan policies. In particular, the location of the appeal site does not accord with Policy ST 3 or the criteria in Policy DM 10 in that it does not contribute towards establishing a sustainable pattern of development as envisaged by the local plan. The design of the access conflicts with the requirements of Policy DM 6 and the use of the appeal site does not accord with either Policy DM 24 or DM 26 which seek to protect the special qualities and distinctive character of the AONB and rural lanes. The harm to the purposes of the AONB attracts great weight⁹ and the harm caused by the location of the site and the point of access weighs substantially against the appeal.
49. I turn now to factors which could outweigh these findings. Whilst the Council can demonstrate a supply of 5 year sites, there is evidence of unmet need. This is a material consideration that significantly weighs in favour of planning permission. The situation regarding suitable alternative sites is not clear but the Council has demonstrated their willingness to grant planning permission for the residential use of sites by the gypsy and

⁹ Paragraph 115 National Planning Policy Framework

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traveller community. Many recent planning permissions have been permanent permissions for sites with a prior temporary planning permission or the subdivision of existing sites to accommodate new household formation. However, there are 7 pitches where existing planning permissions have not been implemented. As such, I attach some moderate weight to the lack of alternative sites argument.

50. With regard to personal circumstances, the appellant submits that the consequences of dismissing the appeal would inevitably mean a roadside existence. The Council stated that the compliance period was a year; that they would work with the appellant to find an alternative site and that there are some sites in the borough that are 'tolerated'. However, there are no guarantees that this would be the case for the appellant. In all likelihood, there is the potential to disrupt the continuity of the children's education. Although many children successfully move schools when their parents move from one house to another, accessing education from no fixed address or from a series of temporary and/or unauthorised sites would be more problematic. This would not be in their best interests and although the Planning Practice Guidance (PPG) makes clear that their interests do not always outweigh other considerations, I attach significant weight to the personal circumstances of the appellant.
51. Taking all these factors into account, I consider that in the overall planning balance the other considerations do not clearly outweigh the harm to the AONB, which attracts great weight and the other identified harm. The development is therefore in conflict with development plan policies.
52. The principal matter to bear in mind though is the balance between the harm to the public interest and the degree of interference with the Article 8 rights of an individual arising from the dismissal of an appeal and whether the decision as a whole is necessary and proportionate in the circumstances.
53. Interference with a person's right to respect for private and family life and the home may be justified in the public interest. The interference would be in accordance with the law provided that planning policy and relevant statutory duties are appropriately and lawfully applied. The interference would also be in pursuit of a legitimate aim. This is the economic well-being of the country which encompasses the protection of the environment through the regulation of land use. The means that would impair individual rights must be no more than necessary to accomplish that objective.
54. I find that the legitimate aim of protecting the environment in the public interest attracts great weight and the location of the site is not in a sustainable position. Added to that is the unsuitability of the access point and for these reasons I consider the site is not appropriate for a gypsy site. Permanent long term provision should continue to be plan-led in the wider community interest. Interference with the Convention Rights is therefore necessary and proportionate.
55. However, there is a need to consider the grant of a temporary planning permission given my findings on unmet need, the lack of clarity on alternative sites, the personal circumstances of the appellant and the best interests of the children. There have already though been two previous

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temporary planning permissions granted for the use of the site to a previous appellant. These were given having regard to his personal circumstances and on the basis that it was expected that planning circumstances, namely the adoption of an up-to-date local plan and the provision of a 5 year supply of sites, would occur at the end of each period.

56. Whilst an early review of the development plan is due, I was not advised of any timetable in place for when it would emerge. A temporary planning permission would though offer a period of stability for the children and allow more time to find an alternative site but I note that the period for compliance with the notice is a year. This is a reasonable period of time to find another site and go through a planning application process as well, if needed. In most cases a temporary planning permission would reduce the duration of the harm I have identified. However since planning circumstances are unlikely to change in the near future, the considerations advanced in support of the development do not justify a grant of temporary planning permission given the harm caused. Furthermore, the PPG advises that it will rarely be justifiable to grant a second temporary planning permission; further permissions should normally be granted permanently or refused if there is clear justification to do so.

Conclusion

57. For the reasons given above I conclude that the appeal should not succeed. I shall uphold the enforcement notice with corrections and refuse to grant planning permission on the deemed application.

D Fleming

INSPECTOR

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APPEARANCES

FOR THE APPELLANT:

Philip Brown
BA (Hons) MRTPI

Agent, Managing Director, Philip Brown
Associates Limited

John Howard
John Howard Snr

Appellant
Appellant's father

FOR THE LOCAL PLANNING AUTHORITY:

Graham Thomas
BSc (Hons) DipTP MRTPI

Area planning Officer, Swale Borough Council

INTERESTED PERSONS:

Cllr Andrew Bowles

Leader, Swale Borough Council and local
member

Cllr Colin Woods

Chairman, Newnham Parish Council

Cllr Andrew Keel

Chairman, Ospringe Parish Council

Cllr G Tutt

Chairman, Dunkirk Parish Council

G Elvy

Local resident

Documents handed in at the Hearing

1 Representation from the occupier of Whitehall Farm

From the Council

2 Court judgement, permission to challenge appeal decision

APP/V2255/C/16/3165246

3 Appeal decisions APP/V2255/W/17/3172935 and APP/V2255/W/17/3174468

4 Copy of Policy DM 14 from the LP

5 Letter dated 7 December 2015 from Kent Downs AONB Unit

6 The 'Laurel hedge' report

7 A copy of the enforcement notice with the accompanying plan

8 Details of alternative sites

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The Planning Inspectorate

Appeal Decision

Site visit made on 5 June 2018

by **Zoe Raygen Dip URP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 26th June 2018

Appeal Ref: APP/V2255/Z/18/3201009

McDonald's Restaurant, Sittingbourne Retail Park, Mill Way, Sittingbourne ME10 2XD

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 against a refusal to grant express consent.
 - The appeal is made by McDonald's Restaurants Ltd against the decision of Swale Borough Council.
 - The application Ref 18/500114/ADV, dated 8 January 2018, was refused by notice dated 6 March 2018.
 - The advertisement proposed is installation of 2 No. Halo illuminated "Good Times" signs.
-

Decision

1. That part of the appeal that relates to the proposed halo illuminated sign on elevation D as shown on drawing ref 0912-1146-09G (referred to as elevation D) is dismissed. That part of the appeal that relates to the proposed halo illuminated sign on elevation B as shown on drawing ref 0912-1146-09G (referred to as elevation B) as applied for is allowed and express consent granted for its display. The consent is for five years from the date of this decision and is subject to the five standard conditions set out in the Regulations and the following additional conditions:
 - 1) The illumination hereby permitted shall not be of a flashing type.
 - 2) The maximum luminance of the illuminated areas shall not exceed the values recommended by the Institute of Lighting Professionals in its Professional Lighting Guide 05 Brightness of Illuminated Advertisements (or its equivalent in a replacement Guide)

Preliminary matters

2. For the reasons that follow, I find the proposed halo illuminated sign on elevation B to be acceptable and clearly severable both physically and functionally from the proposed halo illuminated sign on elevation D. Therefore, I intend to issue a split decision in this case and grant express consent for the halo illuminated sign on elevation B.
3. The Regulations and the National Planning Policy Framework both make it clear that advertisements should be subject to control only in the interests of amenity and public safety, taking account of cumulative impacts. Whilst the Council has drawn my attention to the policies it considers relevant to this

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appeal, and I have taken them into account as a material consideration, the Council's policies have not, by themselves, been decisive.

Main Issue

4. The main issue is the effect of the proposal on visual amenity.

Reasons

5. The appeal building lies within a predominantly commercial area, set back a little way from the main B2006. The elevation to the road is visible due to the open nature of a grass bank between it and the road. Existing signage on the property generally reflects that on surrounding buildings, being letters sited at a high level. To the east of the appeal site are retail units. While these have relatively large signs they reflect the scale of the buildings, and are integrated into the frontage avoiding a proliferation of signage. Moreover they are sited some distance from the B2006.
6. The proposal is for the display of two externally illuminated signs, one on elevation D facing the B2006 and one on elevation B facing the car park. The provision of the sign on elevation D would introduce a large sign at a low level. When viewed with the existing signage on this elevation, it would result in this elevation of the appeal premises having a relatively cluttered appearance in contrast with the visible elevations of other properties along this part of the B2006. Consequently, due to its size and location, I am of the opinion that the sign would appear as an incongruous feature to pedestrians, cyclists and road users and would introduce visual clutter within the street scene. As such the advertisement would have a discordant visual impact on its surroundings.
7. While the sign on elevation B would have a similar appearance to that on elevation D, the elevation as a whole does not share the visual prominence experienced by elevation D of the building. Elevation B is set behind a car park, at a considerable distance back from the access road which serves very few properties. As a result, the advertisement would have an acceptable effect upon the visual amenity of the building and the surrounding area.
8. For the reasons above I conclude that the sign on elevation D would be harmful to the visual amenity of the building and the area. In so far as they are relevant, it would therefore be contrary to Policies DM14 and DM15 of the Swale Borough Local Plan Bearing Fruits 2031 (adopted 2017) and to the advice in the Council's adopted Supplementary Planning Guidance entitled "The Design of Shopfronts, Signs and Advertisements (the SPG). Together these require that signage is designed in a manner that minimises harm to amenity.
9. Also for the reasons above, I conclude that the sign on elevation B would not be materially harmful to visual amenity. Therefore, there would be no conflict with the requirements of Policies DM14 and DM15 and the SPG.

Conclusion

10. For the reasons above, I conclude that part of the appeal that relates to the halo illuminated sign on elevation D is dismissed. That part of the appeal that relates to the halo illuminated sign on elevation B is allowed. In terms of conditions, in addition to those required by the Regulations, conditions restricting the type and level of illumination are necessary to protect visual

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amenity. I have amended the wording of the Council's suggested condition to reflect the most up to date guidance document.

Zoe Raygen

INSPECTOR

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The Planning Inspectorate

Appeal Decision

Site visit made on 13 June 2018

by **Grahame Gould BA MPhil MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 29th June 2018

Appeal Ref: APP/V2255/W/18/3193228

27 Hilton Close, Faversham ME13 8NN

- 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 Ian Fuller against the decision of Swale Borough Council.
 - The application Ref 17/504040/FULL, dated 10 August 2017, was refused by notice dated 6 November 2017.
 - The development proposed is erection of a detached dwelling with associated parking on land adjacent to 27 Hilton Close.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the development on: the character and appearance of the area; and highway safety, with particular regard to parking.

Reasons

Character and Appearance

3. The development would involve the construction of a two bedroom, detached house within the side garden of 27 Hilton Close (No 27). The development would include the removal of the front boundary wall and the shrubbery in the verge adjoining the highway.
4. Hilton Close is a fairly recent residential cul-de-sac, with a quite intense layout, with there being little space between and in front of the eight houses between Nos 15 to 27. However, soft landscaping in gardens and verges relieves the intensity of built development within Hilton Close and that landscaping contributes to the streetscene. Views of the trees that atop the embankment between Hilton Close and Finch Close also assist in softening the appearance of the built development in Hilton Close.
5. I consider No 27's side garden and the adjoining verge are important, and purposefully planned, components of the relieving soft landscaping in this part of Hilton Close. The mature roadside shrubbery would largely be removed and while the house would occupy around a third of the plot's width I consider this development would nevertheless amount to a significant hardening of the site's appearance. The siting of the house would also to a degree reduce the views of the embankment trees. I consider those aspects of the development

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would be detrimental to the streetscene. The harmful nature of the development would be accentuated because the house would be sited close to the pronounced bend in the road, albeit that the houses between Nos 15 to 27 would provide some screening of the development from the south.

6. Although the plot for the house would be quite small and this development would not have a spacious appearance, those aspects of the development would be consistent with the layout and intensity of Nos 15 to 25. While I consider there to be nothing objectionable about the house's design, with it being very similar to that of Nos 15 to 25, that aspect of the development would not address the loss of an important area of relieving space and soft landscaping in the streetscene.
7. For the reasons given above I conclude that the development would unacceptably harm the character and appearance of the area. I therefore consider that the development would be in conflict with Policies CP4 and DM14 of Bearing Fruits 2031: The Swale Borough Local Plan of 2017 (the Local Plan) and paragraph 58 of the National Planning Policy Framework (the Framework). That is because the development would not contribute to the area's quality, character and distinctiveness, with its siting being unsympathetic of its location.
8. The sixth reason for refusal states that the development would be harmful to the 'Local Green Space' (LGS), designated under Policy DM18 of the Local Plan. Paragraph 7.5.8 of the Local Plan explains that, in line with paragraphs 76 and 77 of the Framework, LGS have been designated '... to protect them from development and ensure their retention for enjoyment by the local community ...' for '... their recreational value and tranquillity, heritage and biodiversity value'. The LGS designation relates to the tree lined embankment/former quarry side that encircles Finch Close and includes part of No 27's garden. However in the Council's committee report it is stated that No 27's garden was included in the LGS because it was 'erroneously' treated as being publically owned land. The committee report goes on to state that the site's garden land status '... should not be seen as part of any Local Green Space, and that Policy DM18 should be given little weight in this case'.
9. Having seen the treed embankment from Finch Close I consider it is clearly distinguishable from No 27's domesticated garden. I therefore consider that while there is conflict with Policy DM18, very limited weight should be attached to that conflict for the purposes of the determination of this appeal. That is because No 27's garden, in practice, does not function like the rest of the designated LGS.

Highway Safety

10. One on-site parking space would be provided as part of the development and that level of parking would accord with the parking standards applied by the Council. While there might be scope for this development to generate some on-street parking, any such parking would be modest given the limited scale of this development. While any on-street parking associated with this development would be close to a bend in the road and the play area opposite Nos 21 to 27, I saw that vehicle speeds are low, given Hilton Close's sinuous layout and the presence of some traffic calming. I am therefore not persuaded that any on-street parking arising from this development would be detrimental to highway safety.

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11. I conclude that the development would not be harmful to highway safety and that in this regard there would be no conflict with Policies DM7 and DM14 of the Local Plan because the level of on-site parking would be adequate.

Other Matters

12. I recognise in transportation terms this would be an accessible location for a dwelling and that there would be some social and economic benefits arising from the provision of a house. However, given the scale of the development its social and economic benefits would be very limited and I find those benefits to be outweighed by the harm to the character and appearance of the area that I have identified.

Conclusion

13. Although I have found that the development would not be detrimental to highway safety, I consider that it would cause unacceptable harm to the character and appearance of the area. That is harm that could not be overcome by the imposition of reasonable planning conditions.
14. I therefore conclude that the appeal should be dismissed.

Grahame Gould

INSPECTOR

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