

## AGENDA

### PLANNING COMMITTEE MEETING

Date: Thursday, 16 August 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 = 3

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|  | Pages |
|--|-------|
| 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 19 July 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. Deferred Item

1 - 43

To consider the following application:

17/500727/OUT – Manor Farm, Key Street, Sittingbourne

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

Requests to speak on this item must be registered with Democratic Services ([democraticservices@swale.gov.uk](mailto:democraticservices@swale.gov.uk) or call us on 01795 417328) by noon on Wednesday 15 August 2018.

6. Report of the Head of Planning Services

44 - 169

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

The Council operates a scheme of public speaking at meetings of the Planning Committee. All applications on which the public has registered to speak will be taken first. Requests to speak at the meeting must be registered with Democratic Services ([democraticservices@swale.gov.uk](mailto:democraticservices@swale.gov.uk) or call 01795 417328) by noon on Wednesday 15 August 2018.

**Issued on Tuesday 7 August 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](http://www.swale.gov.uk)

Chief Executive Swale Borough Council,  
Swale House, East Street, Sittingbourne, Kent, ME10 3HT

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**PLANNING COMMITTEE – 16th AUGUST 2018**

**DEFERRED ITEM**

Report of the Head of Planning

**DEFERRED ITEMS**

Reports shown in previous Minutes as being deferred from that Meeting

|   |  |                                |   |
|---|--|--------------------------------|---|
| <b>DEF ITEM 1 REFERENCE NO - 17/500727/OUT</b>  |  |                                |   |
| <b>APPLICATION PROPOSAL</b>   |  |                                |   |
| Outline application for residential development for up to 50 dwellings with access off Chestnut Street (All others matters reserved), as amended by drawings received 31/05/2017 and further amended by drawings received 9 November 2017   |  |                                |   |
| <b>ADDRESS</b> Manor Farm Key Street Sittingbourne Kent ME10 1YU  |  |                                |   |
| <b>RECOMMENDATION</b> Grant subject to conditions   |  |                                |   |
| <b>SUMMARY OF REASONS FOR RECOMMENDATION</b>  |  |                                |   |
| Site is allocated for residential development in Bearing Fruits 2031: The Swale Borough Local Plan 2017 (Policy A21) and the proposal is in accordance with national and local planning policy  |  |                                |   |
| <b>REASON FOR REFERRAL TO COMMITTEE</b>   |  |                                |   |
| Deferred following Planning Committee meeting of 17 <sup>th</sup> August 2017, as Members required clarification and further information in respect of brick earth extraction; holding objections from KCC Highways and Transportation and Highways England; the indicative layout; scale of development; and air quality. This report addresses each of these matters. |  |                                |   |
| <b>WARD</b> Borden And Grove Park   | <b>PARISH/TOWN</b> Borden                | <b>COUNCIL</b>                 | <b>APPLICANT</b> Balmoral Land (UK) Ltd<br><b>AGENT</b> |
| <b>DECISION DUE DATE</b><br>13/06/17  | <b>PUBLICITY EXPIRY DATE</b><br>30/08/17 | <b>OFFICER SITE VISIT DATE</b> |   |
| <b>RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):</b>   |  |                                |   |
| <b>App No</b>   | <b>Proposal</b>                          | <b>Decision</b>                | <b>Date</b>   |
| As noted on original report   |  |                                |   |

**1.0 INTRODUCTION**

1.01 Members will recall that this application was originally reported to the Planning Committee on 17<sup>th</sup> August 2017. After some discussion in which Members raised some concerns about the proposal, and requested further information, the item was deferred to allow Officers time to provide that information to a future meeting of the Committee. Please note that the original report is attached as Appendix 1. The minute of the meeting is attached as Appendix 2.

1.02 Members requested further information with regard to any requirement for the site to provide a source of brick-earth, as the site is identified for brick earth extraction prior to development in the Kent Minerals and Waste Local Plan (KMWLP) (adopted April 2017). These matters have now been resolved, as will be further explained below.

- 1.03 Members requested that Officers further examine and seek to address the holding objection received from Highways England, with regard to planned improvements regarding the Key Street roundabout, which is located close to this site. This matter has also been resolved.
- 1.04 Members were also concerned with regard to the indicative layout which accompanied the application, on two grounds. Firstly, a number of local objections had been received with regard to the proposal, which suggested that there may be some issues of overlooking to existing properties; and secondly, Members were concerned that, although a Local Plan allocated site (under Policy A21) for a minimum of thirty dwellings, the outline application is for up to fifty, and that there could consequently be adverse planning impacts.
- 1.05 Members also had concerns with regard to the air quality of the site and its vicinity (noting the proximity to the A249 and the A2), which will also be discussed later in this report.

## **2.0 THIS REPORT**

- 2.01 This update report addresses the above issues, and presents new information for Members to assess when deciding this application. The new report should be read in conjunction with the original report, attached as Appendix 1, which – among other things - describes the site, the proposed development, the policy context, and the consultation responses that had been received at the time of writing.

## **3.0 APPRAISAL**

- 3.01 I will address each of the Members' concerns noted above in turn in this section.
- 3.02 Brickearth – The site is identified for brick earth extraction prior to development in the Kent Minerals and Waste Local Plan (KMWLP) Adopted April 2017. Members noted that at the time of the Committee Meeting on 17<sup>th</sup> August, 2017, whilst the KCC Officer dealing with the brickearth issues on various sites in Swale had given the opinion that, as the brickearth deposits on this site were not abundant, he was of the opinion that an exception could be made for this site, and brickearth extraction from the site would not be necessary before development commenced. However, his Manager, the KCC Head of Planning was unavailable to authorise that decision at that time. Members determined that they wished to have confirmation from KCC's Head of Planning before further consideration of the proposal.
- 3.03 That authorisation was received on 18<sup>th</sup> September 2017, in the form of a letter from KCC's Head of Planning which noted *'I am satisfied that an exemption from the presumption to safeguard the mineral from sterilisation has been demonstrated, criterion 1 of Policy DM 7 (Safeguarding Mineral Resources) of the Kent Minerals and Waste Local Plan 2013-30 has been met and the proposed non-mineral development can proceed without needlessly sterilising any economically important mineral resources. I hope that clarifies Kent County Council's position on this application.'*
- 3.04 Holding Objection from Highways England – The original holding objection from Highways England related to the need to bring forward an appropriate solution to increasing vehicle capacity at the Key Street A2/A249 junction. As Local Planning Authority, we had already collected S.106 obligation contributions from previous planning permissions towards an interim scheme for improvement to increase capacity. Further traffic modelling has had to take place to bring forward a revised

scheme aimed at increasing capacity further to meet housing generated demand arising from the Local Plan sites. A revised scheme has been agreed with KCC Highways and Transportation and with Highways England based on reconfiguration of the on-slip road to the A249 and the introduction of traffic light control and widening work of the off-slip approach to the roundabout and further minor widening and lane changes. The developers will be required to make a contribution of £111,744 towards the scheme and combined with existing and other contributions from other developments will see the interim scheme come forward. It should also be noted that the County Council in partnership with the Borough Council are also progressing a HIF (Housing Infrastructure Fund) bid scheme to support the costs of junction improvements to extend the life of the roundabout beyond the current Local Plan adopted time frame. If this bid is successful, noting the advanced stage we have reached in the bidding process, then the contributions gathered to date will contribute to the wider scheme improvements.

- 3.05 In an email dated the 1<sup>st</sup> June, with regard to the present application, Highways England confirmed that they raised no objection. In that email, the Officer notes that *'Highways England have now reached agreement with Kent County Council as the Local Highway Authority over proposals to provide an interim road improvement at the A249 / A2 Keycol Junction. The improvement is to be funded by strategic development that will have an impact on the volume of traffic using this junction. In this regard, Highways England are satisfied that the agreed improvement will cover the adverse impacts of this particular application and therefore subject to the council obtaining a suitable financial contribution from the applicant to be used towards those highway improvements Highways England is now content to lift its holding objection and offer no objection to the proposal. In this regard I attached our final substantive response on this application.'* (The letter refers to HE's formal response raising no objection).
- 3.06 Similarly, an email from KCC Highways and Transportation dated 6<sup>th</sup> June 2018 confirms that they have also removed their holding objection.
- 3.07 Indicative Layout - With regard to the indicative layout, I understand that the Agent has been in direct contact with the Objector who spoke at the Committee meeting on 17<sup>th</sup> August 2017, to ascertain the concerns of local residents. Having ascertained that those concerns related to issues of mutual overlooking, due to the elevated topography of the site, the Agent has submitted a new indicative layout plan (revision B, received 08/11/2017), which differs from that originally submitted as follows:
- The proposed play area has been moved to the northwest of the site, to create a 'buffer zone' between the existing and proposed housing and thus remove any possibility of mutual overlooking
  - The proposed properties on the north-eastern part of the boundary (namely Plots 35 to 39) have been changed from two storey houses to single storey bungalows, to ensure there are no issues of overlooking from these properties to those existing in Cherryfields. Members will recall that local residents had expressed concerns, as this part of the site is approximately two to three metres higher than the rear gardens in Cherryfields.
  - The indicative drawing also shows an increased buffer zone, with a typical width of 18 metres, between the proposed site and Chestnut Street and the Key Street roundabout. Further landscaping would also be provided at these points, to ensure that the buffer zone is not just empty ground, but marks a clear delineation between the existing and proposed developments.

- 3.08 I am therefore of the opinion that the most recent indicative layout plan has successfully addressed the understandable concerns of local residents, and now represent a robust template for the established layout for the site, to be decided under a reserved matters application (for all matters other than access), should Members be minded to approve this Outline application.
- 3.09 Scale of Development – Members expressed concern over why an application for up to fifty houses had been submitted, when the allocation within the Local Plan 2017(see Policy A21, which is set out in full at Paragraph 5.04 of the original report) suggested a minimum of thirty dwellings. That figure was an indication of what Officers considered to be a suitable minimum number of dwellings for the site based on their initial assessment of its constraints when the site was included as an allocation in the then emerging Local Plan. As the Applicant wished to increase the number to fifty, the onus was on the Applicant to prove that such a number was both practicable and acceptable on this site, and could be achieved without unacceptable planning impacts. This is why the Applicant submitted an indicative layout plan, in order to try and demonstrate that such a proposal was both practicable and acceptable, with no adverse effect on present neighbours or potential future occupiers of the proposed properties. On studying the latest version of this plan, officers are of the opinion that it has been proven that the number proposed is both practicable and acceptable, particularly when noting that the level of development would amount to 25 properties per hectare, which is somewhat lower than many modern housing developments, where a density level of 30 – 50 dwellings per hectare is quite usual. As such, officers remain of the opinion that the level of up to fifty dwellings proposed can be achieved and without significant erosion of existing amenity, nor would the development lead to any other unacceptable impacts.
- 3.10 Air Quality – Members expressed concern with regard to air quality on the site and the potential implications for residential amenity given its position close to both the Key Street Roundabout and the A2 and A249. When this was matter was initially discussed with the Environmental Protection Team Leader, it was agreed that, as neither the site itself or the adjacent parts of the A249 and A2 are designated as AQMAs, there would be no grounds for refusing the application on grounds relating to air quality.
- 3.11 Members will note that there are existing Air Quality Management Areas at Newington (approximately one mile west of the site); at St Paul's Street, Sittingbourne (also approximately one mile away, but to the north-east); and East Street Sittingbourne (approximately one mile and a quarter to the east).
- 3.12 The Council does not have data in respect of levels of air pollution at the site or in the vicinity of it. It was agreed that in the circumstances and mindful that air quality is not specified as an issue /matter to be addressed in the Local Plan 2017 policy relating to the site (Policy A21(2), the Environmental Protection Team would not request the imposition of a planning condition / s106 clause relating to air quality at the site. The Environmental Protection Team Leader notes that:

*'We do not have any current evidence of an exceedance of AQ guidelines here and hence are fairly relaxed from an AQ perspective, though the more development there is around here could change that opinion in time. We are planning to increase the level of AQ monitoring in and around this vicinity and nearby Wises Lane shortly in anticipation of future developments.'*



- 3.13 Borden Parish Council has recently submitted their own Air Quality Report, carried out for them by the University of Kent, which suggests that Air Quality levels are of concern.

However, it should be noted that that report refers to the site under consideration to the east of the site, referred to locally as the 'Wises Lane' application (17/505711/HYBRID). As such, although a very small part of that application site is situated adjacent to the Manor Farm site, the report does not directly refer to the Manor Farm site. However, for the sake of regularity, the report has been evaluated by the Environmental Protection Team Leader, who has commented as follows:

*'There is little SBC air quality monitoring information available in the vicinity of the proposed development. It has been explained previously that it is impossible to provide this type of information for everywhere in the borough, because other areas have been prioritised as being likely to be producing excessive air pollution levels – principally on, or near to the A2.*

*This report comments on air quality monitoring carried out close to the localities commented on by the consultants who had previously submitted an air quality modelling report on behalf of the developer, though I have not seen this report. (NB. This refers to the Wises Lane report).*

*Three pollutants have been measured:*

*Particulates, PM<sub>2.5</sub> and PM<sub>10</sub>, and Nitrogen Dioxide, NO<sub>2</sub>*

*The monitoring was carried out between the following periods:*

*24<sup>th</sup> February – 11<sup>th</sup> March 2018 for PM<sub>2.5</sub> and PM<sub>10</sub> and  
21<sup>st</sup> February – 25<sup>th</sup> April 2018 for NO<sub>2</sub>*

*Particulate monitoring was carried out using an automatic monitor and NO<sub>2</sub> by 10 diffusion tubes sited in similar locations to that of the consultant.*

*The report basically states that the developer's air quality assessment understates the pollution levels in this locality and that their report demonstrates that WHO levels are being exceeded for PM<sub>2.5</sub> and PM<sub>10</sub> particulates, though not for NO<sub>2</sub>.*

*I would comment on this report as follows:*

- It is well intentioned and detailed and I am not in a position to criticise the method and monitoring used, but it cannot be compared with LAQM methodologies because the short time periods are not representative of the established method of measuring air pollution levels and do not take into account seasonal variations – at least 12 months monitoring should take place. These periods are much too short to make definitive conclusions about AQ levels at this locality.*
- It uses an instrument that I assume is not MCERTS approved for monitoring particulates and thus the results cannot be compared with the approved analysers, which are.*
- It concludes that World Health Organisation (WHO) PM<sub>2.5</sub> and PM<sub>10</sub> guideline levels are being exceeded. WHO levels are lower than EU limits, but the Local Authority Air Quality Management (LAQM) system is the only recognised system in the UK and this is linked to EU limits. The report itself states that these levels do not exceed EU limits; it is only against these limits that conclusions can currently be made.*

- *The NO<sub>2</sub> diffusion tubes exposure times are far too short to be accurate – at least 12 months monitoring would be required. They are also not exactly the same as those used by SBC and other Kent Authorities. They are prepared by another laboratory and have a different bias correction value – not critical, but again they cannot be compared with SBC data.*

*Also, this report is listed as a 'draft report' Is there a final version?*

*SBC are setting up new diffusion tube sites close to this site and will be able to report the levels found in the future, once a representative time period has elapsed.*

### **RECOMMENDATIONS:**

*I do not dispute the work that has gone into writing this report, or the measurements and conclusions that have resulted from it, but as I have explained above, these results cannot be compared with the developers AQ assessment which I assume is based on the DEFRA/LAQM system, which is the system set up in the UK.*

*Also, crucially, comparisons are being made with a different set of guideline values. Therefore I have to reject this report and its conclusions.'*

3.14 As such, although Borden Parish Council's report actually refers to an adjacent, much larger site, the Environmental Protection Team Leader has fully assessed the report submitted and has highlighted a number shortcomings and anomalies in the report, casting some doubt over its findings. In these circumstances, I am satisfied that there will likely be no significant adverse impact on air quality arising from the development and that the development would not result in any exceedances on the Air Quality Objectives in any of the AQMAs within the Borough.

3.15 Ecology - With regard to any implications for the Special Protection Area, Members will note that a Habitat Regulations Assessment was carried out when the initial report was brought before this Committee on 17<sup>th</sup> August 2017, which is attached as part of Appendix 1 to this report.

3.16 The Conservation of Habitats and Species Regulations 2017 - 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 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.

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 (50 houses on an allocated site at the edge of town), 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 therefore consider that, subject to mitigation, there will be no adverse effect on the integrity of the SPA.

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/>)

3.17 Developer Contributions – As a reminder to Members, the Developer Contributions requested are as follows:

- **£111,744.00** towards junction improvements to the Key Street junction
- Primary Education (towards enhancement of Borden Primary School) - **£166,200.00**
- Secondary Education (towards Phase 3 of expansion of Westlands Secondary School) - **£117,990.00**
- Community Learning (towards new equipment to support additional Adult Education in the new Sittingbourne Hub) - **£3,021.35**
- Youth Service (towards additional youth facilities and equipment in Sittingbourne) - **£1,879.17**
- Libraries (towards equipment and bookstock costs of new library in Sittingbourne Hub) - **£11,350.00**
- Social Care (towards fit out costs of Sittingbourne Care Hub) - **£3,166.50**
- **£43,050.00** (£861.00 per dwelling) towards the provision of off site play equipment at Grove Park.
- **£18,000.00** towards expanding existing NHS facilities within the vicinity of the development.
- £301.14 per dwelling, or **£15,057** for 50 dwellings is required to mitigate potential impacts on the Swale Protection Area.

- **£13,200.00** towards the resurfacing and improvement of public footpath KR117.

SUB TOTAL: £504,658.02

- An administration fee amounting to 5% (or £25,232.90) of the total value of the above amounts will also be payable.

TOTAL: £529,890.92

#### **4.0 CONCLUSION**

- 4.01 Having carefully looked at the matters raised by Members at the meeting of this Committee on 17<sup>th</sup> August 2017, Officers believe that these issues have now been resolved, and again recommend that the proposal be delegated to officers to approve, subject to the signing of a suitably worded S106 agreement, and the conditions noted below.

#### **5.0 RECOMMENDATION – GRANT** Subject to the signing of a suitably-worded Section 106 agreement and 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 than the expiration of two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.

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

- (4) Pursuant to Condition (1) above, the reserved matters application shall show no more than a total of 50 dwellings, and the dwellings shall be no more than 2.5 storeys in height

Reason: In order to comply with Policy A21 of The Swale Borough Local Plan 2017 and in the interests of safeguarding the local landscape.

- (5) Pursuant to Condition (1) above, the reserved matters application shall show only single storey dwellings in the north east corner of the site (marked on the illustrative site layout drawing no. DHA/11507/06 Rev B and the illustrative proposed storey

heights plan no. DHA/11507/04 Rev B as plot numbers 35 - 39 inclusive), adjacent to the existing properties in Cherryfields

Reason: In view of the rise in the topography of the land, which would result in issues of overlooking and overshadowing to existing properties in Cherryfields, if those new properties were to be of more than one storey

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

Reason: In the interests of public amenity and safety.

- (7) The details submitted 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.

- (8) The landscaping details submitted pursuant to condition (1) shall include full details of both hard and soft landscape works including 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. 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. 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 approved by this planning permission shall take place until a remediation strategy that includes the following components to deal with the risks associated with contamination of the site shall be submitted to and approved in writing by the Local Planning Authority:

1. A preliminary risk assessment which has identified:
  - a) All previous uses
  - b) Potential contaminants associated with those uses
  - c) A conceptual model of the site indicating sources, pathways and receptors
  - d) Potentially unacceptable risks arising from contamination at the site.
2. A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
3. The results of the site investigation and the detailed risk assessment referred to in (2) and, based on these, an options appraisal and remediation strategy

giving full details of the remediation measures required and how they are to be undertaken.

4. A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

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

Reason: To prevent pollution of controlled waters and comply with the National Planning Policy Framework.

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

Reason: To prevent pollution of controlled waters and comply with the NPPF.

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

Reason: To prevent pollution of controlled waters and comply with the NPPF

- (12) Prior to the commencement of the development hereby approved full details of the method of disposal of foul and surface waters as part of a detailed drainage strategy shall be submitted to and approved in writing by the local planning authority. This 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 risk of ground instability associated with discharge of surface water into the underlying soils should be assessed and the infiltration rates confirmed with a suitable ground investigation.

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 building hereby permitted shall be occupied until details of the implementation; maintenance and management of the sustainable drainage scheme have been submitted to and approved in writing by the Local Planning Authority. The scheme

shall be implemented and thereafter managed and maintained in accordance with the approved details. Those details shall include:

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

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

- (14) No infiltration of surface water drainage into the ground is permitted other than with the express written consent of the Local Planning Authority (in consultation with the Environment Agency); this may be given 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.

- (15) 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 collected and disposed of via infiltration features located within the curtilage of the site.

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

- (16) Development shall not begin until details are submitted to and approved in writing by Local Planning Authority (in consultation with the Environment Agency and the Lead Local Flood Authority) of measures within the drainage scheme that ensure silt and pollutants resulting from the site use can be adequately managed to ensure there is no resultant unacceptable risk to controlled waters as a result of infiltration of surface water from the development. The details shall only then be implemented in accordance with the approved details.

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

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

The code shall include:

- An indicative programme for carrying out the works
- Measures to minimise the production of dust on the site(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)
- Maximum noise levels expected 1 metre from the affected façade of any residential unit adjacent to the site(s)
- Design and provision of site hoardings
- Management of traffic visiting the site(s) including temporary parking or holding areas
- Provision of off road parking for all site operatives
- Measures to prevent the transfer of mud and extraneous material onto the public highway
- Measures to manage the production of waste and to maximise the re-use of materials
- Measures to minimise the potential for pollution of groundwater and surface water
- The location and design of site office(s) and storage compounds
- The location of temporary vehicle access points to the site(s) during the construction works
- The arrangements for public consultation and liaison during the construction works.

Reason: In the interests of residential amenity, highway safety and amenity.

- (18) No development shall take place until:
- a) a site investigation has been carried out to determine the nature and extent of any reptile or bat population within or adjacent to the building in accordance with the advice of Natural England
  - b) a written report of the site investigation has been prepared by a competent person. The report shall include the investigation results and details of a scheme to ensure the long-term health and well being of any reptile or owl population within or adjacent to the building. The report shall be submitted to and approved by the Local Planning Authority in writing.
  - c) the development shall then be implemented in accordance with the approved scheme

Reason: In order to safeguard protected species that may be present within or adjacent to the building.

- (19) 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.



- (20) None of the dwellings shall be occupied until space has been laid out within the site in accordance with details to be submitted and approved in writing by the Local Planning Authority for cycles to be securely stored and sheltered.

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 and to ensure that such matters are dealt with before development commences.

- (21) The construction of the development hereby approved shall not commence before the completion of the vehicular access leading from Chestnut Street as shown on drawing reference DHA\_11506-T-02. Thereafter, this access shall be maintained as such in perpetuity.

Reason: In the interest of highway safety and amenity

- (22) No development shall commence until the developer has submitted drawings showing the relocation of Public Right of Way ZR117 away from the proposed estate road, avoiding steep gradients and steps. No development shall take place until such suitable drawings shall have been submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall be carried out in complete accordance with these approved drawings and fully implemented before the first occupation of any of the properties hereby permitted.

Reason: In the interests of protecting the amenity value of the existing Public Rights of Way.

- (23) No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of:

- (1) archaeological field evaluation works in accordance with a specification and written timetable which has been submitted to and approved by the Local Planning Authority before any reserved matters application has been submitted; and
- (2) following on from the evaluation, any safeguarding measures to ensure preservation in-situ of important archaeological remains and/or further archaeological investigation and recording in accordance with a specification and timetable which has been submitted to and approved by the Local Planning Authority.

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

- (24) No development shall commence until the developer has developed a scheme detailing and where possible quantifying what measures or offsetting schemes are to be included in the development which will reduce the transport related air pollution of the development during construction and when in occupation. The most recent DEFRA Emissions Factor Toolkit should be utilised and the latest DEFRA IGCB Air Quality Damage Costs for pollutants considered, to calculate the resultant damage cost. The report should be submitted to and approved by the Local Planning Authority, prior to development, and any mitigation sums should be included within a suitably worded s106 agreement.

Reason: In the interests of air quality management.

- (25) The proposed estate roads, footways, footpaths, verges, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, vehicle overhang margins, embankments, visibility splays, accesses, carriageway gradients, drive gradients, car parking and street furniture shall be constructed and laid out in accordance with details to be submitted and approved by the Local Planning Authority in writing before their construction begins. For this purpose, plans and sections, indicating as appropriate, the design, layout, levels, gradients, materials and method of construction shall be submitted to the Local Planning Authority.

Reason: To ensure that the roads are laid out and constructed in a satisfactory manner and to ensure that such matters are dealt with before development commences.

- (26) No impact pile driving in connection with the construction of the development shall take place on the site on any Saturday, Sunday or Bank Holiday, nor on any other day except between the following times :-

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

Reason: In the interests of residential amenity.

- (27) 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 Local Planning Authority.

Reason: In the interests of residential amenity.

- (28) Prior to the commencement of development a programme for the suppression of dust during the construction of the development shall have been submitted to and approved in writing by the Local Planning Authority. The measures approved shall be employed throughout the period of construction unless any variation has been approved by the Local Planning Authority.

Reason: In the interests of residential amenity and to ensure that such matters are dealt with before development commences.

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

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

Reason: In the interests of highway safety.

(30) Within 6 months of construction commencing a detailed landscaping plan and management plan must be submitted to the Local Planning Authority for written approval. The submitted information must include the following:

- A landscape plan incorporating the ecological enhancement measures detailed within chapter 9 of the Ecology Assessment, Ethos Ecology (December 2016)
- Details of how the proposed planting will be established
- A five year rolling management plan for the site
- When habitat monitoring will be carried out
- When management plan reviews will be carried out

The measures shall be implemented in full accordance with the submitted information prior to the occupation of development.

Reason: In the interests of preserving biodiversity 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.

### **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 <http://www.kent.gov.uk/roads-and-travel/what-we-look-after/highway-land>

The applicant must also ensure that the details shown on the approved plans agree in every aspect with those approved under such legislation and common law. It is therefore important for the applicant to contact KCC Highways and Transportation to progress this aspect of the works prior to commencement on site.

- (2) A formal application for connection to the public sewerage system is required in order to service this development. To initiate a sewer capacity check to identify the appropriate connection point for the development, please contact Southern Water, Sparrowgrove House, Sparrowgrove, Otterbourne, Hampshire, SO21 2SW, (Tel: 0330 303 0119 or [www.southernwater.co.uk](http://www.southernwater.co.uk)).
  - (3) Safe digging practices, in accordance with HSE publication HSG47 "Avoiding Danger from Underground Services" must be used to verify and establish the actual position of mains, pipes, services and other apparatus on site before any mechanical plant is used. It is your responsibility to ensure that this information is provided to all relevant people (direct labour or contractors) working for you on or near gas plant.
  - (4) 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.
  - (5) All nesting birds and their young are legally protected under the Wildlife and Countryside Act 1981 (as amended) and as such any vegetation must be removed outside the breeding bird season, and if this is not possible an ecologist must examine the site prior to works starting and if any nesting birds are recorded all works must cease within that area
- NB For full details of all papers submitted with this application please refer to the relevant Public Access pages on the council's website.  
The conditions set out in the report may be subject to such reasonable change as is necessary to ensure accuracy and enforceability.



17/500727/OUT - Manor Farm, Key Street, Sittingbourne  
Scale: 1:2500  
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**REPORT SUMMARY**

|   |  |  |
|---|--|--|
| <b>REFERENCE NO - 17/500727/OUT</b>   |  |  |
| <b>APPLICATION PROPOSAL</b><br>Outline application for residential development for up to 50 dwellings with access off Chestnut Street (All others matters reserved) as amended by drawings received 31/05/2017  |  |  |
| <b>ADDRESS</b> Manor Farm Key Street Sittingbourne Kent ME10 1YU  |  |  |
| <b>RECOMMENDATION:</b> Grant subject to the views of the Housing Services Manager; conditions as set out below; the signing of a suitably worded Section 106 Agreement; clarification in respect of open space management; and the resolution of the brick earth issue. |  |  |
| <b>SUMMARY OF REASONS FOR RECOMMENDATION:</b> Site is allocated for residential development in Bearing Fruits 2031: The Swale Borough Local Plan 2017 (Policy A21) and proposal is in accordance with national and local planning policy                                |  |  |
| <b>REASON FOR REFERRAL TO COMMITTEE:</b><br>Parish Council objection; local objections  |  |  |
| <b>WARD</b> Borden And Grove Park   | <b>PARISH/TOWN COUNCIL</b><br>Borden     | <b>APPLICANT</b> Balmoral Land (UK) Ltd<br><b>AGENT</b>    |
| <b>DECISION DUE DATE</b><br>13/06/17  | <b>PUBLICITY EXPIRY DATE</b><br>14/06/17 | <b>OFFICER SITE VISIT DATE</b><br>Two separate site visits |
| <b>RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):</b>   |  |  |
| <b>App No</b>   | <b>Proposal</b>                          | <b>Decision</b>  |
| SW/04/0095  | Application for 27 new dwellings         | Refused  |
| SW/03/0224  | Application for 39 new dwellings         | Refused  |

**MAIN REPORT**

**1.0 DESCRIPTION OF SITE**

- 1.01 The site consists of an open field, which runs alongside the old A249 Chestnut Street, which leads from the Key Street Roundabout. To the north lies the main A2 London Road, with Sittingbourne town centre a little over a mile and a half to the east. To the south there is a sizeable electricity substation; to the immediate east and north are existing residential dwellings found within Cherryfields and Dental Close.
- 1.02 The field appears to have been fallow for some while; I understand that there were originally orchards on the field, which have since been removed. The field slopes downwards quite noticeably from east to west, with a sizeable difference in levels between the eastern and western sides of the field; the lowest point is the northwest corner which has a level of 26.5m AODN (Above Ordnance Datum Newlyn; Sea level); whilst the highest point is on the southern corner, which has a level of 37.3m AODN.
- 1.03 Two public rights of way are found on or adjacent to the field; one runs north/south along the eastern boundary of the field (ZR118), and would not be affected by the proposal. The other runs east/west towards the southern boundary (ZR117), and part of the proposal is the slight re-alignment of that footpath.

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**2.0 PROPOSAL**

- 2.01 As stated above, this is an outline application for up to fifty residential dwellings, with all matters save for access reserved for future consideration.
- 2.02 The application is accompanied by an indicative site layout which has since been amended; however, it is important in this case to remember that this is illustrative only, as the only matter, barring the principle of development, to be considered here is that of access. Nevertheless, the indicative drawings show a non-linear layout with a mix of dwelling types and sizes, all with private gardens and off-road parking
- 2.03 The dwellings are shown on the storey heights drawing as a mix of single, two and two & a half storey buildings, with illustrative drawings showing one (no.) single storey dwelling; forty-seven (no.) two storey dwellings; and two (no.) two-and-a-half storey dwellings. Fifteen would have two bedrooms; twenty-eight would have three bedrooms; and seven would have four bedrooms. Five dwellings would be allocated as affordable housing.
- 2.04 The proposed access is not the existing access to the field; that access being rather near to a bend in the road leading from Key Street towards Danaway, almost adjacent to the Key Street roundabout itself. The proposed access is situated 150 metres further southwest along Chestnut Street, to enable better sight lines from the site, which would give visibility splays of 2.4m by 53m in a northeasterly direction, and 2.4 m by 90 metres in a southwesterly direction.
- 2.05 The illustrative drawing shows 59 private open parking spaces, 25 private spaces in garages or car barns, and 10 allocated visitor parking spaces.
- 2.06 The site is situated within an area where brickearth extraction is generally required before development. This matter will be discussed later in this report.
- 2.07 The proposal is accompanied by the following documents:
  - Archaeological Assessment
  - Flood Risk Assessment
  - Landscape Assessment
  - Noise Assessment
  - Planning Statement
  - Transport Statement
  - Design and Access Statement
  - Ecology Assessment
  - Topographical Survey
  - Tree Survey

**3.0 SUMMARY INFORMATION**

|                          | Existing | Proposed | Change (+/-) |
|--------------------------|----------|----------|--------------|
| Site Area (ha)           | 2.02     | 2.02     | Nil          |
| No. of Residential Units | Nil      | Up to 50 | Up to +50    |
| No. of Affordable Units  | Nil      | Up to 5  | Up to +5     |

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**4.0 PLANNING CONSTRAINTS**

- 4.01 Allocated Site – housing development (Policy A21 of the Swale Borough Local Plan 2017)
- 4.02 Site of archaeological interest

**5.0 POLICY AND OTHER CONSIDERATIONS**

- 5.01 The National Planning Policy Framework (NPPF): Paragraphs 7 (Sustainable Development), 14 (Presumption in favour of sustainable development), 47 and 50 (Delivering a range of high quality housing), 57 (High quality design) and 143 (Minerals extraction).
- 5.02 The Swale Borough Local Plan 2017: Policies ST1 (Sustainable Development), ST2 (Development Targets for Homes), ST5 (Sittingbourne Area Strategy), CP3 (Delivering high quality housing), CP4 (Good design) A21 (Smaller allocation sites as extensions to settlements), DM6 (Transport demand and impact), DM7 (Vehicle parking), DM8 (Affordable housing), DM14 (Development criteria), DM17 (Open space provision), DM19 (Sustainable design and construction), DM21 (Water, flooding and drainage), DM28 (Biodiversity) and DM31 (Agricultural land).
- 5.03 The Swale Landscape and Biodiversity Appraisal shows that the site is with the category of the Borden Mixed Farmlands. This suggests that the condition of the area is moderate, and the sensitivity of the land in question is moderate.
- 5.04 The site is allocated for housing under policy A21 of Bearing Fruits 2031: The Swale Borough Local Plan 2017. The requirements of the policy will be further discussed later within this report in the 'Appraisal' section. Policy A21 reads as follows:
- *“Lies close to the A2 Watling Street. Any planning application for development proposals on these sites will need to have considered the possibility of archaeological remains being on site.*
  - *Financial contributions include those toward primary education, health and junction improvements at Key Street A249/A2.*
  - *Through an integrated landscape strategy consider:*
  - *The creation of a new attractive urban edge to Sittingbourne, with substantial landscaping to achieve the integration of development in a fashion that minimises its impact upon the separation of Sittingbourne with Bobbing.*
  - *The assessment and, where possible, the retention of remaining orchard trees (a UK BAP priority habitat).*
  - *Determine such matters as the presence of protected species, whilst retention of habitat as far as possible and mitigation will secure a net gain in biodiversity.”*
  - *The policy envisages a minimum of 30 dwellings on 2.3 hectares of land*
- 5.05 'Developer Contributions' Supplementary Planning Document (2009):.
- 5.06 Clauses 4, 6 and 7 of Policy DM7 of the Kent Minerals and Waste Local Plan.

**6.0 LOCAL REPRESENTATIONS**

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Twenty-six letters and emails of objection have been received from local residents. Their comments can be summarised as follows:

- *'There is a lot of information within all the supporting documents which is extremely time consuming to read, digest and understand. This makes it difficult to provide full comments for objections'*
- The land behind Cherryfields (which adjoins the northeastern corner of the site) is two to three metres higher; this would lead to overlooking and overshadowing
- Would lead to increase in traffic at the Key Street roundabout and on the A249
- Previous applications for less houses on this site were refused
- The proposal site is not in the Local Plan
- Massive increase in vehicle movements
- Increase in pollution from vehicles
- No new infrastructure: roads, schools and surgeries are at breaking point
- Bungalows and affordable homes are needed; not executive homes
- Loss of trees on boundary
- Flooding and subsidence problems
- Access too near to Key Street roundabout
- Bungalows on boundaries would be better
- Will set a precedent for development at Wises Lane
- Loss of countryside gap between Sittingbourne and Newington
- Brownfield sites are preferable for development
- Inaccuracies within the submitted Transport Statement
- Not enough parking or visitor spaces
- Loss of views
- Topography of site is very steep
- Proposed play area in dangerous position close to road
- Increase in use of public rights of way
- No safe cycle route across Key Street roundabout
- Loss of Grade I agricultural land
- Layout too dense – allocated for a minimum of 30 dwellings in Local Plan
- Adverse impact on wildlife
- Development will devalue my property
- Safety concerns regarding electricity station
- Bird and bat boxes are not as good as natural habitat

## 7.0 CONSULTATIONS

7.01 Borden Parish Council objects to the application and their comments read as follows:

*'Lack of provision of Schools, particularly Primary Schools, accessible by sustainable transport.*

*Insufficient provision of Hospitals and GP services*

*The land itself is Grade 1 agricultural land and should be protected for Agricultural use. Uncertainty about the availability, price and quality of food within the UK arising from climate change, development of the Asian/Chinese economies and population growth has been exacerbated by the recent decision to leave the EU. Further loss of production capacity and the local economic development opportunity to construction would not be prudent.*

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*Environmental pollution: The number of vehicles currently using the Key street junction, A2 and old Maidstone Road create high pollution levels during peak hours. This occurs particularly on Chestnut Street and Danaway where earth banks created to separate the A249 from residential areas now create high pollution zones because of limited air movement and queuing traffic. The development is not sustainable with regard to transport or air quality, since it will lead to further congestion on the A2, A249 and rural lanes Traffic exiting this development onto Chestnut Street will cause further congestion to an already inadequate road system. There are Highways safety concerns arising from parked commuter vehicles and HGV's adjacent to the proposed junction between the new development and Chestnut Street. No figures are supplied for actual peak hours between 05.45 and 07.00 when commuters use the routes. The A249/A2 (Key Street) roundabout is unable to cope with existing traffic at peak times which will only worsen with the Iwade and Sheppey developments. Traffic from the main Sittingbourne town and the Northern residential areas of Sittingbourne i.e. Sonara Fields, Kemsley, Iwade etc. converge on Key Street Roundabout; many drivers use Chestnut Street to try and bypass the congested areas, leading to long delays at the Stockbury roundabout and reduced safety for residents along Maidstone road. Chestnut Street is also used in times of accidents on the A249. As a consequence the whole road systems becomes blocked due to the high volume of vehicles and use of wide vehicles. This is contrary to the statement on Page 21, 6.1.5 of the Transport Statement.*

*Any designed road exiting onto Chestnut Street will create a rat-run for traffic trying to avoid the current bottlenecks. As a consequence, there will be a detrimental impact on the safety and quality of life for residents/public. Improvements to the Key Street Roundabout and the Stockbury Roundabout should be undertaken before any further development takes place Insufficient parking spaces; appears to be one per property?*

*In the past KCC Minerals and Waste have raised objections to applications in this area.*

*The topography of the site means that the land sits much higher than current housing abutting the boundaries. The proposed two storey properties to the rear of existing housing will in fact be the equivalent of a three-storey building.*

*Loss of valuable wildlife habitat: Should the Borough Council be minded to approve this application we would ask that the following be taken into consideration: Bungalows should be built to the rear of existing properties in Cherryfields any other properties impacted; this will in effect due land being higher on the site appear as two-storey buildings and will not cut out light.*

*We would request that an archaeological survey be carried out prior to any development owing to the history of the area.'*

- 7.02 The Environment Agency raises no objection.
- 7.03 UK Power Networks raises no objection.
- 7.04 Scotia Gas Networks raises no objection.
- 7.05 The Lower Medway Internal Drainage Board raises no objection.
- 7.06 Natural England raises no objection.
- 7.07 Southern Water raises no objection, subject to the inclusion of Informatives as noted below.

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- 7.08 Highways England acknowledges that the proposal might put pressure on the roundabout at Key Street, although they suggest that the impact would be limited. They encourage the developer to discuss the matter with KCC Highways and Transportation. Their comments are as follows:

*'Having examined the above application, while we accept that the development alone will have a limited impact on the Key Street junction (A2 / A249), evidence submitted to and agreed at the Swale Local Plan Examination concluded that at times the junction is operating over capacity and going forwards we are aware that there will be a severe cumulative impact on the junction due to committed, consented and emerging Local Plan development. Therefore now and in to the future there are SRN related safety, journey reliability and operational efficiency issues that need to be addressed.*

*While it would be open to any applicant to propose individual mitigation, we believe it would be more sensible for there to a single co-ordinated response of the right type delivered at the right time to mitigate the cumulative impacts of all likely development. A cumulative mitigation scheme is being developed by Kent County Council and Swale Borough Council.*

*We therefore look forward to hearing from the applicant as to which direction they wish to take. They may wish to make their decision based upon a conversation with KCC/SBC regarding the progress of the cumulative mitigation scheme.'*

- 7.09 KCC Highways and Transportation comment in full as follows:

*'It is acknowledged that the proposed development does form one of the allocated sites within the Local Plan that has now been approved by the Planning Inspector and is due to be adopted within the coming days, so the principle of residential development in this location will be supported by the weight of that Plan. Consequently, the Highway Authority will work with the Applicant to agree what measures are required to accommodate the development and its impact on the local highway network.*

*I have reviewed the proposed trip rates used in the Transport Statement, and undertaken my own TRICS calculation using selection filters that I consider comparable to the location of this site. My calculations did derive a slightly higher generation of traffic, suggesting a further 6 movements during the AM peak and 3 more during the PM peak to give totals of 32 and 29 respectively. Over the period between 07:00 to 19:00, my analysis indicated a total of 264 vehicle movements. It is not considered that the difference between the two TRICS interrogations is a significant material difference when viewed against the existing traffic on the highway network.*

*The development is proposed to be accessed from a simple priority junction onto Chestnut Street, and I accept that this would be the correct design approach. The junction matrix in TD 42/95 of the Design Manual for Roads & Bridges recommends this type of road junction is used when accommodating the amount of vehicle numbers travelling along the main road and expected to be generated from the development. The position of the proposed access will be within the current national speed limit section of Chestnut Street, close to the transition point of the 30mph speed limit approaching Key Street roundabout. However, the Transport Statement suggests that the 30mph limit will be extended further south, past the proposed access, and visibility splays of 2.4m by 43m would be appropriate based on that speed. It should be noted that the extension of the 30mph limit will need to be the subject of a Traffic Regulation Order that requires consultation, and has to be considered in the road environment and other influencing factors. These are described in the DfT circular 01/2013, so it cannot be taken for granted that the proposed extension to the speed restriction will be allowed. I*

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*therefore believe that it would be more appropriate to provide sightlines at the proposed junction based on measured speeds at this location.*

*Notwithstanding the above uncertainty regarding vehicle speeds, it is demonstrated by the drawing provided in Appendix E (of the Transport Assessment) that visibility splays of at least 2.4m by 90m to the southwest, and 2.4m by 87m to the northeast of the junction are generally available, and splays far in excess of these are achievable due to the extent of the highway land that could be used to facilitate longer sightlines. I am therefore content that appropriate sightlines can ultimately be provided for the proposed access, and these can be secured through the technical approval process associated with the Section 278 Highway Agreement that will have to be entered into by the developer to permit construction of the new junction and any other off-site highway works required. The developer will also be expected to fund the costs of processing and implementation of the proposed Traffic Regulation Order.*

*The vehicle swept path analysis that has been submitted demonstrates that the site can be accessed by a refuse freighter and pantechnicon type removals lorry, although I note that these do utilise the full width of Chestnut Street to carry out their manoeuvres. This section of Chestnut Street does attract on-street parking from commuters and also customers of the nearby Tudor Rose public house, which restricts the width of carriageway. It will also be necessary to consider the introduction of waiting restrictions in this vicinity to protect the movement of vehicles through this section. As before, the cost of funding this Traffic Regulation Order will fall upon the developer.*

*Although a footway exists along the entire northern side of Chestnut Street, the provision along the southern side from Key Street roundabout stops short of the proposed access. The drawings submitted do appear to indicate that this footway will link all the way into the development, but is beyond the red line boundary and does not indicate whether this is intended to represent an extension to the existing footway. For clarity, it would be appropriate to secure this off-site highway work through a planning obligation, so that it is provided as part of the Section 278 Agreement works.*

*To accord with the emerging Local Plan, this site is expected to contribute towards improvements of the Key Street/A249 junction. Based on the levy that has been applied to other developments that will send traffic through this junction, it would be appropriate to seek a financial contribution of £51,667. The Section 106 Agreement will therefore need to include for that provision.*

*Whilst the planning application has been made in Outline, with only access to be considered at this time, I do note that an indicative site layout has been submitted, and reference is made within the Transport Statement to the parking provision within the development. As these are considerations for any subsequent Reserved Matters application, should the Local Planning Authority grant approval to the current application, then those aspects of the proposals will be assessed at that time. Please note that the response being provided by Kent County Council Highways and Transportation now should not be taken as any acceptance of the details submitted beyond those of Access only. However, I would suggest that the parking category that this development will fall in should be Suburban Edge, rather than the Suburban category referred to in the Transport Statement. When assessing those details at the Reserved Matters stage, the development layout and details will be expected to be in accordance with the appropriate design guidance. It should be noted that the parking guidance, IGN3, does not count garages towards the parking provision, and independently accessible parking spaces are sought instead of tandem arrangements. This is likely to influence the final design of the development layout.*

*In conclusion, I can confirm that provided the following requirements are secured by condition or planning obligation, then I would raise no objection on behalf of the local highway authority:-*

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- *Provision of construction vehicle loading/unloading and turning facilities prior to commencement of work on site and for the duration of construction.*
  - *Provision of parking facilities for site personnel and visitors prior to commencement of work on site and for the duration of construction.*
  - *Provision of measures to prevent the discharge of surface water onto the highway.*
  - *Provision of wheel washing facilities prior to commencement of work on site and for the duration of construction.*
  - *Completion and maintenance of the access shown on the submitted plans prior to the use of the site commencing.*
  - *Completion of the identified off-site highway works*
  - *Undertaking to progress the Traffic Regulation Order for the speed limit extension*
  - *Undertaking to progress the Traffic Regulation Order for waiting restrictions*
  - *Contribution of £51,667.00 towards junction improvements'*
- 7.10 KCC Development Contributions Team requests the following contributions (based on 50 dwellings being approved and built under a reserved matters application):
- Primary Education (towards enhancement of Borden Primary School) - **£166,200.00**
  - Secondary Education (towards Phase 3 of expansion of Westlands Secondary School - **£117,990.00**
  - Community Learning (towards new equipment to support additional Adult Education in the new Sittingbourne Hub) - **£3,021.35**
  - Youth Service (towards additional youth facilities and equipment in Sittingbourne) - **£1,879.17**
  - Libraries (towards equipment and bookstock costs of new library in Sittingbourne Hub) - **£11,350.00**
  - Social Care (towards fit out costs of Sittingbourne Care Hub) - **£3,166.50**
  - The Contributions Team also request that one of the affordable homes on the site be suitable for wheelchair access; and that High Speed Fibre Optic Broadband connection be incorporated into any reserved matters proposal for the development.
- 7.11 The Greenspaces Manager requests a contribution of **£43,050.00** (£861.00 per dwelling) towards the provision of off site play equipment at Grove Park. He also notes that, if the greenspace on site is to be maintained by SBC after completion, a ten year commuted sum will also be necessary. I will update Members at the meeting.
- 7.12 The NHS Swale Clinical Commissioning Group requests a financial contribution of **£18,000.00** towards expanding existing facilities within the vicinity of the development, in the form of funding for services and staff.
- 7.13 The Environmental Protection Team Leader requires a contribution of **£4,300.00** (£86.00 per dwelling for a refuse and a recycling bin).
- 7.14 No response has been received from the Housing Services Manager. I will update Members at the meeting, although I note that five dwellings or 10% of the total dwellings proposed are earmarked for affordable housing.
- 7.15 KCC Ecology raise no objection, subject to a landscaping condition included below.
- 7.16 KCC Flood and Water Management raise no objection, subject to conditions included below.

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**8.0 BACKGROUND PAPERS AND PLANS**

8.01 Application papers and drawings relating to application 17/500727/OUT

8.02 Application papers and drawings relating to application SW/04/0095

8.03 Application papers and drawings relating to application SW/03/0224

**9.0 APPRAISAL**

9.01 The key issues to consider in this case are those of the principle of development; residential amenity; landscape and visual amenity; highway issues and infrastructure concerns; minerals issues; the use of agricultural land; and the density of development. I will deal with each of these matters in turn.

9.02 Principle of Development: A number of objectors have correctly noted that two previous planning applications have been refused on this site. Those refusals resulted from the fact that under both the 2002 and the 2008 Local Plans, this land was situated outside the built up area boundary and was not allocated for housing. However, under the auspices of the newly approved Bearing Fruit 2031: The Swale Borough Local 2017, the status of the land has changed, with the land being allocated for housing under Policy A21 of the Swale Borough Local Plan 2017. As such, with the status of the land changing, the principle of residential development on this land also changes, with such a principle now being acceptable and in accordance with Policy A21.

It should be noted that the site is allocated for a minimum of 30 dwellings; up to 50 are proposed in this application. However, the accompanying illustrative drawing would suggest up to 50 could be accommodated on this site, whilst still providing adequate public and private amenity space, parking and high levels of residential amenity. This matter will be further discussed later in this report.

9.03 Residential Amenity: In terms of residential amenity, I do agree with the concerns of residents in Cherryfields, which is located directly east of the northeast corner of the site. I have visited two of these residents and viewed the situation from their homes, and it is surprising to note how dramatically and rapidly the ground levels change between the existing rear gardens in Cherryfields and the eastern boundary of the proposal site, with a rapid rise in topography of between two and three metres. This would indeed result in issues of overlooking and possibly overshadowing to certain properties within Cherryfields.

The applicant has helpfully submitted indicative site layouts with the application, although access is the only issue to be decided under this outline application. A number of local residents correctly noted the possible issues which would result should this layout be confirmed. It must again be noted that layout is not an issue for decision in this application, but the applicant is advised to take note of Condition (5) below, recommending that when submitting a reserved matters application (should Members resolve to approve this outline application), the dwellings on the plots nearest to Cherryfields should be single storey, to minimise harm to the residents of Cherryfields.

I do am not of the opinion that the proposal would raise any other issues relating to an unacceptable erosion of residential amenity.

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- 9.04 Highway Issues: A number of concerns have been raised with regard to highways issues and the impacts upon same from the development. I note the response received from KCC Highways and Transportation, which I included in full earlier in this report, for Members' information. That response suggests that the impact of the proposal upon highway amenity would be limited, and this would be negated further by the proposed changes to the Key Street Roundabout. I am happy to accept the expert opinion of KCC Highways and Transportation; much thought has obviously gone into their response, and the concerns raised have been carefully addressed by their findings.
- 9.05 Infrastructure Issues: A number of concerns have also been raised with regard to infrastructure issues, with particular reference to schools places, medical services, etc. Whilst I understand these concerns, I note the requests for contributions towards schools and facilities, libraries, NHS services, highways improvements, greenspaces, etc. so would argue that suitable financial recompense would be obtained via a s.106 to improve services in the area. As such, I consider that the impact of the development would be substantially negated by these improvements paid for by the developer, and as such, I deem this objection to have been answered. The amounts required are as follows:
- £51,667.00 towards junction improvements'
  - Primary Education (towards enhancement of Borden Primary School) - £166,200.00
  - Secondary Education (towards Phase 3 of expansion of Westlands Secondary School) - £117,990.00
  - Community Learning (towards new equipment to support additional Adult Education in the new Sittingbourne Hub) - £3,021.35
  - Youth Service (towards additional youth facilities and equipment in Sittingbourne) - £1,879.17
  - Libraries (towards equipment and bookstock costs of new library in Sittingbourne Hub) - £11,350.00
  - Social Care (towards fit out costs of Sittingbourne Care Hub) - £3,166.50
  - £43,050.00 (£861.00 per dwelling) towards the provision of off site play equipment at Grove Park.
  - £18,000.00 towards expanding existing NHS facilities within the vicinity of the development.
  - £223.58 per dwelling, or £11,179.00 for 50 dwellings is required to mitigate potential impacts on the Swale Protection Area.
  - A 5% administration and monitoring fee.
- 9.06 Minerals Issues: The site is identified for brick earth extraction prior to development in the Kent Minerals and Waste Local Plan (KMWLP) Adopted April 2017, and the KCC Minerals Extraction Team have registered a holding objection. The developer has

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argued that the site should be exempt under Criterion 7 of Policy A21 of The Swale Borough Local Plan 2017, as follows:

*'Policy DM 7 Safeguarding Mineral Resources states 'Planning permission will only be granted for non-mineral development that is incompatible with minerals safeguarding, where it is demonstrated that either ..... 7. it constitutes development on a site allocated in the adopted development plan'.*

*Whilst we appreciate the Local Plan has not been adopted, it can be given significant weight as it is at an advanced stage. As the application site is included in the draft Local Plan in Policy A14- Sittingbourne 2. Manor Farm we believe the application can be permitted as it will adhere to #7 in Policy DM 7.*

*In addition to this, Bearing Fruits 2031: The Swale Borough Local Plan Proposed Main Modifications June 2016 proposed a number of amendments. In 6.5 Proposed housing allocations there is no reference of concern relating to safeguarding minerals which might be present on site, therefore requiring a Minerals Assessment.*

*This has been recognised on other proposed housing sites (but importantly not on Manor Farm) where Main Modifications have been included, Minerals Assessments on the followings proposed housing allocations have been proposed:*

Larger Allocations

*Stones Farm, Sittingbourne  
Land at the Western Link, Faversham  
Preston Fields, Faversham  
Iwade Expansion  
Land north of High Street, Newington*

Smaller Allocations

*Ham Road, Faversham  
West of Brogdale Road, Faversham*

*Due to the forthcoming allocation of the site for housing and no representations or main modifications being proposed relating to a Minerals Assessment being required, we believe the site meets exemption #7 in Policy DM 7 and can therefore be supported.'*

- 9.07 Policy A14 doesn't specifically highlight mineral safeguarding as an issue on this site as it does others, nevertheless the LP makes it clear (Section 4, paras 4.1.65 – 4.1.67) that where reserves are identified on site allocated for development we will ensure the developer works with the Minerals Planning Authority to ensure timely working of the site, provided that there is a suitable and viable outlet for the resource and without it creating an unreasonable impact on the viability and therefore affecting the development coming forward.

Regarding the developers' interpretation that they would be exempt because the site would be within an adopted development plan, the County Council as Mineral Planning Authority does not share this interpretation and considers that it is contrary to national planning guidance, the KMWLP and runs counter to the views of the Inspector who found the KMWLP sound in 2016.

The National Planning Policy Framework (NPPF) makes clear that the responsibility for facilitating the sustainable use of minerals applies to all planning authorities. The



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NPPF is crystal clear that development needs to take account of minerals and not needlessly sterilise resources.

Specifically looking at this site – it is very small (50 dwellings) and therefore not likely to yield any amount of resource that would be practical or of economic value. Furthermore any extraction, given the small size, is likely to affect viability to such an extent as to render the whole scheme a non-starter. I would imagine that it why the LP Policy A14 doesn't explicitly specify a minerals assessment is needed. The developer has therefore been advised to have discussions with KCC without the need to do a minerals assessment.

The applicant's agent has heeded the above advice and discussed the matter at length with colleagues at KCC Minerals, who are in the process of preparing a response. I will update Members on this situation at the meeting.

- 9.08 Development on Agricultural Land: Policy DM 31 of Bearing Fruits 2031: The Swale Borough Local Plan 2017 states that development on best and most versatile agricultural land (the land in question is Grade 1 Agricultural land) will only be permitted when there is an overriding need that cannot be met on land within the built-up area boundaries. An overriding need in this case is considered to be the housing need of this Borough. Policy DM 31 states that development on best and most versatile agricultural land will not be permitted unless the site is allocated by the local plan. In this case, the site is included as an allocation in the Local Plan. Paragraph 112 of the NPPF states that where significant development of agricultural land is demonstrated to be necessary, local planning authorities should seek to use areas of poorer quality land in preference to that of higher quality. In this case I consider that the overriding argument in respect of the loss of best and most versatile agricultural land is that the need for housing outweighs the need for agricultural land and the fact that this site is included as an allocation site is of overriding significance.
- 9.09 Landscape Impact and Visual Amenity: The Swale Landscape Character and Biodiversity Appraisal 2011 indicates that the surrounding landscape is of moderate quality with moderate sensitivity to change. The application site is not within a designated landscape area and is not noted for its special quality or character. I therefore conclude that the development of this site for housing would cause no significant harm to the character or appearance of the countryside/landscape and that any harm can be adequately mitigated against through retention and reinforcement of vegetation along the boundaries of the site.
- 9.10 Density of Development: It will be noted that Policy A21 of the Swale Borough Local Plan 2017 states that the site is allocated for a minimum of 30 properties. The present outline application allows for up to 50, which would amount to a density of 24.8 dwellings per hectare. However, the indicative layout drawings do appear to show that the site can accommodate fifty dwellings whilst allowing for public and private amenity areas and parking, as previously noted above. Although it must be remembered that details of layout would be dealt with under a Reserved Matters application, should Members be inclined to support this Outline application, the indicative layout has shown that the site could comfortably accommodate up to fifty dwellings, and I consider that level to be acceptable in principle.

*Policy A21 of Bearing Fruits 2031: The Swale Borough Local Plan 2017 states that one issue to be addressed on this allocated site would be 'The creation of a new attractive urban edge to Sittingbourne, with substantial landscaping to achieve the integration of development in a fashion that minimises its impact upon the separation*

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*of Sittingbourne with Bobbing.’ Having carefully studied the illustrative site layout, I am of the opinion that sufficient space along the western and southern borders has been provided to ensure that this is the case.*

- 9.11 I note the points raised by objectors, but I believe that the matters noted above address those points.
- 9.12 In terms of surface and foul drainage, I note the comments of relevant consultees(see paragraphs 7.07 and 7.16 above) and have included conditions to ensure that any issues raised are adequately addressed.
- 9.13 With regard to any implications for the Special Protection Area, a contribution of £11, 179.00 is sought in mitigation.

**10.0 CONCLUSION**

10.01 As such, and on balance, I therefore recommend that this outline application be approved, subject to the conditions below.

**11.0 RECOMMENDATION – GRANT** Subject to clarification in respect of open space management; the views of the housing Services Manager, the resolution of the brick earth issue; the signing of a suitably worded Section 106 Agreement; and 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 than the expiration of two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.

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

- (4) Pursuant to Condition (1) above, the reserved matters application shall show no more than a total of 50 dwellings, and the dwellings shall be no more than 2.5 storeys in height

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Reason: In order to comply with Policy A21 of The Swale Borough Local Plan 2017 and in the interests of safeguarding the local landscape.

- (5) Pursuant to Condition (1) above, the reserved matters application shall show only single storey dwellings in the north east corner of the site (marked on the illustrative site layout drawing no. DHA/11507/06 Rev A and the illustrative proposed storey heights plan no. DHA/11507/04 Rev A as plot numbers 35 - 39 inclusive), adjacent to the existing properties in Cherryfields

Reason: In view of the rise in the topography of the land, which would result in issues of overlooking and overshadowing to existing properties in Cherryfields, if those new properties were to be of more than one storey

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

Reason: In the interests of public amenity and safety.

- (7) The details submitted 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.

- (8) The landscaping details submitted pursuant to condition (1) shall include full details of both hard and soft landscape works including 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. 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. 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 approved by this planning permission shall take place until a remediation strategy that includes the following components to deal with the risks associated with contamination of the site shall be submitted to and approved in writing by the Local Planning Authority:

- 1. A preliminary risk assessment which has identified:
  - a) All previous uses
  - b) Potential contaminants associated with those uses
  - c) A conceptual model of the site indicating sources, pathways and receptors
  - d) Potentially unacceptable risks arising from contamination at the site.

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2. A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
3. The results of the site investigation and the detailed risk assessment referred to in (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
4. A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

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

Reason: To prevent pollution of controlled waters and comply with the National Planning Policy Framework.

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

Reason: To prevent pollution of controlled waters and comply with the NPPF.

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

Reason: To prevent pollution of controlled waters and comply with the NPPF

- (12) Prior to the commencement of the development hereby approved full details of the method of disposal of foul and surface waters as part of a detailed drainage strategy shall be submitted to and approved in writing by the local planning authority. This 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 risk of ground instability associated with discharge

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of surface water into the underlying soils should be assessed and the infiltration rates confirmed with a suitable ground investigation.

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 building hereby permitted shall be occupied until details of the implementation; maintenance and management of the sustainable drainage scheme have been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented and thereafter managed and maintained in accordance with the approved details. Those details shall include:

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

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

- (14) No infiltration of surface water drainage into the ground is permitted other than with the express written consent of the Local Planning Authority (in consultation with the Environment Agency); this may be given 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.

- (15) 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 collected and disposed of via infiltration features located within the curtilage of the site.

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

- (16) Development shall not begin until details are submitted to and approved in writing by Local Planning Authority (in consultation with the Environment Agency and the Lead Local Flood Authority) of measures within the drainage scheme that ensure silt and pollutants resulting from the site use can be adequately managed to ensure there is no resultant unacceptable risk to controlled waters as a result of infiltration of surface water from the development. The details shall only then be implemented in accordance with the approved details.

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

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vulnerable groundwater resources and ensure compliance with the National Planning Policy Framework.

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

The code shall include:

- An indicative programme for carrying out the works
- Measures to minimise the production of dust on the site(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)
- Maximum noise levels expected 1 metre from the affected façade of any residential unit adjacent to the site(s)
- Design and provision of site hoardings
- Management of traffic visiting the site(s) including temporary parking or holding areas
- Provision of off road parking for all site operatives
- Measures to prevent the transfer of mud and extraneous material onto the public highway
- Measures to manage the production of waste and to maximise the re-use of materials
- Measures to minimise the potential for pollution of groundwater and surface water
- The location and design of site office(s) and storage compounds
- The location of temporary vehicle access points to the site(s) during the construction works
- The arrangements for public consultation and liaison during the construction works.

Reason: In the interests of residential amenity, highway safety and amenity.

- (18) No development shall take place until:
- a) a site investigation has been carried out to determine the nature and extent of any reptile or bat population within or adjacent to the building in accordance with the advice of Natural England
  - b) a written report of the site investigation has been prepared by a competent person. The report shall include the investigation results and details of a scheme to ensure the long-term health and well being of any reptile or owl population within or adjacent to the building. The report shall be submitted to and approved by the Local Planning Authority in writing.
  - c) the development shall then be implemented in accordance with the approved scheme

Reason: In order to safeguard protected species that may be present within or adjacent to the building.

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- (19) 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.

- (20) None of the dwellings shall be occupied until space has been laid out within the site in accordance with details to be submitted and approved in writing by the Local Planning Authority for cycles to be securely stored and sheltered.

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 and to ensure that such matters are dealt with before development commences.

- (21) The proposed estate roads, footways, footpaths, verges, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, vehicle overhang margins, embankments, visibility splays, accesses, carriageway gradients, drive gradients, car parking and street furniture shall be constructed and laid out in accordance with details to be submitted and approved by the Local Planning Authority in writing before their construction begins. For this purpose, plans and sections, indicating as appropriate, the design, layout, levels, gradients, materials and method of construction shall be submitted to the Local Planning Authority.

Reason: To ensure that the roads are laid out and constructed in a satisfactory manner and to ensure that such matters are dealt with before development commences.

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

Reason: In the interests of residential amenity.

- (23) 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 Local Planning Authority.

Reason: In the interests of residential amenity.

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- (24) Prior to the commencement of development a programme for the suppression of dust during the construction of the development shall have been submitted to and approved in writing by the Local Planning Authority. The measures approved shall be employed throughout the period of construction unless any variation has been approved by the Local Planning Authority.

Reason: In the interests of residential amenity and to ensure that such matters are dealt with before development commences.

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

Reason: In the interests of highway safety.

- (26) Within 6 months of construction commencing a detailed landscaping plan and management plan must be submitted to the LPA for written approval. The submitted information must include the following:

- A landscape plan incorporating the ecological enhancement measures detailed within chapter 9 of the Ecology Assessment, Ethos Ecology (December 2016)
- Details of how the proposed planting will be established
- A five year rolling management plan for the site
- When habitat monitoring will be carried out
- When management plan reviews will be carried out

The measures shall be implemented in full accordance with the submitted information prior to the occupation of development.

Reason: In the interests of preserving biodiversity 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.



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

**INFORMATIVES:**

- (1) 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 <http://www.kent.gov.uk/roads-and-travel/what-we-look-after/highway-land>  
The applicant must also ensure that the details shown on the approved plans agree in every aspect with those approved under such legislation and common law. It is therefore important for the applicant to contact KCC Highways and Transportation to progress this aspect of the works prior to commencement on site.
  - (2) A formal application for connection to the public sewerage system is required in order to service this development. To initiate a sewer capacity check to identify the appropriate connection point for the development, please contact Southern Water, Sparrowgrove House, Sparrowgrove, Otterbourne, Hampshire, SO21 2SW, (Tel: 0330 303 0119 or [www.southernwater.co.uk](http://www.southernwater.co.uk)).
  - (3) Safe digging practices, in accordance with HSE publication HSG47 "Avoiding Danger from Underground Services" must be used to verify and establish the actual position of mains, pipes, services and other apparatus on site before any mechanical plant is used. It is your responsibility to ensure that this information is provided to all relevant people (direct labour or contractors) working for you on or near gas plant.
  - (4) 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.
  - (5) All nesting birds and their young are legally protected under the Wildlife and Countryside Act 1981 (as amended) and as such any vegetation must be removed outside the breeding bird season, and if this is not possible an ecologist must examine the site prior to works starting and if any nesting birds are recorded all works must cease within that area
- NB For full details of all papers submitted with this application please refer to the relevant Public Access pages on the council's website.  
The conditions set out in the report may be subject to such reasonable change as is necessary to ensure accuracy and enforceability.

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**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

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in terms of recreational pressure.

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

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

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

This strategic approach is set out in the Thames, Medway and Swale Estuaries – Strategic Access Management and Monitoring Strategy (Footprint Ecology 2014). It will normally require the creation of on-site mitigation, such as the creation of open space suitable for dog walking and, secondly, via payment of a dwelling tariff for off-site impacts. The money collected from the tariff would be used by the North Kent Councils and its partners for mitigation projects such as wardening, education, diversionary projects and habitat creation. The policy context for such actions is provided by policies CP7 and DM28 of the Local Plan 2017.

**Associated information**

Natural England's email to SBC dated 6<sup>th</sup> April 2017 has also been considered; in particular that they have raised no objections subject to contributions towards strategic mitigation.

**The Assessment of Land at Manor Farm, Sittingbourne**

The application site is located approximately 2km to the southeast of The Swale SPA. Therefore, there is a medium possibility that future residents of the site will access footpaths and land within these European designated areas.

Measures are to be taken to reduce the impact on the SPA and these would be built into the development in respect of the provision of public open space.

This assessment has taken into account the availability of other public footpaths close to the site and to a lesser extent, the open space proposed within 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 off-set some of the impacts. This mitigation will include strategies for the management of disturbance within public authorised parts of the SPA as well as to prevent public access to privately owned parts of the SPA.

**Conclusions**

Taking the above into account, the proposals would not give rise to significant effects on the SPA.

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At this stage it can therefore be concluded that the proposals can be screened out for purposes of Appropriate Assessment.

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The Major Projects Officer drew attention to the tabled update which had previously been emailed to Members.

The Chairman, also a Ward Member, raised concern about the dilapidated state of the site and the access from Union Street.

Councillor Bryan Mulhern moved a motion for a site meeting. This was seconded by Councillor Bobbin. On being put to the vote the motion was agreed.

**Resolved: That application 17/501755/FULL be deferred to allow the Planning Working Group to meet on site.**

|  |                                      |   |
|--|--------------------------------------|---|
| <b>2.4 REFERENCE NO - 17/500727/OUT</b>  |                                      |   |
| <b>APPLICATION PROPOSAL</b>  |                                      |   |
| Outline application for residential development for up to 50 dwellings with access off Chestnut Street (All others matters reserved) as amended by drawings received 31/05/2017. |                                      |   |
| <b>ADDRESS</b> Manor Farm, Key Street, Sittingbourne, Kent, ME10 1YU   |                                      |   |
| <b>WARD</b><br>Borden and Grove Park   | <b>PARISH/TOWN COUNCIL</b><br>Borden | <b>APPLICANT</b> Balmoral Land (UK) Ltd<br><b>AGENT</b> |

The Major Projects Officer drew attention to the tabled paper, which had previously been emailed to Members, and which included responses from the Environmental Protection Team Leader (EPTL), the Kent County Council (KCC) Public Rights of Way Officer (PROW), the KCC Principal Archaeological Officer, KCC Minerals Planning, and the Housing Services Manager and Highways England (HE). The paper also made reference to an additional highway condition, the adoption of the open spaces on the site by the Council, and two corrections to the submitted report.

The Major Projects Officer reported that the Council's Green Spaces Officer had requested a ten-year commuted sum of £37,292 developer contribution for maintenance of the greenspace on the site.

Parish Councillor Clive Simms, representing Borden Parish Council, spoke against the application.

Mrs Patricia Knott, an Objector, spoke against the application.

Mr David Williams, the Agent, spoke in support of the application.

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

The Chairman asked Members if they had any questions.

In response to queries from Ward Members, the Major Projects Officer explained that the existing location of the footpath was a suggested route to show one way that the proposed 50 dwellings could be provided. The current layout plan was an

## APPENDIX 2

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illustration and Members should note the application was still at outline stage. At the reserved matters stage Members would be able to ensure the footpath was properly integrated into the estate. The Major Projects Officer explained that it was not practicable or appropriate to include full responses from all consultees within the Committee report, but he and the Case Officer had made an honest attempt to include the main points raised by HE. He stated that HE had no fundamental objections to the proposal but wanted to understand how the developer contribution of £51,000 would work with other developer contributions to fund improvement works at Key Street. He advised that he believed that officers could work together with HE to resolve these issues and ensure that the highway improvements were provided. With regard to air quality concerns, the Major Projects Officer explained that whilst close to the A249, the site was not within an Air Quality Management Area so no modelling of air quality had been carried out.

The Major Projects Officer referred to conditions (23) and (24) in the Committee report which related to restrictions on demolition and construction times at the site, and a programme of dust suppression and were requested by the EPTL. The vehicular access required the provision of a gap in the existing landscaping and would be set well away from the bend in the road.

In response to queries from Members, the Major Projects Officer advised that there was the option for the open space to be maintained by a management company, as an alternative to adoption by the Council. The affordable housing rate for Sittingbourne was 10% so the maximum of five units being provided was correct. The Major Projects Officer explained that the parking provided was on the indicative layout to demonstrate how 50 units could be provided on the site, but was not for approval under the current application.

Ward Members spoke against the application and raised comments which included: the Council's Local Plan recommended a minimum of 30 units and the developer was requesting up-to 50; an increase of 66%, does this mean the Local Plan was not worth the paper it was written on; this was not a suitable site; access onto Chestnut Street was completely inappropriate, it was often blocked on one side by parked vehicles which offered poor visibility so access onto it was not suitable; concern that the most pertinent points raised by HE were not included in the Committee report; how could the relevant mitigation measures be provided if the application was rushed through; it had not been proved that there would be no impact on air pollution; 50 units was far in excess of what was considered appropriate at the Public Examination of the Local Plan; was an isolated site; was a rural site so the affordable housing level should be 40%; concerns that if the footpath moved to the back of houses to the rear of Pine Lodge Care Centre, their security could be compromised and hoped that they would be consulted first; need to consider flood risks from the stream located under Key Street; and we have not received a response from KCC about brick earth and would be concerned about making a decision until this had been resolved.

Members raised points which included: The Council's Local Plan had approved a minimum of 30 units, for the developer to request 50 units was a serious issue and we should not allow; clear objections from HE; the developer should be made aware that the suggested arrangements for the PROWs were unacceptable and that we would require a high quality landscape scheme if approved; the developer

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should be asked to provide a study on air quality; the site was not in Sittingbourne so the affordable housing rate of 10% did not apply; the increase in vehicle movements if approved would have a considerable impact on air quality; and appropriate mitigation measures were required following the realignment of the footpaths.

The Major Projects Officer noted concerns that the number of units was increased to 50, however the density would be 25 units per hectare which was still low compared to other developments in Swale and offered good space for soft landscaping to mitigate landscape and residential amenity impacts. A condition could be imposed to ensure a buffer could be provided between the development and the gardens of existing dwellings.

The Development Manager suggested that as there were a number of items and information not provided, Members may want to defer the application. This was agreed by Members.

A Member requested that this information included comments raised by Members, in relation to the increase to 50 units.

***Resolved: That application 17/500727/OUT be deferred to allow information on outstanding issues to be provided.***

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## SWALE BOROUGH COUNCIL

### PLANNING SERVICES

Planning Items to be submitted to the Planning Committee

**16<sup>th</sup> August 2018**

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

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

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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

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ABBREVIATIONS: commonly used in this Agenda

CDA Crime and Disorder Act 1998

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

HRA Human Rights Act 1998

SBLP Swale Borough Local Plan 2017

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## INDEX OF ITEMS FOR PLANNING COMMITTEE – 16<sup>th</sup> August 2018

- Minutes of last Planning Committee Meeting
- Deferred Items
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### DEFERRED ITEMS

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**PLANNING COMMITTEE – 16<sup>th</sup> August**

**PART 2**

Report of the Head of Planning

**PART 2**

Applications for which **PERMISSION** is recommended

**REPORT SUMMARY**

|  |   |  |             |
|--|---|--|-------------|
| <b>2.1 REFERENCE NO - 17/500807/FULL</b>   |   |  |             |
| <b>APPLICATION PROPOSAL</b><br>Change of use of land for the keeping of private horses. Erection of stables and cess pool with associated landscaping and parking  |   |  |             |
| <b>ADDRESS</b> Land Adjacent To M2 Yaugher Lane Hartlip Kent ME9 7XE   |   |  |             |
| <b>RECOMMENDATION</b> Grant subject to conditions  |   |  |             |
| <b>SUMMARY OF REASONS FOR RECOMMENDATION</b><br>The application will not harm the character or appearance of the countryside and AONB, and will not give rise to unacceptable impacts to residential or highway amenity. |   |  |             |
| <b>REASON FOR REFERRAL TO COMMITTEE</b><br>Parish Council objection  |   |  |             |
| <b>WARD</b> Hartlip, Newington And Upchurch  | <b>PARISH/TOWN COUNCIL</b><br>Hartlip   | <b>APPLICANT</b> Mr Simon Coaten<br><b>AGENT</b> |             |
| <b>DECISION DUE DATE</b><br>19/05/17   | <b>PUBLICITY EXPIRY DATE</b><br>03/05/17  |  |             |
| <b>RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):</b>  |   |  |             |
| <b>App No</b>  | <b>Proposal</b>   | <b>Decision</b>                                  | <b>Date</b> |
| SW/08/1065   | The erection of an agricultural barn on an agricultural field.  | APPROVED   | 20.01.2009  |
| Adjacent site  |   |  |             |
| SW/14/0205   | Change of use of land to keeping of horses with the provision of 2 stables, hay store, tea room, WC, foal box, cesspit, manure heap, horse trailer, vehicle parking, turning head and gated access. | APPROVED   | 04.07.2014  |
| The above planning application relates to land to the east of the site, although the works have not been implemented and the time period on the application has since expired.   |   |  |             |
| 17/502988/FULL   | Erection of timber barn   | PENDING CONSIDERATION                            | N/A         |
| The above planning application seeks planning permission for the erection of a barn on the land  |   |  |             |

to the east of the site.

## **1.0 DESCRIPTION OF SITE**

- 1.01 The site forms part of Potters Farm, which is approximately 18 acres in size. It is located to the south of Hartlip, bounded by the M2 motorway to the north, Yaugher Lane to the west, agricultural land to the east and by Potters Wood to the south. The site is located in open countryside, within the Kent Downs Area of Outstanding Natural Beauty (AONB).
- 1.02 The land is currently used for agricultural purposes and has an existing barn situated to the north of the access from Yaugher Lane. I note the land to the east of the site has an expired permission for the change of use of agricultural land for the keeping of horses.

## **2.0 PROPOSAL**

- 2.01 This application seeks planning permission for the change of use of land for the keeping of horses and the erection of stables and a cess pool.
- 2.02 The proposed stables would be located approximately 50m north of the existing barn at the site. The building would be roughly 'L-shaped' and would contain five stables, tack room, feed room, food preparation room and toilet. The submitted Design and Access Statement confirms that the stables would be constructed using plain clay roof tiles and black feather edge weatherboarding. The structure would have a pitched roof with a maximum height of 4.5m, maximum length of 25.4m and maximum width of 12.5m.
- 2.03 A concrete yard will be constructed in front of the stables, and parking for one lorry and five cars would be created to the south of the stables. To the north of the proposed stables will be manure storage, and to the north west of the stables a cess pool will be constructed.
- 2.04 Concern was raised by the Planning Officer regarding the position of stables. The adopted SPG on stabling recommends new structures should be located close to any existing buildings, to ensure the impact on the open character of the land is reduced. The proposed stables were located approximately 50m from the barn at the site, and proposed a long stretch of crushed concrete driveway leading from the access from Yaugher Lane to the proposed stables. The SPG also advises that 1 acre of land per horse should be provided, to ensure the land is not overgrazed. The originally submitted drawings showed only 1.8 acres of land would be used for all aspects of the proposal, not just grazing. Five stables are proposed, and therefore a minimum of 5 acres would be required to serve the stables. The applicant was informed of these concerns, and subsequently amended drawings were submitted relocating the stables to the east of the barn, and showing enough land for the grazing of five horses.

## **3.0 PLANNING CONSTRAINTS**

- 3.01 Area of Outstanding Natural Beauty KENT DOWNS

## **4.0 POLICY AND OTHER CONSIDERATIONS**

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

- 4.02 Development Plan: Policies CP4, DM14, DM24 and DM27 of ‘Bearing Fruits 2031: The Swale Borough Local Plan 2017’.
- 4.03 Supplementary Planning Documents: ‘The Erection of Stables and Keeping of Horses’.

**5.0 LOCAL REPRESENTATIONS**

- 5.01 Hartlip Parish Council provides the following comments:

*“It is noted that this application is for a private livery and not a commercial livery. HPC therefore wonders why so many car spaces, a kitchen and a cess pit are necessary. With so many car parking spaces, a considerable increase in traffic to the site is anticipated along very narrow country lanes with very few passing places in this AONB. Lorry parking in full view of the road is proposed in an area where rural crime is commonplace. The site is in an isolated location and there are already a large number of stables in the local area. For the above reasons HPC object to this application.”*

**6.0 CONSULTATIONS**

- 6.01 Environmental Health have no adverse comments to make regarding this application.
- 6.02 Natural England has no comments to make on the application.
- 6.03 KCC Highways and Transportation state the development does not meet the criteria to warrant involvement from the Highway Authority.

**7.0 BACKGROUND PAPERS AND PLANS**

- 7.01 Background papers relating to 17/500807/FULL.

**8.0 APPRAISAL**

**Principle of Development**

- 8.01 The site lies within the open countryside and an AONB, where it is recognised that the keeping of horses is an appropriate activity. The principle of the proposed change of use is, in my view, acceptable in this location as the same use was deemed acceptable on the adjacent farmland under approved application SW/14/0205. The stables will only be for private use, not for any commercial business and as such, I consider the change of use from agricultural use to the keeping of horses is acceptable.

**Visual Impact**

- 8.02 I believe the proposed stable building would be of a good standard of design, and would contribute positively to the character and appearance of the area. The use of a pitched roof is, in general, to be encouraged, and the adopted SPG on stabling states, at paragraph 2.0:

*“Planning permission for stables will only be granted if the buildings are of an attractive design and appropriate materials. This will almost always mean that a pitched roof is required.”*

The use of high quality materials on the external surfaces of the building will further contribute to the quality and appearance of the structure.

- 8.03 The SPG also advises siting stables close to existing access roads to avoid the formation of lengthy new access tracks, and close to nearby existing buildings to reduce prominence within views. In this regard, the amended proposal complies with this guidance because the stables are located close to the existing barn on the site and therefore no new access track is required. Also due to the stables amended position to the east of the barn, views of the new structure from Yaugher Lane will be mainly screened by the existing barn. I will include a condition requesting landscaping details, to ensure the proposal is suitably screened. I note no lighting is proposed as part of this application, but include a condition restricting lighting, to ensure the proposal does not harm the character and appearance of the area.

**Residential Amenity**

- 8.04 There are no nearby residential dwellings which would be affected by this development.

**Highways**

- 8.05 The existing access onto the site will be used by the proposal, and following amendments, the long access track to the stables is no longer required. Parking is proposed close to the stables. Overall, I consider the impact on highway safety and amenity is acceptable.

**Other Matters**

- 8.06 Following amendment, a minimum of 5 acres of grazing land will be provided, and as such the proposal is now in line with the SPG. I note a manure store and cess pool is proposed close to the stables. Following no objections from Environmental Health, I consider these are appropriate to store and dispose of waste.

**9.0 CONCLUSION**

- 9.01 This proposal is acceptable in principle in my opinion as equestrian uses are appropriate in the countryside. The visual impact would be limited and acceptable. The impact on residential amenity and highway safety will be minimal, and therefore, I recommend that planning permission be granted.

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

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

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

- (2) The external finishing materials of the stables hereby permitted shall be in accordance with the Design and Access Statement, namely black stained featheredge weatherboarding to the walls and plain clay roof tiles.

Reason: In the interest of visual amenity.



- (3) 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.

- (4) 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.

- (5) 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.

- (6) The stables hereby permitted shall only be used for the stabling of horses or ponies for private use and for no other purpose, including any commercial use.

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

- (7) The use of the site for the keeping of horses/ponies hereby permitted shall not exceed a density of one horse or pony per acre of available grazing land.

Reason: To prevent over-grazing.

- (8) No burning of straw or manure shall take place on the site.

Reason: In the interests of local amenity.

- (9) With the exception of one trailer for the storage of manure, no external storage of materials or items of any kind including jumps, caravans, mobile homes, vehicles or trailers shall take place on the site.

Reason: In the interests of visual amenity.

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

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

Reason: In the interests of the character and appearance of the countryside.

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

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

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

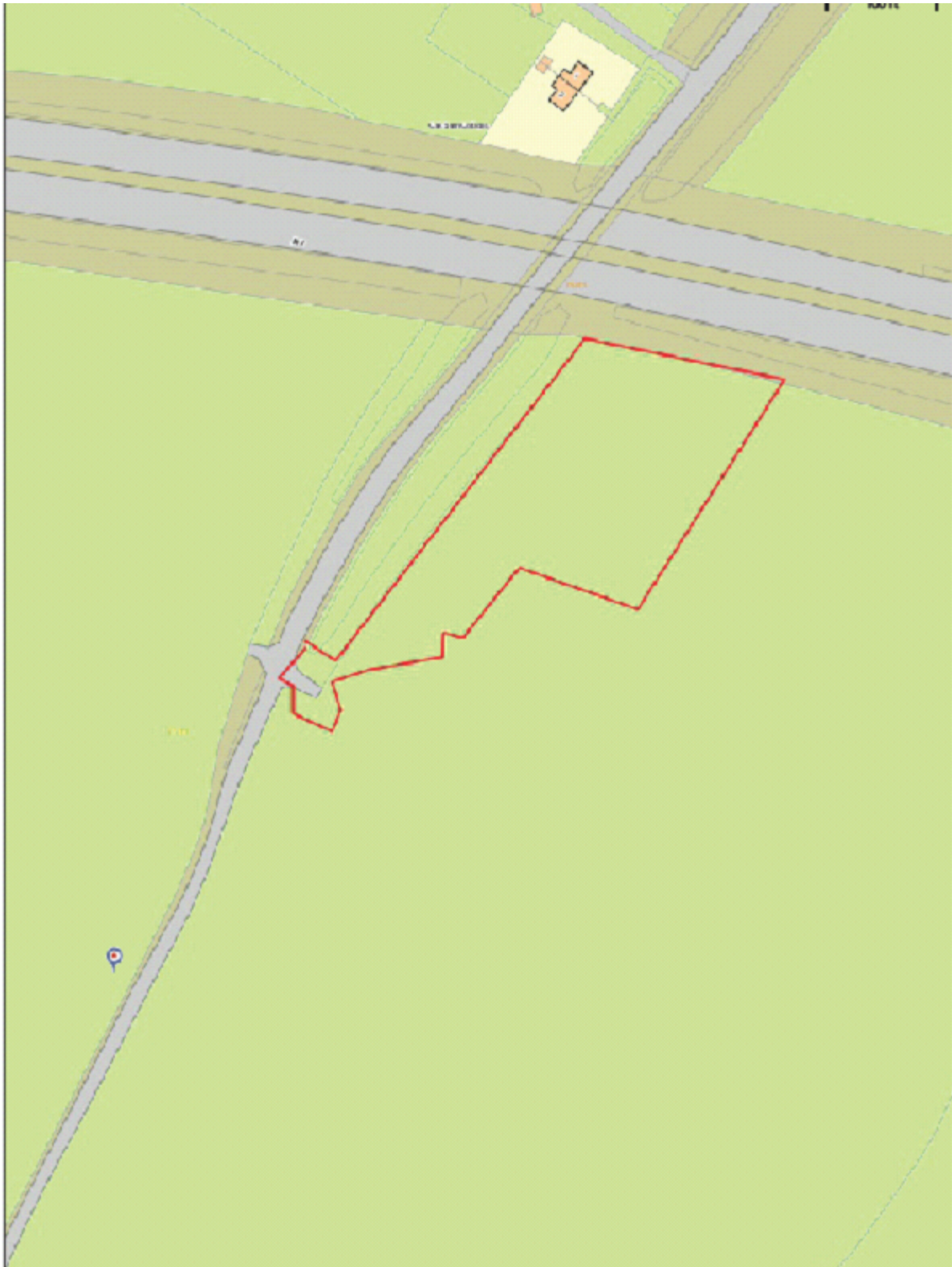
In this instance:

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

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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| <b>2.2 REFERENCE NO - 18/502420/FULL</b>   |  |   |             |
| <b>APPLICATION PROPOSAL</b><br>Conversion of existing integral garage into living space.   |  |   |             |
| <b>ADDRESS</b> Boleyn 103 Scarborough Drive Minster-On-Sea ME12 2LX  |  |   |             |
| <b>RECOMMENDATION</b> Approve subject to conditions  |  |   |             |
| <b>SUMMARY OF REASONS FOR RECOMMENDATION</b><br>Due to its small scale, the loss of the garage will not alter the parking provision at the property. |  |   |             |
| <b>REASON FOR REFERRAL TO COMMITTEE</b><br>Parish Council objection  |  |   |             |
| <b>WARD</b> Minster Cliffs   | <b>PARISH/TOWN COUNCIL</b><br>Minster-On-Sea | <b>APPLICANT</b> Miss Kelly Collins<br><b>AGENT</b> |             |
| <b>DECISION DUE DATE</b><br>13/08/18   | <b>PUBLICITY EXPIRY DATE</b><br>10/07/18     |   |             |
| <b>RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):</b>  |  |   |             |
| <b>App No</b>  | <b>Proposal</b>                              | <b>Decision</b>                                     | <b>Date</b> |
| SW/74/0007   | House with integral garage.                  | APPROVED  | 04/07/1974  |
| 17/504801/PAPL   | To convert garage to habitable room.         | N/A   | 03/05/2018  |

**1.0 DESCRIPTION OF SITE**

- 1.01 Boleyn is a modern detached two storey dwelling located in the built up area boundary of Minster-on-Sea. The property has a garden and driveway to the front, and private amenity space to the rear.
- 1.02 The dwelling is surrounded by detached properties of varying scales and designs.

**2.0 PROPOSAL**

- 2.01 This application seeks planning permission for the conversion of the integral garage at the property into a habitable room. The garage door would be replaced with a window which would measure 2.3m x 1.5m and would be of a similar design to the existing windows on the property. The internal size of the garage is 2.8m x 4.8m and would be converted into a living room.
- 2.02 Planning permission is required for the conversion of the garage to a habitable room due to the following condition being included on the application for the construction of the dwelling (ref. SW/74/0007).

*Condition (ii) The area(s) shown on the submitted plan as car parking space shall be kept available for such use at all times and no permanent development, whether permitted by the Town and Country Planning General Development Orders 1973 to 1974 or not, shall be carried out on the land so shown (other than the erection of a private garage or garages) or in such a position as to preclude vehicular access thereto; such land and access thereto shall be provided prior to the occupation of the dwelling(s) hereby permitted.*

*Grounds: Development without the provision for adequate accommodation for the parking or garaging of a private motor car or cars and visitors' cars is likely to lead to car parking inconvenient to other road users and detrimental to amenity.*

- 2.03 Pre application advice was submitted in 2017 for the proposal. The officer concluded that due to the small scale of the garage, it was not feasible to consider a car could be parked in it. As such, the loss of the garage would not result in a change in the parking provision at the property. The applicant was recommended to submit an application for planning permission for the works.

### **3.0 PLANNING CONSTRAINTS**

- 3.01 None

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

- 4.01 The National Planning Policy Framework (NPPF) and National Planning Practice Guidance (NPPG)
- 4.02 Development Plan: Policies CP4, DM7, DM14 and DM16 of “Bearing Fruits 2031: The Swale Borough Local Plan 2017”.
- 4.03 Supplementary Planning Guidance (SPG): “Designing an Extension – A Guide for Householders”

### **5.0 LOCAL REPRESENTATIONS**

- 5.01 One comment was received from a neighbour, raising concern about parking at the property. Their comments are summarised below:
- The property currently has one parking space to the front and one, presumably in the garage. It is a 4/5 bedroom house and therefore it is likely there will be in excess of two vehicles in use there. The property should retain two off road parking spaces.
  - The owners should investigate whether another parking space could be provided to the other side of the front door.
  - Parking in Scarborough drive is an increasing problem with many cars parked on the road, especially on weekends and holidays.
  - As it is the only made up road between Seaside and Seathorpe Avenue, it is used as a ‘rat run’, with traffic being quite heavy and fast.
  - A recent RTA on the road highlights the need for clear vision at road junctions.
  - Parked cars cause limited vision due to the steepness of the hill.
  - A lot of cars park half on, half off the footpath, which results in wheelchairs and mobility scooters having to use the road.

### **6.0 CONSULTATIONS**

- 6.01 Minster-on-Sea Parish Council originally commented on the application requesting further details regarding the amount of bedrooms at the property and the parking arrangements. This information was submitted, and the Parish Council subsequently objected to the application, stating the following:

*“The proposal to increase the size of the living accommodation should not be allowed without first of all ensuring that the existing building conforms to the standard parking requirements for a 5-bedroom house. The current parking arrangements for the existing property shows that it clearly does not.”*

## **7.0 BACKGROUND PAPERS AND PLANS**

- 7.01 Background papers and plans relating to 18/502420/FULL.

## **8.0 APPRAISAL**

### **Principle of Development**

- 8.01 The site is located inside the built up area boundary of Minster-on-Sea, where the principle of development is accepted. The main considerations in this case involve the impact of the proposal upon visual and residential amenities, and the impact upon the parking provision at the property.

### **Visual Impact**

- 8.02 The only external change proposed here is the replacement of the garage door with a window. The window would be of a similar scale and design to the existing windows on the front elevation of the property, and as such, I consider the proposal will not harm the character or appearance of the property or the street scene.

### **Residential Amenity**

- 8.03 No extensions are proposed as part of this application and therefore the main impact to residential amenity would be potential overlooking from the new window. It will be located on the front elevation and would look onto Scarborough Drive. As such, I do not consider there would be any adverse overlooking impacts.

### **Highways**

- 8.04 Paragraph 7.0 of the SPG states that *“Extensions or conversion of garages to extra accommodation, which reduce available parking space and increase parking on roads are not likely to be accepted.”* However, in this instance I would give significant weight to the size of the garage shown on the submitted drawings as 2.8m in width x 4.8m in length which is under the preferred size of 3.6m in width x 5.5m in length as stated in the Kent Vehicle Parking Standards. Given the size of the garage, I am of the opinion that a car cannot realistically be expected to park within the existing garage and that its loss in this regard would be acceptable.
- 8.05 The property benefits from one off-street parking space. The applicant confirmed that the property has five bedrooms, and as such, two off-street parking spaces should be required for a property in this location. However, taking into account the restricted size of the garage, I consider there would be no change to the parking provision at the property. I take into account the Parish Council’s and neighbour comments relating to parking, nevertheless as the parking provision is not changing, the proposal is acceptable in relation to parking.

## **9.0 CONCLUSION**

- 9.01 The proposal will not give rise to any unacceptable impacts to residential or visual amenity. Due to the undersized garage at the property, I consider it is not reasonable

to assume a car can be parked in it, and as such, the loss of the garage will not impact the parking provision at the property. Therefore, I recommend planning permission is granted.

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

**CONDITIONS**

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

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

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

Reason: In the interests of visual amenity.

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

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

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

In this instance:

The application was 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.





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| <b>2.3 REFERENCE NO - 18/501918/AGRREQ</b>   |   |  |             |
| <b>APPLICATION PROPOSAL</b><br>Prior Notification for proposed Forestry Road. For it's prior approval for the siting and means of construction of the private way. |   |  |             |
| <b>ADDRESS</b> George Bell Farm Plumpudding Lane Dargate Kent ME13 9EU   |   |  |             |
| <b>RECOMMENDATION</b> – Prior Approval Granted   |   |  |             |
| <b>REASON FOR REFERRAL TO COMMITTEE</b><br>Parish Council Objection and local objections.  |   |  |             |
| <b>WARD</b> Boughton And Courtenay   | <b>PARISH/TOWN COUNCIL</b><br>Hernhill  | <b>APPLICANT</b> Mr Robert Lewis<br><b>AGENT</b> |             |
| <b>DECISION DUE DATE</b><br>31/05/18   | <b>PUBLICITY EXPIRY DATE</b><br>07/05/18  |  |             |
| <b>RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):</b>  |   |  |             |
| <b>App No</b>  | <b>Proposal</b>   | <b>Decision</b>                                  | <b>Date</b> |
| 18/501507/AGRIC  | Prior Notification for proposed Forestry Road. For it's prior approval for the siting and means of construction of the private way. | Prior approval required                          | 5/4/2018    |
| 18/500690/AGRIC  | Prior Notification for proposed Forestry Road. For it's prior approval for the siting and means of construction of the private way. | Withdrawn  | 19/03/2018  |
| 17/506632/AGRIC  | Prior notification for a proposed building.   | Prior Approval Not Required                      | 16/01/2018  |
| 17/504005/AGRIC  | Prior notification for the erection of an agricultural barn for the storage of feed and machinery                                   | Prior Approval Required                          | 01/09/2017  |

## 1.0 DESCRIPTION OF SITE

- 1.01 The application site relates to a parcel of land measuring around 11 hectares (27 acres) in total. It is located in the open countryside and is isolated from any defined settlement boundary. The land falls within a Local Plan defined Area of High Landscape Value.
- 1.02 The site comprises open land, previously used as orchards and divided by a narrow strip of land in private ownership creating two parcels of land. One parcel fronts onto Plumpudding Lane with an access point there. The other also fronts Plumpudding lane but is only accessible from Dargate Road via a thin strip of land which is fenced on both sides and currently overgrown, and which lies immediately adjacent to a bungalow known as Lamborne House.
- 1.03 There are a number of residential properties located along Dargate Road and Plumpudding Lane, to the south and west of the site.

- 1.04 A building in the northern part of the site accessed from Plumpudding Lane, which is to be used in conjunction with the afforestation of the land, was deemed permitted development for forestry purposes and is currently under construction. Limited forestry has begun on the land with the growing of Christmas trees (Norway spruce) in containers for later planting out when the dry weather abates.

## **2.0 PROPOSAL**

- 2.01 This application has been made under the prior approval process to construct a road for the purposes of carrying out forestry on the land on the basis that the road will be Permitted Development. The Council, under Prior Notification application 18/501507/AGRIC, has already determined that Prior Approval is required for this development. The Council now has to decide whether to accept the siting and means of construction of the proposed roadway.
- 2.02 The roadway would be approximately 745m in length and 4m wide, and used to provide access for the planting of trees to create a forest, particularly during the winter months. It will be lead directly off Dargate Road, using the existing strip of land immediately to the east of Lambourne House.
- 2.03 The road will lead northwards from Dargate Road for approximately 230m. It will then split east-west across the length of the land, for another 490m, with a turning circle at each end. The road will be constructed from recycled materials, brick and concrete and with an average depth of 0.5m, dependant on the soil levels.
- 2.04 The land here is particularly wet in winter months and the road will provide access for maintenance and cropping, as well as vehicular access for emergency vehicles.

## **3.0 POLICY AND OTHER CONSIDERATIONS**

- 3.01 The Town and Country Planning (General Permitted Development) (England) Order 2015 Class E of Part 6 of Schedule 2 (the GPDO).

## **4.0 LOCAL REPRESENTATIONS**

- 4.01 Nine representations have been received from local residents objecting to the proposed development. A summary of their comments are as follows:
- There is no evidence/justification to support that the road is necessary
  - The land has been farmed before without the need for a metalled roadway
  - Plumpudding Lane already suffers from flooding that would be further exacerbated by any further development on farm land
  - Question who owns the access route off Dargate Road
  - Road safety suggest closing the Dargate Road access as its on a dangerous blind bend – other than for occasional agricultural vehicles, and only using access from Plumpudding Lane
  - Surely there has to be evidence of an established forest before this application is considered?
  - Ruin the landscape, making an already untidy area look more unsightly
  - It will have an urbanising effect upon the countryside detrimental to the surrounding landscape
  - Create more unwanted noise pollution and make the village lanes more congested

- Crushed concrete, tarmac and demolition arisings are not an appropriate material for a road in this location
- It will bring dust, noise and disturbance both during its construction, and ongoing use
- Potential for mud on the public road is no justification for losing 3000m<sup>2</sup> of agricultural land
- Limited maintenance will be required
- There is no need for access by emergency services – the area is not risk of forest fires here
- For new planting one would tend to use low ground pressure vehicles or at the very worst a temporary roll out mat system that would be removed after planting
- The ground conditions will improve after tree planting
- Proposed hardcore would risk groundwater pollution
- If permission is granted, then this should be on a temporary basis and for a limited time during the year

4.02 The applicant responded to the objections raised, saying:

- Land was never accessed by agricultural vehicles in the winter by the previous farmer
- The continued use of the track would be for cropping, i.e. Christmas trees in December, willow and chestnut coppice
- A planting map is being prepared with the assistance of the Forestry Commission
- The Commission provide grants for such roads as they see them as essential
- The road is not metalled, it is a forestry road, not sealed
- The additional traffic will be created regardless
- A forestry road neither adds to nor reduces the risk of flooding; it crosses no waterways and is not sealed, thus allowing soak away. The planting of trees will go a long way to reducing flooding issues
- I own the access road and all of the land on the application site
- The trees being just 1m high will not be seen from the surrounding area
- No more noise pollution will be created by any usual day to day farming activity
- Land lost to the private way will increase productivity of agricultural land and provide a natural break
- The type of hardcore used is not a pollutant
- A temporary road would not facilitate ongoing management and all year cropping

## 5.0 CONSULTATIONS

5.01 Hernhill Parish Council objects to the application. Their comments, in full, are as follows:

*‘Construction of a road to provide winter access to enable planting of trees is unnecessary since the land has previously been accessed by agricultural vehicles without any specific issues.*

*The application states that the road would continue to be used after the forest has been planted, but does not specify for what purpose it would be used.*

*Historically, the land at this site has been planted with trees which have not grown well. The Parish Council questions why and how it would now be suitable for planting a forest?’*

5.02 The Council’s Rural Planning Consultant initially responded stating that the road did not appear to be necessary at this stage and as such was not considered to meet the

provisions of Class E of the GPDO. Subsequently, a site meeting was arranged to give the applicant an opportunity to explain why the road was necessary for forestry use of the land. Following this meeting, the Rural Planning Consultant concluded that the road was considered “reasonably necessary” as opposed to “essential”, commenting;

*“The applicant plans to introduce a mixed planting scheme, and he is being guided by an experienced woodland manager in terms of setting out a planting plan and hopefully obtaining woodland planting grants.*

*The scheme would include the relatively short-term, more intensive planting and cropping of Christmas trees, and overall, given the evidence of Mr Lewis and his neighbour as to the very wet conditions on this land, I would agree that a hard surfaced track, down the centre of the section of the land south of the road, (where there would a firebreak/open ride in any event) appears reasonably necessary for forestry purposes.”*

However, he also advised that it is still arguable whether the forestry road can be considered permitted development, and that it would be preferable for the access to be off Plumpudding Lane in terms of minimising local visual impact and traffic along the public roads through the hamlet. Essentially, he advised that if access were to be taken from Plumpudding Lane instead, the road could be shorter (omitting the link to Dargate Road) and this might be preferred. This would require a new access point onto Plumpudding Lane, whereas at Dargate Road the access point and gateway already exist. In conclusion, the advice is that if a planning application for a new access to Plumpudding Lane had been refused the current proposal might be acceptable. I have thus considered the likely prospects of an application for a new access onto Plumpudding lane (as an alternative to the current proposal).

- 5.03 Plumpudding Lane is a classified road and I have sought advice from Kent Highways and Transportation about the acceptability of such a new access and the necessary visibility splays that would be required at such a new access point. They have advised me that if a new access to Plumpudding Lane was to be envisaged, a sightline with a visibility splay of 2.4m by 120m in each direction would be required (an overall length of some 240m), commenting that it was uncertain exactly how much of the hedgerow would need to be cut back, but it was likely that the private hedge at Honeysuckle Cottage (a nearby private house) would obstruct it to the north, and as such may not be achievable. In contrast, the existing access to the east of Lamborne House, appears to already have the appropriate sightlines contained within the grass verges. I will return to this point below.

## **6.0 BACKGROUND PAPERS AND PLANS**

- 6.01 A supporting statement and site location plan has been submitted.

## **7.0 APPRAISAL**

- 7.01 Schedule 2. Part 6, Class E of the GPDO sets out the extent to which certain forestry related development can be undertaken as permitted development, without the need for a specific application for planning permission. It allows for the formation of a private way to be carried out on forestry land providing such works are reasonably necessary for the purposes of forestry, including afforestation.
- 7.02 Before any such development can take place, the applicant must apply to the Local Planning Authority for a determination as to whether prior approval is required for the

siting and means of construction of the private way. The Council must make a decision as to whether prior approval is or is not required.

- 7.03 As the extent and nature of any existing forestry activity on the site was initially unclear, I considered it necessary to seek the advice of the Council's Rural Planning Consultant. I note that the Rural Planning Consultant is now satisfied that the road appears reasonably necessary for the purposes of forestry and as such can be determined in accordance with the relevant permitted development criteria. He suggested that road could be shorter if it were accessed off Plumpudding Lane which would remove the need to have the section of road leading from Dargate Road.
- 7.04 However, Plumpudding Lane is a classified road and the access here would be located near to a sharp bend on a narrow but fast flowing rural lane. At this point the lane is flanked by high trees in both directions which form continuous roadside hedging. It is clear to me from on site observations that the sightlines that would be needed (as confirmed by Kent Highways and Transportation) would result in a significant loss of this dense hedgerow along this stretch of road, right up to the Post Office Cottages on the corner and along to at least the front boundary to Honeysuckle Villa. This would be very harmful to the lane's appearance and to the rural character of the area; a lane which is protected by policy DM26 of the Local Plan as a lane of special rural character that ought to be protected from significant harm arising from new development.
- 7.05 Having accepted that the road itself appears reasonably necessary for forestry purposes, and that the alternative access off Plumpudding Lane will represent significant harm to the rural character of the area, at Dargate Road the access already exists with good visibility in both directions on a straight section of road. I consider the proposal to consolidate use of this existing access point on Dargate Road, with its appropriate sightlines contained with grass verges, to be preferable and acceptable.
- 7.05 I note the Parish Council's concerns regarding the purpose of the road and suitability of land for planting a forest. However, I have had discussions with the Rural Planning Consultant and am satisfied that the applicant has demonstrated a need for the road and is being guided by an experienced woodland manager. The forestry use will involve significantly greater need for winter access than the previous orchard use, and I am aware that the land here can be very wet in winter. I welcome the idea of forestry here and am keen to support it where I can.
- 7.07 Local concern raises a number of issues, of which some have been addressed by the applicant. The main issues raised refer to highway safety concerns, a lack of justification for the road, potential increase in flooding, detrimental impact on visual appearance of the surrounding area and the use of inappropriate materials in construction of the road. I have considered these matters and set out above why I consider the proposal to be compliant with the criteria set out within the GPDO and why the need for such a scheme in a location that already has an existing access would outweigh the limited harmful impact on the countryside and landscape.

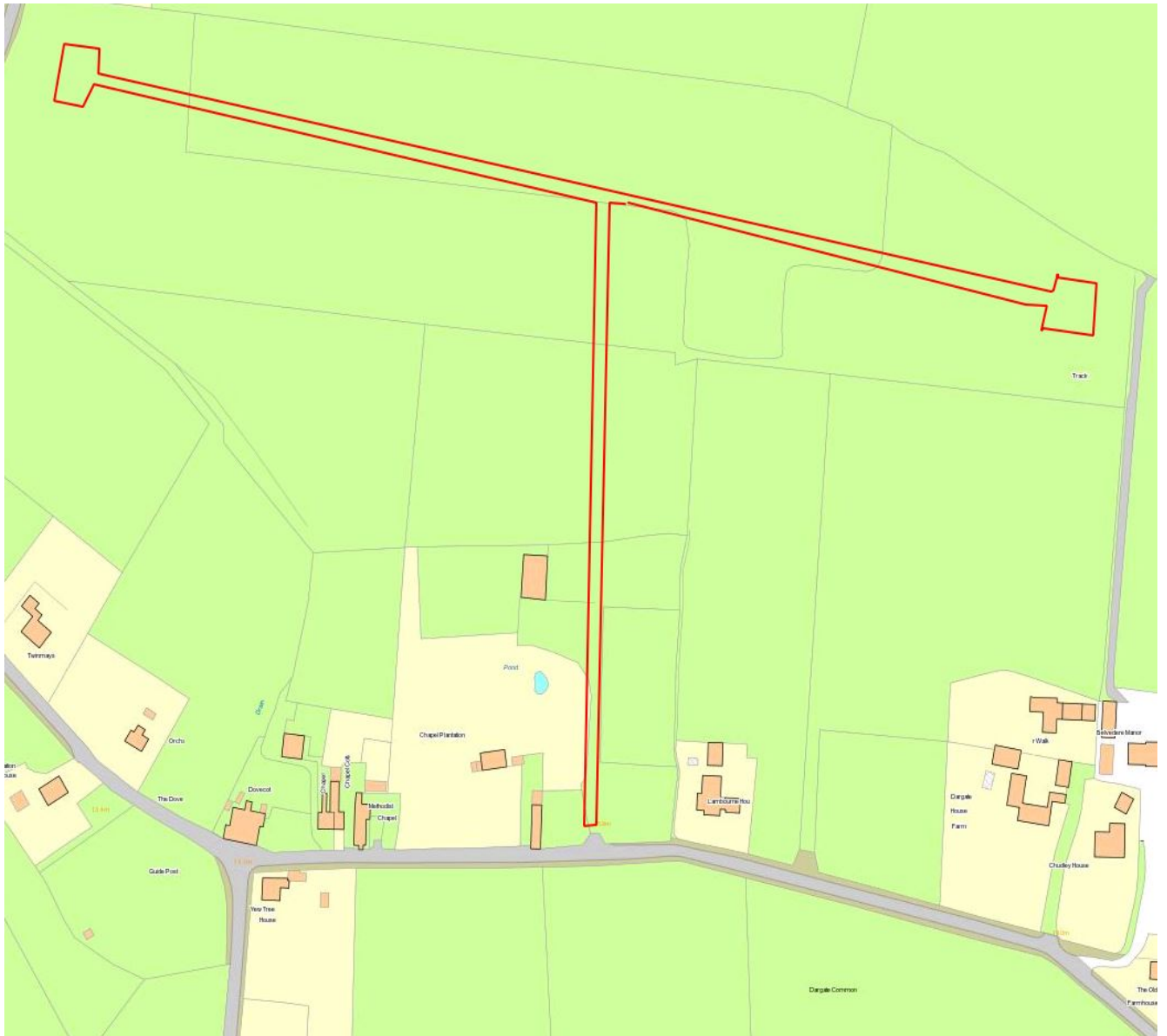
## **8.0 CONCLUSION**

- 8.01 I am satisfied that the private way is necessary for the purposes of planting and maintaining a forest on this site and the siting and means of construction is acceptable.

**9.0 RECOMMENDATION** – Prior Approval is granted

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





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| <b>2.4 REFERENCE NO - 18/500283/FULL</b>  |  |   |             |
| <b>APPLICATION PROPOSAL</b><br>Erection of 31 dwellings with associated access, parking and landscaping works at former oasis academy   |  |   |             |
| <b>ADDRESS</b> Land Adjacent To Sheppey Academy East Admirals Walk Halfway Kent ME12 3JQ  |  |   |             |
| <b>RECOMMENDATION</b> Grant, subject to signing of appropriately worded Section 106 Agreement, the conditions listed below, no objection being raised by KCC Ecology, an amended landscape drawing, and any further comments received from 3 <sup>rd</sup> parties.   |  |   |             |
| <b>SUMMARY OF REASONS FOR RECOMMENDATION</b><br>The site is allocated for residential development in the Local Plan and as such the proposal would contribute to meeting the Borough's identified development target for new dwellings. I have not identified any unacceptable harm arising from the development in regards to residential, visual or highway amenity and the proposal acceptably deals with drainage issues. |  |   |             |
| <b>REASON FOR REFERRAL TO COMMITTEE</b><br>Called in by Cllr Cameron Beart  |  |   |             |
| <b>WARD</b> Queenborough And Halfway  | <b>PARISH/TOWN COUNCIL</b>   | <b>APPLICANT</b> Malro Homes Ltd<br><b>AGENT</b> DHA Planning |             |
| <b>DECISION DUE DATE</b><br>30/8/2018   | <b>PUBLICITY EXPIRY DATE</b><br>06/08/18   |   |             |
| <b>RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):</b>   |  |   |             |
| <b>App No</b>   | <b>Proposal</b>  | <b>Decision</b>   | <b>Date</b> |
| SW/02/0447  | Renewal of Planning Permission SW/98/1100 outline application for residential development.   | Not Proceeded with  | 29.10.2009  |
| SW/02/1130  | Outline Application for two and three bedroom homes and access road.                         | Withdrawn   | 19.12.2002  |
| SW/00/1140  | Erection of 16 houses and associated landscaping works including reprofiling of school land. | Withdrawn   | 30.03.2001  |
| SW/98/1100  | Outline Application for residential development.   | Approved  | 28.05.1999  |

**MAIN REPORT**

**1.0 DESCRIPTION OF SITE**

1.01 The application site is 1.28 hectares in size, broadly rectangular in shape and is located to the east of existing properties in Admirals Walk and Highfield Road, to the south of properties in Minster Drive and to the north and west of the Isle of Sheppey Academy school site.

- 1.02 The dwelling types in the surrounding area are mixed with bungalows, chalet bungalows and two storey dwellings in Admirals Walk, Highfield Road and Minster Road.
- 1.03 The site previously formed part of the school grounds although was not used for formal recreation or pitches. The last known use of the site was as a construction depot / compound for the redevelopment of the school site.
- 1.04 The site contains a landscape buffer on both the northern and the southern boundaries which contains a number of trees with the central part of the site comprising unmanaged grassland. The topography of the site can in general be described as sloping downwards from south to north. The landscaped areas close to the northern and southern boundaries have the most pronounced change in levels. From the southern part of the site to the rear boundary of the properties fronting Minster Road in the northern part of the site the site levels differ by approximately 8m.

## **2.0 PROPOSAL**

- 2.01 The application originally sought planning permission for 34 dwellings. However, during the course of the application, after discussions between the agent and Officers, amended drawings have been received and the proposal now seeks planning permission for 31, 3 bedroom dwellings with associated access, parking and landscaping.
- 2.02 Access is to be taken from Admirals Walk and the proposed dwellings will be laid out to front onto a T shaped road layout. The approximate east / west orientation of Admirals Walk will be continued into the development and a further spur road is proposed in a south-west / north-east orientation. The proposed dwellings in the northern part of the site will front onto the continuation of the road from Admirals Walk and as such these dwellings will be orientated so that the rear elevation will face the rear of the properties in Minster Road. In the western part of the application site the rear of four of the proposed dwellings will face towards the rear of properties in Highfield Road. In all instances the proposed dwellings will front onto the new highway.
- 2.03 The dwellings will be mixture of 2 and 2 and half storeys in height, each with their own dedicated parking spaces and rear private amenity space. Including the visitor parking spaces (11 in number) the site will provide a total of 73 parking spaces.
- 2.04 The proposed height of the dwellings range between 5.1m and 6.4m to the eaves and between 8m – 10.3m to the ridge. In terms of the dwellings that are closest to existing properties, plot 1 (adjacent to No.2 Admirals Walk) will have a car port on the flank elevation closest to this property, measuring 2.2m to the eaves, the main dwelling will measure 5.2m to the eaves and 8.2m to the ridge. On the opposite side, plot 31 (adjacent to No.1 Admirals Walk) will also have a car port on the flank elevation closest to this property, measuring 2.2m to the eaves, with the main dwelling measuring 5.2m to the eaves and 8.2m to the ridge. The rear elevations of plots 24 – 27 will face the rear elevations of No.s 65, 67, 69 and 71 Highfield Road. Plots 24 and 25 will measure 5.1m to the eaves and 10.3m to the ridge with plots 26 and 27 measuring 5.2m to the eaves and 8.3m to the ridge.
- 2.05 The dwellings will be a mixture of detached (7 dwellings) and semi detached (24 dwellings). A total of 12 different house types are proposed, although a number of these are only slight variants of one another. A number of the properties will be

defined by their steeply pitched roofs and proposed use of bricks, weatherboarding and slate roofs to create a contemporary appearance.

- 2.06 A large amount of the vegetation in the northern and southern parts of the site will be retained. A landscaping strip in the far eastern part of the site will also be retained to allow for connectivity between the areas. Landscaping to the frontage of the dwellings will be comprised of street trees, shrubs and hedges.

### 3.0 PLANNING CONSTRAINTS

- 3.01 None

### 4.0 POLICY AND OTHER CONSIDERATIONS

- 4.01 The National Planning Policy Framework (NPPF): Paras 8 (three dimensions of sustainable development), 10, 11 (presumption in favour of sustainable development), 54, 55, 56, 57 (planning conditions and obligations / section 106 agreements) 59 (delivering a sufficient supply of homes), 124, 127, 128, 130, 131 (good design).
- 4.02 National Planning Practice Guidance (NPPG): Land affected by contamination; Natural environment; Open space, sports and recreation facilities, Planning obligations.
- 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); ST6 (The Isle of Sheppey area strategy); CP2 (Promoting sustainable transport); CP3 (Delivering a wide choice of high quality homes); CP4 (Requiring good design); A21 (Smaller allocations as extensions to settlements, and which allocates the site for a minimum of 20 dwellings); 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); and DM29 (Woodlands, trees and hedges).
- 4.04 Supplementary Planning Documents: Developer Contributions (2009).

### 5.0 LOCAL REPRESENTATIONS

- 5.01 Letters of objection have been received from 17 separate addresses and raise the following summarised concerns:
- The access to the site is restricted by cars parking on the highway;
  - The roads in the surrounding area are dangerous;
  - The surrounding roads do not have sufficient capacity to accommodate development-related traffic;
  - Service vehicles and construction vehicles would have difficulty accessing the site due to on-street parking;
  - Extra traffic would cause damage to the road surface;
  - Most houses have 3-4 cars, where will they park?;
  - No provision for recreational activities for children;
  - Admirals Walk suffers from surface water which will be exacerbated by the development;

- The land has been ‘sold off illegally’;
- Previously informed that the land does not have development potential;
- Surrounding dwellings will experience a loss of privacy and loss of light;
- The land is contaminated;
- The current foul sewerage system is at capacity;
- Drainage capacity in the area is inadequate and the surrounding area is already prone to flooding;
- What safeguards will be put in place in respect of underground streams?;
- Can the height of the dwellings and the retention of trees be guaranteed?;
- A number of animals are present on the site;
- Who will maintain the bird boxes, hedgehog nesting boxes etc.?;
- No previous applications have been approved on the site;
- A previous application to purchase the land included a covenant that it could only be used as garden land;
- It will be an issue getting on and off the driveway of existing properties;
- The development would not be in keeping with the surrounding form of development;
- Why build on this site when 1,000 houses are being built in Queenborough;

5.02 Subsequent to the original consultation the proposal has been reduced from 34 to 31 dwellings. I have re-consulted with neighbours with the expiry date for comments of 6<sup>th</sup> August 2018. I have received three further objections, two from addresses which responded to the initial consultation and one from an additional respondent, both raising a number of concerns that have been set out above. However additional points raised are as follows:

- There should be another access point on the school side of the development;
- Admirals Walk should be one way with access from Banner Way only;
- The building work will create dust, noise and dirt;
- The land should be used for school buildings and not more houses.

5.03 I will update Members at the meeting in regards to any further neighbour representations received.

5.04 Cllr Cameron Beart commented that *“I would like to refer this to planning committee given the large number of resident objections.”*

## 6.0 CONSULTATIONS

6.01 **Environment Agency** make no comment.

6.02 **UK Power Networks** has no objection.

6.03 The Council’s **Environmental Protection Team Leader** has commented that no objection is raised to the proposal, however, due to the proximity of existing residential properties certain issues, such as dust, noise and contaminated land will need to be adequately addressed by the imposition of related conditions.

6.04 **KCC Highways & Transportation** raised concern with the initial layout of the scheme especially in relation to the proposed vehicle parking, the visitor parking arrangement and the design of the car ports. The issue of the surrounding roads being at capacity in respect of on street parking was raised and as such the above issues would be to the detriment of highway safety and local amenity. In addition, the layout indicates the potential for some of the parking to overhang the pedestrian footway. The findings of the TRICS analysis are agreed with in that the development

would not represent an overbearing impact upon the local highway network. However, almost all of the additional vehicle movements would be expected to use the junction of B2008/Minster Road and Banner Way and dependant on the agreed level of development it may be required to offer works for its improvement.

Following the above comments, amended drawings were submitted which reduced the scheme to 31 dwellings, altered the design of the car ports, added additional visitor parking spaces and addressed the issue in respect of overhanging of the footway. On this basis, KCC Highways & Transportation do not require this application to deal with improvements to the junction of B2008/Minster Road and Banner Way and raise no objection to the proposal subject to conditions (which I have included below) related to a construction management plan; details of the roads, footways, verges etc.; completion of the works between the dwelling and the highway; provision and permanent retention of vehicle parking spaces and car ports prior to the occupation of the dwellings; prevention of the discharge of surface water onto the highway; provision and retention of vehicle loading / unloading and turning facilities; and provision and permanent retention of cycle parking facilities.

- 6.05 **Natural England** states that *“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.”*
- 6.06 **KCC Developer Contributions** request £48.02 per dwelling (£1,488.62) for additional book stock to meet the extra demand as a result of the development at Minster-in-Sheppey library.
- 6.07 **Southern Water** state that the results of an initial desk top study indicates that the needs of this development cannot currently be accommodated without the development providing additional local infrastructure. Therefore, should the Local Planning Authority be minded to approve the development then a condition is recommended requiring a drainage strategy detailing the proposed means of foul disposal. An informative relating to a formal connection to the public sewerage system is also recommended.
- 6.08 **KCC Ecology** initially commented that the ecological assessment survey has assessed two trees as having a high potential for roosting bats and it is understood that these trees will be removed. As such a bat emergence / re-entry survey is required prior to the commencement of development. A condition has been suggested in relation to a lighting design strategy. In regard to reptiles, the site is a suitable habitat for reptiles and therefore a reptile survey is required prior to the determination of the planning application. The site also contains suitable habitat for breeding birds and therefore if permission is granted then an informative regarding nesting birds is recommended. It is unlikely that there are great crested newts on the site, although hedgehogs and other mammals may be present. Therefore any areas where mammals could be sheltering should be hand searched and excavations should not be left open for mammals to fall into, or plants of wood left for animals to climb out. Advised that all retained trees should be protected. The site lies within 1.9km of the Swale SPA, Ramsar and SSSI and developer contributions to a Borough wide mitigation strategy should be provided. The generic recommendations

for ecological enhancements are supported and a condition recommended requiring a Biodiversity Management Plan.

Further to the above comments a reptile survey and an ecological mitigation statement was submitted which identified slowworms and lizards on the site. KCC Ecology were re-consulted and the need for a bat emergence / re-entry survey was reiterated. Further to this, although the proposed reptile mitigation was accepted in principle, there was concern about the proposed receptor site and whether it would be sufficiently large enough. As such, further information was requested in the form of an updated reptile mitigation strategy.

On receipt of the bat emergence / re-entry survey, I have again consulted with KCC Ecology who are now satisfied that the two trees in question only offer negligible potential for roosting bats and as such no further survey work is required in respect of these. However, a third tree - which is to be retained - is considered to be suitable for roosting bats and it is recommended that this tree, along with the others to be retained are protected during construction in line with standard arboricultural best practice.

- 6.09 The **NHS Swale Clinical Commissioning Group** requests a contribution of £360 per new resident, calculated as 2.4 residents per each new dwelling. This equates to a total of £26,784 (74.4 x £360).
- 6.10 The Council's **Greenspaces Manager** initially requested a contribution of £15,164 for play equipment at Abbey Rise Play Area and £20,162 towards the sports pitch at Castlemere Avenue. However, with the reduction in the number of units this was revised to £13,826 for play equipment and £18,383 for formal sports. Following discussions with the agent the amount requested by the Greenspaces Manager has been further reduced to £4,000 for play equipment and £4,000 for formal sports.
- 6.11 KCC **Lead Local Flood Authority** state that the drainage scheme for the proposed development is considered adequate but notes that the drainage proposal would involve the construction of a surface water sewer outside of the redline of the application site. Therefore the Local Planning Authority should be satisfied that this can be delivered. They have recommend three conditions relating to a sustainable surface water drainage scheme; operation and maintenance manual; and a verification report.

## 7.0 BACKGROUND PAPERS AND PLANS

- 7.01 The application has been supported with the following submitted documents:
- Site Layout Plan;
  - Elevations;
  - Floorplans;
  - Site Sections;
  - Streetscenes;
  - Planning Statement;
  - Flood Risk Assessment;
  - Contaminated Land Assessment;
  - Ecological Scoping Report;
  - Transport Statement;
  - Hard and soft Landscaping drawings.



## 8.0 APPRAISAL

### Principle of Development

- 8.01 The application site is allocated in the adopted Local Plan under policy A21 for a minimum of 20 dwellings and is situated within the built-up area boundary. The application proposes 31 dwellings, which would contribute towards the Council's housing supply. On this basis I am of the firm view that the principle of this development on this site is accepted.

### The quantum of housing and mix of units

- 8.02 The application site measures 1.28 hectares in size and proposes 31 units, this equates to a density of 24 dwellings per hectare. The pattern of the immediately surrounding residential development is predominately comprised of detached and semi detached properties with reasonably generous gardens. As such, a proposed density of 24 dwellings per hectare, each with their own dedicated parking spaces and private amenity space would in my opinion be acceptable and satisfy the specific requirement of policy CP3 where it states that proposals will *"Use densities determined by the context and the defining characteristics of the area"*. I also take into account the change in levels in certain parts of the site which means that the area of developable land is reduced.
- 8.03 The overall aim of policy CP3 is to deliver a wide choice of high quality homes. In this case all of the proposed dwellings have 3 bedrooms. However, paragraph 5.3.21 of the supporting text to the policy sets out that on the Isle of Sheppey the demand is greatest for family housing and in addition to this, paragraph 5.3.9 of the supporting text states that 3 bedroom dwellings are most in demand. On the basis of the above, I take the view that the proposal is acceptable in terms of the mix of units.

### Visual Impact

- 8.04 As discussed above, the site is bounded by residential development to the north and west and by the school grounds to the south and east. The surrounding pattern of development is mixed, with the area of Admirals Walk closest to the application site defined by bungalows and chalet bungalows, although there are two storey dwellings in Admirals Walk further to the east. Minster Road to the north is comprised of bungalows, chalet bungalows and two storey dwellings.
- 8.05 The application proposes a mixture of 2 and 2 and a half storey dwellings which will in my view provide a distinctive development, especially in comparison to the closest residential properties in Admirals Walk and Highfield Road. A conscious decision has clearly been made to differentiate the development from the immediately surrounding dwellings. In respect of this, paragraph 5.4.5 of the supporting text to policy CP4 of the Local Plan states that *"Where strong local distinctiveness is not apparent, the objective should be to uplift the quality of the area through imaginative use of architecture, detail and landscape design that is, itself, locally distinctive."* This policy thrust is also reflected in the recently published revised NPPF. As such, the acceptability of this design approach is in my opinion dependant on two matters, the character of the surrounding area and the appearance of the proposed development.
- 8.06 As discussed above, the surrounding pattern of development is mixed, because of this I do not believe that a particularly strong sense of local distinctiveness is apparent and as such the principle of departing from this is in my opinion acceptable.

Close to the application site there are also a number of large flat roof dormer windows prominent in the streetscene which in design terms is not an approach which I believe should be followed.

- 8.07 Secondly, I consider that the design of the proposed properties, a number of which are defined by their steeply pitched roofs and use of bricks and weatherboarding will have the impact of uplifting the quality of the area to some degree. The use of weatherboarding is common throughout many parts of Sheppey and as such I believe that this is an appropriate use of materials in the wider context. As such, in respect of the design of the properties I am of the opinion that the proposal will satisfy the specific requirement of policy CP4 and the aims of the recently published revised NPPF as set out above. I have recommended a condition requiring specific details of materials to ensure that this element of the scheme is acceptable.
- 8.08 The use of soft landscaping will also be key in providing a scheme which has a positive impact in visual terms. The landscaping drawing that has been submitted shows a mixture of street trees, hedging and lawn. In an overall sense I believe that the landscaping has been adequately considered and will provide a good level of amenity. The landscaping will also in my opinion be important in order to break up some of the surface areas of car parking which are provided in the eastern and southern parts of the site. However, in respect of this I do have some minor concerns in respect of the area of the surface parking in the eastern part of the site. In this case, although the site layout shows a tree breaking-up the car parking spaces this is not reflected in the landscaping drawing. As such, I believe that to provide some visual relief that this should be delivered and I have requested from the agent an amended drawing to show this. I also note that although the majority of the species chosen are native, there are two tree species which are not indigenous and therefore in the interests of supporting biodiversity I have also requested amended details in regards to this. I am awaiting these details and will provide Members with an update in respect of this at the meeting.
- 8.09 One area where I believe special attention needs to be paid to is how the transition between the proposed development and the existing single story properties on the northern side of Admirals Walk, which sit at a lower level than the southern side of the highway. The closest property to the application site on the northern side of Admirals Walk to the application site is No.2 Admirals Walk. The proposed property adjacent to this is two storey but will have a catslide roof on the flank elevation closest to No.2. Therefore I am of the view that the transition from the single storey existing property at No.2 to the two storey property adjacent property in the proposed development is acceptable. In addition to this, the next adjacent property is also a two storey dwelling followed by a two and a half storey dwelling. As such, I take the view that this stepped increase in height has been appropriately dealt with.

### **Residential Amenity**

- 8.10 I note the concerns raised by surrounding occupants in relation to a loss of light and privacy. Due to the proximity of surrounding residential units and the change in site levels in the surrounding area the impact upon residential amenities will need to be carefully considered.
- 8.11 On the western boundary of the application site, the closest proposed property (unit 1) to No.2 Admirals Walk would sit approximately 3.5m forward of the front elevation of this existing property. However, I take into account that there would be a 6m gap between the properties and as such do not believe that any significant loss of outlook or that the relationship would be overbearing to any significantly harmful degree. On

the opposite side of Admirals Walk, the closest proposed element of plot number 31 would be broadly in line with the front elevation of No.1 Admirals Walk. When this is combined with the separation distance being 4m at the closest point I am of the view that the proposal would not give rise to unacceptable harm to visual amenities in this regard.

- 8.12 In terms of overlooking, I note that the rear of four of the dwellings in the western part of the application site would face towards the rear of No.s 65, 67, 69 and 71 Highfield Road. In this respect, the closest rear to rear separation distance is 29m, rising to 35m. The Council would usually expect a minimum rear to rear distance of 21m and although two of these properties do also have windows in the roofspace (effectively at second floor level), these do not serve habitable rooms. As such, as the distances quoted above are comfortably in excess of the minimum separation distance, I am of the view that this element of the proposal would not give rise to an unacceptable loss of privacy or harmful levels of overlooking. Notwithstanding this opinion, to improve the situation further I have requested that trees be planted in the rear gardens of plots 26, 27 and 31 and await an amended landscaping drawing to show this. I will update Members at the meeting.
- 8.13 In the northern part of the site, the rear of 14 proposed units would face towards the rear of a number of properties on the southern side of Minster Road. 11 of these proposed properties are 2 and a half storeys (i.e. rooms in the roofspace). The relationship between the existing and proposed properties also includes a fairly pronounced change of levels, with the floor levels of the properties in Minster Road sitting approximately 6m lower than the proposed dwellings. However, the separation distances are all in excess of 50m and there is a reasonable amount of vegetation that exists and that will be retained between the rear of gardens of the existing and proposed dwellings. I also take into account that of the 11 properties that are 2 and a half stories, 6 of these have windows at what is effectively second storey level which do not serve habitable rooms. Therefore, although there will be properties where none currently exist, on the basis of the above and in particular the separation distance between these properties I do not believe that the levels of overlooking would be unacceptable. Furthermore, although details in regards to site sections have been provided, to further ensure that the amenities of existing residents are protected I have included a condition requiring details of finished floor levels of all the dwellings.
- 8.14 Due to the layout of the development, opportunities for overlooking between future occupants of the development is limited. In respect of this, I have identified an opportunity from the rear of unit 20 towards the private amenity space of unit 17. However, this view would be sideways and there would be a distance of 16m from the rear of unit 20 to the central part of the garden of unit 17. As such, on balance I believe that this distance is sufficient to not give rise to significantly harmful levels of overlooking. There is a similar arrangement between the rear of plot 30 and the private amenity space of unit 27. However, this sideways view would be a distance of 17m to the central part of the garden and as such, on the basis of the above assessment I consider this to be acceptable. All of the proposed dwellings would benefit from private outdoor amenity space at a minimum depth of 10m and as such I am of the opinion that this would provide an acceptable level of amenity for future occupants.

### **Highways**

- 8.15 A number of the objections received relate to highway safety and amenity issues and it was clear from my site visit that on-street parking does occur in the immediately

surrounding roads. When originally consulted on the application, although KCC Highways & Transportation did not consider that the proposal would give rise to an overbearing impact on the capacity of the local highway network, concerns were raised regarding the proposal and how the parking arrangements could cause overspill into the neighbouring streets.

- 8.16 As noted above, amended drawings were submitted which reduced the proposal to 31 dwellings as now proposed and further to discussions with KCC Highways & Transportation and the agent the car port design (on the 10 properties that they are included) has been amended. They are now of a lightweight construction and as such less likely to be converted in the future. The result of this is that KCC Highways & Transportation are of the view that along with the other surface car parking that is provided both on plot and also within the development site that the car ports can be considered as parking spaces. On the basis of the amended details, KCC Highways & Transportation now raise no objection to the proposal, subject to a number of conditions which I have recommended below.

### **Landscaping and Ecology**

- 8.17 To the north and south of the proposed dwellings lies existing vegetation in the form of trees and shrubs. The area of vegetation to the north is outside of red line of the application site but within the blue line (land also within the applicant's ownership). Regardless of this, this area of vegetation is to be retained.
- 8.18 The majority of the area to the south will be retained although there is the possibility that some of the trees will be required to be removed. A Tree Survey has been submitted which confirms that no significant trees will be impacted upon by the proposal and as such I am of the view that this element of the proposal is acceptable. However, to ensure that the specified trees are retained and adequately protected I have recommended related conditions. I have also recommended a condition which requires a management plan for these specific areas and as such am of the view that this will ensure that the visual and biodiversity interest is protected. During the course of the application, I also requested that vegetation along the eastern boundary of the site is retained with links to the two retained areas to the north and south to allow for connectivity. This was reflected in the amended layout and as such I am of the view that this will provide further benefits in terms of biodiversity and visual amenity.
- 8.19 The application site is specifically referred to within policy A21 of the Local Plan and sets out the following – *“May have some biodiversity interest on site. Will need to undertake ecological assessments that will also consider the presence of protected species.”* An ecological scoping survey was submitted with the application which assessed two of the trees on the site as having a high potential for roosting bats and the details submitted with the application set out that these two trees will be lost. On this basis, a bat emergence and re-entry survey was recommended. This survey has been undertaken and I have re-consulted with KCC Ecology, who accept that the two trees offer negligible potential for roosting bats and as such no further survey work is required.
- 8.20 The site, being comprised of unmanaged grassland, also contains suitable habitat for reptiles and initially it was unclear as to what the impact upon these potential species could be. As such a reptile survey was requested. Further to the submission of a reptile survey it has become clear that the site supports a population of slowworms and lizards and as such necessary mitigation will be required to protect these species, a proposal for which was set out in the submitted report. Although KCC

Ecology accepted the principle of the proposed reptile mitigation, concerns were raised regarding whether the proposed receptor site, which was the retained vegetation areas within and surrounding the site, would be big enough to support the reptile population. On this basis I have referred the comments to the agent and have received additional information in regards to this. I have re-consulted KCC Ecology and will update Members at the meeting.

- 8.21 Further to the above, conditions have been recommended in relation to lighting, a management plan in relation to the retained areas of vegetation and mitigation areas, and a condition relating to ecological enhancements. I have recommended these conditions. As such, and subject to the above issues regarding the receptor site being resolved, I am of the view that the impact upon the protected species can be acceptably mitigated.

### **Drainage and Contamination**

- 8.22 A number of local residents have raised concerns in relation to both foul water and surface water drainage in the surrounding area. Policy A21 of the Local Plan also recognises these issues and sets out that the site *“Has surface water drainage issues which a planning application would need to address through a connection to school network”*; and *“Any planning application for development on these sites would need to be accompanied by a flood risk assessment with appropriate mitigation measures”*.
- 8.23 A Flood Risk Assessment (FRA) has been submitted in support of the application and I have consulted with the Lead Local Flood Authority (KCC) and Southern Water. Southern Water have raised the issue that additional local infrastructure will be required to accommodate the needs of the development. Therefore, they have recommended a condition which requires a drainage strategy which details the proposed means of foul disposal. As such, Southern Water would be required to be satisfied with the details prior to the commencement of the development. In addition to this, although it would fall outside of the planning process, Southern Water would require a formal connection to the public surface water sewer and have suggested a related informative. I have recommended both the condition and the informative and as such am of the view that this will ensure that foul drainage will be adequately dealt with.
- 8.24 In regards to the surface water, the proposal includes the collection of surface water in a network of sewers before connecting to an existing manhole via a new off-site sewer constructed along Admirals Walk. Attenuation will be provided via concrete sewers in the areas of adoptable highway which will be supplemented by underground cellular tanks in communal parking areas. I note the comments of the Lead Local Flood Authority (KCC) who have commented that *“The drainage scheme for the proposed development is considered adequate and does not increase the risk from surface water flooding at the site or in the surrounding area.”* The drainage proposal involves the construction of a surface water sewer outside of the application site and as such would be required to be delivered via S.98 of the Water Industry Act. In respect of this, although this would be delivered outside of the planning process, as the new sewer would be constructed along Admirals Walk which is controlled by KCC I am confident that it will be able to be delivered. The Lead Local Flood Authority have recommended three conditions requiring details of a detailed sustainable water drainage scheme based upon the FRA submitted with the application, a maintenance manual and a verification report. I have recommended these three conditions and on this basis I am of the view that surface water drainage can be dealt with acceptably.

- 8.25 The application is supported by a phase I contamination report and I have consulted with the Council's Environmental Protection Team Leader. The contaminated land report indicates that the land was infilled with approximately 3m depth of made ground, likely associated with the previous parking and storage uses. There is also a spoil heap at the north of the site. Due to this, there is a risk of heavy contaminants being present. In addition, land fill gas monitoring is required and there is also the potential for asbestos to be present in the made ground and surrounding area from the earlier, demolished school buildings on the adjacent site. Due to this, this issue of contaminated land requires further investigation and on this basis a relevant land contamination and landfill gas condition has been recommended. I have included these conditions below and on this basis am of the view that the issue of contamination can be adequately dealt with.

### Developer Contributions

- 8.26 Members will note from the consultation responses received 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:

- Libraries - £1,488.62;
- NHS - £26,784;
- SBC Play Equipment - £4,000;
- SBC Formal Sports - £4,000;
- Refuse Bins - £2,852;
- SAMM SPA recreational disturbance - £9,335.34
- Administration and Monitoring - £750;
- Total – £49, 209.96

- 8.27 The applicant has agreed to pay these contributions. Members will note that the contributions for both play equipment and formal sports have been reduced from the originally requested amount. The reason for this is that the agent challenged the original contributions on the grounds that they did not meet the tests for planning obligations. These are set out at paragraph 56 of the NPPF and for clarity are as follows:

- *“a) necessary to make the development acceptable in planning terms;*
- *b) directly related to the development; and*
- *c) fairly and reasonably related in scale and kind to the development.”*

The agent considered that there was no accepted explanation of how the scale of the contribution for play equipment and formal sports was reasonably related to the development and that the Council had failed to explain how and why these contributions were proportionate to the additional demands arising from the development. I continued to liaise with the agent and the Council's Greenspaces Manager who has accepted a revised figure of £4,000 for play equipment and £4,000 for formal sports. I am of the view that this meets the tests for planning obligations along with the remainder of the contributions.

- 8.28 I am also content that a Section 106 Agreement is the best mechanism for addressing the SAMM contribution (of £301.14 per dwelling), the details of which are set out under the subheading *'The Conservation of Habitats and Species Regulations 2017'*.

### **The Conservation of Habitats and Species Regulations 2017**

- 8.29 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.
- 8.30 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.
- 8.31 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.
- 8.32 In this regard, whilst there are likely to be impacts upon the SPAs arising from this development, the scale of development (31 dwellings on an allocated housing site, 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. Furthermore, as the site is allocated for housing the impact arising 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.
- 8.33 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/>).

### **Other Matters**

- 8.34 Although a number of the matters raised in the objection letters in respect of highway concerns, matters of residential and visual amenity, drainage, ecology and contamination have been addressed by virtue of the above discussion, of those that remain I respond as follows. Firstly, in respect of matters of covenants that may relate to the land, this would be a legal matter which would fall outside of the planning process. Furthermore, I will make no comment in regards to the

unsubstantiated claims regarding the sale of the land as again this matter is not a material planning consideration. In regards to previous applications on the site, of which there have been four for residential development, one of these has been approved with the other applications being withdrawn. In respect of dwellings not being required on this site due to construction taking place in Queenborough, I comment that those allocations will not provide for the entirety of the housing need that has been identified. In response to the point made regarding an alternative access being provided through the school grounds I consider that this would not be a realistic option and in any case, I refer to KCC Highways & Transportation who are raising no objection to the scheme. Finally, there will be an element of disturbance from the construction process, however, related conditions in respect of a construction management plan and restrictions in regards to construction hours will, in my view, mean that the impact is not significantly harmful to the amenities of existing adjoining residential properties.

## 9.0 CONCLUSION

- 9.01 It is firstly important to reiterate that the site is allocated for housing in the Council's adopted Local Plan for a minimum of 20 dwellings. As such the proposal for 31 dwellings would in my opinion contribute towards the Council's housing supply in a location which is accepted in principle.
- 9.02 Although the objections that have been received have been considered in detail, based upon the views of consultees and the appraisal of the application as set out above I believe that subject to the imposition of the listed conditions that the proposal would not give rise to unacceptable harm in regards to residential or visual amenity or highway safety and amenity. In addition to this, I believe that matters in respect of drainage and contamination can be adequately dealt with by virtue of the conditions recommended. The developer has also committed to the payment of the developer contributions as set out above in order to mitigate against increased demand on local infrastructure.

- 10.0 RECOMMENDATION – GRANT** Subject to the conditions listed below, no objections being raised by KCC Ecology, an appropriately worded Section 106 Agreement to include the contributions as set out in this report, an amended landscape drawing and any further comments received from 3<sup>rd</sup> parties.

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: 16.75.SK43B; 16.75.SK20F; 16.75.SK21F; 16.75.SK22F; 16.75.SK29C; 16.75.SK32G; 16.75.SK33C; 16.75.SK34D; 16.75.SK35A; 16.75.SK36C; 16.75.SK37C; 16.75.SK38D; 16.75.SK39A **and a revised landscape drawing.**

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



- 3) No development beyond the construction of foundations, shall take place until details of the external finishing materials to be used on the development hereby permitted have been submitted to and approved in writing by the Local Planning Authority, and works shall be implemented in accordance with the approved details.

Reason: In the interest of visual amenity.

- 4) 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.

- 5) The development hereby approved shall not commence until a Construction Management Plan to include the following has been submitted to and approved in writing by the Local Planning Authority:
- 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 highway safety and amenity.

- 6) The proposed roads, footways, footpaths, verges, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, vehicle overhang margins, embankments, visibility splays, accesses, carriageway gradients, driveway gradients, car parking and street furniture to be laid out and constructed in accordance with details which have firstly been submitted to and approved by the Local Planning Authority.

Reason: In the interests of highway safety and amenity.

- 7) Prior to the occupation of any dwelling, the following works between the dwellings and the adopted footway shall be completed:
- (a) Footways and/or footpaths, with the exception of the wearing course;
  - (b) Carriageways, with the exception of the wearing course but including a turning facility, highway drainage, visibility splays, street lighting, street nameplates and highway structures (if any).

Reason: In the interest of highway safety and amenity.

- 8) The area shown on the drawing no.16.75.SK43B as car parking and turning space shall be provided before any of the dwellings are occupied and shall be

retained for the use of the occupiers of, and visitors to the dwellings, 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.

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.

- 9) 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 be based upon the flood risk assessment by DHA Environment (January 2018) 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 100 year storm) can be accommodated and disposed of 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. The development shall be carried out in accordance with the approved scheme

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.

- 10) No building hereby permitted in any phase shall be occupied until an operation and maintenance manual for the proposed sustainable drainage scheme is submitted to (and approved in writing) by the local planning authority. The manual at a minimum shall include the following details:
- A description of the drainage system and its key components
  - An as-built general arrangement plan with the location of drainage measures and critical features clearly marked
  - An approximate timetable for the implementation of the drainage system
  - Details of the future maintenance requirements of each drainage or SuDS component, and the frequency of such inspections and maintenance activities
  - Details of who will undertake inspections and maintenance activities, including 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
- The drainage scheme as approved shall subsequently be maintained in accordance with these details.

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.

- 11) No building on any phase (or within an agreed implementation schedule) of the development hereby permitted shall be occupied until a Verification Report pertaining to the surface water drainage system, carried out by a suitably qualified professional, has been submitted to the Local Planning Authority which

demonstrates the suitable operation of the drainage system such that flood risk is appropriately managed, as approved by the Lead Local Flood Authority. The Report shall contain information and evidence (including photographs) of earthworks; details and locations of inlets, outlets and control structures; extent of planting; details of materials utilised in construction including subsoil, topsoil, aggregate and membrane liners; full as built drawings; and topographical survey of 'as constructed' features.

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) Development shall not commence until a drainage strategy detailing the proposed means of foul water disposal and an 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 that disposal of foul water is adequately dealt with.

- 13) Prior to the occupation of any of the dwellings within the development hereby approved, a Landscape and Environmental Management Plan for the retained areas of open space within the application site (including the retained area in the northern part of the site within the blue line as shown on drawing no. 16.75.40 and 16.75.SK43B) must be submitted and approved in writing by the Local Planning Authority. The LEMP must include the following:
- A plan demonstrating all the habitat management areas;
  - Details of ecological enhancements;
  - A 5 year rolling management plan (following establishment);
  - Details of monitoring;
  - A timetable for implementation.

Reason: In the interests of enhancing biodiversity opportunities.

- 14) No development shall take place until a "lighting design strategy for biodiversity" for the site boundaries has been submitted to and approved in writing by the local planning authority. The lighting strategy shall:
- a) Identify those areas/features on site that are particularly sensitive for bats and that are likely to cause disturbance in or around their breeding sites and resting places or along important routes used to access key areas of their territory;
  - b) Show how and where external lighting will be installed so that it can be clearly demonstrated that areas to be lit will not disturb or prevent the above species using their territory.

All external lighting shall be installed in accordance with the specifications and locations set out in the strategy and these shall be maintained thereafter in accordance with the strategy.

Reason: In order to protect protected species.

- 15) Prior to the occupation of the development hereby approved, a Biodiversity Management Plan detailing what enhancements will be incorporated in to the site will be approved in writing by the Local Planning Authority.

Reason: In the interests of enhancing biodiversity opportunities.

- 16) All existing trees and hedges on, and immediately adjoining, the site, shall be retained, unless identified on the approved site plan (or block plan in the absence of a site plan) as being removed, except if the Local Planning Authority gives prior written consent to any variation. All trees and hedges shall be protected from damage in accordance with the current edition of BS5837. Any trees or hedges removed, damaged or pruned such that their long term amenity value has been adversely affected shall be replaced as soon as is reasonably practicable and, in any case, by not later than the end of the first available planting season, with plants of such size and species and in such positions to mitigate the loss as agreed in writing with the Local Planning Authority.

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

- 17) 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.

- 18) 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.

- 19) 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.

- 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) 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.

- 22) The development hereby permitted shall not be commenced until the following components of a scheme to deal with the risks associated with contamination of the site shall have been submitted to and approved, in writing, by the local planning authority:

1) A site investigation, based on the Desk Top Study/ Phase I Risk Assessment submitted with the application to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.

2) A remediation method statement (RMS) based on the site investigation results and the detailed risk assessment. This should give full details of the remediation measures required and how they are to be undertaken. The RMS should also include a verification plan to detail the data that will be collected in order to demonstrate that the works set out in the RMS are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

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

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

Reason: To ensure that issues of contamination are adequately dealt with.

- 23) The development hereby permitted shall not be commenced until a detailed scheme for the investigation, recording and remediation of gas has been carried out. The scheme shall comprise:

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

2.Detailed proposals in line with current best practice for gas protection measures (the 'Gas Protection Proposals') have been submitted to and approved

by the Local Planning Authority. The Proposals shall detail sources of best practice employed.

3. Upon completion of the works, a closure report to be submitted to and approved by the Local Planning Authority. The closure report shall include full details of the works and certification that the works have been carried out in accordance with the approved scheme.

Reason: To ensure that issues of landfill gas are adequately dealt with.

- 24) 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.

- 25) The development shall be completed strictly in accordance with details in the form of finished floor levels for all the dwellings which shall firstly have been submitted to and approved in writing by the Local Planning Authority.

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

#### 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](http://www.southernwater.co.uk). It should be noted that Southern Water is currently consulting on the New connections charging process as directed by Ofwat. Please refer to Southern Water's website <https://www.southernwater.co.uk/new-connections-charging-consultation> for further details.
- 2) A formal application for connection to the water supply 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](http://www.southernwater.co.uk)".
- 3) 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.

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

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

Offering pre-application advice.

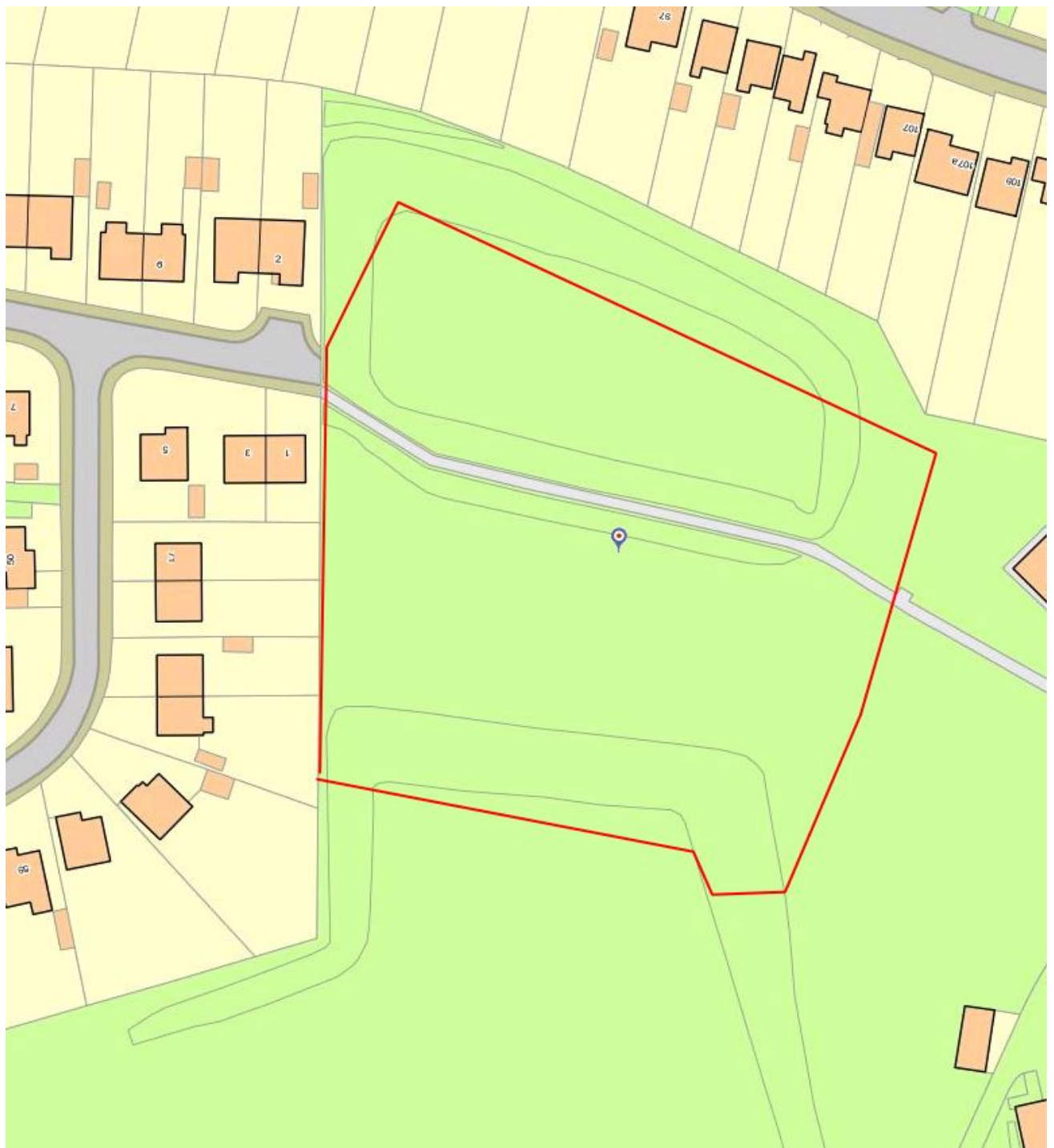
Where possible, suggesting solutions to secure a successful outcome.

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

In this instance:

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

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





|  |  |                    |   |
|--|--|--------------------|---|
| <b>2.5 REFERENCE NO - 18/500258/FULL</b>   |  |                    |   |
| <b>APPLICATION PROPOSAL</b>  |  |                    |   |
| The provision of a 3 unit accommodation building, car park and outdoor event space, the erection of 20 private residential dwellings, together with associated access, parking, highway works, drainage and landscaping.   |  |                    |   |
| <b>ADDRESS</b> Land At Hill Farm Bobbing Hill Bobbing Kent ME9 8NY   |  |                    |   |
| <b>RECOMMENDATION</b> Grant, subject to the further views of KCC Highways and Transportation and the comments of the Greenspaces Manager, completion of a s.106 agreement to secure the scheme as enabling development associated with Demelza Hospice, SAMMS payment of £301 per dwelling, and highways improvements as set out on the agreed drawings..  |  |                    |   |
| <b>SUMMARY OF REASONS FOR RECOMMENDATION</b>   |  |                    |   |
| Whilst the development is on land that has been specifically excluded from the Local Plan site allocations and is outside the built-up area boundaries, the development would provide funding towards enhanced facilities at, and the continued functioning of, Demelza House hospice. The application is therefore considered to be acceptable in principle only in as much as it is an enabling development towards a valuable community facility. |  |                    |   |
| <b>REASON FOR REFERRAL TO COMMITTEE</b>  |  |                    |   |
| Parish Council objections; recommendation not in accordance with Local Plan policy, requires Member determination.   |  |                    |   |
| <b>WARD</b> Bobbing, Iwade And Lower Halstow   | <b>PARISH/TOWN</b> Bobbing   | <b>COUNCIL</b>     | <b>APPLICANT</b> Hill Farm and Demelza Hospice Care for Children<br><b>AGENT</b> DHA Planning |
| <b>DECISION DUE DATE</b><br>09/05/18   | <b>PUBLICITY EXPIRY DATE</b><br>19/03/18   |                    |   |
| <b>RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):</b>  |  |                    |   |
| <b>App No</b>  | <b>Proposal</b>  | <b>Decision</b>    | <b>Date</b>   |
| 17/502156/FULL   | Erection of 5no. 4 bedroom detached dwellings with associated vehicle parking and realignment of Rook lane cross over. | Granted.           | 19.9.2017   |
| This application relates to redevelopment of part of the former Southern Water works site ,on the western side of Rook Lane opposite the current application site . The development is currently under construction.   |  |                    |   |
| 17/506010/FULL   | Erection of a 74 suite Care Home (use class C2) with associated car parking, refuse and external landscaping.          | Not yet determined |   |
| This current application was deferred by Members at the meeting on 19 <sup>th</sup> July, having been recommended for approval by officers, for officers to engage in discussions with the applicant in respect of landscaping, air quality, highways, and other matters.  |  |                    |   |

**MAIN REPORT**

**1.0 DESCRIPTION OF SITE**

1.01 The application site forms the south-western corner of a much larger agricultural field, bordered by Rook Lane to the west, agricultural fields to the north and east, and houses fronting the A2 to the south. The very southwestern tip of the application site, adjacent to the A2 / Rook Lane junction, where there are no existing dwellings, extends to the A2.

- 1.02 The application site is irregularly shaped and extends to approximately 3.3ha (8.1 acres) in area.
- 1.03 Land levels vary considerably within the application site and the wider area. Levels generally slope up to the south and west (from 52m above datum in the centre of the site to ~56m adjacent to Rook Lane), and down to the north and east. However there is a sharp depression towards the centre of the site (dropping to 49m) on the southern end which rises to a crest beyond the site boundary and slopes down again to the rear of the houses on Bobbing Hill, and a noticeable rise along the eastern boundary towards the northern end of the site (rising to 54m).
- 1.04 There are clear uninterrupted views of the site from Rook Lane, but as a result of land levels and existing surrounding development there are limited views from the A2, Bobbing Hill, and Sheppey Way – current views from those locations are limited to the roof of the bungalow known as Merville (immediately northeast of Demelza House), Demelza House beyond that, and the rear of the houses closest to the A2 / Rook Lane junction. Views from Cold Harbour Lane are restricted by land levels (the verge is set much higher than the road at points) and existing hedgerows / mature planting.
- 1.05 The site lies approximately 2.9km from Sittingbourne High Street, and 1.6km from the centre of Newington.

## **2.0 PROPOSAL**

- 2.01 The application seeks permission for the erection of a three-unit accommodation building for Demelza House; and 20 private residential dwellings; with associated parking, access, landscaping, drainage works; and highways improvements.
- 2.02 The proposed staff accommodation block will be positioned roughly opposite the existing site entrance for Demelza House. It will comprise a single-storey building constructed of red brickwork and slate roof, with areas of timber cladding and a green roof above an entrance porch. Externally the building will measure 28.7m long x 14m wide x 5.5m high (2.7m to eaves). Internally it will be divided into three self-contained flats (one two-bed flat and two one-bed flats) with a communal area around the main entrance. Each flat will have a small outdoor space and patio.
- 2.03 Adjacent to the accommodation block will be an 80-space car park and area of open space available for amenity use or as a space for Demelza to hold fundraising events.
- 2.04 The proposed houses will be arranged along a roughly southwest-northeast line, either side of a central estate road (with access points at either end of the site along Rook Lane). There will be a mix of six semi-detached units (clustered at the southern end of the site) and 14 detached units. The detached units will have private garages, and all of the proposed dwellings will have generous gardens (minimum 10m deep x 9m wide).
- 2.05 The houses will have a maximum ridge height of 9m, and will be of a relatively traditional design with steeply pitched roofs, red brickwork, and clay roof tiling, but with some modern features such as areas of vertical glazing, or metal roofs on some projecting elements. As noted above each house will have dedicated parking (on plot for the detached houses, and within parking barns for the semi-detached houses).
- 2.06 As part of the development it is proposed to construct a SUDS pond (roughly 45m x 32m) in the eastern corner of the site, to the rear of 50 to 60 Keycol Hill, and to improve the highway junction between Rook Lane and Keycol Hill. The highway

improvement works include realigning the approach to the junction when heading south along Rook Lane so that appropriate visibility splays can be achieved in all direction, widening the junction, installing pedestrian footpaths along both sides of Rook Lane, and grading/landscaping the verges.

- 2.07 The houses, accommodation block, and SUDS pond will all be surrounded by a planting strip (minimum three metres in width), which will contain native hedgerow and tree planting.
- 2.08 The submitted Planning Statement explains:
- 2.1.3 *Demelza...faces a continued shortage of nursing and care staff and finds it extremely difficult to attract and recruit staff to Kent. Likewise the existing parking provision and outdoor event space on site is inadequate in terms of amount and location.*
  - 2.1.5 *The residential development proposed is the minimum amount of development required to fund the proposed facilities and gift the land to Demelza. Likewise, following discussions with KCC Highways, as part of the proposed development, significant improvements are required to the Rook Lane/A2 Keycol Hill junction.*
  - 5.1.11 *There is a national shortage of nurses which is affecting hospices and NHS hospitals alike. The Demelza Kent base is routinely operating at 20%-30% understaffing in nurses...and is finding it extremely difficult to attract and recruit suitable and well-trained staff. One of the main reasons for Demelza Kent's difficulty in attracting staff is that potential nursing staff prefer to work in a London hospice which offers staff accommodation. Demelza is trying to address this shortage through supporting newly-qualified nurses in partnership with Canterbury College and others and through recruiting from abroad. However, without being able to offer staff accommodation, recruitment will always remain a very difficult issue for Demelza.*
  - 5.1.25 *The land that has been made available to Demelza will allow the charity not only the much-needed staff accommodation but also a car park for 80 cars and space for an outdoor event area.*
  - 5.1.27 *The provision of staff accommodation would enable Demelza to recruit much needed care staff and provide full time workers with living facilities. The hospice is a 24/7 service, and therefore would greatly benefit from having care team staff living adjacent to the site and readily available in the event of emergency situations.*
  - 5.1.29 *The increase in parking provision will help meet the existing and future parking needs of the site, and therefore reduce the number of cars which overspill onto Rook Lane. Likewise the surface material and location of the proposed car parking would make it accessible and easier for wheelchair users in comparison to the existing plastic gridding and gravel surface.*
  - 5.1.31 *The proposed 'event space' will allow Demelza to hold larger and regular events, and make the hospice itself the hub of fundraising activities.*

5.1.33 *The existing A2 Keycol Hill / Rook Lane junction has poor visibility and is known locally as a very difficult junction. The proposed development seeks to improve this by re positioning and widening the junction. This will allow the junction to accommodate two-way vehicle movements, improve visibility and therefore significantly improve the safety of the existing junction.*

5.1.34 *As part of the overall scheme, SUDS techniques will be used to deal with surface water drainage generated by the development. By picking up surface water and allowing it to drain properly into a bespoke infiltration system will reduce the existing overland flooding into the lowest point of the existing properties to the north of Keycol Hill. This will have the benefit of reducing the regular occurrence of flooding in the gardens of the properties along Keycol Hill and the land behind.*

### 3.0 SUMMARY INFORMATION

|                          | <b>Proposed</b>   |
|--------------------------|---|
| Site Area                | 3.36 ha / 8.3 acres   |
| Max. ridge height        | 5.5m (accommodation block)<br>9m (houses)   |
| Max. no. of storeys      | 2   |
| Parking spaces           | 80 for accommodation block/function area, and minimum 2 spaces per semi-detached dwelling / 3 spaces per detached dwelling. |
| No. of residential units | 23 (inc. 3 staff units)   |
| No. of affordable units  | 0   |

### 4.0 PLANNING CONSTRAINTS

4.01 The site is within an area of potential archaeological importance.

### 5.0 POLICY AND OTHER CONSIDERATIONS

#### National policy

5.01 The National Planning Policy Framework (NPPF), the updated version of which was published on 24<sup>th</sup> July 2018, and National Planning Practice Guidance (NPPG) encourage the provision of new dwellings in order to meet housing need, but also aims to restrict residential development within the countryside. Paragraph 8 of the NPPF states that there are economic, social, and environmental issues to be considered when trying to deliver sustainable development, of which social and environmental are particularly relevant here:

*“b) a social objective – to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering a well-designed and safe built environment, with accessible services and open spaces that reflect current and future needs and support communities’ health, social and cultural well-being; and*

*c) an environmental objective – to contribute to protecting and enhancing our natural, built and historic environment; including making effective use of land,*

*helping to improve biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating”*

- 5.02 Para. 15 of the NPPF sets out that development should be plan-led, with *“succinct and up-to-date plans should provide a positive vision for the future of each area; a framework for addressing housing needs and other economic, social and environmental priorities; and a platform for local people to shape their surroundings.”* Further to this para. 38 sets out that *“local planning authorities should approach decisions on proposed development in a positive and creative way ... and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area.”*
- 5.03 Para. 83 of the NPPF aims to encourage the rural economy, commenting that planning decisions should enable *“the sustainable growth and expansion of all types of business in rural areas, both through conversion of existing buildings and well-designed new buildings.”*
- 5.04 Para. 73 of the NPPF requires local planning authorities to *“identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years’ worth of housing against their housing requirement set out in adopted strategic policies.”* As set out below, however, this site was excluded from the Council’s housing land supply calculations for various reasons.
- 5.05 As noted above: para. 8 of the NPPF sets out that one element of sustainable development is ensuring the creation of *“strong, vibrant and healthy communities...with accessible local services that reflect the community’s needs and support its health, social and cultural well-being.”* Further to this para. 92 encourages Local Authorities to *“b) take into account and support the delivery of local strategies to improve health, social and cultural well-being for all sections of the community; c) guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community’s ability to meet its day-to-day needs; d) ensure that established shops, facilities and services are able to develop and modernise, and are retained for the benefit of the community; and e) ensure an integrated approach to considering the location of housing, economic uses and community facilities and services.”*
- 5.06 Para. 112 of the NPPF refers to the use of agricultural land, stating:

*“Local planning authorities should take into account the economic and other benefits of the best and most versatile agricultural land. Where significant development of agricultural land is demonstrated to be necessary, local planning authorities should seek to use areas of poorer quality land in preference to that of a higher quality.”*

#### Local policy

- 5.07 Policies ST1 (sustainable development), ST2 (development targets for jobs and homes), ST3 (Swale settlement strategy), ST5 (Sittingbourne strategy), CP1 (strong, competitive economy), CP2 (sustainable transport), CP4 (good design), CP6 (community facilities), DM3 (rural economy), DM6 (managing transport impact), DM7 (vehicle parking), DM8 (affordable housing), DM14 (general criteria), DM19 (sustainable design and construction), DM21 (water, flooding, and drainage), DM25 (separation of settlements), and DM31 (agricultural land) of the adopted Swale Borough Local plan 2017 are relevant.

- 5.08 ST3 sets out the Swale Settlement Strategy, which is a hierarchy of the locations at which residential development should be located. The current application site sits within the lowest tier – locations within the open countryside – where *“development will not be permitted, unless supported by national planning policy and able to demonstrate that it would contribute to protecting and, where appropriate, enhancing the intrinsic value, landscape setting, tranquillity and beauty of the countryside, its buildings and the vitality of rural communities.”*
- 5.09 Policies CP3 and CP4 acknowledge that we need to provide a supply of high-quality dwellings, of a good standard of design, while providing appropriate parking (DM7) and ensuring that general amenity is not significantly harmed (DM14).
- 5.10 Of relevance is policy CP6, which aims to provide and protect community services and infrastructure:

*“The Council will work with developers and other public agencies to identify deficiencies in infrastructure. Development proposals will, as appropriate:*

1. *Deliver timely infrastructure, especially those forming part of the Local Plan implementation and delivery schedule;*
2. *Safeguard existing community services and facilities where they are viable or can be made so unless replacement facilities can be provided without leading to any shortfall in provision;”*

#### Strategic Housing Land Availability Assessment (SHLAA)

- 5.11 The Strategic Housing Land Availability Assessment (carried out in 2013/14 to inform the then emerging 2017 Local Plan) dismissed this site (site ref. SW/735) as a site not achieving Step 0 of the SHLAA process, i.e. it failed to meet the initial assessment criteria of being within or adjoining any of a number of listed settlements:

*“Together with other sites at Bobbing it has been concluded that this site is located in the countryside away from any identified settlement and not identified as suitable for allocations. It is additionally considered to have a significant major adverse visual impact not capable of mitigation to levels where the benefit of development does not outweigh such impacts.” ( LDF panel 19 May 2016, page 23.)*

#### Swale Landscape Character and Biodiversity Appraisal (Jacobs, 2011)

- 5.12 The application site is located within the Iwade Arable Farmlands character area. The landscape Appraisal comments (my emphasis in **bold**):

*“Iwade Arable Farmlands are very gently undulating rural landscapes that have been formed from the underlying geology of London clay and Bagshot beds... Traditionally these would have supported fruit production. However today cereal crops have mainly replaced the orchards and indeed this is the case throughout the area... The medium and large-scale fields provide for long views across the open arable landscape...*

***Guidelines for the Iwade Arable Farmlands focus on restoring the rural environment whilst creating a landscape structure that will improve the area’s strength of character...***

- *Restore the remaining landscape structure of woodland, hedgerow, remnant (or former) orchard, ditches and shelterbelts by looking for opportunities to create such features to restore a strong landscape structure. **Undertake targeted enclosures of open landscapes, screen plant and soften major transport routes and development using woodland blocks, shelterbelts and hedgerows.***
- *Conserve the distinctive landscape character of the valley and hills, covered by woodland, trees, pasture/ grassland and orchards, which form the eastern and northern landscape setting of the village of Newington.*
- ***Use local and vernacular materials appropriate to the location:** for boundaries - hedgerow, yellow and (some red) stock brick within villages, occasional railing and chestnut paling, for roofs – Kent-peg tiles (occasionally decorative banded) and occasional slate, corrugated iron sheets on rural outbuildings, for building walls - yellow and red (in older areas) stock brick, decorative banded tile hanging, some render and tarred weatherboarding on rural outbuildings. For new hedges and hedgerow trees - hawthorn, hazel, blackthorn, dog rose, field maple and dogwood, for mixed woodland or other planting - pedunculate oak, hornbeam, ash, hazel and field maple, additionally at lower levels, birch.”*

## 6.0 LOCAL REPRESENTATIONS

6.01 19 letters have been received from local residents, 17 of which object and two of which contain general comments. The issues raised can be summarised as follows:

- Should be determined by the planning committee;
- Council officers and Members have expressed support for the scheme prior to submission of this application;
- Land not identified/allocated for development;
- Will set a precedent for development of the rest of the field;
- The site is productive agricultural land;
- Impact on wildlife;
- What is to prevent the development from setting a precedent and expanding across the remainder of the field;
- The viability information must be scrutinised;
- The proposed junction improvements won't be sufficient, and it is a dangerous junction;
- The additional traffic from the development will negate the junction improvements;
- Local parking pressure will increase, with potential for anti-social parking;
- Will the houses have separate parking from the 80-space car park;
- The proposed houses will have 3/4 bedrooms, and devalue the “exclusive” 5/6 bed houses at Rooks View;
- Loss of property value in the wider area;
- No economic or community benefit to local residents;
- Loss of views from existing houses across the fields;
- Overlooking of existing properties, and loss of privacy;
- Noise, dust, and general disturbance from construction;
- Noise, smells, and general disturbance from fundraising events in the outdoor space;
- Flooding of existing properties during heavy rainfall;
- Has the drainage strategy been properly assessed;
- Pollution from additional traffic;
- Light pollution from additional dwellings;

- There is no street lighting on Rook Lane;
- Not enough notice of public consultation event;
- No need for additional staff at Demelza;
- The managing director of Demelza has told locals they have funding and space to build within the existing site;
- Submitted documents don't accurately reflect local sentiment expressed at the public consultation event;
- Demelza doesn't own the land;
- The accommodation block could be located elsewhere;
- More staff accommodation could be built, and fewer houses;
- Lack of local infrastructure to cope with additional housing;
- The site is remote from public transport; and
- Object to the Demelza branding being used on the 'promotional' material for the development because it suggests Demelza are responsible when the application is actually driven by developer, and being presented in a way to "tug at heart strings."

6.02 Councillor Lewin, Deputy Leader and Cabinet Member for Planning, has written to clarify that contrary to paragraph 2.4.3 of the Planning Statement he has not made a statement expressing support for the scheme, nor has he met the agents, DHA Planning, to discuss the scheme.

## 7.0 CONSULTATIONS

7.01 Bobbing Parish Council object to the scheme on the grounds that the development will have a negative impact on highway safety and amenity; may set a precedent for further development in the area; will have a cumulative impact with other nearby developments; and that Councillor's support of the scheme at pre-application stage constitutes predetermination.

7.02 Newington Parish Council (the neighbouring parish) object on the grounds that the site is not allocated and comprises grade 1 agricultural land; the scheme will have a negative impact on highway safety and amenity; may set a precedent for further development in the area; will have a cumulative impact with other nearby developments; and that Councillor's support of the scheme at pre-application stage constitutes predetermination.

7.03 Highways England, further to receipt of additional information in respect of the intended use of the event space, has no objection subject to conditions requiring submission of, and adherence to an Event Traffic Management Plan.

7.04 KCC Highways and Transportation comment that the submitted Transport Statement is robust and conforms to required standards. They note that the proposed junction improvements would allow two cars to pass safely; improve visibility sightlines for drivers; and allow the installation of pedestrian footpath from the A2 to the site. A road safety audit has been carried out for these items and no objections have been identified. The officers also note that modelling has been carried out for operation of the junction, and demonstrates that it would be well within capacity at peak AM and PM periods (it would have a Ratio to flow Capacity of 0.292 against an accepted operational limit of 0.85). The officers do, however, maintain a holding objection until a number of minor items have been addressed. The agent has submitted further drawings in respect of these requested changes, and I will update Members at the meeting in respect of KCC Highways and Transportation's further comments.



- 7.05 Natural England has no objection subject to securing the standard SAMMS payment of £301 per dwelling [or £6923 in total].
- 7.06 The Environment Agency has no objection subject to standard conditions and an informative, as set out below.
- 7.07 The KCC Flood officer has no objection subject to standard conditions.
- 7.08 KCC Ecology have no objection subject to conditions.
- 7.09 The KCC Public Rights of Way officer does not object.
- 7.10 The KCC Development Contributions officer has waived all of the standard contributions (towards education, adult education, libraries, etc.) in recognition that this is an enabling development.
- 7.11 Kent Police advise that the developer should contact them to discuss how the development can meet the Secured By Design standards.
- 7.12 The Council's Agricultural Consultant notes that officers have generally supported the proposals in pre-application discussions, and therefore does not consider there to be a need for him to provide detailed comments in respect of the loss of farmland.
- 7.13 The Council's Environmental Protection Team Leader has no objection subject to standard conditions in respect of a contamination survey (primarily to assess any impacts of pesticide use on the land) and noise / dust / working hours. These conditions are set out below.
- 7.14 The Council's Greenspaces Manager has not yet responded. I will update Members of his comments at the meeting.

## **8.0 BACKGROUND PAPERS AND PLANS**

- 8.01 As referred to in the submitted Planning Statement: the applicants engaged in a series of pre-application discussions with Council officers and Members. These discussions originally proposed residential development of the entire field, which was strongly discouraged by officers in light of the (then emerging) Local Plan position in respect of the site's unallocated status. Discussions centred around the need for the staff accommodation block, as proposed, and officer's advice was that the only way such an enabling development could be supported was if the quantum of development was the minimum required to secure the staff accommodation, and through scrutiny of a full viability assessment (as has been submitted).
- 8.02 The current application is supported by a full suite of plans, drawings, and technical statements and, as above, a full viability assessment.

## **9.0 APPRAISAL**

### Principle

- 9.01 It must first be acknowledged that the site lies outside of the built-up area boundary and is not allocated for development under the adopted Local Plan. The principle of residential development is therefore generally unacceptable under both Local and National planning policy and guidance.

Enabling development

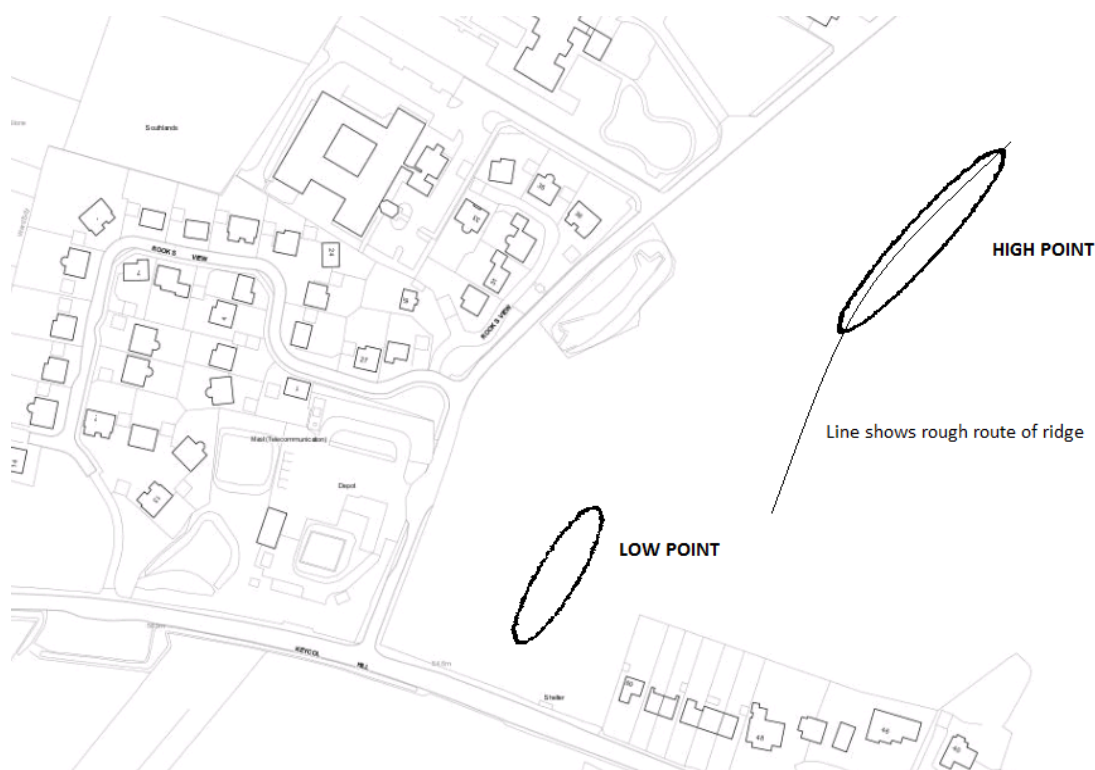
- 9.02 However, what must be considered is the enabling element of the proposal, i.e. the provision of staff accommodation for Demelza Hospice and an external events spaces and a car park for 80 vehicles to provide over-spill for the hospice, funded by the erection of the 20 dwellings. The term “enabling development” is not a statutory definition. It generally refers to situations in which development that would otherwise be unacceptable is considered acceptable because it would facilitate benefits that outweigh that harm. Enabling development is most commonly used to help repair important listed buildings which would otherwise be left to ruin (for example SW/06/0150, which granted consent for construction of one 6 bedroom house and four 2 bedroom cottages to fund repairs to Provender House), but this does not preclude it from occurring in instances such as this.
- 9.03 What the Council must consider is i) whether the benefits to be gained from the provision of a staff accommodation block for Demelza and the other proposed facilities outweighs the harm arising from the erection of 20 dwellings within the countryside (including the harm arising from not securing standard developer contributions to mitigate impacts on infrastructure and services), and ii) whether the development is legitimately an enabling scheme.
- 9.04 In respect of item ii) above, the applicant’s agent has provided a full viability assessment clearly setting out the costs involved and profit to be generated. Officers have not found any significant discrepancies with the viability assessment, and consider it to be a sound document. The assessment states that 20% profit on the residential element is targeted – this is the standard minimum profit which the majority of developments nationwide seek to secure before developers will even contemplate breaking ground, and below which they struggle to secure funding/loans to proceed. Officers do not dispute this aspect, and it should be noted that Government guidance accepts 20% as a reasonable minimum level. The document then sets out the build costs for each element of the scheme, which officers consider to be reasonable. When taking all costs into account the developer will take a final profit (after construction of Demelza’s accommodation block, event space, and car parking area) of 11%, considerably below the standard minimum profit.
- 9.05 Whilst it could be argued that the developer could take an even lower profit it must be borne in mind that without a certain profit margin developments simply do not go ahead. Below the current projected profit level it is likely that the developer will struggle to recoup their costs, and the project would be a non-starter. In this regard officers are confident that this is the minimum level of development required to ensure the Demelza development is funded.
- 9.06 Some local residents have noted that, according to the Charity Commission, Demelza has funds in the bank and land to the rear of their existing buildings on which they could expand. I questioned the agent on this aspect, and they commented:

*“As set out in the planning statement, Demelza Kent has investigated the available options to deliver the parking, event space and accommodation facilities on site. However the key reasons preventing this are cost and the physical constraints of expanding on site. As a charity not funded by the NHS, Demelza relies almost solely on the generosity of supporters to pay for its services. Furthermore, the existing site has not got the adequate space for the proposed facilities on site, and there is a need for sufficient separation between the existing and proposed development to ensure no impact on the primary day to day work of the charity.”*

- 9.07 I consider this to be a reasonable response, and note that the existing Demelza site is somewhat constrained by land levels and existing supporting buildings / amenity space around the main building.
- 9.08 With regard to the arguments in respect of the need for the development and the viability assessment I am comfortable that the scheme is necessary and reasonable. The scheme needs to be secured through a section 106 agreement, however, and I recommend that strict trigger points for provision of the Demelza elements are set within that agreement. It seems appropriate in my opinion to require construction and handover of the Demelza element before first occupation of any the market housing, as the 'benefit' has then been accrued before there is any opportunity for slippage or change of ownership of the land that may affect the wording (and therefore enforcement) of the agreement (not that there is any suggestion or suspicion that this is likely, but rather a guarantee that the benefits will be provided). The development is *only* acceptable because of the planning gain from supporting the hospice (as it is otherwise contrary to policy) so this needs to be unequivocally secured before the dwellings are sold otherwise there is a risk (again, not that there is *any* suggestion or expectation of impropriety by the applicant) that the Council could end up with new houses in the countryside and no community benefit.
- 9.09 Consideration of item i) as set out in 9.03 – whether the harms arising from the development justify the gain for Demelza – is a much broader issue, which requires consideration of the wider scheme.

#### Layout

- 9.10 The site layout has been carefully considered to locate the Demelza element in an appropriate location to properly service their requirements; it is directly to the front of the existing buildings and therefore provides a clear and functional link between the two sites. Of particular note is that the position of the accommodation block means that it will be obscured in views from the east by a high point in the land.



- 9.11 In similar regard the southern part of the site was identified by officers in pre-app discussions as the least visually sensitive part of the larger field, as this southwestern corner of the larger area is screened to some extent by land levels and existing development. It also makes sense to locate new development close to existing development rather than spreading the built form across a larger area. The ridge running roughly N-S to the east of the application site (see illustration above) will screen the majority of views from Bobbing Way and Coldharbour Lane of the proposed houses, while a low point within the application site boundary will result in some of the houses being set down and thus less imposing, in my opinion.
- 9.12 The layout of the houses is, in my opinion, sensible. The development runs on a roughly N-S alignment, with good spacing between the properties and more than adequate space for parking and gardens. The development would not appear cramped and equates to a density of approximately 11 dwellings per hectare (taking only the residential development area into consideration); there is space outside of the plots for soft landscaping and planting; and space on each plot for bin storage and cycle parking.
- 9.13 The adopted Landscape Character SPD (see 5.10 above) advises that the Council should be aiming to restore rural landscape features and create “a landscape structure that will improve the areas strength of character.” In this regard (and whilst I fully accept that erection of dwellings is generally an intrusive feature in the rural landscape) I consider the proposed scheme to offer positive gains for the wider landscape. A lot of the housing will be obscured in long distance views by land levels (as set out at the site description above), and therefore primary views from key vantage points such as Bobbing Hill or Sheppey Way (especially close to McDonalds) will be of the 3m-deep boundary planting belt that wraps around the edge of the development. This new planting will, in my opinion, positively contribute to the hilltop woodland areas/features identified within this character area, and enforce field boundaries (where previously fields have been opened up and destroyed historic patterns), as required by the SPD.

### Design

- 9.14 The proposed buildings are, in my opinion, of a good standard of design. The accommodation block has a low roof ridge, which will help to reduce its visual impact, and makes use of traditional local materials. The entrance porch will feature a sedum/green roof, which whilst only a small element of the scheme, will add interest to the building and contribute very modestly to its sustainable credentials. The proposed dwellings feature traditional Kentish design features, including tall, steeply pitched roofs, catslide roofs, and weatherboarded elevations. The use of large areas of glazing and small areas of metal cladding will add modern touches to the properties that will, in my opinion, enhance the overall character and quality of the development as a whole.
- 9.15 The success of the development will depend upon it being constructed in accordance with the submitted details, and the conditions below will ensure that officers have control over the elevations and external materials. Subject to these conditions I have no serious concerns in this regard, and consider this to be a development with the potential to be an exemplar of good design within the Borough.

### Amenity

- 9.16 I recognise local concern and objection in respect of the development, however it must be noted that loss of views and loss of property value are not planning considerations. Nevertheless I do not consider that the development would give rise to any serious amenity issues for the existing surrounding residents.
- 9.17 There will be substantial separation between existing and proposed dwellings, as set out below, which will ensure that opportunities for overlooking, overshadowing, or loss of privacy are at an absolute minimum:
- minimum 16m flank to flank with 60 Keycol Hill;
  - minimum 50m between proposed houses and existing houses on Rooks View;
  - minimum 26m between proposed houses and proposed houses at former Southern water site (not yet constructed).
- 9.18 There will be some noise and disturbance during the construction period, but this is common to all developments and is generally short lived. It is not a matter on which the Council could justifiably refuse planning permission, and I note (see paragraph 7.13 above) that the Environmental Protection Team Leader has no objection (subject to conditions). I appreciate neighbour concerns in respect of noise and disturbance from events held at the new open space, but these will be infrequent (in clarifying this aspect to Highways England, Demelza have stated 4-6 events per year) such as to not give rise to disturbance for more than a few days a year, which I do not consider to be significant. The condition below restricts the number of events that can be held on the land (unless otherwise agreed by the Council) and therefore provides confidence that the frequency of events will not increase without proper consideration of the impacts.
- 9.19 The scheme includes the construction of a SUDS pond in the eastern part of the site. As set out within the submitted D&A and drainage strategy this will be of a significant amenity benefit to the existing residents on Keycol Hill as it will store surface water runoff and prevent it from rushing unobstructed into their rear gardens as it does at present, and also has potential biodiversity benefits. The continued maintenance and functioning of this pond is secured by conditions set out below.

### Highways

- 9.20 I note significant local concern in respect of traffic and parking, with particular reference to the inadequacy of the Rook Lane/A2 junction and high levels of parking within the area when Demelza have events. This scheme seeks to address both of those concerns in that substantial improvements to the junction are proposed (and secured by conditions below) and the accommodation block is surrounded by an 80 space car park that will take the majority of visitor parking for Demelza off the highway. In this regard, whilst I appreciate resident's concerns, I do not share them and consider the scheme to be acceptable.
- 9.21 The residential element of the scheme is over-provided for in terms of vehicle parking. The semi detached houses each have two spaces within communal car ports, which is in accordance with current adopted Kent Vehicle Parking Standards; the detached houses have space on plot for a minimum of three vehicles each (not including the proposed garages); and 11 visitor spaces are provided across the development. I note that KCC Highways and Transportation have no objection to this aspect, and consider parking to be acceptable.
- 9.22 The proposed junction improvements will be of a significant benefit to local residents, in my opinion, making access to and from the A2 quicker, easier, and safer. (It should also be noted, in my opinion, that there is direct access to the Keycol roundabout from Rook Lane via Bobbing Hill. This may not be as convenient for local residents but it avoids the problems of the existing junction without significant diversion.) KCC Highways and Transportation have no objection to the scheme as a whole (subject to minor amendments to the layout, for which amended drawings have been received and I will update Members on their further comments at the meeting) and whilst I note local concern I do not consider that there are any justifiable highways grounds on which to refuse this scheme, especially in light of the substantial junction improvements (to be secured by the s106) that will be brought forward as part of this development.
- 9.23 Highways England have not objected in terms of the impact of the development upon the strategic highways network (which includes the A249 and the M2), subject to conditions set out below to ensure any events at the Demelza site re appropriately managed in terms of traffic. In this regard, I have no serious concerns myself, and do not consider that the Council could justifiably refuse permission on highways grounds.

### Ecology

- 9.24 The site is currently an agricultural field and was, at the time of my site visits, largely empty from the crop having been collected. There are no notable habitat features on the site itself (although I note the existing balancing pond adjacent to the site which could serve as habitat for reptiles) and therefore little potential for any serious harm to local wildlife. The proposed SUDS pond will provide additional habitat potential. I note that the County Ecologist has no objection subject to the conditions set out below, and I therefore have no serious concerns on this aspect.
- 9.25 The development includes a 3m planting strip around the perimeter of the site. I raised the potential for widening this to 5m but, after discussions with the agent, agree that to do so would result in the built sections of the scheme being more cramped and somewhat degrading the spacious and attractive nature of the scheme as it stands. This buffer strip will provide substantial new habitat potential for wildlife as well as

softening views of the development from the east and the rear of the houses on Keycol Hill. The landscaping scheme conditions below secure this planting.

#### Building for Life

- 9.26 I have assessed the development against Building for Life 12 (as agreed by the Local Plan Panel on 25.04.18), and consider that it scores 9 out of 12, but with acknowledgement that one category was not applicable, and two categories were 50/50 in terms of positive and negative elements. Overall, however, I consider this to be a good score, and believe that the negative elements are no so unacceptable as to require amendment. My assessment is appended to the end of this report.

#### Other matters

- 9.27 As noted by some local residents: the site lies on Grade 1 agricultural land, which is considered to be the most productive and fertile. Policy DM31 of the adopted Local Plan states that *“development on agricultural land will only be permitted where there is an overriding need that cannot be met on land within the built-up area boundaries,”* and para. 112 of the NPPF advises seeking to first use areas of lower quality farmland in preference. In considering this application I believe that there is an overriding need, and that need can only be met from this site. Whilst some agricultural land will be lost as a result of this development the total area is not significant and the remainder of the wider field will still be available for farming. I do not consider refusal on this ground would be justified at appeal.
- 9.28 Taking the above into account, aside from the fact that the development will be on land outside the built up area and thus contrary to policy in principle, I do not consider that there would be such harm arising from it as to outweigh the benefits to a valuable community facility as to justify refusal of planning permission. I appreciate that the nature of Demelza’s work can be an emotive topic, but in considering this application I have put that to one side and taken a factual approach to the issue of a community facility requiring additional services which are proposed to be accommodated in a manner contrary to policy. In that regard I consider that the Council has performed its duty to properly weigh the issues, and by presenting the case to planning committee this has been done in a transparent manner.

#### The Conservation of Habitats and Species Regulations 2017

- 9.29 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.
- 9.30 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.

- 9.31 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.
- 9.32 In this regard, whilst there are likely to be impacts upon the SPA arising from this development, the scale of development, the proposed landscape and biodiversity enhancements to be provided as part of the scheme, and the mitigation measures to be implemented within the SPA from collection of the standard SAMMS tariff (secured by the s106) 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.
- 9.33 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/>)

#### Developer Contributions / Infrastructure

- 9.34 Developments of 11 or more dwellings are normally subject to a raft of standard developer contributions towards local services and amenities. In this instance, however, it has been agreed that no contributions will be sought for this scheme so that all of the profits can go towards funding the Demelza development. This has been agreed by the relevant authorities (KCC, Highways Agency, etc.). The only contribution that has been actively sought, and to which the applicant has agreed, is the standard payment towards mitigation of the SPA/SSSI (as noted at 9.29 above). This has been included within the draft s106 agreement.

### **10.0 CONCLUSION**

- 10.01 This application seeks to erect 20 residential dwellings (with associated parking, landscaping, and SUDS pond) as an enabling development to fund erection of a block of staff accommodation, car park, and outdoor event space for Demelza House hospice. The application site lies outside of the built up area boundary in an area where the erection of housing is contrary to policy.
- 10.02 Further to my assessment above, however, I consider that the development would not be so harmful as to outweigh the benefits to Demelza (i.e. attracting and retaining staff) as to justify refusal of planning permission.
- 10.03 I therefore recommend that permission should be granted, subject to signing of a section 106 agreement to secure the Demelza portion of the development.



**11.0 RECOMMENDATION** – GRANT Subject to the the further views of KCC Highways and Transportation, the comments of the Greenspaces Manager, 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 shall take place other than in accordance with the following drawings (all prefixed 15.076):

04, 05, 06, 07, 08 rev. A, 09 rev. A, 10 rev. A, 11 rev. A, 12 rev. A, 13, 14, 15, 16, and 17.

Reason: For the avoidance of doubt.

- 3) 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.

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

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

Reason: In the interests of residential amenity.

- 5) 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.

Contamination

- 6) No development shall take place until the following components of a scheme to deal with the risks associated with contamination of the site shall have been submitted to and approved, in writing, by the local planning authority:

A) A preliminary risk assessment which has identified:

- i) all previous uses
- ii) potential contaminants associated with those uses
- iii) a conceptual model of the site indicating sources, pathways and receptors
- iv) potentially unacceptable risks arising from contamination at the site.

B) A site investigation, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.

C) A remediation method statement (RMS) based on the site investigation results and the detailed risk assessment (2). This should give full details of the remediation measures required and how they are to be undertaken. The RMS should also include a verification plan to detail the data that will be collected in order to demonstrate that the works set out in the RMS are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

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

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

Reason: To minimise the risks from any potential contamination.

### Highways

- 7) No occupation of the development hereby permitted will occur until an Event Management Plan has been submitted to and approved in writing by the Local Planning Authority (who shall consult with Highways England).

Reason: To ensure that events do not result in avoidable congestion on the A249 Trunk Road and to ensure that the A249 Trunk Road continues to be an effective part of the national system of routes for through traffic in accordance with section 10 of the Highways Act 1980 and to satisfy the reasonable requirements of road safety.

- 8) All events shall be carried out in accordance with the approved Event Management Plan unless otherwise agreed in writing by the Local Planning Authority (who shall consult with Highways England).

Reason: To ensure that events do not result in avoidable congestion on the A249 Trunk Road and to ensure that the A249 Trunk Road continues to be an effective part of the national system of routes for through traffic in accordance with section 10 of the Highways Act 1980, and to satisfy the reasonable requirements of road safety.

- 9) All Events shall be monitored and evaluated at the end of each calendar year and the Event Management Plan shall be updated accordingly and agreed in writing by the Local Planning Authority (who shall consult with Highways England).

Reason: To ensure that events do not result in avoidable congestion on the A249 Trunk Road and to ensure that the A249 Trunk Road continues to be an effective part of the national system of routes for through traffic in accordance with section 10 of the Highways Act 1980, and to satisfy the reasonable requirements of road safety.

- 10) The car parking spaces and car barns shown on the approved drawings (see condition 2 above) shall be kept available for such use at all times and no permanent development, whether permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking or re-enacting that Order) or not, shall be carried out on the land so shown (other than the erection of a private garage or garages) or in such a position as to preclude vehicular access thereto; such land and access thereto shall be provided prior to the occupation of the dwelling(s) hereby permitted.

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

- 11) Prior to the occupation of the dwellings hereby approved, the proposed estate road, footways, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, vehicle overhang margins, embankments, visibility splays, access, carriage gradients as appropriate, shall be constructed and laid out in accordance with details to be submitted and approved by the Local Planning Authority in writing before their construction begins. For this purpose plans and sections indicating as appropriate the design, layout, levels, gradients, materials and method of construction shall be submitted to the Local Planning Authority.

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

- 12) Prior to the first occupation of any of the buildings hereby permitted the highways improvement works shown on drawings 15.076 05 and 12420-H-01 rev. P3 (as shown in the submitted DHA Transport Statement) shall be completed in accordance with constructional/technical details to be agreed by the Local Planning Authority in consultation with Kent Highways & Transportation.

Reason: In the interest of highway safety and amenity.

#### Drainage

- 13) 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 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 as per the principles set out in the Flood Risk Assessment undertaken by DHA dated November 2017. 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.

14) No building hereby permitted in any phase shall be occupied until an operation and maintenance manual for the proposed sustainable drainage scheme is submitted to (and approved in writing) by the local planning authority. The manual at a minimum shall include the following details:

- A description of the drainage system and its key components
- An as-built general arrangement plan with the location of drainage measures and critical features clearly marked
- An approximate timetable for the implementation of the drainage system
- Details of the future maintenance requirements of each drainage or SuDS component, and the frequency of such inspections and maintenance activities
- Details of who will undertake inspections and maintenance activities, including 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

The drainage scheme as approved shall subsequently be maintained in accordance with these details.

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).

15) No building on any phase (or within an agreed implementation schedule) of the development hereby permitted shall be occupied until a Verification Report pertaining to the surface water drainage system, carried out by a suitably qualified professional, has been submitted to the Local Planning Authority which demonstrates the suitable operation of the drainage system such that flood risk is appropriately managed, as approved by the Lead Local Flood Authority. The Report shall contain information and evidence (including photographs) of earthworks; details and locations of inlets, outlets and control structures; extent of planting; details of materials utilised in construction including subsoil, topsoil, aggregate and membrane liners; full as built drawings; and topographical survey of 'as constructed' features.

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.

16) Where infiltration is to be used to manage the surface water from the development hereby permitted, it will only be allowed within those parts of the site where information is submitted to demonstrate to the Local Planning Authority's satisfaction that there is no resultant unacceptable risk to controlled waters and/or ground stability. The development shall only then be carried out in accordance with the approved details.

Reason: To protect vulnerable groundwater resources.

#### Landscaping

- 17) Notwithstanding the details provided on drawing JEC/473/100, 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, details of the bank profiles of the SUDS pond, and an implementation programme.

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

- 18) 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.

- 19) 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.

#### Other

- 20) The external event space (as shown on drawing 15.076 06) shall not be used for more than 10 events in any year unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interest of local amenity.

- 21) Notwithstanding the provisions of Class A, Part 2, Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015 (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.

Reason: In the interests of visual amenity.

- 22) Any other conditions recommended by Kent Highways and the Council's Greenspaces Manager (I will update Members at the meeting).

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

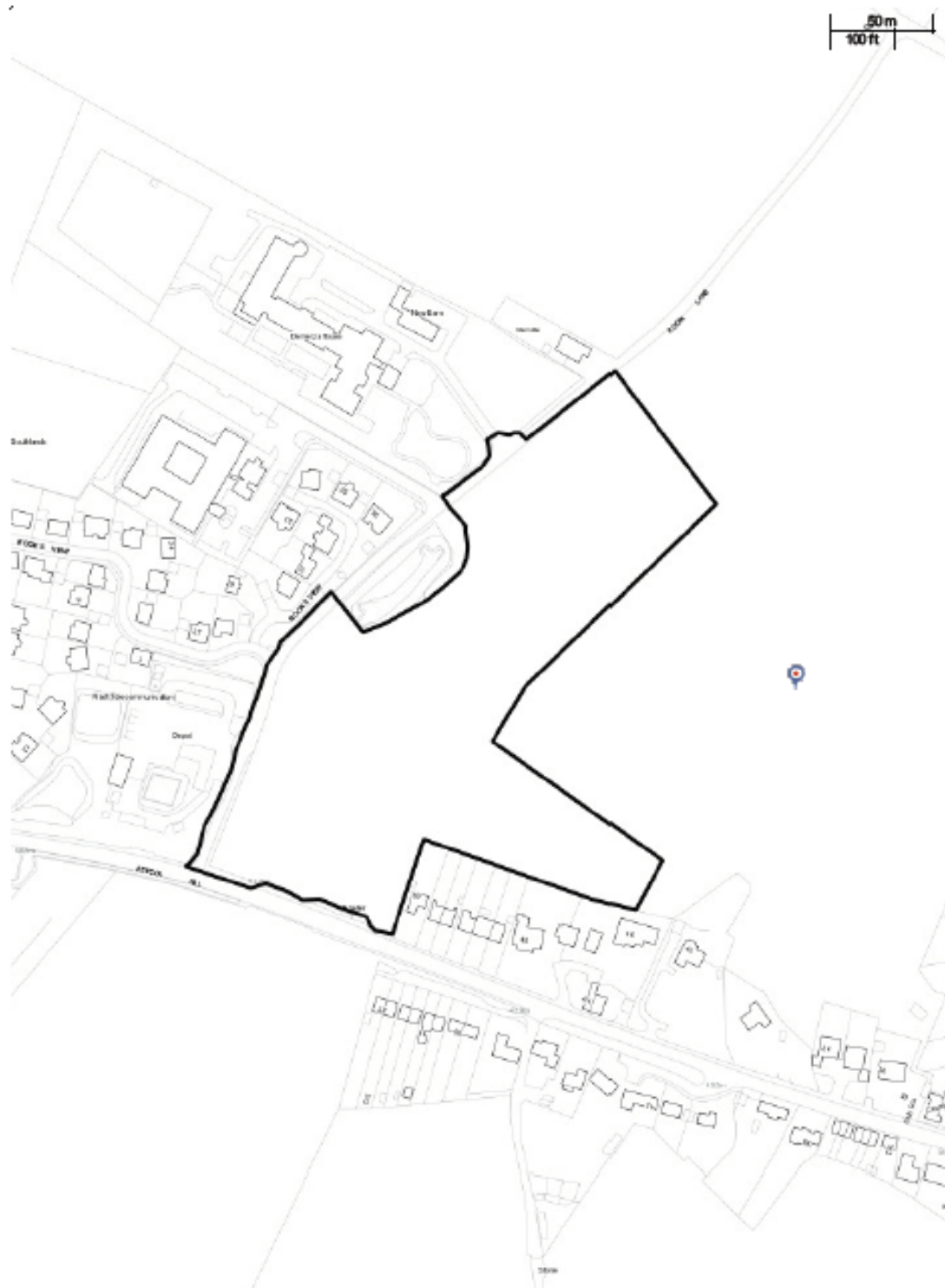
In accordance with paragraphs 186 and 187 of the National Planning Policy Framework (NPPF), the Council takes a positive and proactive approach to development proposals focused on solutions. We work with applicants/agents in a positive and proactive manner by:

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.



18/500258/FULL - Land at Hill Farm, Bobbing Hill, Bobbing ME9 8NY  
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## APPENDIX 1

### Swale Borough Council Building for Life Checklist

The table below illustrates the relationship between the twelve questions and the NPPF and NPPG.

| Building For Life 12 Question               | Links with the National Planning Policy Framework (2012) | Links with Planning Practice Policy Guidance (2014)* |
|---|--|--|
| <b>Integrating into the neighbourhood</b>   |  |  |
| 1. Connections                              | 9, 41, 61, 75  | 006, 008, 012, 015, 022                              |
| 2. Facilities and services                  | 38, 58, 70, 73   | 006, 014, 015, 017                                   |
| 3. Public transport                         | 9, 17, 35  | 012, 014, 022  |
| 4. Meeting local housing requirements       | 9, 47, 50  | 014, 015, 017  |
| <b>Creating a place</b>                     |  |  |
| 5. Character                                | 17, 56, 58, 60, 64                                       | 006, 007, 015, 020, 023                              |
| 6. Working with the site and its context    | 9, 10, 17, 31, 51, 58, 59, 118                           | 002, 007, 012, 020, 023                              |
| 7. Creating well defined streets and spaces | 58   | 008, 012, 021, 023                                   |
| 8. Easy to find your way around             | 58   | 022  |
| <b>Street and home</b>                      |  |  |
| 9. Streets for all                          | 35, 58, 69   | 006, 008, 012, 022, 042                              |
| 10. Car parking                             | 39, 58   | 010, 040   |
| 11. Public and private space                | 57, 58, 69   | 006, 007, 009, 010, 015, 016, 018                    |
| 12. External storage and amenity            | 58   | 040  |

#### Using this checklist

Please refer to the full Building for Life document (<http://www.udg.org.uk/sites/default/files/publications/BFL12COMPLETED.pdf>) when assessing development proposals.

For each of the criteria and questions listed below you should provide a brief comment as to whether or not the matter has been addressed / considered fully within the submissions.

Not all developments will be able to meet all criteria. This may be due to site-specific circumstances, or matters outside of the applicant’s control. In such instances applicants should explain why criteria can’t be met, and officers can weight their assessment / comment accordingly.



**SITE ADDRESS:** Land at Hill Farm, Bobbing (Demelza scheme).

**Ref:** 18/500258/FULL.

**1. CONNECTIONS**

| ITEM   | COMMENT   | (SBC use) ✓/✗ |
|--|---|---------------|
| 1a Where should vehicles come in and out of the development?   | Access at both ends of development, in sensible positions.      | ✓             |
| 1b Should there be pedestrian and cycle only routes into and through the development?  | Not large enough to warrant.                                    | ✓             |
| 1c Where should new streets be placed, could they be used to cross the development site and help create linkages across the scheme and into the existing neighbourhood and surrounding places? | Links adequately with Rook View, and improves ped. links to A2. | ✓             |
| 1d How should the new development relate to existing development?  | Sits adjacent to existing development.                          | ✓             |

**2. Facilities and services**

| ITEM  | COMMENT   | (SBC use) ✓/✗ |
|---|---|---------------|
| 2a Are there enough facilities and services in the local area to support the development? If not, what is needed? | Rural location with very limited facilities. Less than 2km into Sittingbourne though. | ✗             |
| Where new facilities are proposed:<br>2b Are these facilities what the area needs?                                | N/A   | N/A           |
| 2c Are these new facilities located in the right place? If not, where should they go?                             | N/A   | N/A           |
| 2d Does the layout encourage walking, cycling or using public transport to reach them?                            | N/A – but provides new ped. links to A2 which will help connectivity to wider area.   | ✓             |

**3. Public transport**

| ITEM  | COMMENT            | (SBC use) ✓/✗ |
|---|--------------------|---------------|
| 3a What can the development do to encourage more people (both existing and new residents) to use public transport more often? | Limited potential. | N/A           |
| 3b Where should new public transport stops be located?  |                    | N/A           |

**4. Meeting local housing requirements**

| ITEM  | COMMENT  | (SBC use) ✓/✗ |
|---|--|---------------|
| 4a What types of homes, tenure and price range are needed in the area (for example, starter homes, family homes or homes for those downsizing)? | Enabling development so needs to generate high income from larger dwellings            | ✓             |
| 4b Is there a need for different types of home ownership (such as part buy and part rent) or rented properties to help people on lower incomes? | Is a need in wider Borough, but mix fits in with requirements of enabling development. | ✓             |
| 4c Are the different types and tenures spatially integrated to create a cohesive community?   | N/A  | N/A           |

**5. Character**

| ITEM   | COMMENT   | (SBC use) ✓/✗ |
|--|---|---------------|
| 5a How can the development be designed to have a local or distinctive identity?  | Good design, with traditional Kentish features inc. steep roofs, weatherboarding. | ✓             |
| 5b Are there any distinctive characteristics within the area, such as building shapes, styles, colours and materials or the character of streets and spaces that the development should draw inspiration from? | Will be of a similar scale and design to the properties at Rook View.             | ✓             |

**6. Working with the site and its context**

| ITEM   | COMMENT   | (SBC use) ✓/✗ |
|--|---|---------------|
| 6a Are there any views into or from the site that need to be carefully considered?   | Yes. Land levels and placement of buildings makes use of levels to screen some views. | ✓             |
| 6b Are there any existing trees, hedgerows or other features, such as streams that need to be carefully designed into the development? | No. Open field  | ✓             |
| 6c Should the development keep any existing building(s) on the site? If so, how could they be used?                                    | N/A   | N/A           |

**7. Creating well defined streets and spaces**

| ITEM   | COMMENT                                   | (SBC use) ✓/✗ |
|--|---|---------------|
| 7a Are buildings and landscaping schemes used to create enclosed streets and spaces?       | Yes. Buildings face onto the estate road. | ✓             |
| 7b Do buildings turn corners well?   | Yes.                                      | ✓             |
| 7c Do all fronts of buildings, including front doors and habitable rooms, face the street? | Where appropriate.                        | ✓             |

**8. Easy to find your way around**

| ITEM   | COMMENT                                     | (SBC use) ✓/✗ |
|--|---|---------------|
| 8a Will the development be easy to find your way around? If not, what could be done to make it easier to find your way around? | Yes.  | ✓             |
| 8b Are there any obvious landmarks?  | No, but not necessary as small development. | ✓             |
| 8c Are the routes between places clear and direct?   | Yes.  | ✓             |

**9. Streets for all**

| ITEM   | COMMENT   | (SBC use) ✓/✗ |
|--|---|---------------|
| 9a Are streets pedestrian friendly and are they designed to encourage cars to drive slower and more carefully?                                     | Small development and no through road so speeds likely to be low. | ✓             |
| 9b Are streets designed in a way that they can be used as social spaces, such as places for children to play safely or for neighbours to converse? | As above, but not specifically.                                   | ✗             |

**10. Car parking**

| ITEM  | COMMENT | (SBC use) ✓/✗ |
|---|---------|---------------|
| 10a Is there enough parking for residents and visitors?   | Yes.    | ✓             |
| 10b Is parking positioned close to people's homes?  | Yes.    | ✓             |
| 10c Are any parking courtyards small in size (generally no more than five properties should use a parking courtyard) and are they well overlooked by neighbouring properties? | Yes.    | ✓             |
| 10d Are garages well positioned so that they do not dominate the street scene?  | Yes.    | ✓             |

**11. Private and public spaces**

| ITEM  | COMMENT   | (SBC use) ✓/✗ |
|---|---|---------------|
| 11a What types of open space should be provided within this development?  | Gardens very large so limited need, but large open space for Demelza could be made available as a play area for local children. | ✓             |
| 11b Is there a need for play facilities for children and teenagers? If so, is this the right place or should the developer contribute towards an existing facility in the area that could be made better? | As above.   | ✓             |
| 11c How will they be looked after?  | N/A   | N/A           |

**12. External storage and amenity areas**

| ITEM  | COMMENT | (SBC use) ✓/✗ |
|---|---------|---------------|
| 12a Is storage for bins and recycling items fully integrated, so that these items are less likely to be left on the street? | Yes.    | ✓             |
| 12b Is access to cycle and other vehicle storage convenient and secure?   | Yes.    | ✓             |

|   |  |  |                          |
|---|--|--|--------------------------|
| <b>2.6 REFERENCE NO - 18/502208/FULL</b>  |  |  |                          |
| <b>APPLICATION PROPOSAL</b><br>Revocation of quarrying use and erection of 4 No. detached dwellings with garages, associated landscaping, Restoration scheme, enlarged lake and use of existing access (Revision to 16/501552/FULL) |  |  |                          |
| <b>ADDRESS</b> Winterbourne Wood Quarry Jezzards Lane Dunkirk ME13 9PH  |  |  |                          |
| <b>RECOMMENDATION - Grant SUBJECT TO:</b> Completion of a Unilateral Undertaking to secure long term management of adjoining land.  |  |  |                          |
| <b>REASON FOR REFERRAL TO COMMITTEE</b><br>Parish Council Objection   |  |  |                          |
| <b>WARD</b> Boughton And Courtenay  | <b>PARISH/TOWN COUNCIL</b><br>Dunkirk  | <b>APPLICANT</b> Clifford Property Developments Ltd<br><b>AGENT</b> Rebus Planning Solutions |                          |
| <b>DECISION DUE DATE</b><br>11/07/18  | <b>PUBLICITY EXPIRY DATE</b><br>06/07/18   |  |                          |
| <b>RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):</b>   |  |  |                          |
| <b>App No</b>   | <b>Proposal</b>  | <b>Decision</b>  | <b>Date</b>              |
| 16/501552/FULL  | Revocation of quarrying use and erection of 4 No. detached dwellings with garages, associated landscaping, enlarged lake and use of existing access. | Approved   | 30/05/2017               |
| SW/12/0077  | Single dwelling house  | Refused<br>Appeal allowed  | 19/01/2012<br>16/05/2013 |
| SW/10/0096  | Development of fourteen residential units, two holiday lodges and a woodland interpretation centre.  | Withdrawn  | 26/04/2010               |
| SW/06/1444  | Residential development (outline)  | Refused  | 04/04/2007               |
| SW/05/1513  | Residential development (outline)  | Refused  | 03/02/2006               |

## 1.0 DESCRIPTION OF SITE

- 1.01 The site lies approximately 1.6km south of Boughton and is an approximately 4 hectare portion of a far wider area of woodland. It is essentially the only part of this woodland that now bears the open scars of sand and gravel extraction, the remainder not having been worked (at least not in modern times). It forms part of the wooded hills running south of Boughton and Dunkirk towards Selling, where development is scattered and roads narrow, winding and often steep. The surroundings are entirely rural in nature, isolated and with a sense of remoteness. Footpaths adjoin the site, but there is no right of access across the site more generally.

- 1.02 The site has a road frontage to a narrow single track lane which is only reached by other similar lanes, and these lanes are not suitable for heavy traffic. Parts of the development site remain wooded, especially around the margins, but the majority appears as a sand quarry with high exposed faces of sand, but little in the way of buildings, hard-standing or plant. It shows as being “disused” on Ordnance Survey maps, and apart from recent clearance and some tipping appears deserted and unworked for some time.
- 1.03 The site lies within the Blean Woods South Local Wildlife Site as defined by the Kent Wildlife Trust. This is an extremely large area of woodland partly owned by the applicant extending eastwards towards Chartham Hatch, and represents a southern extension of the ancient Blean Forest, incorporating many native tree species and it is important for ground flora, mosses, birds insects and badgers.
- 1.04 A Tree Preservation Order affects the northern part of the applicant’s wider site. This is to the north of a public footpath, which neatly divides the wider site into the southern, partly previously quarried area where trees are mainly silver birch and of limited quality surrounding regenerating areas of gorse and scrub; while to the north the area is more varied coppice woodland with larger specimen trees and holly, which is recorded as ancient woodland. This area is crossed by a second public footpath which divides it further. From inspection, it appears that the northern area, further from the site access and beyond the footpath, is of a steeper less accessible and more difficult to quarry character, whereas the larger southern area is more accessible and of lesser landscape or ecological value.

#### **Planning History**

- 1.05 In 1953 and 1956 planning permissions (NK/9/50/13 and NK/9/50/13A) were granted to extract sand, and sand and gravel, from two large adjoining areas of woodland. These areas extend to some 25 plus ha. It seems that only a very small proportion of these areas have yet been excavated, and that the excavations have been intermittent, perhaps reflecting the relatively poor quality of the materials, the difficult road access, and the economics of the operation considering the number of alternative supplies and their costs.
- 1.06 In 1986, in response to the most recent burst of activity, the County Council considered revoking the planning permissions, but it appears that partly due to the required compensation (then estimated at between £50,000 to £200,000 by various parties), and the perceived weakness of the possibility of the Secretary of State confirming this if the Order was challenged, it was resolved not to seek revocation.
- 1.07 By 1995 the eastern area was considered dormant, whilst the western area was active. This development is situated in the western area. In 1997 two applications to impose new modern planning conditions were submitted and these (SW/97/579 and SW/97/580) were approved by the County Council, regulating hours of use and other operational issues and permitting the extraction until the February 2042. No restrictions on the total quantity of mineral to be extracted, or the rate that it could be excavated (which might limit the number of lorries visiting per day) were approved. This may have been because such restrictions could have given rise to a claim for compensation by the site owner. The new conditions stipulate that if excavation ceases for a period of two years (or such longer period as may be agreed by KCC) the site shall be restored and landscaped within a further year.

- 1.08 Also in 1997 an application to extract minerals over a smaller area, but to landfill the resulting space, albeit via a lengthy new access route direct to the A2 at Dunkirk, was submitted. This attracted enormous opposition and was eventually withdrawn.
- 1.09 In 2005 an outline planning application for 19 dwellings was submitted to the Council, and refused.
- 1.10 In January 2007 a revised but similar application was received. My report at that time recorded that both Dunkirk and Boughton Parish Councils were in favour of housing as a means of seeing quarrying cease and the site being restored. I also recorded 27 letters of objection and six in support from local residents. My recommendation, which Members accepted, was that the application be refused on grounds that were largely the same as when the 2005 application was refused, but at the time an additional reason relating to loss of mineral reserves was also included.
- 1.11 In February 2010 a fully detailed application proposed a new approach to residential development of the site. This application (SW/10/0096) proposed a suite of three main features. These were; 14 detached houses; two single storey detached holiday lodges; and a woodland car park and interpretation centre. The car park would have provided a facility in connection with new public access across an area of some 20ha of woodland. Both Parish Councils and over 70 local residents opposed those plans, and I was again set to recommend refusal, but the application was withdrawn shortly prior to the Planning committee meeting in April 2010.
- 1.12 Notwithstanding all the previous decisions, a new application was submitted in 2012 (SW/12/0077). This application was to erect one very large seven bedroom house, with associated garaging, indoor swimming pool, gymnasium, and a one bedroom flat over the garaging.
- 1.13 That application was premised on the fact that, whilst it is fully recognised that development of a new house in this remote rural location is contrary to established planning policies, planning permissions exist for quarrying of the site and adjacent woodland until the year 2042, and that planning permission would not be granted unless a planning obligation by way of a Section 106 Agreement was entered into with the following aims:
1. To restore the landscape and improve biodiversity across the 4ha area of recent quarrying on which it is proposed to build.
  2. To surrender existing planning permissions for quarrying across all the applicant's local land ownership, which extended to almost 24ha of a mainly wooded site.
  3. Transfer of the management of the remaining woodland to an appropriate management body such as the Kent Wildlife Trust, Woodland Trust or other conservation or woodland management organisation whose purpose is to preserve the woodland in perpetuity.

A draft of such a Section 106 Agreement was submitted with the application.

- 1.14 My report noted that Dunkirk Parish Council supported the application on the basis that the development was restricted to one single dwelling; that Boughton-under-Blean Parish Council objected; and that 27 letters of objection and one of support had been submitted. My recommendation was to refuse the application on the following grounds;
- (1) The Council understands that this site is currently despoiled and that the site and adjoining land is subject to extant minerals working permissions; but that it is all

land that is scheduled to be restored under the terms of its existing planning permissions which allow mineral extraction only until the year 2042. The site lies in a remote rural location, outside the built up area boundary of any settlement. Policies E1 and E6 of the Swale Borough Local Plan 2008 seek to protect the countryside for its own sake, and they provide that development will not be permitted in rural Kent except in certain specified circumstances. The proposed development will result in permanent development and occupation of the site, but the development is not one that essentially demands a rural location nor is it necessary for agricultural purposes and, in the Council's view, the merits of the scheme do not weigh in favour of overriding a clear presumption against development in the countryside, as the short term nature of the current permissions are less harmful than the proposed long term harm resulting from unnecessary and undesirable development detrimental to, and preventing the appropriate restoration of, the character and appearance of this rural area.

(2) The site lies within the Blean Woods Special Landscape Area which is given long term protection by adopted and emerging Development Plan policies. The proposed development will appear as an incongruous and isolated development, harmful to the integrity of the landscape. For these reasons, the Council considers that the proposal is likely to be highly damaging to the character of this area and contrary to policies E1 and E9 of the Swale Borough Local Plan 2008.

1.15 I did not suggest any objection to the position, size, design or layout of the proposed dwelling, although the appellant did not argue that it was of outstanding design sufficient to be approved on its own merits. Rather, I focussed on the question of whether the intrinsic harm to the character of the countryside that might arise from the proposed single house was outweighed by the other potential advantages of the proposal. Members accepted this recommendation, but the decision was appealed and an appeal hearing took place in March 2013. The appeal was allowed in May 2013 after the appellant submitted a complicated Unilateral Undertaking which essentially required him to immediately suspend all future quarrying until he notified the Council of his intentions to either;

1. Re-commence quarrying; which meant that the planning permission for the house would fall, or
2. Implement the planning permission; in which case all quarrying rights would fall without compensation being claimed for loss of mineral rights, and the remainder of the quarried site would be restored.

The signed Undertaking also required the appellant not to seek compensation for loss of minerals rights; to submit a scheme for management of the wider remain woodland area before first occupation and to ensure long term management of the woodland area via Kent Wildlife Trust or another appropriate management body; and not to use the so-called wildflower meadow area as anything other than as a meadow.

## **2.0 THE RECENT APPROVAL**

2.01 In 2016, following the approval at appeal, an application was submitted for the same revocation of the quarrying use, but for the erection of four smaller detached dwellings with associated landscaping. The houses were all still substantial, although the overall floorspace was less than for the larger single house approved at appeal. This application attracted a lot of local opposition and Members held a site meeting to hear these views and to see the site. It was recognised that the previous refusal had been lost at appeal and it would be all but impossible to defend a refusal of the application. The application went to Planning Committee in February 2017 and was granted



approval subject to the completion of a Unilateral Undertaking that would achieve the previous safeguards.

### 3.0 PROPOSAL

3.01 This application is akin to the extant 2017 full planning permission in that it again proposes the erection of four two-storey 5 bedroom houses, each with a double garage and additional open parking spaces. The designs feature traditional forms in hand made clay tiles and facing brickwork including yellow and red stocks. The site plan shows plots 1-3 with modest gardens towards the middle of the site, with plot 4 having a larger garden area, including the lake. The scheme as now submitted differs from the recent approval in that it now includes a restoration scheme for the quarried part of the site which previously was only part of the requirements of the unilateral undertaking. There is therefore more material on the table now than when the latest planning permission was granted. This restoration scheme indicates the future for the previously quarried area as woodland, wild flower grassland, reed beds, mixed native hedgerows and a cliff face suitable for sand martins.

3.02 The application proposals differ from that previously approved with:

- The minor realignment of the new access road to take into account the site's topography
- Different house designs
- Repositioning of the lake to a location that will ensure it functions as an effective surface water collection point and
- The inclusion of the restoration scheme for the quarried area

It is similar to the previous application because;

- It requires restoration of the quarried area before occupation of any dwelling
- It requires future use of the quarried area as meadow land and woodland copse, and
- It requires management of the wider woodland in accordance with an approved woodland management scheme in association with a recognised body, with implementation of the scheme prior to occupation of any house

3.03 The application is supported by the following documents;

#### 3.04 Covering Letter

The application is largely the same as that approved under 16/501552/FULL; however the proposal also now includes details of a restoration scheme for the quarried area and therefore changes the specific detailing of the agreed Section 106 obligation in relation to the requirement to submit a restoration scheme as this time the scheme has already been prepared and now forms part of the application itself.

3.05 The principle of development of the application site for four houses has been established under 16/501552/FULL. This now represents a fallback position and should carry significant weight in the determination of the application. In this regard the revised application proposes:

- The same number of dwellings in largely the same locations as those already approved

- Dwellings that have been designed with a generally smaller footprint to those approved
- Development that will remain in the same red line as that approved, and
- A full commitment by the applicants, to the restoration of the former quarry area, the management of the surrounding woodland and the surrender of existing mineral rights

### 3.06 Drainage Impact & Flood Risk Assessment

The document has been provided by Tridax Ltd. The report includes:

- It is intended to use a small packaged treatment plant for each dwelling. The total daily discharge to ground will be less than 2m<sup>3</sup>/day, a permit for the discharge of the treated effluent will not be required from the Environment Agency.
- The proposed development will create 3618m<sup>2</sup> of impermeable area plus the lake footprint of 5993m<sup>2</sup> and the intention is to provide a buffer zone above the top water level of the lake to adequately store the discharge from a 1 in 100 year storm event. The buffer zone will then filtrate from the unlined portion of the lake above the top water level.
- With the introduction of the SUDS solution to cater for the impermeable areas, the post-development will be reduced by 215m<sup>3</sup> from the pre-development run-off volume.
- The site is indicated to be within Flood Zone 1. This zone comprises land assessed as having a less than 1 in 1000 chance of flooding.

### 3.07 Geo-environmental Report

The document has been provided by Ground and Environmental Services Limited who were instructed to undertake a combined Phase 1 and 2 environmental investigations. The following summarises the findings:

- The site was open land and woodland until the 1950s when it became a sand and gravel quarry. The exact extent of the quarrying works is unknown
- The geology at the site is comprised of the Lambeth Group along the western half of the site and the Harwich Formation along the eastern half.
- The site is set upon a Secondary A Aquifer and is not located within a source protection zone.
- Concentrations of toxic metals were below their respective guideline values in all samples tested.
- Asbestos was not detected within any of the screened soil samples. Suspected asbestos cement roofing was present on the on-site building.
- It is recommended that any soft landscaping or amenity spaces are to have certified clean imported top soils and sub soils.
- Should surface made ground soils not be removed off-site the protection of services, notably potable water, may be required on this site should they run through the area of made ground 'hardcore' to the north of the site. Suitable systems include barrier pipe, iron ductile pipework or placement in trenches backfilled with clean imported material. It is recommended that the advice of the service provider is sought regarding the most suitable options for the site.
- The risks to future site workers involved in any future redevelopment of the site are not considered significant providing standard health and hygiene practices are adopted.

- The risks to groundwater in the underlying Secondary A aquifer are considered to be low due to low levels of contamination.
- Based on the principles and definitions outlined under section 57 of the Environment Act 1995, the site would not be considered to be “Contaminated Land” based on its proposed residential/commercial redevelopment end use following implementation of the above measures.

### 3.08 Habitat Survey & Bat Building Report

- The existing building was deemed negligible in terms of its suitability for roosting bats
- Development proposals will not impact on existing semi-mature and mature trees within the site
- Extension of the existing on-site pond would provide a larger lake for wildlife and nature conservation
- No evidence of badgers, however evidence of dormice and previous evidence of reptiles

### 3.09 Restoration Scheme & Plan

The restoration scheme has been provided by the local ecologist Martin Newcombe, dated 4<sup>th</sup> April 2018 and the plan is divided up into seven zones.

Zone 1 – Grassy sward with forbs. Scattered oak and beech to be planted and allowed to grow to old age to maintain the woodland cover.

Zone 2 – Gardens of the proposed houses, which may be partially or wholly cut for lawns. An appropriate wildflower mix containing perennials will ensure there will always be a range of wild flowers available. Scattered native trees to maintain the woodland cover and allowed to grow to old age.

Zone 3 – The existing woodland belt would be coppiced where possible to thicken the edge and to provide habitat for small birds and other animals. Where possible, boxes will be supplied for bats and birds.

Zone 4 – Mixed native species hedgerow to provide a barrier between area 1 and the access road, a longer length of hedge would also provide a boundary between the land owned by plots 1-4.

Zone 5 – Initial seeding with a grass mixture and left to develop naturally without further management.

Zone 6 – Reed bed would be planted with common reed initially but it is anticipated that they and associated plants would eventually colonise the rest of the pond.

Zone 7 – Wood edge scrub would be the same composition as the mixed hedgerow and would provide habitat along the wood edge.

Zone 8 – This refers to the sand martins that used to use the site for breeding, however the site was lost due to natural erosion and scrub growth. They are however easily recreated and it is hoped by managing the cliff face it will be possible to attract them back to nest again.

#### **4.0 PLANNING CONSTRAINTS**

Ancient Woodland

Section 106 Agreement SW/12/0077

Unilateral Undertaking 16/501552/FULL

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

5.01 The Development Plan currently comprises of the Swale Borough Local Plan Bearing Fruits 2031. The following Local Plan policies are most directly relevant to consideration of the application:

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)  
DM14 (General development criteria)  
DM19 (Sustainable design and construction)  
DM24 (Conservation of valued landscapes)  
DM26 (Rural lanes)  
DM29 (Woodlands, trees and hedges)

5.02 As the County Council has previously stated that the mineral reserves within the site are no longer of strategic importance, the provisions of minerals planning policies are not of significance.

5.03 The Council's Landscape and Biodiversity Appraisal (2011) sees the site within the Hernhill and Boughton Fruit Belt landscape character area, which is in good condition and has high sensitivity, making it one of the very few landscapes within the borough that combine both qualities. This means that if one were to rank local landscapes according to their condition/sensitivity index this one would come in the highest possible bracket.

#### **6.0 LOCAL REPRESENTATIONS**

6.01 139 notification letters were sent out as well as a site notice erected. One local objection has been received from a property in Boughton Under Blean which can be summarised as follows:

- As a community we have for years objected to any housing or other development at Winterbourne, although an application for a single house was approved.
- Our objections remain the same – narrow roads, no local services and increased traffic.
- There have already been 2 large developments allowed at Selling Station which has increased traffic movement.

- The valley is an area of outstanding natural beauty and such development should not be agreed. NOTE: The area is not within an AONB.
- It would set a precedent for the area
- The development would have a serious impact on Selling.

## 7.0 CONSULTATIONS

7.01 Dunkirk Parish Council were consulted on the application and commented as follows:

*“Dunkirk Parish Council objects to the application.*

*DPC has no issue with the changes to the individual buildings or their positions on the site. However, we ask that there is compliance with the existing Unilateral Undertaking before consent is given.*

*We object on the basis that the committee and SBC gave consent with a unilateral undertaking in place to allow the woodland, the land marked blue on the plans, to be managed by RSPB, Kent Wildlife Trust or similar body, IN PERPETUITY.*

*After a site meeting for the current consented application 16/501552/FULL, the agent amended the U/U to include two further areas, marked in green, as woodland or meadow along with the blue land to be managed in perpetuity. This made the site much more acceptable to local residents.*

*This must be included in some way; we suggested by condition, but there may be a better way. It is imperative that the application is bound by the U/U, with of course a name change.*

*This enabled DPC to support and recommend this to parishioners. Our Ward Councillors agreed that as long as the U/U was in place to consent should be given and the planning committee agreed and the minutes reflect this:*

*Members considered the application and raised points which included: disappointment that the freehold of the land would not be transferred; protection of the land from further development was not guaranteed; needed to consider what was best for the area to ensure the rest of the site was protected; happy to support the application with the proviso that the blue land would be protected, a condition to prevent flood risk, and the green land on the plan would be protected from further development; a lease was as good as freehold;*

*The current owner purchased the land with the U/U in place and must be bound by it.*

*It would be unacceptable to allow the owner to manage the land (as his agent states is his intent) as there would be no control in the future - and what happens if he dies or sells the land.*

*The owner has discussed a lodge of some description to allow visitors into the middle of the wood which would be unacceptable and development creep.*

*In finishing, neither the blue land nor the green land can be allowed to be in personal management. It must be a body as stated in the U/U that will manage the land in perpetuity.*

*Furthermore, the committee requested a T.R.O. to be conditioned but it was not. This provides an opportunity to re-visit that request”*

- 7.02 A number of emails have been exchanged between myself, the applicant and the Parish Council. Dunkirk Parish Council was formally re-consulted once the draft Section 106 was submitted which included the management of the woodland in perpetuity with a management body such as the Kent Wildlife Trust or the RSPB. No response was received to this re-consultation.
- 7.03 The Environment Agency has raised no objection to the proposal subject to conditions relating to surface water and contamination.
- 7.04 Kent Highways and Transportation do not consider that they need to comment on the application.
- 7.05 Natural England has no objection to the proposal.
- 7.06 The Forestry Commission has forwarded details of Government Policy towards ancient woodland in the NPPF, which is to discourage development that will result in its loss, unless the need for, and benefits of, the development in that location clearly outweigh the loss. The Commission does not object or support planning applications but simply refers to generic advice regarding how ancient woodland should be dealt with in the planning process.
- 7.07 KCC's Ecological Advice Service initially requested additional species surveys including dormouse, reptile, bat activity and a tree assessment for roosting bats. Revised comments were received once the Biodiversity Officer had spoken with the applicant's ecology consultant. The revised comments stated that the additional species surveys were not required and conditions including a mitigation strategy and management plan are requested. These matters can be addressed via the requirements of the Unilateral Undertaking.
- 7.08 The Environmental Health Manager has reviewed the Geo-environmental report and note there is a negligible risk of contamination. It is recommended that a watching brief condition be added, and note that one has already been suggested by the EA, the wording of which would be adequate.
- 7.09 KCC Flood and Water Management queried a number of figures in the drainage details, but the applicant has accepted the conditions suggested by KCC. 9.09 The applicant is aware of comments made by KCC Flood and Water Management and has instructed a company to create a detailed drainage scheme, and the conditions requested have been listed below.

## **8.0 BACKGROUND PAPERS AND PLANS**

Application papers for applications SW/12/0077 (and related Unilateral Undertaking), 16/501552/FULL (and related Unilateral Undertaking), and 18/502208/FULL and draft Unilateral Undertaking.

## **9.0 APPRAISAL**

### **Principle of Development**

- 9.01 The site is located outside any defined built up area boundary and development in this location is usually resisted. Members will, however, be aware that residential development has previously been approved on this site; once at appeal under

reference SW/12/0077, and in February 2017 at Committee for the revocation of quarrying use and erection of four houses (18/502208/FULL).

- 9.02 As there is already an approval for four houses and a Unilateral Undertaking in place, there is a clearly established fall back position. The existing quarrying permissions allow extraction until 2042, and it was on this basis that the Inspector allowed the previous appeal, as the resumption of quarrying was considered likely to result in loss of valuable ancient woodland as a direct and indirect result of further quarrying. The Council must have regard to these findings now.

### **Visual Impact**

- 9.03 I consider the style of development now proposed is as appropriate to the local countryside character as the approved scheme is. The area is characterised by detached former farmhouses and other frontage development. The adjacent lane to the north is also a dead-end with occasional dwellings which tapers out into a footpath and, accordingly I find that the style of development now proposed is not alien to the local countryside. The site itself is visually contained and, as the houses are set in a row running west to east (rather than north to south), the views from the highway and from the west will face the narrow western end of the development, so minimising the degree to which the number of houses on the site will be apparent.
- 9.04 In conclusion I do not believe that the visual impact of the current scheme will be less acceptable than that of the previously approved scheme for four houses. Details of the proposed materials have been submitted with the application, and include natural slate and red and yellow stock bricks.

### **Highways**

- 9.05 I note that Kent Highways and Transportation do not raise objection to the application and I remind Members that a scheme has already been approved for four 5 bedroom houses at this site. The Parish Council has reiterated its request for a traffic order making the lanes outside the site one-way. This cannot be achieved through planning powers and is not material to the merits of this application. If it is necessary or desirable, this should be pursued separately with the Highway Authority.

### **Ecology**

- 9.06 Whilst any development of such a neglected rural site close to well known wildlife corridors raises the question of potential adverse impact on wildlife even on protected species, the bare earth nature of this site is unusual and apparently lacking in significant ecological value.
- 9.07 Nevertheless, site restoration and the potential for better management of adjoining woodland offers significant potential for ecological enhancement through the requirements of the Unilateral Undertaking, and Members will note that Kent County Council's Ecological Advice Service raises no objection to the application, but has suggested conditions (which are recommended below) which address the potential ecological implications of the proposal. I therefore see the scheme as having significant ecological benefits.

### **Other Matters**

- 9.08 The appeal proposal and application 16/501552/FULL were only approved after the previous applicant signed a Unilateral Undertaking which required him to immediately suspend all future quarrying until he notified the Council of his intentions to either:
1. Re-commence quarrying; which meant that planning permission for the houses would fall, or
  2. Implement the planning permission; in which case all quarrying rights would fall without compensation being claimed for loss of mineral rights, and the remainder of the quarried site would be restored.
  3. To submit a scheme for management of the wider remaining woodland area before first occupation and to ensure the long term management of the woodland in perpetuity with Kent Wildlife Trust or another appropriate management body.

The current applicant has now submitted a draft Unilateral Undertaking (see Appendix A ) in similar terms (albeit with the site restoration scheme now submitted at applications stage) and I see no reason to set aside acceptance of that now. Accordingly, should Members be minded to approve the application, I recommend that any approval is subject to the same safeguards which are designed to ensure that this result is achieved.

### **The Conservation of Habitats and Species Regulations 2017**

- 9.09 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 Overall the scheme is similar to that approved under 16/501552/FULL, albeit with some visual amendments to the design and layout of the site; I can therefore find no reason to take an alternative view on the recommendation of this application. With the previous approval and the Inspector's decision on SW/12/0077, it would be very difficult to defend a refusal of this scheme. Accordingly, I have recommended appropriate conditions and that the grant of planning permission be subject to completion of a Unilateral Undertaking that achieves the previous safeguards.

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

### **CONDITIONS**

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

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

2. The development hereby permitted shall be carried out in accordance with the following approved drawings including use of the facing materials specified thereon;

1109-01B, 1109-02B, 1109-03C, 1109-4B, 1109-05, 1109-06A, 1109-07, 1109-08, 1109-09 & 1109-11

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

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

Reason: To prevent pollution of groundwater.

4. If, during development, contamination not previously identified is found to be present at the site 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.

5. Prior to first occupation of any dwelling hereby permitted, a detailed sustainable surface water drainage scheme for the site shall be 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. Runoff rate should not exceed that of the existing 4.7l/s/ha. 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.

6. No building hereby permitted shall be occupied until an operation and maintenance manual for the proposed sustainable drainage scheme is submitted to (and approved in writing) by the Local Planning Authority. The manual at a minimum shall include the following details:

- A description of the drainage system and its key components
- A general arrangement plan with the location of drainage measures and critical features clearly marked
- An approximate timetable for the implementation of the drainage system
- Details of the future maintenance requirements of each drainage or SUDS component, and the frequency of such inspections and maintenance activities
- Details of who will undertake inspections and maintenance activities, including 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) and to ensure that the development as constructed is compliant with the National Planning Policy Framework.

7. No dwelling hereby permitted shall be occupied until a Verification Report pertaining to the surface water drainage system, carried out by a suitably qualified professional, has been submitted to the Local Planning Authority which demonstrates the suitable operation of the drainage system such that flood risk is appropriately managed. The Report shall contain information and evidence (including photographs) of earthworks; details and locations of inlets, outlets and control structures; extent of planting; details of materials utilised in construction including subsoil, topsoil, aggregate and membrane liners; full as built drawings; and topographical survey of 'as constructed' features.

Reason: To ensure that flood risks from the 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.

8. Prior to clearance of any vegetation within the site a precautionary mitigation strategy shall be submitted to and approved in writing by the Local Planning Authority. The document must include the following information:

- Phase 1 Survey (if works are commencing 2 years after planning permission is granted)

- Details of species anticipated to be present on site
- Methodology to clear the vegetation
- Timing of the proposed works

Works must be implemented as detailed within the submitted document.

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 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.

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

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

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

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

12. The garages hereby permitted shall be used only for the parking of a private motor car or cars or for uses ordinarily incidental to the enjoyment of the occupiers of the dwelling house.

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

13. Upon completion, no alterations to the front elevations of any dwelling hereby permitted (that is the elevation fronting the site access road), whether normally permitted by Classes A, B, C or D of Part 1 of Schedule 2 to The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking and re-enacting that Order), or not, shall be carried out.

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

14. No development beyond the construction of foundations shall take place until further detail of the vehicular access to the site at a scale of 1:20 have been submitted to and

approved in writing by the Local Planning Authority. The access shall be completed in accordance with the approved details prior to the first occupation of any dwelling hereby permitted.

Reason: In the interests of highway safety and convenience

15. No development beyond the construction of foundations shall take place until constructional details of the ridges, the roof eaves and verges, dormer windows, doors, rainwater goods, window reveals, cills, brick plinths, flint or stone panelling, brickwork bond and paving, chimney detailing, and brick arches for each dwelling have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

Reason: In the interest of visual amenity.

16. No development in respect to the house proposed for Plot 2 beyond the construction of foundations shall take place until details of facing materials have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

Reason: In the interest of visual amenity.

17. No development beyond the construction of foundations shall take place until details of the existing and proposed site levels, in the form of cross-sectional drawings through the site, have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

Reason: In the interest of visual amenity.

18. Any entrance gates erected shall be hung to open away from the highway, or from the site access road, and all gates shall be set back a minimum of 5.5m from the carriageway edge.

Reason: In the interests of highway safety and convenience.

19. The existing concrete building on the site shall be demolished and all materials removed from the site prior to first occupation of any dwelling.

Reason: In the interests of visual amenity.

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

Reason: In the interests of highway safety and convenience.

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

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

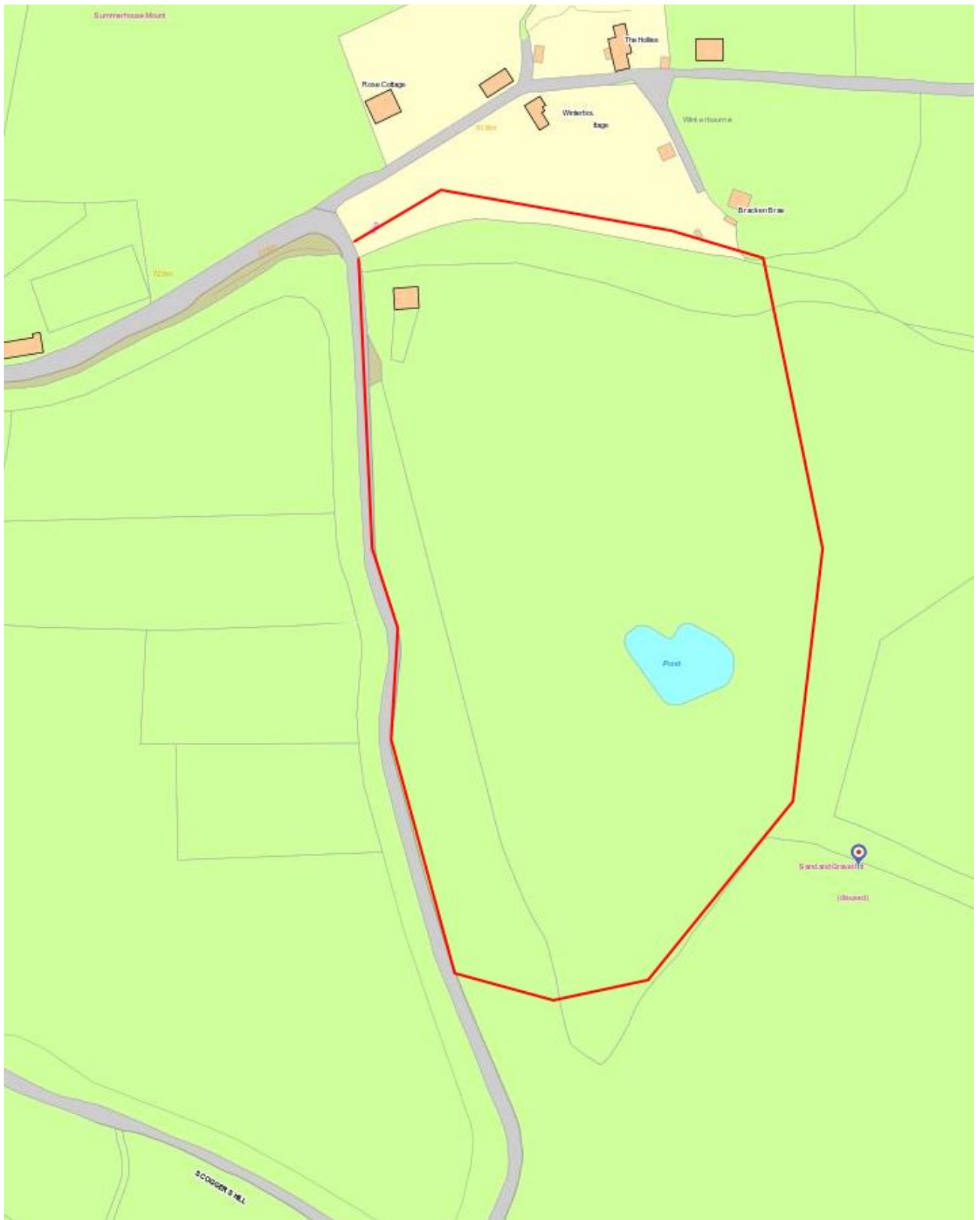
- Offering pre-application advice.
- Where possible, suggesting solutions to secure a successful outcome.

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

In this instance

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

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



**PLANNING COMMITTEE – 16<sup>th</sup> AUGUST 2018**

**PART 3**

Report of the Head of Planning

**PART 3**

Applications for which **REFUSAL** is recommended

|   |  |   |             |
|---|--|---|-------------|
| <b>3.1 REFERENCE NO - 18/502643/FULL</b>  |  |   |             |
| <b>APPLICATION PROPOSAL</b><br>Erection of a single storey side and rear extension with a pitched roof. Re-position of garden side wall.  |  |   |             |
| <b>ADDRESS</b> 3 Chetney View Iwade Sittingbourne Kent ME9 8SQ  |  |   |             |
| <b>RECOMMENDATION</b> - Refuse  |  |   |             |
| <b>SUMMARY OF REASONS FOR RECOMMENDATION/REASONS FOR REFUSAL</b><br>The proposed re-positioning of the garden side wall would result in looking prominent and intrusive which would cause demonstrable harm to the open character and appearance of the street scene. |  |   |             |
| <b>REASON FOR REFERRAL TO COMMITTEE</b><br>Called in by Councillor Clarke   |  |   |             |
| <b>WARD</b> Bobbing, Iwade And Lower Halstow  | <b>PARISH/TOWN COUNCIL</b><br>Iwade  | <b>APPLICANT</b> Mr Gary Fitchett<br><b>AGENT</b> Deva Design |             |
| <b>DECISION DUE DATE</b><br>21/08/18  | <b>PUBLICITY EXPIRY DATE</b><br>20/06/18   |   |             |
| <b>RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):</b>   |  |   |             |
| <b>App No</b>   | <b>Proposal</b>  | <b>Decision</b>   | <b>Date</b> |
| SW/01/0375  | Approval of Reserved Matters of SW/00/340 for erection of 130 dwellings together with roads, sewers and all ancillary works – Approval of Reserved Matters | Approval of Reserved Matters                                  | 20/09/2001  |
| SW/00/0340  | Outline Application for Residential development and future expansion of primary school – Grant of Outline.   | Grant of Outline  | 13/10/2000  |

**1.0 DESCRIPTION OF SITE**

1.01 The application site is a detached house situated within the built up area boundary of Iwade. 3 Chetney View forms part of a residential development approved under Approval of Reserved Matters application SW/01/0375. The property has an enclosed rear garden with a garage and drive situated to the rear which is accessed to the south of the property within Saxon Walk. The Streetscene is characterised by residential properties of similar designs and sizes.

1.02 The application site is situated on the corner of Chetney View and Saxon Walk which is a curved road and the dwellings are generally set back from the road giving a sense of openness to this area.

## 2.0 PROPOSAL

2.01 The application seeks permission for a single storey side and rear extension with a pitched roof and the insertion of 4no. rooflights. The garden side wall situated to the south of the property would be repositioned towards the boundary line. The plans originally submitted showed the garden wall being re-positioned right to the boundary line, but they have since been amended to show the wall being re-positioned closer to the property with planting to the front and further alterations to the fenestration on the proposed side and rear extensions.

2.02 The result of the single storey side and rear extension would be L shaped in form. The side extension element would extend to the side of the property by 2.7m and would have a length measurement of 5.6m. The side extension would also extend from the existing rear of the property and sit in line with the existing side elevation to the south of the property. The rear extension would project from the rear by 2.7m sitting in line with the existing inset north side elevation and have an overall width of approximately 8.1m (including the width of the side extension). For both the proposed side and rear extensions the proposed height measurement to the eaves would be 2.4m and have an overall maximum height of approximately 3.5m.

2.03 The proposal includes the re-positioning of the garden side wall towards the boundary line. At the widest point this will be moved approximately 2.6m from the existing position and approximately 0.75m at the closest point.

## 3.0 SUMMARY INFORMATION

|                                     | <b>Proposed</b>   |
|-------------------------------------|---|
| Approximate Ridge Height (m)        | 3.5m  |
| Approximate Eaves Height (m)        | 2.4m  |
| Approximate Depth (m)               | 2.7m (Rear extension).<br>5.6m (Side extension)               |
| Approximate Width (m)               | 8.1m (Side + Rear extension)                                  |
| No. of Storeys                      | 1   |
| Re-position distance of garden wall | 2.6m outwards (widest point)<br>0.7m outwards (closest point) |

## 4.0 PLANNING CONSTRAINTS

4.01 The site lies within an area of potential archaeological importance.

## 5.0 POLICY AND OTHER CONSIDERATIONS



- 5.01 The National Planning Policy Framework (NPPF) and the National Planning Practice Guidance (NPPG).
- 5.02 Policies CP4 (good design), DM14 (general criteria), and DM16 (extensions and alterations) of the adopted Swale Borough Local Plan 2017 are relevant.
- 5.03 Policy CP4 states that all development proposals should be “of a high quality design that is appropriate to its surroundings”, “enrich the qualities of the existing environment,” and “retain and enhance features which contribute to local character and distinctiveness”.

Policy DM14 requires (amongst others) that developments “reflect the positive characteristics and features of the site and locality” and “be both well sited and of a scale, design, appearance and detail that is sympathetic and appropriate to the location”.

- 5.04 Council’s adopted SPG “Designing an Extension” is also relevant.

## **6.0 LOCAL REPRESENTATIONS**

- 6.01 One letter of objection has been received, raising the following summarised comments:

- Siting of garden wall closer to the road could impact on line of sight when entering Saxon Walk from either direction.
- No alternative pathway and pedestrians are required to share the road space with vehicle users.
- Respondent’s property at a level of 50cm lower than application site, siting of garden wall will have a negative and major impact on the outlook from the front elevation of home and negative effect on value of home, and
- Estate housing density is high in this area of Iwade and believe existing walls and boundaries as per original design and planning consent should be maintained.

- 6.02 The application has been called in by Councillor Roger Clarke.

## **7.0 CONSULTATIONS**

- 7.01 Iwade Parish Council has no objection save that neighbours comments are taken into account and if possible acted upon.
- 7.02 The County Archaeological Officer confirms no archaeological measures are required.

## **8.0 BACKGROUND PAPERS AND PLANS**

- 8.01 The application is accompanied by all necessary drawings.

## **9.0 APPRAISAL**

### **Principle of Development**

- 9.01 The site is situated within the defined built up area boundary of Iwade and as such the principle of the development is acceptable subject to the other relevant policy considerations outlined below. The main considerations in the determination of this planning application are the appearance of the side and rear extensions and the re-

positioning of the side garden wall in relation to the house itself and to the local area and the impact upon the residential and visual amenities in the area.

### Visual Impact

- 9.02 The proposed side and rear extension is situated within the rear of the garden of the host property surrounded by a 2m high wall, I note due to the corner plot position only the upper section of the proposed extensions would be viewed from public vantage points. In this case the extensions would have a pitched roof which I believe would reduce the visual impact of the extension and I also note the application form shows the materials would match those on the existing dwelling which I consider acceptable as this would not detract from the appearance of the existing property. I consider the single storey side and rear extension to be acceptable in terms of visual amenity.
- 9.03 The proposal also includes the re-positioning of the existing side garden wall towards the boundary line of the host property. The main consideration with regards to this element of the proposal is the impact of the proposal upon the visual amenities of the area. The application site is situated on the corner of Chetney View and Saxon Walk which is a curved road where the dwellings are generally set back from the road giving a sense of openness to this area.
- 9.04 The Council generally resists garden walls being moved outwards on residential estates. The re-positioning of the wall would be visible from various public vantage points due to the corner position of the property and as such this element of the proposal would have a harmful effect on the surrounding streetscene. The re-positioning of the wall which at its widest point would extend by a further 2.6m (approximately) towards the road would in my view be unacceptable – it would have a detrimental impact on the sense of openness of the area and in my view the wall in its new position would look prominent and intrusive within the open setting of Saxon Walk, particularly as there is no alternative pathway along the south side of this host property, but a grass verge.
- 9.05 I am aware that 5 Chetney View has previously had approval for moving the existing fencing enclosing the rear garden out to within the garden perimeter and existing hedge line. Each application is determined on a case by case basis and when looking at the approval for 5 Chetney View the applications do differ. With regards to 5 Chetney View the hedge was existing and the officer determining the application considered:
- “The existing hedgerow also does a lot to minimise the visual impact of the fence. The planting is mature and grown to such a degree that only a small part of the fence can actually be seen from the highway.....I consider that the fence itself would not be prominent or seriously harmful to the visual amenity”.*
- In this case the entirety of the wall, which is approximately 2m high is visible from public vantage points and by moving it approximately 2.6m (at its widest point) on a curve it would become more prominent and in turn harmful to the visual amenity of Saxon Walk. There would be very limited opportunity for planting to soften its appearance.
- 9.06 On the basis of the above assessment with regards to the re-positioning of the wall I consider this element of the proposal unacceptable. It would be prominent and harmful to the character and appearance of the street scene and visual amenity in a manner contrary to policies CP4 and DM 14 (General development Criteria) of the Swale Borough Local Plan 2017 policies in particular (7):

*‘Be both well sited and of a scale, design, appearance and detail that is sympathetic and appropriate to the location’.*

### **Residential Amenity**

- 9.07 The proposed side extension is situated to the south of the host property where it would be a distance of approximately 14m away from No. 9 Saxon Walk which is situated to the south and as such I believe this is an acceptable distance away as there is a boundary wall and a road separating the two dwellings.
- 9.08 The Council’s Supplementary Planning Guidance entitled “Designing an Extension” generally considers 3m rear extensions along the common boundary to be acceptable. The proposed extension would project to the rear by 2.7m with a distance from the common boundary with no.1 Chetney View of approximately 1.6m and as such this complies with the guidance. I consider that the proposal would not give rise to unacceptable levels of overshadowing to this dwelling. It is also important to note that the drive and garage belonging to no.1 Chetney View sits between the two properties and there are no windows proposed within the side elevation of the proposed extension. There would be no significant loss of privacy.
- 9.09 The distance to the common boundary with no.2 and no.4 Saxon Walk situated to the rear of the host property, from the proposed extension as shown on the block plan is approximately 21m and to the rear elevation of no.2 and no.4 would be approximately 22m. The SPG usually requires 21m between windows to the rear and other houses to the rear and as such I believe this to be an acceptable distance away. I also note the rear garage belonging to no.3 Chetney View sits between the host property and these properties. Taking this into consideration I do not envisage loss of privacy to the dwellings to the rear..

### **10.0 CONCLUSION**

- 10.01 I consider the single storey side and rear extension to be acceptable in terms of residential amenity however taking into account all of the above with regards to the re-positioning of the existing side garden wall further towards the boundary I consider this element of the proposal would be detrimental to the visual amenity of the area and I therefore recommend that planning permission is refused.

### **11.0 RECOMMENDATION – Refuse for the following reason:**

- (1) The proposed re-positioning of the garden wall towards the boundary would result in a prominent and intrusive structure which would cause demonstrable harm to the character and appearance of the streetscene and to the visual amenities of the area in a manner contrary to policy CP4 and DM14 of the Swale Borough Local Plan 2017.

### **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.

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

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



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|   |  |                 |  |
|---|--|-----------------|--|
| <b>REFERENCE NO - 18/502184/FULL</b>  |  |                 |  |
| <b>APPLICATION PROPOSAL</b><br>Demolition of existing garages and erection of 1 no. new dwelling within sub divided plot(s).  |  |                 |  |
| <b>ADDRESS</b> 32 The Broadway Minster-on-sea Sheerness Kent ME12 2RR   |  |                 |  |
| <b>RECOMMENDATION</b> REFUSE  |  |                 |  |
| <b>SUMMARY OF REASONS FOR RECOMMENDATION/REASONS FOR REFUSAL</b><br>The proposal, by virtue of its scale, and the size and location of the application site would result in the loss of adequate private amenity space for the neighbouring dwellings at nos.28 and.32 The Broadway.<br><br>The design and location of the building would result in an unacceptable loss of privacy for future occupiers of the new dwelling as a result of overlooking from no.28 The Broadway and would also have an overbearing impact on the rear gardens of nos. 28 and 32 The Broadway. |  |                 |  |
| <b>REASON FOR REFERRAL TO COMMITTEE</b><br>Parish Council support the application.  |  |                 |  |
| <b>WARD</b> Minster Cliffs  | <b>PARISH/TOWN</b><br>Minster-On-Sea     | <b>COUNCIL</b>  | <b>APPLICANT</b> Mr & Mrs Raggett<br><b>AGENT</b> Oakwell Design Ltd |
| <b>DECISION DUE DATE</b><br>29/06/18  | <b>PUBLICITY EXPIRY DATE</b><br>30/05/18 |                 |  |
| <b>RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):</b>   |  |                 |  |
| <b>App No</b>   | <b>Proposal</b>                          | <b>Decision</b> | <b>Date</b>  |
| 17/501767/FULL  | New vehicle access                       | APPROVED        | 16/06/18   |

**MAIN REPORT**

**1.0 DESCRIPTION OF SITE**

- 1.01 32 The Broadway is one half of a semi-detached pair of two storey dwellings located within the built up area of Minster. There is a large section of hardstanding to the front of the dwelling and its adjoined neighbour no.28 which provides sufficient off road parking for several vehicles.
- 1.02 Both dwellings have existing private amenity space, no. 28 measures 14.6m in depth and 10.7m in width whereas no. 32 measures 12.8m in width by 14.2m in depth.

**2.0 PROPOSAL**

- 2.01 This application seeks planning permission for the demolition of existing garages to the rear of 32 The Broadway and the erection of a new dwelling positioned in the rear gardens of 32 and 28 The Broadway. The dwelling would have the same building line as development on adjacent Abbeyview Drive and this would also be where access to the dwelling is gained.
- 2.02 As a result of discussions regarding the application the agent submitted amended plans attempting to overcome issues that were identified. The plans propose the

dwelling would measure 6.3m in width, 13.6m in length which is stepped to 9.7m on the eastern side and will have an eaves height of 2.6m and a maximum height of 4.5m. The addition of a single storey rear protrusion to the western shared boundary attempts to restrict overlooking and would have a smaller overall height of 3.5m. The design proposed attempts to mimic development on Abbeyview Drive and follows a similar building line to dwellings observed on this road. The materials proposed are dark grey slate roof tiles, red/brown facing brickwork and white UPVC windows.

- 2.03 The new dwelling would provide two bedrooms, kitchen, living/dining room and bathroom, with access to the dwelling being on the west elevation.

### **3.0 PLANNING CONSTRAINTS**

- 3.01 None relevant.

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

- 4.01 The National Planning Policy Framework (NPPF) and National Planning Practice Guidance (NPPG).
- 4.02 Development Plan: CP3, CP4, DM7 and DM14 of “Bearing Fruits 2031: The Swale Borough Local Plan 2017”

### **5.0 LOCAL REPRESENTATIONS**

- 5.01 No comments have been received from local residents.

### **6.0 CONSULTATIONS**

- 6.01 Minster Parish Council support the application. No reasons for support were given.
- 6.02 KCC Highways commented as follows “*development proposal does not meet the criteria to warrant involvement from the Highway Authority*”
- 6.03 Natural England commented as follows: “*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.*”

### **7.0 BACKGROUND PAPERS AND PLANS**

- 7.01 Application papers and drawings referring to application reference 18/502184/FULL.

### **8.0 APPRAISAL**

#### **Principle of Development**

- 8.01 The application site is situated within the defined built up area boundary of Minster where the principle of development is acceptable subject to relevant policy considerations and local amenity impacts.

#### **Visual Impact**

- 8.02 Whilst the proposal is situated in the rear gardens of nos. 28 and 32 The Broadway due to this being a corner plot I do not consider this is to be harmful backland development. The proposal aligns with the general building line of Abbeyview Drive



and it is from this road that access to the property would also be gained. The design of the new dwelling resembles that of neighbouring 1 Abbeyview Drive with a pitched roof and facing red brickwork and brown tiles to match the surrounding dwellings visible in the streetscene. In terms of materials and design I do not consider that the proposal is harmful to visual amenities.

### **Residential Amenity**

- 8.03 The new dwelling would have a close relationship with 1 Abbeyview Drive as it would be situated just 1m from the shared boundary. I do consider however, that this relationship does not significantly harm no. 1 Abbeyview Drive as there is a change in natural ground level that sees no. 1 situated considerably higher than the proposed dwelling and therefore I do not consider that there will be a loss of light or privacy or that the new dwelling would amount to an overbearing structure on this particular dwelling, nor, given the siting of the proposed dwelling would there be a significant impact on the proposed dwelling from no.1 Abbeyview Drive.
- 8.04 The proposed dwelling would be located approximately 7.5 metres from the rear elevations of nos.28 and 32 The Broadway, and due to the change in levels, would be significantly elevated above both dwellings. The Council normally seeks a flank to rear distance of at least 11 metres in normal circumstances, and this proposal falls well below this. As a consequence of this small distance and difference in levels between the proposed and existing dwellings, I am firmly of the view that the proposed dwelling would amount to a dominant and overbearing structure which would give rise to a significant degree of overshadowing and loss of outlook to the occupiers of these dwellings. Furthermore, due to the small distance between these dwellings, the existing dwellings would significantly and harmfully overlook the rear garden for the proposed dwelling, leaving it with minimal private amenity space. I note the addition of the single storey protrusion at the rear of the new dwelling, that attempts to overcome the privacy issue with nos 28 and 32 however I do not consider this to be sufficient and therefore believe that the issue of loss of privacy remains.
- 8.05 The proposed development would also significantly reduce the private amenity space to nos.28 and 32 The Broadway, leaving them with rear gardens of approximately 7m in depth, well below the Council's normal minimum depth of 10m. Both gardens would though be in excess of 10m in width and as such I do not consider that the proposal would result in harm to the amenities of the occupiers of these dwellings in that respect, although as set out above, both gardens but in particular that serving no.32 The Broadway, would be dominated by the proposed dwelling to a significant degree. Amended plans show additional designated amenity space proposed to the front and side of the dwellings 28 and 32 The Broadway but as lack of amenity is not a reason for refusal I will not be assessing this alteration.
- 8.06 The proposed dwelling would have a rear garden measuring approximately 7.8m x 8.5m. Whilst this again falls below the normal minimum depth for a rear garden, I am not persuaded that it is of such a small size that it would be inadequate for the dwelling proposed.

### **Parking**

- 8.04 The proposal includes the addition of a 2 bedroom house which is required by Kent Parking Standards to provide at least one off road parking space, this requirement is met in this instance as there is parking for one car to the front of the proposed dwelling. All of the parking for the existing dwellings would be located to the front.

## 9.0 CONCLUSION

9.01 I consider that the proposal is unacceptable as it will give rise to cramped and overcrowded development harmful to the character and layout of the locality while having a dominating and overbearing effect on the outlook and amenities of properties overlooking and abutting the site as well as a poor outlook for future occupiers of the new dwelling.

## 10.0 RECOMMENDATION –REFUSE for the following reasons:

- (1) The proposed dwelling, by virtue of its scale, the location of the plot and the topography of the area, would amount to a prominent, imposing and overbearing structure which would give rise to significant harm to the residential amenities of the occupiers of the adjacent dwellings to the west, by virtue of loss of outlook and loss of daylight/sunlight. The proposal would therefore be harmful to residential amenity in a manner contrary to policies CP4 and DM14 of "Bearing Fruits 2031: The Swale Borough Local Plan 2017".
- (2) The design and location of the building would result in an unacceptable loss of privacy for future occupiers of the new dwelling as a result of overlooking from no.28 The Broadway. The proposal would therefore be harmful to residential amenity in a manner contrary to policies CP4 and DM14 of "Bearing Fruits'2031: The Swale Borough Local Plan 2017".

### **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.



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**PLANNING COMMITTEE – 16 AUGUST 2018**

**PART 5**

Report of the Head of Planning

**PART 5**

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

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- **Item 5.1 – Land At The Tracies, Newington**

**APPEAL ALLOWED – COSTS REFUSED**

**Committee Refusal**

**Observations**

Members will recall that this was, in my view, a marginal decision. However the Council's decision to refuse planning permission was not considered by the Inspector to be unreasonable and therefore costs were not awarded against the Council.

- **Item 5.2 – Graces Place, Homestall Road, Doddington**

**ENFORCEMENT AND PLANNING APPEALS ALLOWED**

**Committee Refusal**

**Observations**

An unusual outcome where the appellants claimed no longer to have gypsy and traveller status due to old age, but argued that their preference for living in caravans should be taken into account. The Inspector agreed that this was not a suitable site for a gypsy and traveller site, but saw it as acceptable on a temporary and personal basis for the appellants due to the lack of a targeted Council provision for those who prefer to live in caravans.

- **Item 5.3 – 84 Scarborough Drive, Minster**

**APPEAL ALLOWED – COSTS REFUSED**

**Against Officer Recommendation**

**Observations**

Members may recall that I had recommended approval for this scheme. The Inspector considered that the development proposed would not harm the amenities of the neighbours. Members will though note that their decision to refuse planning permission was not considered by the Inspector to be unreasonable, hence why costs were not awarded against the Council.

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## 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: 6<sup>th</sup> July 2018**

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**Appeal Ref: APP/V2255/W/18/3195507**

**Land at The Tracies, Callaways Lane, Newington, near Sittingbourne, Kent ME9 7TQ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Mrs Gillian Murray against the decision of Swale Borough Council.
  - The application Ref 15/508683/OUT, dated 26 January 2016, was refused by notice dated 3 October 2017.
  - The development proposed is for the erection of 4 No. four bedroom detached dwellings with associated access and parking including an attached double garage, two detached double carports and an integral garage.
- 

### Decision

1. The appeal is allowed and planning permission is granted for the erection of 4 No. four bedroom detached dwellings with associated access and parking including an attached double garage, two detached double carports and an integral garage at Land at The Tracies, Callaways Lane, Newington, near Sittingbourne, Kent ME9 7TQ in accordance with the terms of the application, Ref 15/508683/OUT, dated 26 January 2016, subject to the conditions set out into the Schedule to this decision.

### Application for costs

2. An application for costs was made by Mrs Gillian Murray against Swale Borough Council. That application is the subject of a separate Decision.

### Procedural Matters

3. The application was submitted in outline form and was originally for five dwellings, with all matters (access, appearance, landscaping, layout and scale) being reserved for future consideration. However, on 20 October 2016 the application was amended to a development for four dwellings with only landscaping being reserved for future consideration. The description of development used by the appellant has been amended by the Council (as per that appearing in the banner heading above) and the appellant has not objected to that change. I have therefore used the amended description of development in the banner heading and formal decision above, albeit I consider it unnecessary for there to be a reference to landscaping being the only reserved matter and I have not included that.

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<https://www.gov.uk/planning-inspectorate>

Appeal Decision APP/V2255/W/18/3195507

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### Main Issue

4. The main issue is whether the site would be an appropriate location for housing having regard to policies concerning housing in the countryside.

### Reasons

5. The site comprises 0.30 hectares of disused orchards, with scrub undergrowth, that is situated directly to the east of The Tracies. The Tracies is a cul-de-sac of seven detached houses of fairly recent construction and those houses lie off Callaways Lane and are behind properties fronting directly onto High Street (the A2). A public right of way (PROW) passes through the site and in effect divides the site into northern and southern parcels. The southern parcel bounds the rear garden of Dromore, a property fronting onto Callaways Lane.
6. For the purposes of the adopted development plan, Bearing Fruits 2031: The Swale Borough Local Plan of July 2017 (the Local Plan), the site is outside, but immediately adjacent to, the defined settlement boundary for Newington and therefore forms part of the countryside. Policy ST3 of the Local Plan (and its supporting text) identify the settlement hierarchy in the Council's area and Newington is a 'rural local service centre'. Rural local service centres are the fourth tier of six tiers in the settlement hierarchy and are settlements with health care, education, organised sport and recreational facilities, food and other shopping, pubs, post offices and place of worship, which are served by hourly bus and/or train services<sup>1</sup>. As the site is outside Newington's settlement boundary the development would be contrary to Policy ST3.
7. There is disagreement about whether the site is grade 1 or 2 farmland using the agricultural land classification system (ALC). The appellant's assessment of the site being grade 2 land being based on some soil analysis<sup>2</sup>, while the Council has relied on historic ALC maps based on reconnaissance field surveys undertaken in the 1960s and 1970s<sup>3</sup>. As the appellant's assessment of the site's ALC is based on a physical analysis of the soil, I consider that to be of more credence than the map based classification relied upon by the Council. That said whether the land is grade 1 or 2 it is still 'best and most versatile agricultural land' (BMV land).
8. Policy DM31 of the Local Plan states that development affecting agricultural land will only be permitted when there is an overriding need that cannot be met on land within the built up area boundaries. Policy DM31 goes on to state that the development of BMV land will not be permitted unless: it has been allocated for development; there is no alternative site on land of lower than grade 3a or the use of lower grade land would significantly and demonstrably affect the sustainability of a development; and the development would not make the rest of a farm holding unviable or lead to likely accumulated and significant losses of high quality agricultural land.
9. Policy DM31 has been formulated having regard to paragraph 112 of the National Planning Policy Framework. Paragraph 112 states that local planning authorities '... should take into account the economic and other benefits of

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<sup>1</sup> Table 4.3.1 of the Local Plan

<sup>2</sup> Section 3 of the Agricultural Land Classification and Soil Resources report of January 2018 prepared by Reading Agricultural Consultants Limited

<sup>3</sup> Paragraph 1.1.5 of the Reading Agricultural Consultants Limited report



Appeal Decision APP/V2255/W/18/3195507

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best and most versatile agricultural land. Where significant development of agricultural land is demonstrated to be necessary, local planning authorities should seek to use areas or poorer quality land in preference to that of a higher quality’.

10. The site has not been in productive agricultural use since at least the 1980s and it is in separate ownership to the adjoining agricultural land. I therefore consider there is a limited prospect of the site being returned to an agricultural use. There would nevertheless be conflict with Policy DM31 of the Local Plan, albeit I consider that conflict is tempered by the fact that there would be a very modest loss of BMV land, which has been unproductive for many years.
11. As the site has not been allocated for housing this proposal would be a ‘windfall development’, which Policy CP3 of the Local Plan indicates may be appropriate ‘... except where the character of the site, its local context or environmental value determines otherwise ...’. I am of the opinion that a development of four houses would be a natural extension to The Tracies, given the character of the houses in The Tracies and the fact that the site is enclosed by that cul-de-sac, the properties to the north in High Street and Dromore. I consider that this development would neither be harmful to the character and appearance of the area nor adversely affect the living conditions of the occupiers of nearby dwellings with respect to the receipt of light, privacy and outlook. I also consider that while the development would form part of the setting of the Newington High Street Conservation Area and Lion House, a grade II listed building on High Street, the setting of those heritages assets would be preserved, given the development’s scale and the presence of other built development in their settings.
12. In terms of accessibility to everyday facilities and services, given the site’s proximity to the centre of Newington, I consider this would be an accessible location for housing. That is a matter re-colonised by the Council’s officers in their report to the planning committee (paragraph 9.05).
13. Overall I consider that there would be no unacceptable environmental harm to the area. There would be some social and economic benefits arising from the provision of four houses. The harm associated with this development therefore comes down to what amounts to an in principle objection to the development because of the conflict with Policies ST3 and DM31 of the Local Plan. In that respect I consider it of note that the Council’s committee report refers to a ‘finely balanced decision’ needing to be taken by the planning committee’s members (paragraph 9.07 of the officer report).
14. I consider the conflict with Policy ST3 to be of greater significance than that with Policy DM31, given the very modest loss of agricultural land there would be. Having regard to the fact that this development would be a natural extension of The Tracies and the absence of harm to the area’s character and appearance and the living conditions of nearby residents, I conclude that, on balance, this would be an appropriate location for housing of the scale proposed.
15. In arriving at my conclusion on this issue I consider it of significance that when the Local Plan was being formulated this site was a prospective housing allocation. However, the Council’s officer report (paragraph 9.20) refers to the Council’s LDF Panel in May 2016 determining not to allocate the site ‘... on

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the basis of issues relating to access. Although the minutes do not record specifically what this issue relates to, I presume it relates to Callaways Lane from the A2'. It would appear that it was only a concern relating to the site's relationship with the highway network that resulted in it not being made an allocated site. While the junction between Callaways Lane and High Street has a tight geometry, with the former being a one way street at this point, the highway authority has raised no objection to the development and I see no reason why the traffic generated by the development could not be accommodated by local highway network.

16. In considering whether the site would be an appropriate location for housing, I am mindful of the dismissal of an appeal concerning a proposal for three dwellings to the rear of 148 High Street (No 148). However, based on the Inspector's description of that site and the assessment of the proposal for No 148, I consider that the scheme before me is distinguishable from that proposed for No 148. That is because the development to the rear of No 148 would encroach into the open countryside to the south of High Street and '... would significantly erode, the open, rural character of the area' (paragraph 7 of the decision letter) and would not concern the development of an essentially contained site that would form a natural extension of an established cul-de-sac.
17. While there would be conflict with Policies ST3 and DM31 of the Local Plan, on the evidence available to me, for the reasons given above, I conclude that the conflict, in this instance, would not be of such significance as to warrant the withholding of planning permission.

#### Conditions

18. Various conditions have been suggested by the Council and I have considered the need for their imposition having regard to the provisions of the national policy and guidance. Apart from the standard outline conditions concerning the reserved matter of landscaping, it is necessary that the development should be built to accord with the submitted plans for certainty. As the definition for landscaping included in the Town and Country Planning (Development Management Procedure) (England) Order 2015 covers both hard and soft landscaping I consider a condition specifying the precise details to be submitted pursuant to condition 1 to be unnecessary. It will be for the Council to decide whether the reserved matters submission is sufficiently detailed when that application is made. It is however, necessary for a condition to be imposed requiring the implementation and retention of the approved landscaping works.
19. To safeguard the operation of the highway and the living conditions of nearby residents it is necessary that a construction method statement (CMS) be submitted for approval prior to the commencement of the development. I, however, consider it unnecessary for the CMS to include details relating to the cleaning of the highway because that is a matter that the highway authority has powers to control. Rather than imposing a condition specifying the actual hours during which construction works may be undertaken, I have included a provision within the CMS condition requiring details for the working hours to be submitted for approval. As there is nothing to be demolished the CMS condition does need to refer to demolition works.

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20. As a disused orchard the site has the potential to be of some biodiversity value, which would be lost with the removal of the existing vegetation. It is therefore appropriate that details of an ecological mitigation and enhancement strategy, informed by an updated ecological survey, be submitted for approval. It is necessary that the details for that strategy be submitted and approved prior to the undertaking of any vegetation clearance so that the strategy can be assessed against the prevailing situation. A condition concerning surveys for the presence of bats and the working up of a mitigation strategy for any bat presence has been suggested, with the required details to be submitted prior to any tree works being undertaken. However, the Phase 1 Ecological Survey that accompanied the application refers to none of the trees within the site being suitable for bat roosting, with only foraging bats visiting the site<sup>4</sup>. On the available evidence I am therefore not persuaded of the need to impose the suggested bat condition.
21. To safeguard the appearance of the area it is necessary that prior to the construction works extending beyond the foundation level that details of the external materials be submitted for the Council's approval. To safeguard the water environment it is necessary for surface and foul drainage details to be submitted for the Council's approval before the development is above its foundation level.
22. In the interests of promoting energy efficiency and to accord with Policy DM19 of the Local Plan it is necessary that prior to the construction works extending beyond foundation level that details for the utilisation of sustainable construction methods (water saving, renewable energy use etc) are submitted for the Council's approval. To safeguard the operation of the public highway a condition requiring the provision and retention of the on-site parking and vehicle manoeuvring areas is necessary.
23. A condition withdrawing the permitted development rights for the installation of means of boundary enclosure has been suggested. However, as the initial means of boundary enclosure will form part of the hard landscaping scheme to be approved pursuant to condition 1 and the site is not particularly sensitive from either historic environment or landscape perspectives, I consider the imposition of the suggested condition to be unnecessary.

#### **Conclusion**

24. For the reasons given above I conclude that the appeal should be allowed.

*Grahame Gould*

INSPECTOR

#### **SCHEDULE OF CONDITIONS**

- 1) Details of the landscaping (hereinafter called "the reserved matter") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matter shall be made to the local planning authority not later than 3 years from the date of this permission.

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<sup>4</sup> Section 3.2 of the report of August 2016 prepared by ASW Ecology

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- 3) The development hereby permitted shall take place not later than 2 years from the date of the approval of the reserved matter.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plans: 1618/01 Revision A – Location and Block Plan; 1618/02 Revision A – Site Layout; 1618/04 – Plot 1 Floor Plans; 1618/05 – Plot 1 Elevations; 1618/06 – Plot 2 Floor Plans; 1618/07 – Plot 2 Elevations; 1618/08 Revision A – Plot 4 Floor Plans; 1618/09 Revision A – Plot 4 Elevations; 1618/10 – Plot 2 Car Barn; 1618/11 Revision A – Street Scene; 1618/12 – Plot 3 Floor Plans; 1618/13 – Plot 3 Elevations; and 1618/14 – Plot 3 Carport.
- 5) Prior to any vegetation clearance being undertaken details of an ecological mitigation and enhancement strategy shall be submitted to and approved in writing by the local planning authority. The ecological mitigation and enhancement strategy shall be informed by an updated ecological survey or surveys and the development shall be implemented in accordance with the approved ecological mitigation and enhancement strategy.
- 6) No development shall take place until a construction method statement has been submitted to and approved in writing by the local planning authority. The construction method statement shall provide for:
  - a) the parking of vehicles for site operatives and visitors;
  - b) loading and unloading of plant and materials;
  - c) storage of plant and materials used in constructing the development;
  - d) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
  - e) measures to control the emission of dust and dirt during construction;
  - f) a scheme for recycling/disposing of waste resulting from the construction works; and
  - g) the construction working hours.The approved construction method statement shall be adhered to throughout the construction period for the development.
- 7) No development above foundation level shall be commenced until details for foul and surface water drainage have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details and the drainage scheme shall be retained thereafter.
- 8) No development above foundation level shall be commenced until details of the external facing materials have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 9) No development above foundation level shall be commenced until details of measures relating to the use of sustainable construction techniques, such as water conservation and recycling, renewable energy production and energy efficiency have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved scheme of sustainable construction techniques and thereafter the measures that form part of the approved scheme shall be retained.
- 10) The hard and soft landscaping works shall be implemented in accordance with the details approved pursuant to condition 1 prior to the occupation of the

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development or in accordance with a programme to be agreed as part of the submission of details pursuant to Condition 1. Upon completion of the soft landscaping works any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

- 11) The development hereby permitted shall not be occupied until the parking spaces, garages, car barns/ports and vehicle manoeuvring areas shown on the approved drawings have been provided and made available for use. Thereafter the parking spaces, garages, car barns/ports and vehicle manoeuvring areas shall be retained and shall be used for no purposes other than the parking and manoeuvring of vehicles and no permanent development, whether permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking and re-enacting that Order with or without modification), or not shall be undertaken on the land so shown or in such a position as to preclude vehicular access thereto.



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## Costs Decision

Site visit made on 13 June 2018

by **Grahame Gould BA MPhil MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 6<sup>th</sup> July 2018**

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**Costs application in relation to Appeal Ref: APP/V2255/W/18/3195507  
Land at The Tracies, Callaways Lane, Newington, near Sittingbourne, Kent  
ME9 7TQ**

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
  - The application is made by Mrs Gillian Murray for a full award of costs against Swale Borough Council.
  - The appeal was against the refusal of planning permission for the erection of 4 No. four detached dwellings with associated access and parking including an attached double garage, two detached double carports and an integral garage.
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### Decision

1. The application for an award of costs is refused.

### Reasons

2. Paragraph 030 of the Planning Practice Guidance's (the PPG) section on appeals advises that, irrespective of the outcome of an appeal, costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. A full award of costs has been sought by the applicant on substantive and procedural grounds. The applicant has submitted that the Council: encouraged the submission of the planning application; provided an indication that it was minded to recommend approval for the development during the early stages of the application's consideration; and then without explanation went on to refuse planning permission. It is further argued that the decision prevented and delayed development which clearly should have been permitted and represents unreasonable behaviour for the purposes of paragraph 049 of the PPG. It is also contended that the reason for refusal was vague and generalised and included an inaccurate assertion that site's agricultural land classification (ALC) was grade 1, when it has subsequently been established as being grade 2. It is argued that the inaccuracy in the ALC relied upon by the Council resulted in unnecessary expense being incurred through the obtaining of specialist advice as part of the making of the appeal.
4. With respect to the matter of the site's ALC, the report submitted with the appeal states that were the site to be brought back into active agricultural use then it should be considered as being grade 2 rather than grade 1. An ALC of grade 2 confirms that the site constitutes best and most versatile agricultural land (BMV) and that gives rise to conflict with Policy DM31 of Bearing Fruits

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2031: The Swale Borough Local Plan of 2017 (the Local Plan). The submission of the agricultural land report did not greatly assist my consideration of this aspect of the parties' cases because a downgrading to grade 2 still meant the site is BMV land. Given the modest area of the site I do not consider that the applicant was compelled to submit a land classification report with the appeal. I am therefore not persuaded that the Council's reference to the site having an ALC of grade 1 of itself caused the applicant to incur unnecessary expense in submitting the appeal.

5. It is evident from the email exchange included with the applicant's final comments that firstly the determination of the appealed application was very protracted and secondly that the Council's officers having been supportive of the development changed their view at some time after early August 2017. That change of view culminated in a recommendation for refusal to the planning committee of 14 September. The Council has provided no explanation as to why its officers appeared to change their view about the development. Be that as it may by the time the planning application was reported to the planning committee the Local Plan was the extant development plan for the area, having been adopted by the Council on 26 July 2017 and the Council identified in its committee report that there was clear conflict with Policies ST3 and DM31.
6. The officer report for the appealed application refers to the decision to be made by the planning committee's members as being 'finely balanced'. Given the recent adoption of the Local Plan and the conflict with Policy ST3, in particular, I find it unsurprising that there was a recommendation for refusal and that planning permission was refused. In determining the appeal I have found that in the absence of any harm to matters such as the character and appearance of the area, heritage assets and the living conditions of nearby residents, and having regard to the very specific locational circumstances of the site relative to Newington's built up area, that on balance the appeal should be allowed. In coming to that conclusion I consider that the Council's has been able to substantiate the reason for refusal (second bullet point of paragraph 049 of the PPG). I also consider that this is an instance where the Council's decision did not prevent or delay '... development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations ...' (first bullet point of paragraph 049 of the PPG) because of the conflict with Policy ST3.
7. I therefore consider the applicant has not demonstrated unreasonable behaviour on the Council's part when regard is paid to paragraph 049 of the PPG and that an award of costs on either procedural or substantive grounds is unwarranted.

### **Conclusion**

8. For the reasons given above I find that unreasonable behaviour resulting in wasted expense, as described in the PPG, has not been demonstrated. The application for an award of costs is therefore refused.

*Grahame Gould*

INSPECTOR

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## Appeal Decisions

Hearing Held on 26 June 2018

by **B M Campbell BA(Hons) MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 18 July 2018**

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### **S174 Appeal Refs: APP/V2255/C/17/3178921, 3178922 & 3178923 Grace's Place, Homestall Road, Doddington, Kent ME9 0HF**

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeals are made by Mrs Sybil Smith, Mr John Smith and Mr Dennis Doughty 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 planning permission Ref: SW/06/0126 granted on 28 July 2011.
- The development to which the permission relates is *change of use to residential for one gypsy family for one mobile, one tourer, one shed*.
- The condition in question states that: *The use hereby permitted shall be for a limited period of 3 years from the date of this decision, after which time the use shall cease and all caravans, structures, fences, materials and equipment brought on to the site in connection with the use shall be removed from the site within three months, and the land shall be restored to its former condition*. The notice alleges that the condition has not been complied with in that the use continues.
- The requirements of the notice are to:
  - (1) 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; and
  - (2) Remove any caravans, structures, fences, materials and equipment brought on to the Site in connection with the stationing of any caravans for residential use, and the Site shall be restored to its former condition.
- The period for compliance with the requirements is 12 months.
- Appeal 3178921 was initially proceeding on the grounds set out in section 174(2) (a), (c) and (g) of the Town and Country Planning Act 1990 as amended. Appeals 3178922 & 3178923 were proceeding on grounds (c) and (g) only, ground (a) and the application for planning permission deemed to have been made under section 177(5) of the Act having lapsed since the prescribed fees were not paid within the specified period.

**Summary of Decision: The appeal is allowed, the enforcement notice is quashed, and planning permission is granted in the terms set out below in the Formal Decision.**

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### **S78 Appeal Ref: APP/V2255/W/17/3178940 Grace's Place, Homestall Road, Doddington, Kent ME9 0HF**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mrs Sybil Smith against the decision of Swale Borough Council.
- The application Ref 16/503982/FULL, dated 9 May 2016, was refused by notice dated 6 March 2017.
- The development proposed is Change of use to residential – for one gypsy family, comprising one mobile home, one touring caravan and one utility shed.

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**Summary of Decision: The appeal is allowed, and planning permission granted subject to conditions set out below in the Formal Decision.**

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**Preliminary matters**

1. At the outset of the hearing, I sought confirmation of the correct spelling of Mr Doughty's surname given the variations on the appeal paperwork.
2. The Agent for the Appellants confirmed that ground (c) was withdrawn on all the s174 appeals. Thus 3178921 proceeds on grounds (a) and (g) and appeals 3178922 and 3178923 on ground (g) only.
3. Since the refusal of planning permission and the issue of the notice, a new local plan for the Borough has been adopted. The appeals now fall to be considered having regard to the provisions of *Bearing Fruits 2031: The Swale Borough Local Plan* (July 2017) and my attention has been drawn to policies ST 3 – The Swale settlement strategy, DM 10 Gypsy and Traveller sites, DM 24 Conserving and enhancing valued landscapes and DM 26 Rural lanes.

**The s78 appeal 3178940 and the s174 appeal 3178921, ground (a)**

4. The main issue in this case is whether the site is suitable as a gypsy and traveller site having regard to its specific location and assessed against relevant planning policies and whether any harm or identified policy conflict is outweighed by other considerations.

**Background**

5. The site is owned by Mr John Smith. He purchased it in 2006 and made a planning application for residential use as a gypsy site. It was occupied by him, his partner and his three children. The application was not determined until 2011 when the site was found to be unsuitable for permanent occupation. Nonetheless, having regard to the personal circumstances of the family a temporary permission was granted. This expired on 28 July 2014.
6. Of those original occupiers, only one, Jacob, who is now 20, remains on the site. Also resident are his grandmother (John's mother) Sybil Smith and her husband, Dennis Doughty. My understanding is that Sybil moved on to the site to take over parenting duties for Jacob when her son and the other original family members moved off.
7. Sybil is registered disabled. She and her husband stopped travelling for work because of her disability and although it was their intention to resume, they now accept that due to her ill health and their age and infirmity, they will not be able to do so. Whilst she is a Romany Gypsy and he is an Irish Traveller, neither meet the revised definition of gypsies and travellers for planning purposes as set out at Annex 1 of the 2015 national *Planning policy for traveller sites* (PPTS) as it now excludes those who have ceased to travel permanently.
8. Jacob is currently undertaking an apprenticeship and hopes to qualify at the end of the year. He will not be leading a nomadic lifestyle and so he too does not meet the PPTS definition of a gypsy despite his Romany background.
9. The planning application, the subject of the s78 appeal was made on the basis that it would be for these three occupiers. At the hearing, however, I heard

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that Jacob stays away for much of the time (although the appeal site remains his home) and that his cousin Luke (another grandson of Sybil's) has been using Jacob's bedroom for the last two months since the breakdown of his marriage. Luke is a gypsy for planning purposes since he travels for work and he needs a base so that his young son can visit at weekends.

10. Specific policies addressing the accommodation needs of gypsies and travellers are contained in national and local planning policies. However, having regard to the above, these apply only to Luke.

***Suitability of the appeal site***

11. The appeal site comprises a rectangular shaped plot situated on the southern side of Homestall Road, a narrow country lane. Despite being situated opposite a pair of semi-detached cottages, the area is sparsely populated with very few buildings along the lane and in the immediate surroundings. Farmland, trees and hedgerows prevail culminating in a largely unspoilt and tranquil rural scene notwithstanding the proximity of the M2 to the south.
12. The newly adopted Local Plan sets out a settlement strategy for Swale. Settlement tiers are identified to guide the location of future development and services. Urban centres and larger well-connected villages with the largest concentrations of population and where services, employment and transport choices are present occupy the higher tiers. The lower the tier, the less development is envisaged. The appeal site, with its isolated position in the countryside, falls within the lowest tier where policy ST 3 indicates that development will not be permitted unless supported by national planning policy and able to demonstrate that it would contribute to protecting and, where appropriate, enhancing the intrinsic value, landscape setting, tranquillity and beauty of the countryside, its buildings and the vitality of rural communities.
13. The overarching aim of government policy in the National Planning Policy Framework (NPPF) is to achieve sustainable development in economic, social and environmental terms. In addressing housing development in rural areas, paragraph 55 says it should be located where it will enhance or maintain the vitality of rural communities and that isolated homes should be avoided unless there are special circumstances.
14. The appeal site is so isolated that it cannot be said to support any identifiable rural community and thus, in the absence of special circumstances, its use would be in conflict with paragraph 55 of the NPPF. Not being supported by national planning policy would also result in conflict with Local Plan policy ST 3.
15. To the limited extent that the policies in the PPTS are applicable to this case, paragraph 14 recognises that gypsy traveller sites will be found in rural and semi-rural settings. Nonetheless, paragraph 25 indicates that traveller site development in open countryside and away from existing settlements or outside areas allocated in the development plan should be strictly limited. The appeal site is such a site. As with general national policy, the aim is to achieve sites that are sustainable economically, socially and environmentally. Having regard to the guidance in PPTS paragraph 13, I do not find this site to be so. Whilst a settled base has advantages such as enabling occupiers to access education and health services and reducing the need for long distance travelling, these are general benefits that would come from any settled base and are not specific to this site. The isolated position of this site is such that it

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would not foster social inclusion or integrated co-existence with the settled community and it is not conveniently situated to access the necessary services and facilities for day to day living.

16. In connection with policy ST 3 the Local Plan includes an indicative map of accessibility to services showing areas ranging from those accessible to most or all services to those accessible to few or no services. The appeal site is located in the most inaccessible category.
17. Local Plan policy DM 10 addresses the provision of gypsy and traveller sites and the Plan makes clear that it is to be read and interpreted in conjunction with policy ST 3. Thus applicants are required to consider the availability of sites at each tier of settlement category before a site within the next lower tier is considered and permitted – although the policy does allow for exceptional circumstances.
18. Looking at the effect of the use on the character and appearance of the area, the site is well screened from public view by natural vegetation. Nonetheless, the additional residential use on a sizeable site in this remote location serves to erode the largely undeveloped nature of the area and in this respect there is a degree of conflict with national and local policies which seek to protect the character of the rural area.
19. The Local Plan identifies Homestall Road as a rural lane where policy DM 26 states that permission will not be granted for development that would either physically, or as a result of traffic levels, significantly harm its character. I have already noted that the site is well screened. However, the wide, hard surfaced, bell mouthed access into the site and the maintenance of a sight line (required in the interests of road safety) are at odds with the type of simple opening in a hedge secured by a field gate that one might typically expect to find along a rural lane flanked by farmland. Moreover at the access a view into the site is afforded which exposes the domestic use taking place on the site. Notwithstanding that the amount of traffic generated by the use would be low and unlikely to have any material effect, I find the appearance of the entrance and the view available into the site at this point do significantly harm the character of the rural lane in conflict with policy DM 26.
20. Drawing together my findings, I conclude that having regard to its specific location and assessed against relevant planning policies, the site is not suitable as a gypsy and traveller site due to its isolated location remote from day to day services and facilities and with no potential for fostering social integration; and due to its harmful effect on the character and appearance of the rural area in particular on the valued rural lane. In reaching that conclusion I have borne in mind the two appeal decisions drawn to my attention by the Appellant where Inspectors found distances to services greater than in this case to be reasonable. However, those cases were in very different local authority areas. In Swale, ease of accessibility to services for the whole Borough has been assessed and sustainable locations are now guided by the recently adopted Local Plan. The appeal site is in the category of area which performs least well and the Council indicated at the hearing that suitable gypsy and traveller sites have been found in the better performing areas. My conclusion on the suitability of the site would be the same whether one applies national and local policies specifically relating to gypsies and travellers (bearing in mind one of the occupiers meets the planning definition) or not.

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### ***Other considerations***

#### ***Need***

21. The national need for more gypsy and traveller sites is not in dispute. Nor was it argued at the hearing that there is not a need for more sites regionally. With regard to need within Swale, the Council's 2013 Gypsy and Traveller Accommodation Assessment (GTAA) identified a need for 85 pitches. Following publication of the 2015 PPTS with the revised definition of gypsies and travellers, that figure was reduced to 61. The revised figure was accepted by the Local Plan Inspector who, after taking into account sites completed and with planning permission, agreed that the very small remaining identified need could come forward as windfalls assessed against the criteria based policy DM 10.
22. There has been criticism that 19 pitches at Brotherhood Woodyard should not currently contribute to supply as they are not suitable for, nor occupied by gypsies and travellers. The Council, however, provided evidence at the hearing of action being taken against the apparent breaches of planning control so as to bring the development into line with the permission granted. In addition, I heard that a further planning permission has been granted that would increase the supply at that site by another 11 pitches (30 additional pitches in total). The scheme was criticised by the Appellant as to its suitability for gypsies and travellers, in particular in that only seven of the 40 pitches have a utility/day room and the communal facility would not be an acceptable alternative for those without. However, my understanding is that each pitch would accommodate a mobile home and touring caravan and not all gypsies and travellers are adverse to having toilet and washing facilities within their mobile homes – the current Appellant family being one such example.
23. In evidence the Council produced three alternative calculations of the five year supply: firstly in the last monitoring year and discounting any contribution from Brotherhood Woodyard; secondly calculated live and including in supply the additional 30 at Brotherhood Woodyard along with two from another approval; and thirdly calculated live assuming 19 additional pitches at Brotherhood Woodyard had been implemented with the additional 11 and two from another approval included in supply. These produced a supply of 4.88 years, 22.6 years and 14 years respectively. The mathematics was not disputed by the Appellant. Given the active steps that the Council has and is taking with regard to the situation at Brotherhood Woodyard, it seems to me that it is in a good position insofar as demonstrating a five year supply against the assessed need is concerned.
24. Nonetheless, the Local Plan Inspector, in concluding that the Council's evidence update provided a well-reasoned and pragmatic solution, made clear in her report that she had in mind that the early review of the Plan (a commitment arising from concerns about highway infrastructure) would require both need and supply to be reassessed soon after adoption. Added to this, the GTAA, which has a base date of 2 February 2013, recommended a repeat assessment in about five years to maintain accuracy. It is overdue with no date as yet for anticipated publication.
25. In addition to this current requirement to re-assess need, the Council's response at the hearing to concerns raised about need arising from in-migration and from expiry of temporary planning permissions was far from

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satisfactory. With due respect, it is quite incorrect to say that these matters should not be factored in in the calculation of need. Notwithstanding the current position with regard to the five year supply, I was given no reason to reach a different conclusion to that of my colleague Inspectors in recent appeal decisions referred to me<sup>1</sup>, that there is evidence (from caravan counts and from the expiry of temporary permissions) of unmet need for gypsy and traveller accommodation on the ground.

26. However, in the circumstances of this particular case, need and provision for gypsies and travellers who meet the PPTS definition has limited relevance since the site primarily provides for three people who do not meet that definition. The exception is Luke. But he has only been resident some two months and so moved on well after the service of the notice. His status as a permanent resident seems uncertain as I was told he has been "borrowing" Jacob's bedroom rather than the spare room within the mobile home being converted to a bedroom for his use.
27. The 24 households subtracted from the 2013 GTAA assessment of need<sup>2</sup> when the definition of gypsies and travellers changed in 2015 are households no less in need of accommodation. These people will be caught by the recently introduced duty in the Housing Act 1985<sup>3</sup> for Councils to consider the needs of people residing in or resorting to their district in respect of caravan sites and houseboats. The Local Plan Inspector indicated that those needs would be best addressed as part of the early review of the Local Plan. The principal occupiers of the appeal site fall within this group. They are ethnic gypsies and travellers who, I heard, have a cultural aversion to living in conventional bricks and mortar. As yet there appears to be no assessment of need for this group and no provision made for them.

*Personal circumstances and alternatives available*

28. The family group have a need for a permanent pitch. Sybil and Dennis are elderly and infirm and Sybil is registered disabled. All require a permanent base to access health services – but Sybil and Dennis in particular due their age and infirmity.
29. The site has been Jacob's home for some 12 years and Sybil's and Dennis's for about seven years. At the hearing they confirmed that they had looked for alternative sites but without success. The Council was unable to suggest where the family group might go should the enforcement notice be upheld and they are required to leave. The upshot could be no alternative but roadside living.
30. Although it was unclear whether Luke's presence on site was a permanent or temporary arrangement, for as long as he has nowhere else to go, he is in need of a settled base so as to enable his young son to come and stay.

*Intentional unauthorised development*

31. Sybil and Dennis have occupied the land in breach of the occupancy condition but it is clear that their motive was well intentioned in that their purpose was to take over parental responsibility from John for Jacob. In addition, the family group has remained on the site since the temporary planning permission

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<sup>1</sup> 3176865 (Windmill Farm), 3179355 (Hill Top Farm), 3174468 (The Meads Farm) and 3172935 (The Retreat)

<sup>2</sup> 85 reduced to 61

<sup>3</sup> Section 8(3) of the Housing Act 1985 introduced by Section 124(1) of the Housing and Planning Act 2016 (12 July 2016)

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expired in 2014. However, they applied for a renewal when expiry was drawn to their attention and have brought an appeal on ground (a) against the enforcement notice in the hope of regularising the position. In the situation here where the family group has occupied the site for many years – no doubt considering it to be their home – and with no other alternative open to them, I give this matter minimal weight.

***The balance of considerations and conclusion***

32. I have found the appeal site to be unsuitable as a gypsy and traveller site due to the remoteness of its location and harm caused to the character of the area and designated rural lane. Whilst the identified need, especially for those gypsies and travellers who do not meet the PPTS definition, and the personal circumstances of the occupiers of the site weigh in favour of a grant of permission, I do not find this to be of sufficient weight to justify permanent occupation of a site in the most inaccessible category of land in the Borough and where there is damage to a designated rural lane. This is especially so when the Council has shown that sites have been found in more sustainable locations and planning permission granted.
33. Whether one applies policies applicable to gypsies and travellers or not, there is conflict with both national planning policies and with the Development Plan for the area. In looking at a permanent permission, the harm identified is overriding and is not outweighed by the other considerations so as to indicate that the proposal should be determined otherwise than in accordance with the Development Plan.
34. For a temporary period, however, I believe the balance shifts. Notwithstanding the position in relation to the five year supply, a need on the ground for more gypsy and traveller sites for those who meet the PPTS definition has been identified. Perhaps of greater significance, however, is that in the main the Appellant family group do not meet the PPTS definition although they clearly are ethnic gypsies and travellers by background. Despite the duty to do so, the needs of this ethnic group who fail the PPTS definition have yet to be assessed or addressed even though there is an indication from the 2013 GTAA that there are at least 24 households in need.
35. Whilst the Local Plan Inspector indicated that their needs would be best addressed as part of the early review of the Local Plan, the current inequality of housing opportunity for this group of people adds weight to the proposition that a temporary permission might be granted to allow for this situation to be redressed. When considered along with the personal circumstances of the occupiers of this site and the lack of any suitable alternative to which the group could go, the balance tips in favour of the grant of a temporary planning permission. I have no evidence of any substantive progress having been made on the early review of the Plan despite a year having elapsed since adoption and in these circumstances it seems to me that five years would not be an unreasonable period to enable the needs of persons who do not meet the PPTS definition but who nonetheless require caravan pitches to be assessed and addressed and so achieve equality of opportunity for all.
36. With regard to Luke who does meet the PPTS definition, there is evidence that he is in need of a base – at least in the short term – and no indication that he has any alternative place to go. It is clearly in the best interests of his child that he has a settled base so that his son has the opportunity to visit him.

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37. For a temporary period, therefore, the particular circumstances of this case are such that the other material considerations, when taken together, indicate that a decision should be taken otherwise than in accordance with the Development Plan. The harm and identified policy conflict is outweighed by other considerations in the short term.

#### **Conditions**

38. As permission is only justified for a limited time and by the personal circumstances of the occupiers, conditions addressing these matters are clearly necessary. Conditions restricting the number of caravans, preventing business use, restricting the size of vehicle to be accommodated and controlling external lighting are all necessary to limit the effect on the character of the rural area and designated lane. In addition the maintenance of a sight line at the access into the site is necessary in the interests of highway safety.

#### **Conclusion**

39. The s78 appeal 3178940 and the s174 appeal 3178921 on ground (a) succeed. Conditional planning permissions will be granted and the enforcement notice will be quashed. That being the case there is no need for me to go on to consider the s174 appeals on ground (g).

40. Since the notice is to be quashed, there is also no need for me to correct the typographical error in paragraph 1 where the reference to Section 171A(1)(a) of the Act should have been Section 171A(1)(b).

#### **Formal Decisions**

##### **S174 Appeal Ref: APP/V2255/C/17/3178921**

41. The appeal is allowed and the enforcement notice is quashed. Planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended for the change of use to residential for one gypsy family for one mobile, one tourer and one shed without complying with condition 1 of permission SW/06/0126 subject to the following new conditions:

- 1) The use hereby permitted shall be carried on only by the following: Jacob Smith, Sybil Smith, Dennis Doughty and Luke Smith and their resident dependants, and shall be for a limited period being the period of five years from the date of this decision, or the period during which the premises are occupied by them, whichever is the shorter.
- 2) When the premises cease to be occupied those named in condition (1) above, or at the end of five years, whichever shall first occur, the use hereby permitted shall cease and all caravans, buildings, structures, materials and equipment brought on to 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.
- 3) No more than two caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 as amended (of which no more than one shall be a static caravan) shall be stationed on the site at any time.
- 4) The site shall be used for residential purposes only and shall not be used for any business, industrial or commercial use. No open storage of plant,

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products or waste shall take place on the land and no vehicle over 3.5 tonnes shall be stationed, parked or stored on the land.

- 5) No floodlighting, security lighting or other external lighting shall be installed or operated on the site other than in accordance with details which shall have been previously submitted to and agreed in writing by the local planning authority.
- 6) The area between the carriageway edge and a line drawn between a point 2m back from the carriageway edge in the centre of the access and a point on the nearside carriageway edge 30m to the west of the centreline of the access shall, at all times, be kept clear of any tree, plant or other obstruction over 1.05m above carriageway level.

**S174 Appeal refs: APP/V2255/C/17/3178922 & 3178923**

42. I take no further action in respect of these appeals.

**S78 Appeal Ref: APP/V2255/W/17/3178940**

43. The appeal is allowed and planning permission is granted for change of use to residential – for one gypsy family, comprising one mobile home, one touring caravan and one utility shed at Grace's Place, Homestall Road, Doddington, Kent ME9 0HF in accordance with the terms of the application, Ref:16/503982/FULL, dated 9 May 2016, and drawing nos: 16002 001, 16002 002 & 16002 003, subject to the following conditions:

- 1) The use hereby permitted shall be carried on only by the following: Jacob Smith, Sybil Smith, Dennis Doughty and Luke Smith and their resident dependants, and shall be for a limited period being the period of five years from the date of this decision, or the period during which the premises are occupied by them, whichever is the shorter.
- 2) When the premises cease to be occupied those named in condition (1) above, or at the end of five years, whichever shall first occur, the use hereby permitted shall cease and all caravans, buildings, structures, materials and equipment brought on to 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.
- 3) No more than two caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 as amended (of which no more than one shall be a static caravan) shall be stationed on the site at any time.
- 4) The site shall be used for residential purposes only and shall not be used for any business, industrial or commercial use. No open storage of plant, products or waste shall take place on the land and no vehicle over 3.5 tonnes shall be stationed, parked or stored on the land.
- 5) No floodlighting, security lighting or other external lighting shall be installed or operated on the site other than in accordance with details which shall have been previously submitted to and agreed in writing by the local planning authority.
- 6) The area between the carriageway edge and a line drawn between a point 2m back from the carriageway edge in the centre of the access and a point on the nearside carriageway edge 30m to the west of the

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centreline of the access shall, at all times, be kept clear of any tree, plant or other obstruction over 1.05m above carriageway level.

*B M Campbell*

Inspector

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**APPEARANCES**

FOR THE APPELLANT:

|                   |                         |
|-------------------|-------------------------|
| Dr A Murdoch      | Agent for the Appellant |
| Mrs Sybil Smith   | Appellant               |
| Mr Dennis Doughty | Appellant               |

FOR THE LOCAL PLANNING AUTHORITY:

|             |                       |
|-------------|-----------------------|
| Mr G Thomas | Area Planning Officer |
| Ms G Bryant | Enforcement Officer   |

DOCUMENTS submitted during the hearing

- 1 Planning Committee report for application SW/06/0126
- 2 Aerial photograph showing nearby sites and note addressing sustainability/Brotherhood Woodyard/ Two further permanent pitches
- 3 Appeal decision 3136912 – Chichester District Council
- 4 Enforcement and Breach of Condition Notices for Brotherhood Woodyard
- 5 Extract from Swale GTTA

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## Appeal Decision

Site visit made on 11 July 2018

by R J Maile BSc FRICS

an Inspector appointed by the Secretary of State

Decision date: 27 July 2018

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**Appeal Ref: APP/V2255/D/18/3199807**

**84 Scarborough Drive, Minster on Sea, Sheerness, Kent, ME12 2NQ.**

- 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 Tony Potter against the decision of Swale Borough Council.
  - The application ref: 17/505078/FULL, dated 15 September 2017, was refused by notice dated 15 January 2018.
  - The development proposed is: "Add privacy screening to east and west sides of existing first floor parapet to overall height of 1.8m and add access doors within two existing window aperture widths, to create rear balcony."
- 

### Application for costs

1. An application for costs was made by Mr Tony Potter against Swale Borough Council. This application is the subject of a separate decision.

### Decision

2. The appeal is allowed and planning permission is granted for privacy screening to east and west sides of existing first floor parapet to overall height of 1.8m and add access doors within two existing window aperture widths, to create rear balcony at 84 Scarborough Drive, Minster on Sea, Sheerness, Kent, ME12 2NQ, in accordance with the terms of the application ref: 17/505078/FULL, dated 15 September 2017, subject to the conditions set out in Annex A to this decision.

### Main Issue

3. The main issue in this case is the impact of the privacy screening and use the of the existing flat roof as a balcony upon the living conditions of existing and future residents of neighbouring property.

### Reasons

4. 84 Scarborough Drive comprises a detached post-war house that has been the subject of a number of alterations and extensions in recent years. It is located on a sloping site within a mixed residential area.
5. There is a flat roof at first floor level, to which there is currently no access from the two rear-facing bedrooms. The scheme before me includes works to create casement doors from each of those bedrooms in order to utilise the flat roofed area as a balcony/roof terrace.

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6. The Planning Officer's report refers to the fact that in 2006 following the grant of planning permission for extensions and alterations (ref: SW/05/1166) the development of the site was not proceeding in accordance with the approved plans. Specifically, the openings above the roof to the single storey extension had been constructed for doors giving access to this roof area in place of the approved windows.
7. Following discussions with Officers, the owner agreed to build the openings in accordance with the approved plans, as it was clear that use of this roof as a balcony would have significantly overlooked the private amenity spaces of the dwellings to either side. Once those works had been completed, an Article 4 Direction was secured removing Permitted Development rights for alterations to these openings to give the Council control over any future similar works and to enable an assessment to be made of the impact of use of the flat roof as a balcony.
8. As referred to above, the proposal before me at this appeal seeks to reinstate the casement doors from the two bedrooms and, in order to address concerns regarding privacy, to erect obscure screens above the existing upstand of the roof which surrounds the proposed balcony.
9. Policy DM14 of the Local Plan<sup>1</sup> sets out general development criteria, including that development should not cause significant harm to amenity and other sensitive uses or areas (Criterion 8). Policy DM16 relates to alterations and extensions, Criterion 6 requiring such works to protect residential amenity. The Council's adopted SPG<sup>2</sup> advises applicants to consider the amenities of their neighbours. It also suggests that the use of flat roofs as balconies will not normally be allowed.
10. I have noted the numerous letters of objection that have been received from neighbours in Scarborough Drive and also those living to the rear in Southsea Avenue. However, the dwellings to the rear are sited in excess of 40m from the proposed balcony area and are partially screened by trees and hedging, such that use of the flat roof as a balcony would not permit any significant overlooking or loss of privacy.
11. The objectors in Scarborough Drive refer to the fact that the appellant is above average height, whereas the screens would be only 1.8m above the level of the balcony floor. They have also drawn to my attention the fact that it would be possible to stand upon the threshold of the casement doors or to peer over the rear elevation of the balcony, where no screening is proposed.
12. The height of the obscure screens will measure 1.8m above finished floor level. This is identical to the height of a standard boundary fence and is marginally above the 1.7m that is generally accepted as normal eye height.
13. As part of my site visit I was able to view the proposal from within the rear gardens of 86 (Zanskar) and 70 Scarborough Drive, both of which immediately abut the appeal site.
14. The balcony would be sited away from no. 86 and the hedging and trees along the flank boundary of that property would provide adequate screening. The distance between the easterly screen and the boundary with no. 86 is approxi-

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<sup>1</sup> Bearing Fruits 2031: The Swale Borough Local Plan (adopted July 2017).

<sup>2</sup> Planning and Development Guideline No. 5: Designing an Extension – A Guide for Household.

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mately 7m. Given this separation distance and the existing boundary treatment I am satisfied that the screen would not appear overbearing as viewed from no. 86. As to no. 70, which lies to the west, there is only approximately 1m between the flank wall of no. 84 and the common boundary with that property. However, the screen would be set in approximately 3m from the common boundary.

15. For these reasons, I am satisfied that the privacy screening would not appear overbearing as viewed from nos. 86 or 70; neither would it be possible to peer over it into the garden of either property, notwithstanding the height of the appellant. The possibility of standing on the threshold of the casement doors would also fail to permit overlooking to either side.
16. I acknowledge that it would be possible for a person to stand immediately adjacent to the rear upstand of the balcony where no screen is envisaged and to peer into the rearmost part of the garden to no. 70. That area, however, contains garages closest to the common boundary with an access drive running from the front of the dwelling.
17. There is some form of chalet or summerhouse in the northwest corner of no. 70 which it may be possible to overlook by standing at the rear of the balcony. However, this would require persons to stand at the very rear of the balcony and to make a point of peering into the far corner of the garden to no. 70. In any event, no. 84 already has a clear view of the gardens on either side from a large, rear-facing picture window serving its second floor living room, which I inspected during my site visit.
18. Mention has been made of the potential for noise disturbance arising from use of the balcony. I am nevertheless satisfied that the form and height of the privacy screening will act as an effective barrier to the transmission of sound and that use of the balcony would not give rise to noise levels in excess of what might be expected either from the normal use of no. 84 as a dwelling or its garden area for recreational purposes.
19. I appreciate the understandable concerns of immediate neighbours as to the potential for overlooking, loss of privacy and noise disturbance. However, I have concluded that the height of the screening and the relationship of the balcony with the neighbouring dwellings render the scheme acceptable in this regard.
20. I therefore find upon the main issue that development as proposed would not unacceptably impact upon the living conditions of existing and future residents of neighbouring property, as required by Policies DM14 and DM16 of the Local Plan and advice set out in the Council's adopted SPG as referred to above.

#### **Conditions**

21. I have considered the three conditions put forward by the Council against the tests of the Framework and advice provided by the Planning Practice Guidance issued on 6 March 2014. I find all of them to be reasonable and necessary in the circumstances of this case.
22. My reasons for the conditions are:
23. Condition 1 is the standard commencement condition imposed in accordance with section 91(1) (a) of the Town and Country Planning Act 1990.

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24. Condition 2 is necessary to safeguard the privacy and amenity of neighbouring occupiers while Condition 3, which requires the development to be carried out in accordance with the approved plans, provides certainty.

**Conclusion**

25. For the reasons given above, I conclude that the appeal should be allowed.

*R. J. Maile*

INSPECTOR



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**Schedule of Conditions****Annex A**

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The obscure glazed screens shown on the approved drawings shall be erected in full prior to the first use of the balcony area hereby permitted and shall be permanently retained thereafter.
- 3) The development hereby permitted shall be carried out in accordance with the following approved plans:

Location Plan: scale 1:1250.

Block Plan: scale 1:300.

Site Plan A Version 1.0: Existing and Proposed Rear/Side Elevations – scale 1:100; Existing and Proposed First Floor Plans – scale 1:100.

Site Plan Section Version 1.1: Details of Existing and Proposed First Floor Rear (north) Elevation – scale 1:50; Detailed Screen Dimensions (not to scale).



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## Costs Decision

Site visit made on 11 July 2018

by R J Maile BSc FRICS

an Inspector appointed by the Secretary of State

Decision date: 27 July 2018

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### Costs application in relation to Appeal Ref: APP/V2255/D/18/3199807 84 Scarborough Drive, Minster on Sea, Sheerness, Kent, ME12 2NQ.

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
  - The application is made by Mr Tony Potter for a full award of costs against Swale Borough Council.
  - The appeal was against the refusal of planning permission for: "Add privacy screening to east and west sides of existing first floor parapet to overall height of 1.8m and add access doors within two existing window aperture widths, to create rear balcony."
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### Decision

1. The application for an award of costs is refused.

### Reasons

2. The Planning Practice Guidance advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. 84 Scarborough Drive has already been the subject of a number of alterations and extensions, the most relevant being those for which planning permission was granted in 2006 (ref: SW/05/1166). The Council subsequently secured an Article 4 Direction that removed Permitted Development rights for alterations to the windows serving the two rear-facing bedrooms to prevent access onto the flat roof of the rear extension. The intention was to enable the Council to monitor any future proposals for works likely to affect the residential amenity of nearby occupiers.
4. The Officer's Report recommended that planning permission be granted subject to a total of four conditions. However, given the number of objections from nearby residents and the fact that the appellant is a member of staff of Swale Borough Council, the application was called in.
5. At its Meeting on 7 December 2017 the Committee indicated its approval of the scheme, subject to an amendment that required the height of the screen to be increased by 400mm. The justification for this increase was to ensure that the screen would be the same height as the existing window heads and to address privacy concerns arising from the potential for a person to stand on the door threshold. This suggestion by the Committee that the height of the screen be increased is dealt with at paragraphs 7.09 and 7.11 of the Officer's Report.

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6. Following the Meeting on 7 December 2017 the appellant asked to meet with the two Councillors who had voiced their concerns and had suggested the amendment to increase the height of the screen. The appellant contends that had such a meeting taken place the issues with the planning application would have been resolved and the appeal would have been unnecessary.
7. Notwithstanding the appellant's contention, there is no certainty that the matter would have been resolved by such a meeting. In its response the Council points to the fact that as a quasi-judicial body it would have been inappropriate for two members of the Planning Committee to meet with the appellant at his property. It would also have been highly unusual. Moreover, it is an accepted principle of the Planning Practice Guidance relating to the award of costs that members are entitled to disagree with the advice of their Officers.
8. The appellant also states that he did not have sight of photographs taken by one of his neighbours and produced at the Committee Meeting on 7 December 2017. It is, however, unlikely that photographs taken from a neighbour's garden showing the rear elevation of the property would have influenced the Committee's decision, which was to approve the application subject to minor amendments.
9. I can fully appreciate that a lay member of a Planning Committee would not be aware of the normally accepted eye height of a human and they may have been influenced by the objectors' reference to the height of the appellant and the possibility of standing on the threshold of the new casement doors.
10. The fact that the Council had previously seen fit to serve an Article 4 Direction in order to protect the amenity of neighbours would provide an indication of the need for the application to be considered with great scrutiny.
11. Given the background to this case and the particular concerns of neighbours, I consider that the Committee was entitled to seek to ensure that the purpose of the Article 4 Direction be scrupulously enforced by means of what it reasonably considered a compromise solution. This would have allowed access to and use of the flat roof as a balcony, whilst at the same time preserving the residential amenity of the two most adjacent neighbours.
12. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

*R. J. Maile*

INSPECTOR

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