



AGENDA

PLANNING COMMITTEE MEETING

Date: Thursday, 10 January 2019

Time: 7.00pm

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

Membership:

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

Quorum = 6

Pages

RECORDING NOTICE

Please note: this meeting may be recorded.

At the start of the meeting the Chairman will confirm if all or part of the meeting is being audio recorded. The whole of the meeting will be recorded, except where there are confidential or exempt items.

You should be aware that the Council is a Data Controller under the Data Protection Act. Data collected during this recording will be retained in accordance with the Council's data retention policy.

Therefore by entering the Chamber and speaking at Committee you are consenting to being recorded and to the possible use of those sound recordings for training purposes.

If you have any queries regarding this please contact Democratic Services.

1. Emergency Evacuation Procedure

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

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

The Chairman will inform the meeting that:

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

(b) the lifts must not be used in the event of an evacuation.

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

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

2. Apologies for Absence and Confirmation of Substitutes

3. Minutes

To approve the Minutes of the Meeting held on 6 December 2018 (Minute Nos. 374 - 379) as a correct record.

4. Declarations of Interest

Councillors should not act or take decisions in order to gain financial or other material benefits for themselves or their spouse, civil partner or person with whom they are living with as a spouse or civil partner. They must declare and resolve any interests and relationships.

The Chairman will ask Members if they have any interests to declare in respect of items on this agenda, under the following headings:

(a) Disclosable Pecuniary Interests (DPI) under the Localism Act 2011. The nature as well as the existence of any such interest must be declared. After declaring a DPI, the Member must leave the meeting and not take part in the discussion or vote. This applies even if there is provision for public speaking.

(b) Disclosable Non Pecuniary (DNPI) under the Code of Conduct adopted by the Council in May 2012. The nature as well as the existence of any such interest must be declared. After declaring a DNPI interest, the Member may stay, speak and vote on the matter.

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

Advice to Members: If any Councillor has any doubt about the existence or nature of any DPI or DNPI which he/she may have in any

item on this agenda, he/she should seek advice from the Monitoring Officer, the Head of Legal or from other Solicitors in Legal Services as early as possible, and in advance of the Meeting.

Part B reports for the Planning Committee to decide

5. Planning Working Group

To approve the Minutes of the Meeting held on 2 January 2019 (Minute Nos. to follow).

To consider the following applications:

- (2.4) 18/504824/FULL 16 Hawthorn Road, Sittingbourne, ME10 1BB
- (2.2) 18/504307/FULL Land rear of 343 Minster Road, Minster, ME12 3NR
- (2.3) 18/503678/FULL 344 Minster Road, Minster, ME12 3PE.

6. Deferred Item

1 - 79

To consider the following application:

17/500727/OUT – Manor Farm, Key Street, Sittingbourne, ME10 1YU

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

Requests to speak on these items must be registered with Democratic Services (democraticservices@swale.gov.uk or call us on 01795 417328) by noon on Wednesday 9 January 2019.

7. Report of the Head of Planning Services

80 - 321

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

The Council operates a scheme of public speaking at meetings of the Planning Committee. All applications on which the public has registered to speak will be taken first. Requests to speak at the meeting must be registered with Democratic Services (democraticservices@swale.gov.uk or call 01795 417328) by noon on Wednesday 9 January 2019.

Issued on Friday, 28 December 2018

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

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

PLANNING COMMITTEE – 10 January 2019

DEFERRED ITEM

Report of the Head of Planning

DEFERRED ITEMS

Reports shown in previous Minutes as being deferred from that Meeting

DEF ITEM 1 REFERENCE NO - 17/500727/OUT			
APPLICATION PROPOSAL			
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			
ADDRESS Manor Farm Key Street Sittingbourne Kent ME10 1YU			
RECOMMENDATION Grant subject to conditions and the signing of a suitably-worded Section 106 agreement.			
SUMMARY OF REASONS FOR RECOMMENDATION			
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.			
REASON FOR REFERRAL TO COMMITTEE			
Deferred for a second time, as Members required clarification and further information in respect of air quality. This report addresses this matter.			
WARD Borden And Grove Park	PARISH/TOWN Borden	COUNCIL	APPLICANT Balmoral Land (UK) Ltd AGENT
DECISION DUE DATE 13/06/17	PUBLICITY EXPIRY DATE 30/08/17	OFFICER SITE VISIT DATE	
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):			
App No	Proposal	Decision	Date
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 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 were resolved, and the application was again referred to the committee meeting of 16th August 2018. The report is attached as Appendix 3.

- 1.03 At that meeting the Environmental Protection Team Leader advised that air quality levels in Swale were measured against Government standards in locations where traffic flows were highest, and Swale already monitored air quality more than any other authority in Kent. He added that extra monitoring was taking place in and around the proposed site, but at least 12 months monitoring data would be needed before knowing what the levels were in this vicinity. The Environmental Protection Team Leader drew attention to the fact that the equipment used by Borden Parish Council in their air quality measuring was not certified and that the monitoring periods used were too short to be accurate and comparable with that carried out by the Council.
- 1.04 After some debate, Members resolved that application 17/500727/OUT be deferred for 12 months to allow the air quality monitoring in the area to be carried out and the data considered. The minute is attached as Appendix 4.

2.0 THIS REPORT

- 2.01 This update report addresses the above issue, 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. The new report should also be read in conjunction with the report which was submitted to the meeting of the Planning Committee on 16th August 2018 (see Appendix 3).
- 2.02 My Officers noted the concerns expressed by Members regarding Air Quality (AQ) issues, and decided to commission an assessment by an independent AQ consultant. At the same time, the applicant commissioned his own AQ report.
- 2.03 Whilst noting that Members had requested a deferral of 12 months to establish a set of air quality measurements, Officers were of the opinion that an independent opinion on the current air quality situation would assist Members in their deliberations and that any further delay in determining the planning application could result in the applicant appealing to the Secretary of State on non-determination grounds and potentially subjecting the Council to significant costs.
- 2.04 The following documents were sent by Officers to the consultant to assess:
- The report sent to the Planning Committee on 16th August 2018.
 - The comments and observations made by the Environmental Protection Team Leader
 - Borden Parish Council's AQ report
 - The applicant's AQ technical note
 - The AQ report accompanying the South West Sittingbourne application
- 2.05 This report should also be read in conjunction with the consultant's report, which is attached as Appendix 5.

3.0 APPRAISAL

- 3.01 The consultant's report was received on 30th October 2018. The findings and conclusions presented within the independent report are as follows:
- *'The current background air quality in the vicinity of the proposed Manor Farm and Wises Lane proposed developments are well below the AQS for all pollutants. Additionally, the proposed development locations are not within an AQMA.'*

- *The review of the Wises Lane AQA concluded that the assessment was robust and followed guidance and methodologies required for the assessment of air quality in such developments.*
- *The review of the BPC (Borden Parish Council) commissioned air quality monitoring and analysis by UoK (University of Kent) highlighted the deficiencies in the assessment and comparison of results. The study was limited to short-period measurements and these cannot be used to compare UK AQS's. Simple comparisons from 2018 to 2025 verified modelled results are not valid.*
- *The BPC statements were based on the results of the UoK study and therefore cannot be substantiated.*
- *The comments from the Council's Environmental Protection Team (EPT) Leader regarding the need for an AQA for the Manor Farm application are valid. UK (IAQM) guidance scopes out the need for an AQA following best practice criteria.'*

3.02 As such, it is clear from the report that air quality is not an issue on the basis of which this application should be refused.

4.0 ADDITIONAL REPRESENTATIONS

4.01 The Council published the AQ report on 14th November 2018. Since then, four emails of objection have been received from local residents. The views contained therein may be summarised as follows:

- *'In commissioning this review can you please explain why SBC are sponsoring the Manor Farm and Wises Lane planning application?'*
- *'The University of Kent report is the only report based on real and current data'*
- The application should be held for twelve months for SBC to collate their own measurements
- *'I strongly object to the commissioning of the Phlorum review and wish it to be removed as evidence for both planning applications'* (referring to the proposed Wises Lane development as well)
- Other developments in Sittingbourne will also increase AQ problems
- The Council should provide the University of Kent with monitoring equipment to determine their findings
- There are roadside pollution problems
- *'The Council's own AQ Report for 2018 shows that Key Street is above the legal limit, and I have Councillor Bowles confirm to me in writing that this is the case'*
- The report refers to air quality on the site itself, not to roads in the vicinity
- Takes no account of the Wises Lane development
- I fail to see how pollution has reduced in the last three years
- No monitoring site adjacent to the location
- The A2 and the A249 are at capacity
- No consideration has been given to air quality on the A249 slip road

5.0 OTHER MATTERS

5.01 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 (£239.61 per dwelling on all residential developments, 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/>)

5.02 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.
- £ 239.61 per dwelling, or **£11,980.50** 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.

TOTAL: £501,581.52 + an administrative monitoring fee

6.0 CONCLUSION

6.01 Following the receipt of an AQ report from the Applicant, Officers concluded that it was appropriate to commission an independent report to assess all of the relevant AQ information submitted to the Council from interested parties given the risk of the applicant appealing to the Secretary of State on grounds of non determination and the potential costs that would entail. The report does not consider any other factors other than:

- The report sent to the Planning Committee on 16th August 2018.
- The comments and observations made by the Environmental Protection Team Leader
- Borden Parish Council's AQ report
- The applicant's AQ Technical Note
- The AQ report accompanying the South West Sittingbourne application

With regard to any instruction, the only request from the Council was to assess, from the evidence provided and noted above, if there were grounds to refuse the planning application on the grounds of air quality.

6.02 The report concludes that there are no reasons to refuse the application on Air Quality grounds.

6.03 Having carefully looked at the matters raised by Members at the meetings of this Committee on 17th August 2017 and on 16th August 2018, Officers believe that all of these issues have now been resolved, and that there are no valid planning reasons upon which to refuse this application. As such, it is recommended that the planning permission for this outline application be approved.

7.0 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).
- (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
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REPORT SUMMARY

REFERENCE NO - 17/500727/OUT		
APPLICATION PROPOSAL 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		
ADDRESS Manor Farm Key Street Sittingbourne Kent ME10 1YU		
RECOMMENDATION: 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.		
SUMMARY OF REASONS FOR RECOMMENDATION: 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		
REASON FOR REFERRAL TO COMMITTEE: Parish Council objection; local objections		
WARD Borden And Grove Park	PARISH/TOWN COUNCIL Borden	APPLICANT Balmoral Land (UK) Ltd AGENT
DECISION DUE DATE 13/06/17	PUBLICITY EXPIRY DATE 14/06/17	OFFICER SITE VISIT DATE Two separate site visits
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):		
App No	Proposal	Decision
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.

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).
 - (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 6th 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.

2.4 REFERENCE NO - 17/500727/OUT		
APPLICATION PROPOSAL		
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.		
ADDRESS Manor Farm, Key Street, Sittingbourne, Kent, ME10 1YU		
WARD Borden and Grove Park	PARISH/TOWN COUNCIL Borden	APPLICANT Balmoral Land (UK) Ltd AGENT

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

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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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PLANNING COMMITTEE – 16 AUGUST 2018

DEFERRED ITEM

Report of the Head of Planning

DEFERRED ITEMS

Reports shown in previous Minutes as being deferred from that Meeting

DEF ITEM 1 REFERENCE NO - 17/500727/OUT			
APPLICATION PROPOSAL			
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			
ADDRESS Manor Farm Key Street Sittingbourne Kent ME10 1YU			
RECOMMENDATION Grant subject to conditions			
SUMMARY OF REASONS FOR RECOMMENDATION			
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			
REASON FOR REFERRAL TO COMMITTEE			
Deferred following Planning Committee meeting of 17 th 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.			
WARD Borden And Grove Park	PARISH/TOWN Borden	COUNCIL	APPLICANT Balmoral Land (UK) Ltd AGENT
DECISION DUE DATE 13/06/17	PUBLICITY EXPIRY DATE 30/08/17	OFFICER SITE VISIT DATE	
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):			
App No	Proposal	Decision	Date
As noted on original report			

1.0 INTRODUCTION

- 1.01 Members will recall that this application was originally reported to the Planning Committee on 17th 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.

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- 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 17th 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 18th 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

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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 1st 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 6th 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 17th 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

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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.

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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_{2.5} and PM₁₀, and Nitrogen Dioxide, NO₂

The monitoring was carried out between the following periods:

*24th February – 11th March 2018 for PM_{2.5} and PM₁₀ and
21st February – 25th April 2018 for NO₂*

Particulate monitoring was carried out using an automatic monitor and NO₂ 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_{2.5} and PM₁₀ particulates, though not for NO₂.

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_{2.5} and PM₁₀ 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 NO₂ 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*

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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 17th 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

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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

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- 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 17th 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

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- (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

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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

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

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

- (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)

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- 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.

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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

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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:

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- 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).
- (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

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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 4

PLANNING COMMITTEE

MINUTES of the Meeting held in the Council Chamber - Swale House, East Street, Sittingbourne, Kent ME10 3HT on Thursday, 16 August 2018 from 7.00pm - 9.25 pm.

PRESENT: Councillors Mike Baldock, Cameron Beart, Bobbin, Richard Darby, Mike Dendor, James Hall, Nicholas Hampshire, Mike Henderson, James Hunt, Ken Ingleton, Peter Marchington, Bryan Mulhern (Chairman) and Prescott.

OFFICERS PRESENT: Matt Bembridge, Colin Finch, Andrew Jeffers, Ross McCardle, Jo Millard, Cheryl Parks, Graham Thomas and Jim Wilson and Steve Wilcock.

ALSO IN ATTENDANCE: Councillors Roger Clark and Duncan Dewar-Whalley.

APOLOGIES: Councillors Andy Booth and Nigel Kay.

179 FIRE EVACUATION PROCEDURE

The Chairman ensured that those present at the meeting were aware of the emergency evacuation procedure.

180 MINUTES

The Minutes of the Meeting held on 19 July 2018 (Minute Nos. 67 - 72) were taken as read, approved and signed by the Chairman as a correct record.

181 DECLARATIONS OF INTEREST

During the discussion on the deferred item 17/500727/OUT, Councillor Baldock declared a non-pecuniary interest as he sat on Borden Parish Council but had taken no part in the discussion at their Parish Council meeting.

182 DEFERRED ITEM

Reports shown in previous Minutes as being deferred from that Meeting.

DEF ITEM 1 REFERENCE NO - 17/500727/OUT			
APPLICATION PROPOSAL			
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			
ADDRESS Manor Farm Key Street Sittingbourne Kent ME10 1YU			
WARD Borden And Grove Park	PARISH/TOWN Borden	COUNCIL	APPLICANT Balmoral Land (UK) Ltd AGENT

The Major Projects Officer drew attention to the tabled update.

The Chairman moved the officer recommendation to delegate approval of the application to officers and this was seconded.

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

The Environmental Protection Team Leader advised that air quality levels in Swale were measured against Government standards in locations where traffic flows were highest, and Swale already monitored air quality more than any other authority in Kent. He added that extra monitoring was taking place in and around the proposed site, but at least 12 months monitoring data would be needed before knowing what the levels were in this vicinity. The Environmental Protection Team Leader drew attention that that the equipment used by Borden Parish Council in their air quality measuring was not certified and that the monitoring periods used were too short to be accurate and comparable with that carried out by the Council.

A Member congratulated Borden Parish Council for the work carried out on air quality monitoring and said that it was premature to make a decision on the application until the air quality data for the area of the proposed site was collected.

In the debate that followed Members raised the following points:

- Concern about vehicles parking along Chestnut Street, Borden affecting the sight lines to the entrance of the proposed development;
- would the improvements to Key Street roundabout alter the layout and traffic flows?;
- the full Air Quality report submitted by Borden Parish Council should have been considered;
- the plans did not reflect the route of the footpath;
- the Ecological survey was inadequate as there was a large badger sett and a colony of doormice on land in the vicinity of the application site;
- an Archaeological survey was required
- the site did not integrate in the urban area and the levels of affordable housing proposed should be increased to 30%, as it was for rural housing development;
- proper screening of the site by mature trees should be provided;
- suggested Section 106 payments for roadworks were sought in advance of the commencement of the development; and
- concern about a possible appeal against the non-determination of the application and a possible costs application alongside the appeal.

The Principal Transport and Development Planner (Kent County Council – Highways and Transportation), advised that the proportion of the contribution sought from the development was more than had been sought from developments already granted and would be combined with the money from the Housing Infrastructure Fund bid. The funding would allow for an interim mitigation scheme to be delivered which included the installation of traffic lights on the A249 off-slip. He added that when considering the contribution offered and traffic flows through

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the improved junction, the number of predicted vehicle movements from the site was de minimis.

The Major Projects Officer explained that condition (22) in the report required drawings to show the relocation of Public Right of Way ZR117. He referred to the KCC Ecological report which raised no objection and reminded Members that other legislation protected wildlife such as badgers and dormice, which were a protected species, if necessary. The Major Projects Officer stated that the site was detailed in the Local Plan as an extension to Sittingbourne and 10% affordable housing was therefore appropriate. He explained that the application would be difficult to defend at an appeal as all the expert consultees had no objections to the proposal.

Councillor Nicholas Hampshire moved a motion to defer the application for 12 months to allow for the air quality data currently being collected, to be considered and this was seconded by Councillor Mike Baldock. On being put to the vote, the motion was agreed.

Resolved: That application 17/500727/OUT be deferred for 12 months to allow the air quality monitoring in the area to be carried out and the data considered.

183 SCHEDULE OF DECISIONS

PART 2

Applications for which **PERMISSION** is recommended

2.1 REFERENCE NO - 17/500807/FULL			
APPLICATION PROPOSAL			
Change of use of land for the keeping of private horses. Erection of stables and cess pool with associated landscaping and parking			
ADDRESS Land Adjacent To M2 Yaughar Lane Hartlip Kent ME9 7XE			
WARD Hartlip, Newington And Upchurch	PARISH/TOWN Hartlip	COUNCIL	APPLICANT Mr Simon Coaten AGENT

The Senior Planner advised that Hartlip Parish Council were unable to send a speaker but maintained their objection to the scheme. He added that the stables were 15m **east** and the manure stable **east**, not north as stated in the report at 2.02 on page 45 of the Agenda.

The Senior Planner drew Members’ attention that the new brick walls and gates that had recently been erected at the site were not part of this application, were unacceptable and negotiations for their removal were on-going.

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

A Member requested that the planning history stated on reports be in date order, most recent first. In response to a question from a Member on the use of the car

APPENDIX 5



Air Quality Evidence Review

Manor Farm, Sittingbourne, Kent

December 2018

www.phlorum.com

APPENDIX 5

Air Quality Evidence Review

Manor Farm, Sittingbourne, Kent

December 2018

Document Control:

Project no.	Project
8367A	Manor Farm Application, Sittingbourne, Kent: Air Quality Evidence Review

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

Report No.	Version	Date of issue	Prepared by	Checked
8367 AQAreview_draftv1	Draft	31/10/2018	N Jenkins	P Nolan
8367 AQAreview_final	Final	17/12/2018	-	N Jenkins

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Doc: 8367 AQAreview_final

Date: 17 December 2018

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APPENDIX 5

1. Introduction

- 1.1 Phlorum Ltd has been commissioned by Swale Borough Council (SBC) to undertake an evidence review of an air quality assessment which forms part of an Environmental Statement (ES) for a Planning Application (reference 17/500727/OUT) at Manor Farm, Sittingbourne, Kent.
- 1.2 An outline planning application for up to 50 dwellings was submitted to SBC for a proposed site at Manor Farm, situated on the western edge of Sittingbourne, almost adjacent to the main A2 London-Dover road (running east-west); the A249, running north-south between Sheerness and Maidstone; and the Key Street roundabout, which forms the junction linking the two.
- 1.3 No air quality report was submitted with this application, as the site has not been previously identified as having air quality issues and is an allocated site for housing within the Local Plan ("*Bearing Fruits 2031: The Swale Borough Local Plan 2017*"). However, an air quality report was submitted with a hybrid application for up to 595 houses at a site much larger than the site in question that has an adjoining boundary with the south eastern boundary of the Manor Farm site (Wises Lane; 17/505711/HYBRID).
- 1.4 Borden Parish Council has commissioned its own critique of this report, which concludes that there are air quality exceedances within the area. That critique has been strongly rebuffed by the Council's Environmental Protection Team Leader, for a number of reasons.
- 1.5 The commission therefore requires the production of a report reviewing and analysing all of the air quality issues raised from provided information (i.e. the air quality assessment report accompanying the neighbouring application; the report commissioned by Borden Parish Council; and the responses of SBC's Environmental Protection Team Leader) to ascertain whether or not there would be sufficient reason for the present outline planning application to be refused on air quality grounds.

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APPENDIX 5

2. Review methodology

Methodology

- 2.1 The review of the evidence will be undertaken by providing an analysis of the following elements:
 - current air quality in the vicinity of the proposed development;
 - a review of the adjacent Wises Lane development air quality assessment and results;
 - a review of Borden Parish Councils comments regarding the Wises Lane development air quality assessment; and
- 2.2 A short review of the likely impacts on air quality from the proposed Manor Farm application (ref 17/500727/OUT | Outline application for residential development for up to 50 dwellings with access off Chestnut Street) will also be undertaken, this will include:
 - a review of the comments from the Council's Environmental Protection Team Leader concerning the development's potential impact on air quality.
- 2.3 A summary of the review results will be provided outlining recommendations

APPENDIX 5

3. Local Air Quality

Background Air Quality

- 3.1 The current air quality concentrations in the vicinity of the proposed Manor Road development are presented in Table 3.1 below.
- 3.2 Defra provides estimated background concentrations of the UK Air Quality Standard (AQS) pollutants at the UK Air Information Resource (UK-AIR) website¹. These estimates are produced using detailed modelling tools and are presented as concentrations at central 1km² National Grid square locations across the UK. These were updated in November 2017 and are based on monitoring data from 2015.
- 3.3 The predicted background pollution concentrations for the main AQS pollutants of concern; nitrogen dioxide (NO₂) and particulates (PM₁₀) for 2016 to 2018 are presented in Table 3.1. These data were taken from the central grid square location closest to the proposed site.

Table 3.1: Background concentrations of pollutants at the proposed development site from the UK-AIR (OS ref 588500, 164500)

Pollutant	Predicted Background Concentration (µg.m ⁻³)			Averaging Period	Air Quality Standard Concentration (µg.m ⁻³)
	2016	2017	2018		
NO ₂	16.4	15.9	15.3	Annual mean	40
PM ₁₀	17.2	17.0	16.9	(Gravimetric) Annual mean	40

- 3.4 Background concentrations at the proposed site are well below the AQS's for both NO₂ and PM₁₀.

¹ Defra: UK-AIR. www.uk-air.defra.gov.uk (accessed 29/10/2018).

APPENDIX 5**Local Air Quality Management**

- 3.5 Local Authorities are required to assess and manage local air quality under the Local Air Quality Management (LAQM) regime. Obligations under the Environment Act 1995 require local authorities to declare an Air Quality Management Area (AQMA) at sensitive receptor locations where an air quality objective concentration has been predicted to be exceeded.
- 3.6 SBC has 5 locations which exceeded the annual air quality standard (AQS) for nitrogen dioxide (NO₂) and subsequently declared 5 AQMAs within the Borough.
- 3.7 The AQMAs are listed below:
- ☛ AQMA 1: Newington, (A2 /High St) declared 2009;
 - ☛ AQMA 2: Ospringe Street, Faversham (A2/Ospringe) declared in June 2011 and revised (as AQMA 6) to the Mount in May 2016;
 - ☛ AQMA 3: East Street, Sittingbourne (A2/Canterbury Road) declared January 2013;
 - ☛ AQMA 4: St Pauls Street, Milton, Sittingbourne (B2006) declared January 2013; and
 - ☛ AQMA 5: Teynham (A2/London Rd) declared December 2015.
- 3.8 Monitoring at Key Street has been undertaken using NO₂ diffusion tubes at site number SW62 – Key Street (OS ref. 588178, 164235). This site is a kerb-side monitoring site adjacent to the A2 and is not at a location of exposure i.e. a residential property.
- 3.9 Measurements from 2011 – 2016 have shown a steady decline in NO₂ at kerb-side annual average concentrations (from 46.5 to 30.6 µg/m³). This is below the NO₂ AQS.
- 3.10 Key Street (A2) is not an AQMA and air quality is currently below the AQS for NO₂.
- 3.11 There is no PM₁₀ monitoring in the vicinity of the site.

Summary

- 3.12 The air quality in the vicinity of the proposed development are further back from the A2 and is likely to be closer to background concentrations which are well below the AQS's.

APPENDIX 5

4. Review of Wises Lane Air Quality Assessment

Wises Lane Development

- 4.1 An air quality assessment (AQA) was undertaken as part of the ES for the Wises Lane (Quinn Estates Ltd - Land at Southwest Sittingbourne, Kent) planning application.
- 4.2 The AQA was undertaken by Entran Limited, 7 Greenway Farm, Bath Road, Wick, Bristol BS30 5RL in September 2017.
- 4.3 The assessment was undertaken to assess the air quality impacts from:
“ the Proposed Development which covers an area of approximately 47.47 hectares (ha) and is for a mixed-use sustainable urban extension comprising of the following: up to 675 dwellings, a 2 form entry Primary School, , local convenience retail, medical, social, recreational, sporting and community facilities with all associated infrastructure.
- 4.4 The development site is directly to the east of the Manor Farm proposed development.

Air Quality Assessment

- 4.5 The AQA followed standard practice and guidance required in EIAs for air quality.
- 4.6 The AQA set-out clear methodology and references local air quality policy guidance for assessing air quality impacts and emissions calculation (i.e. Kent and Medway Air Quality Planning Guidance).
- 4.7 Construction phase assessments followed UK guidance provided by the Institute of Air Quality Management (IAQM). The development impact assessment also followed and referenced guidance provided by the IAQM & Environmental Protection UK (EPUK).
- 4.8 The Operational phase assessment took into account the relevant AQS pollutants (NO₂, PM₁₀ & PM_{2.5}) and any potential impacts on the closest relevant AQMAs in East Street and St Pauls.

APPENDIX 5

- 4.9 The AQA used the most relevant inputs for modelling including: meteorological data, most relevant sensitive receptor locations, NO_x to NO₂ conversions, sourced traffic data verified by transport consultants and DfT, verification followed official LAQM guidance, sourced local background data, most up-to date Defra emission factors, damage cost calculator values and methodology.
- 4.10 The AQA referenced the most relevant policies and regulations with regard to air quality and planning. With regard to current air quality the AQA referenced the Swale air quality monitoring data and relevant Defra background concentrations.
- 4.11 The AQA assessed the construction impacts appropriately referencing IAQM guidance and identifying the risks.
- 4.12 The AQA assessed the operational impacts using the Kent and Medway guidance “Impact Significance” descriptors, as opposed to IAQM guidance descriptors. The results showed impacts from the operational phase appear to be positive i.e. beneficial to air quality.
- 4.13 The AQA did not assess new receptors being introduced into the development, although as these locations are further from other road sources such as the A2 or A249, these receptors are likely to have significantly lower concentrations.
- 4.14 The Emissions Mitigation Assessment stated:
- 8.123 Based on the traffic data provided by the transport consultants the number of annual trips generated by the operational development would be 1259615 per annum.*
- 4.15 This annual trip figure is equivalent to 3,451 annual average daily traffic (AADT), this figure should be stated in the damage cost calculation. The emissions calculation appears to be robust, assuming the correct traffic (AADT) figures were used.
- 4.16 Cumulative effects were considered in the AQA, this assessed the combined effect of other local committed developments, these were detailed in Chapter 3.
- 4.17 Mitigation and residual effects were assessed and recommended standard IAQM guidance measures that are to be followed within a Dust Management Plan (DMP) which will be incorporated within the Construction Environmental Management Plan (CEMP).
- 4.18 An additional Air Quality Assessment Summary statement outline (dated 2nd October 2018)² confirmed the impacts from the development were insignificant citing the infrastructure improvements (i.e. link-road), electric vehicle charge points, low NO_x boilers plus additional measures such as travel plans and additional “green infrastructure”. As part of the May 2018 ES Addendum, a damage cost was re-calculated to equate to £481,639.

² Ref: 17_505711_HYBRID-Air_Quality_Assessment_Summary-4413867.pdf

APPENDIX 5**Summary**

- 4.19 The AQA methodology and approach is robust for this type of development. The AQA uses the most relevant and up-to-date guidance and assessment tools required for a detailed modelling assessment and emissions mitigation calculation.
- 4.20 The construction phase assessment detailed and assessed the risks and recommended appropriate mitigation measures following UK best practice guidance.
- 4.21 The operational phase assessment was undertaken using a recognised detailed air quality model (ADMS) and followed appropriate methodologies following the LAQM Technical Guidance (LAQM.TG(16)). The modelled results were verified and outputs were compared to the Kent and Medway impact significance criteria.

APPENDIX 5

5. Review of BPC comments

Review of Borden Parish Council commissioned Air Quality Assessment

- 5.1 The University of Kent (UoK) were commissioned by Borden Parish Council (BPC) to carry out air quality monitoring and analysis for the area between Borden Village and Sittingbourne in the vicinity of the Wises Lane site.
- 5.2 The assessment of air quality in the vicinity of the development was undertaken for:
- PM_{2.5} and PM₁₀
 - measured at the two locations between 24/02/2018 and 11/03/2018 during the morning peak hours of 07:00 and 09:00 and evening peak hours of 16:30 and 18:30.
 - using Dylos DC1700 particulate monitors
 - NO₂
 - was measured at ten locations for a period of 63 days from 21/02/2018 until 25/04/2018
 - using diffusion tubes. Diffusion tube results were bias-corrected with a value of 0.8 taken from Swale Borough Council's 2016 Air Quality Annual Status Report.
- 5.3 The measurement locations were selected to be similar to the Wises Lane AQA receptor locations. The location of the sites indicated in the figures (8, 18,19) show sites were on roadside locations, not at locations of sensitive receptors i.e residential or hospital/school facades.
- 5.4 The measurements were compared to both EU and WHO annual exposure limits for the pollutants.
- Comments:**
- 5.5 The assessment referenced measurements which were short-period measurements that cannot be compared to annual exposure limits. DEFRA technical guidance requires a minimum of 3- months of continuous monitoring in order to obtain representative pollutant concentrations.

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- 5.6 Measurement sites were not at sensitive receptor locations as per the Wisers Lane AQA. Pollutant concentrations drop off rapidly with distance from the roadside to receptors, therefore a comparison of 2018 results to 2025 modelled results is not valid.
- 5.7 The Dylos DC1700 particulate monitors do not have “MCERTS for UK Particulate Matter” certification used for monitoring particulates.
- 5.8 The UoK assessment compared 2018 results to 2025 modelled results, the two cannot be compared. Emissions and background concentrations will be dramatically reduced by 2025 as cleaner vehicles enter the national fleet (EVs etc) and UK background sources improve. This is recognised in Defra emissions projections.
- 5.9 In planning and air quality terms WHO guideline values are not relevant. UK Air Quality Standards (AQS) are the reference standards used for assessing impacts in the UK.

Review of Borden Parish Council Comments

- 5.10 The following comments from BPC are reviewed :
1. *‘Real values of both nitrogen dioxide and particulates, for some localities, exceed the 2025 “worst case” predictions for these pollutants posited by the developer after completion of development.’*
 2. *‘Both pollutants were observed at levels which are harmful to health, and measured levels for both PM2.5 and PM10 exceed World Health Organisation guidelines for health.’*
 3. *‘In summary: (i) the modelling used by the developer is not fit for purpose (ii) the negative impact of existing air quality exceeds guidelines for health (iii) the additional negative impact of the proposed development underestimates the likely true impact on health (or is simply incorrect).’*
- 5.11 BPC are commenting on 2018 concentrations from roadside locations and not relevant sensitive locations and are not comparable annual average results (as stated in 5.5).
- 5.12 WHO limits are not relevant (see 5.4).
- 5.13 The final summary does not stand following on from the previous points.

APPENDIX 5**Summary**

- 5.14 The AQA undertaken by UoK for BCP provided limited data for comparison to the AQA data provided by the Wisers Lane assessment. The measurements were not comparable due to the short-period of measurements, the particulate monitoring equipment used was not appropriate and the locations of measurement were not at sensitive receptor locations.
- 5.15 The results are not comparable to 2025 (verified) modelled outputs and are not representative of air quality in 2018 nor comparable to 2025.

APPENDIX 5

6. Manor Farm Air Quality comments review.

- 6.1 The Manor Farm Outline application³ was submitted without an AQA and the following comments were provided by the Council's Environmental Protection Team (EPT) Leader:

File Note – Manor Farm, Sittingbourne (17/500727/OUT)

Environmental Health comments

Further to Environmental Protection Team (EPT) memo on 16th May 2017, discussed with Steve Wilcock on 16th August 2017.

Given that neither the site itself or the adjacent parts of the A249 and A2 are designated as AQMAs, 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 EPT would not request the imposition of a planning condition / s106 clause relating to air quality at the site.

- 6.2 The comments provided by the EPT Leader identified:
- ☞ that the site is not within an AQMA or adjacent to major sources of pollutants i.e. the A2 or A249;
 - ☞ data was not available at this location in this rural location, which is as for other rural locations across Swale, not an area or location where the Council has concerns for air quality; and
 - ☞ due to its size, type and location, conditions or s106 contributions regarding air quality are relevant.
- 6.3 Following UK guidance from IAQM (Land-Use Planning & Development Control: Planning for Air Quality) the development would be assessed or scoped out for an AQA. The guidance steps through a 2-stage process.
- 6.4 Stage 1 (Table 6.1) identifies that the development is sized at "10 or more residential units or a site area of more than 0.5ha", therefore needs to go to Stage 2.
- 6.5 Stage 2 criteria (Table 6.2) to scope in or scope out a development follows:
- ☞ is the development within or adjacent to an AQMA;

³ 17/500727/OUT - Outline application for residential development for up to 50 dwellings - Manor Farm Key Street Sittingbourne Kent ME10 1YU

APPENDIX 5

- ☞ will LDV flows increase >500AADT or HDV or buses >100 AADT;
- ☞ major re-alignment of roads (>5m) within an AQMA required;
- ☞ are there major junction changes required;
- ☞ is there a major car-park required;
- ☞ is significant combustion plant planned within the development;

6.6 IAQM guidance states that:

“if none of the criteria are met then there should be no requirement to carry out an air quality assessment for the impact of the proposed development on the local area, and the impacts can be considered to have insignificant effects.”

6.7 None of the IAQM guidance criteria are met, therefore an AQA would not be required.

Summary

6.8 Given the location, the type and size of development it was assessed that an AQA for this development would not be required.

6.9 The IAQM guidance also scopes out the requirement for an AQA.

APPENDIX 5

7. Review summary and recommendations

Review summary

- 7.1 The current background air quality in the vicinity of the proposed Manor Farm and Wises Lane proposed developments are well below the AQS for all pollutants. Additionally, the proposed development locations are not within an AQMA.
- 7.2 The review of the Wises Lane AQA concluded that the assessment was robust and followed guidance and methodologies required for the assessment of air quality in such developments.
- 7.3 The review of the BPC commissioned air quality monitoring and analysis by UoK highlighted the deficiencies in the assessment and comparison of results. The study was limited to short-period measurements and these cannot be used to compare UK AQS's. Simple comparisons from 2018 to 2025 verified modelled results are not valid.
- 7.4 The BPC statements were based on the results of the UoK study and therefore cannot be substantiated.
- 7.5 The comments from the Council's Environmental Protection Team (EPT) Leader regarding the need for an AQA for the Manor Farm application are valid. UK (IAQM) guidance scopes out the need for an AQA following best practice criteria.

Recommendations

- 7.6 It is recommended that the AQA for Wises Lane is appropriate and robust. The BPC comments and supporting assessment are not substantiated and do not provide supporting evidence to rebuff the Wises Lane AQA.
- 7.7 The Council's Environmental Protection Team (EPT) Leader's statement is valid and no AQA would be required following best practice guidance.

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SWALE BOROUGH COUNCIL

PLANNING SERVICES

Planning Items to be submitted to the Planning Committee

10 JANUARY 2019

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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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PLANNING COMMITTEE – 10 JANUARY 2019

PART 2

Report of the Head of Planning

PART 2

Applications for which **PERMISSION** is recommended

2.1 REFERENCE NO - 18/505761/FULL		
APPLICATION PROPOSAL Erection of a detached 2 bed dwelling with associated access, parking and dropped kerb.		
ADDRESS 47 Brier Road, Borden, Sittingbourne, Kent ME10 1YJ		
RECOMMENDATION – Grant subject to delegation to ensure that the SAMMS payment is made before planning permission is granted.		
REASON FOR REFERRAL TO COMMITTEE Parish Council objection and subsequently Councillors Baldock and Hampshire also requested that the application be called in.		
WARD Borden And Grove Park	PARISH/TOWN COUNCIL Borden	APPLICANT Mr Paul Muehlthaler AGENT
DECISION DUE DATE 08/01/19		PUBLICITY EXPIRY DATE 11/12/18

Planning History

17/502909/OUT

Outline application with all matters reserved for the erection of a 2 bedroom detached dwelling. (Resubmission of 17/500438/OUT)

Refused

Decision Date: 24.11.2017

Appeal Allowed

Decision Date: 28.09.2018

17/500438/OUT

Outline application for the erection of a 2 bedroom detached dwelling.

Withdrawn

Decision Date: 12.04.2017

HE/13/0010

Single storey extension to the rear of the property, which would extend beyond the rear wall of the original house by 4 m, for which the maximum height would be 3.5 m, and for which the height of the eaves would be 2.3 m

Prior Approval Not Required

Decision Date: 01.10.2013

SW/92/0799

SIDE EXTENSION

Grant of Conditional PP

Decision Date: 03.11.1992

SW/08/0107

UPVC Conservatory on brick base.

Grant of Conditional PP

Decision Date: 20.03.2008

1. DESCRIPTION OF SITE

- 1.1 47 Brier Road is located within Borden Parish but it is also within the wider Local Plan defined built up area which includes Sittingbourne. The application site lies within the long rear garden of 47 Brier Road, which is a semi-detached dwelling fronting onto Brier Road. However, the proposed house would be accessed from Grove Park Avenue, which adjoins the property's rear boundary, at a much lower level.
- 1.2 The site slopes significantly downwards from the end of the garden of 47 Brier Road to the highway in Grove Park Avenue, at the point where that road ends. The surrounding area features predominantly semi-detached dwellings which feature a range of parking provision in the form of parking to the front and side, and within garages. There are no formal parking restrictions in the wide turning head at this end of Grove Park Avenue.
- 1.3 Running alongside the site is Public Right of Way ZR149, which runs in between 47 and 49 Brier Road, linking Brier Road to Grove Park Avenue in the form of an alleyway. A lamppost is located in the pavement on the site's frontage to Grove Park Avenue, and this would be re-located.
- 1.4 In September 2018, a refusal of outline planning permission (against my recommendation) for a two bedroom detached house on the site was overturned at appeal and outline planning permission for one house was granted (see Appendix 1). Whilst the outline application had all detailed matters reserved, the drawings submitted to illustrate that application were the same as submitted again now. In the appeal decision the Planning Inspector rejected the Council's argument that a dwelling in this location would harm the character and appearance of the area saying (at paragraph 9) that;

“Based on what I have seen and read, I find that two storey detached dwellings form an integral part of the character of this area. Furthermore, I acknowledge that as a result of the bends in the road, the size of the plot frontages and accesses and the orientation of dwellings relative to the road vary. Whilst the detailed design would be secured at reserved matters stage, I find that a dwellinghouse on this site would accord with those characteristics and make a positive contribution to the pattern and form of development in this location.”

2. PROPOSAL

- 2.1 This application seeks full planning permission to erect a two storey two bedroom house with one parking space to the front, and a new vehicular crossover onto Grove Park Avenue. The footprint of the dwelling would be the same as the application allowed at appeal (17/502909/OUT). The existing garden of 47 Brier Road would be divided to provide the plot for the new dwelling. Due to the levels of the site the plot levels would be lowered by almost two metres to align with the level of Grove Park Avenue.
- 2.2 The existing garden at no 47 would be reduced to an average 11m in length (net of an existing single storey rear extension) and the new dwelling would have an eight metre long garden with a smaller side garden measuring six metres in width at its widest. It is proposed to remove part of the existing hedge running along the public footpath boundary and replace this with a low level brick wall.

- 2.3 The proposed dwelling would measure approx. 6.0m wide x 6.0m deep, to a height of 4.75m to the eaves and 7.2m to the ridge, with a bay window to the side. This bay window would have a gabled roof. A porch canopy is proposed over the front entrance door. One off-road parking space measuring 5.5m x 2.5m will be provided to the front of the dwelling.
- 2.4 The new dwelling will provide two bedrooms at first floor, both with an en-suite shower rooms. There would be no windows in the north facing side elevation and no first floor (west facing) rear windows except that serving an en-suite bathroom. This is to ensure that the existing house (47 Brier Road) does not suffer loss of privacy from the new house.
- 2.5 The external finishing materials are indicative and can be addressed by way of condition, however, the house will be brick built with grey composite wall cladding at first floor level.

3. PLANNING CONSTRAINTS

None

4. POLICY AND CONSIDERATIONS

- 4.1 The National Planning Policy Framework (NPPF) and the National Planning Practice Guidance (NPPG) are relevant in terms of encouraging good design standards and minimising the potential impacts of any development upon the amenity of neighbouring residents.
- 4.2 Development Plan: Bearing Fruits 2031: The Swale Borough Local Plan 2017: Policies ST3, CP3, CP4, DM7, DM14 and DM19

5. LOCAL REPRESENTATIONS

- 5.1 I have received eleven letters of objections making the following summarised comments:
- This proposal has already been turned down as it is inappropriate and the area too small to build a dwelling, and I cannot see any reason why the decision should change now
 - The public footpath is regularly used by school children and will become dangerous as there will be a blind spot for vehicles leaving the property
 - The public footpath will also be left in darkness as re-siting of the lamp post will provide no light to the alleyway, making it dangerous for pedestrians after dark and increasing the risk of crime
 - Only one car parking space being provided
 - Significant loss of valuable parking space and reduced turning space
 - There simply is not enough space in the cul-de-sac to accommodate extra cars
 - Overshadowing
 - Overlooking and loss of privacy

- Will block sunlight to gardens
- Loss of property value
- Visual blight in the area as it would be totally out of character
- This is an obvious case of 'garden grabbing' and would set a precedence for anyone in the area to develop half their garden into housing
- The run-off water will contribute to the flooding at the bottom of the avenue
- Soakaways will not solve the potential risk of run off going down to the lower areas of Grove Park Avenue as the underlying soil is heavy clay
- Levelling of the land to create a driveway will cause damage to our plants and brick wall
- Re-siting the lamppost in front of our land will restrict any change of use for our own land
- The exit site is unsuitable as it's a turning point for cars
- Out of keeping in the street scene
- The garden is too small to build on
- This is a quiet cul-de-sac and another property will affect the already limited parking and cause disruption to residents in Grove Park Avenue
- We are concerned about the volume of noise pollution that the building work will have on residents of Grove Park and Brier Road
- Should this development proceed conditions need to be imposed on the times and size of delivery lorries as access can be restrictive
- The plans show a smaller site area of only 170m² and the Design & Access Statement gives a separation distance of only 20m. The site is too small, minimum separation distances cannot be achieved and does not meet the conditions set out in the grant for outline permission
- Concern on effect of proposal on protected & endangered species, such as sloe worm, stag beetle and their larvae that are present on neighbouring sites and the adjoining bank. Along with Bats which use the site for foraging.

NOTE that the application for outline planning permission was allowed at appeal and matters regarding the principle of the proposed development has been accepted by the Inspector. In allowing this appeal, the Inspector agreed that matters regarding overlooking, privacy, air quality, impact on adjoining footpath, parking, water run-off and living conditions for future occupiers would be dealt with at reserved matters stage. However, loss of property value should be afforded little weight. With regards to concerns relating to precedent, the Inspector confirmed that each proposal must be considered on its own merits and determined the appeal accordingly.

6. CONSULTATIONS

- 6.1 Borden Parish Council objects to the application “on the same basis as previously” as follows:

“Due to the slant of the land the second floor will have a clear sight into adjacent properties and will look right into the bedroom windows.

Will cause substantial shading of adjacent front gardens and properties.

Because of the turning circle on to the road in Grove Park Avenue it will impact on the area and cause issues with parking.

It will deny residents the opportunity to turn at the end of this cul-de-sac. This is an essential access to properties and will prohibit proper use by vehicles.

The driveway will create a health and safety issue for pedestrians using the adjacent footpath.

The proposed moving of the street light will make the footpath dark; at present the light shines up the alleyway and is a deterrent to crime.

There is inadequate parking provision.

Concerns about flooding and excess water run-off. This is a known flood area due to a previous pond.”

- 6.2 The KCC Public Rights of Way Officer raises no objection but initially requested further information and plans on how the footpath will be supported and maintained during the construction period. The applicant has responded saying that the footpath will remain open at all times and that a new concrete retaining wall will be faced with brickwork where seen above ground level, with a close boarded fence 1.8m high on or behind the new wall. The Public Rights of Way Officer is satisfied with this arrangement.
- 6.3 Kent Highways and Transportation considers this to be a non-protocol matter.
- 6.4 Natural England raises no objection subject to SAMMS mitigation payments being secured. The applicant has agreed to this payment.
- 6.5 The Council’s Environmental Health Manager recommends imposing a condition to minimise the dust and noise generated throughout the construction process and a condition restricting the construction hours.

7. BACKGROUND PAPERS AND PLANS

- 7.1 Planning application background papers and plans to planning references 18/505761/FULL and 17/502909/OUT.

8. APPRAISAL

- 8.1 The site is located within the built up area, and the recent appeal decision which allowed the erection of a two bedroom detached dwelling indicates that the principle of residential development on this site is acceptable. What falls to be considered under this application, therefore, is the acceptability of the submitted scheme in terms of scale, design, access, landscaping and amenity. I will consider the objections which have now raised.

- 8.2 Local concern has been raised that the location of the new dwelling will be especially prominent within the surrounding area. The site itself is fairly unusual for a residential property in so far as land levels at this location dramatically slope down to Grove Park Avenue and the development will require a significant reduction in existing ground level, with the entire site being excavated to at least 1.9m deep. Whilst this will alter the topography of the site, the Inspector argued that it would make a positive contribution by saying:

“The topography of the site is a positive part of its character and the indicative proposals to further reveal this difference in levels would, in my view, celebrate this relationship.”

- 8.3 The result of this is that the dwelling will be more visible within Grove Park Avenue than from Brier Road. Nonetheless the ridge height will be at a similar level to properties within Grove Park Avenue and I note that the Inspector was satisfied that a new dwelling here would not harm the character and appearance of the area by saying:

“The proposed dwelling would have a more direct relationship with Grove Park Avenue than Brier Road, and would be viewed as part of this backdrop of existing built form by occupiers in Brier Road. Furthermore, I observed that nearby properties on Brier Road have a relationship with 23 Grove Park Avenue similar to that proposed. Therefore, within this existing context, the proposed dwelling would not result in a harmful loss of openness to the rear of Brier Road properties, and as such the development would not harm this aspect of the character of the area.”

- 8.4 I too, consider that the new dwelling will sit comfortably within the existing street scene without giving rise to any serious harm to the character of the area. The Inspector did not view the site as too small for residential development and has accepted that the site is appropriate for development of this kind in principle. Members should bear in mind that the current drawings are the same as those available to the Inspector, and to which he may well have had regard. I consider that the dwelling has been appropriately designed and the use of appropriate facing materials can be secured by condition.
- 8.5 The proposed dwelling would lie to the rear 47 Brier Road. The Inspector imposed conditions regarding windows and separation distances in the interests of the living conditions of existing and future occupiers. These conditions would equally protect dwellings on either side of number 47. The submitted plans show that the new dwelling will comply with these conditions, being sited at least 22.0m from the nearest first floor rear window of 47 Brier Road and the rear first floor (obscure glazed) window will serve a shower room. As such, I consider that no significant overlooking will occur.
- 8.6 However, at paragraph 19 of his decision, the Inspector rejected a condition prohibiting the insertion of any new windows in the rear elevation of the new house. In so doing, he has failed to safeguard the privacy of number 47 (and its neighbours) from the later insertion of a first floor rear bedroom window, or a possible two storey rear extension. I consider this to be an oversight, and one that the Council can and should correct now. A suitable condition (14) has been recommended below which restricts any additional windows being inserted at first floor to safeguard this issue.
- 8.7 In terms of impact from the front and side facing first floor bedroom windows that are now shown, I do not consider that the proposed dwelling will create a loss of privacy

sufficient to cause significant harm to the amenity of residents in Grove Park Avenue or Maylam Gardens which they face towards. There would be an adequate separation distance of approximately 21 metres to the rear of 45 Maylam Gardens (to the side) and any overlooking to properties to the front (in Grove Park Avenue) would be from an oblique angle only. The Council does not operate a policy of minimum window to window distances in relation to front windows, but windows to the rear should be at least 21m from the windows of other houses to the rear. In this case, the proposal conforms to these guidelines.

- 8.8 I note local concern with regards to problems arising from the construction period, but note that this can be dealt with by imposing conditions. I have added conditions in relation to working hours and hours for impact pile driving to ensure that any potential impact on the amenity of the area is reduced.
- 8.9 Local residents refer to highway safety and parking provision. At outline stage I was of the view that the addition of one dwelling was unlikely to have a significant impact on the parking provision on Grove Park Avenue as there are no formal parking restrictions in place. I see no reason to change this view now. The submitted drawings show that the proposal would provide one car parking space to the front of the dwelling which accords with adopted Kent County Council Highways and Transportation standards for a dwelling with two bedrooms. In my view, the parking space will be adequate for the parking needs of the property as the site lies within a sustainable urban location where the occupiers will not be completely reliant on the use of a car. Though, there may be potential for on-street parking, I believe that the development will not create any significant problems in this matter.
- 8.10 With regards to local concern about the re-siting of the lamppost further away from the footpath, its re-positioning will need approval from Kent Highways and Transportation who will be able to take account of the safety of users of the footpath. I note that Kent Highways and Transportation raise no concerns about an additional access point here, nor do I consider that this will result in any potential congestion or manoeuvring problems.
- 8.11 Local concern also makes reference to safety concerns of having a driveway access next to the footpath. The submitted drawings show a low level wall (0.45m high) which will provide adequate sight lines and visibility which is similar to the existing arrangement on the opposite side of the footpath.
- 8.12 I note that there is local concern in relation to flooding and drainage issues, but the property is not located within a flood risk area and drainage details will be controlled under building regulations.
- 8.13 Due to a recent appeal decision in Newington (ref. 17/503997/FULL), the Council is now seeking developer contributions on any application which proposes additional residential development within 6km of the Special Protection Area (SPA). The application site is within 6km of the SPA, and as such the Council seeks a mitigation contribution of £239.61 for each new dwelling. The applicant has confirmed that he is willing to pay this fee. The precise means of securing the payment has not yet been set, and my Officers remain in discussion with the Head of Legal Services regarding the matter. I will be seeking delegation to approve this application subject to that payment being secured,

- 8.14 Finally, in relation to newly raised local concerns about the possibility of slow worms being present on the site I have taken the advice of KCC’s Ecological Advice Service and recommended a condition regarding precautionary measures, even though the likelihood of disturbing any such species appears very low.

9. CONCLUSION

- 9.1 I consider that due to the clear and recent appeal decision here, this application for the erection of a two bedroom detached dwelling is acceptable and I therefore recommend that planning permission be granted. I do not consider that there are grounds to refuse this application and any opposition to the principle of development is not relevant to the decision as this has already been settled at appeal. In terms of conditions I have adhered to those imposed by the Inspector where relevant, save only for additional conditions relevant to this fully detailed application.

10. RECOMMENDATION

GRANT Subject to the following conditions:

CONDITIONS

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

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

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

1221/1 C; 1221/2 A; 1221/3 A; 1221/4 and 1221/5;

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

- (3) No development beyond the construction of foundations shall take place until details of the external facing 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

- (4) No development beyond the construction of foundations shall take place until full details of both hard and soft landscape works (including the facing of retaining walls) 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 should be native species and of a type that will enhance or encourage local biodiversity and wildlife), 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

- (5) 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

- (6) 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

- (7) Demolition or construction works shall take place only between 0730-1900 hours on Monday to Friday and 0730–1300 hours on Saturday and shall not take place at any time on Sundays or on Bank or Public Holidays.

Reason: In the interests of residential amenity.

- (8) Any impact pile driving in connection with the construction of the development shall take place only between 0900-1700 hours on Monday to Friday and shall not take place at any time on Saturdays, Sundays or on Bank or Public Holidays.

Reason: In the interests of residential amenity.

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

Reason: In the interests of highway safety and convenience

- (10) The area shown on approved drawing 1221/2 A as a car parking space shall be kept available for vehicle parking at all times and no permanent development, whether permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking or re-enacting that Order) or not, shall be carried out on the land so shown or in such a position as to preclude vehicular access thereto; such land and access thereto shall be provided prior to the occupation of the dwelling hereby permitted.

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

- (11) The vehicular access to the site as shown on the approved drawings shall be constructed and completed prior to the commencement of the first use of the dwellinghouse hereby permitted.

Reason: To ensure that a satisfactory means of access is provided for the site and in the interests of highway safety.

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

efficiency, and sustainable drainage principles. Upon approval, the details shall be incorporated into the development as approved.

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

- (13) The development shall be designed to achieve a water consumption rate of no more than 110 litres per person per day, and the dwelling shall not be occupied unless the notice for that dwelling of the potential consumption of water per person per day required by the Building Regulations 2015 (as amended) has been given to the Building Control Inspector (internal or external).

Reason: In the interests of water conservation and sustainability

- (14) No additional windows, doors, voids or other openings shall be inserted into the rear elevation of the dwelling above ground floor level, nor shall the approved dwellinghouse be extended above ground floor level beyond the approved rear wall, whether or not such works would ordinarily have been permitted by Class A of Part 1 of Schedule 2 to The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking and re-enacting that Order) .

Reason: In the interests of the protecting the privacy of homes in Brier Road.

- (16) No development shall take place (including any demolition, ground works, site clearance) until a precautionary method statement for reptiles and nesting birds within the site has been submitted to and approved in writing by the Local Planning Authority. The method statement, produced by an ecologist, shall include the:
 - a. Map showing area to be cleared and areas of retained suitable habitat
 - b. Over view of the works to be carried out
 - c. Methodology to implement the works
 - d. Timings of the proposed works
 - e. Details of who will be carrying out the works.

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

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

The Council’s approach to the application

In accordance with paragraph 38 of the National Planning Policy Framework (NPPF), July 2018 the Council takes a positive and proactive approach to development proposals focused on solutions. We work with applicants/agents in a positive and creative way by offering a pre-application advice service, where possible, suggesting solutions to secure a successful outcome and 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

Appropriate Assessment under the Conservation of Habitats and Species Regulations 2017.

This Appropriate Assessment has been undertaken without information provided by the applicant.

The application site is located within 6km of The Swale 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.

Due to the scale of development there is no scope to provide on site mitigation such as an on-site dog walking area or signage to prevent the primary causes of bird disturbance, which are recreational disturbance including walking, dog walking (particularly off the lead), and predation of birds by cats. The proposal thus has potential to affect said site's features of interest, and an Appropriate Assessment is required to establish the likely impacts of the development.

In considering the European site interest, Natural England (NE) advises the Council that it should have regard to any potential impacts that the proposal may have. Regulations 63 and 64 of the Habitat Regulations require a Habitat Regulations Assessment. For similar proposals NE also advises that the proposal is not necessary for the management of the European sites and that subject to a financial contribution to strategic mitigation, the proposal is unlikely to have significant effects on these sites.

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 solely on the basis of the mitigation measures agreed between Natural England and the North Kent Environmental Planning Group (NKEPG).

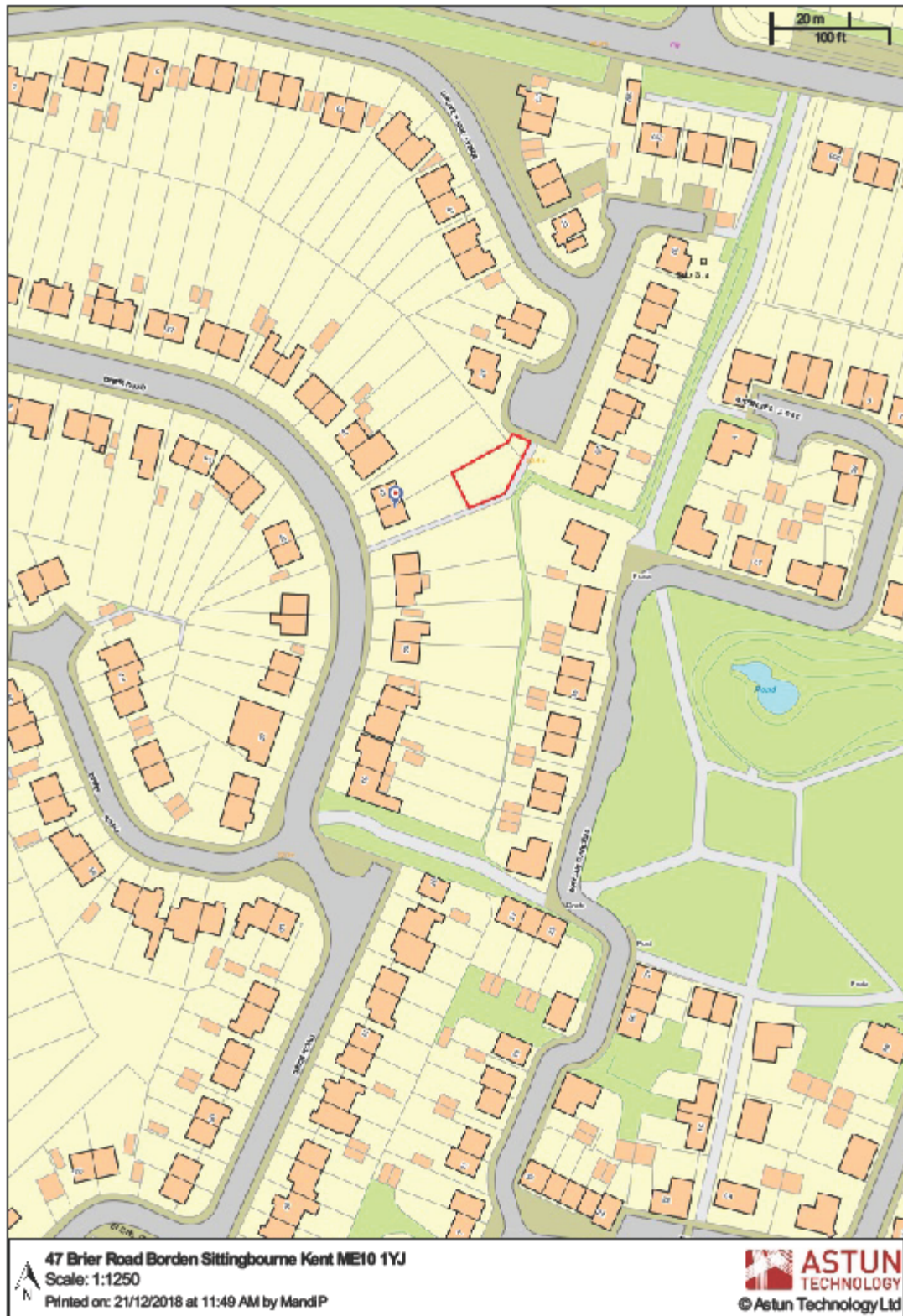
NE has stipulated that, when considering any residential development within 6km of the SPA, the Council should secure financial contributions to the Thames, Medway and Swale Estuaries Strategic Access Management and Monitoring (SAMM) Strategy in accordance with the recommendations of the (NKEPG) and that such strategic mitigation must be in place before the dwelling is occupied. Based on the correspondence with Natural England (via the NKEPG), I conclude that off site mitigation is required.

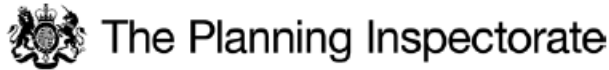
In this regard, whilst there are likely to be impacts upon the SPA arising from this development, the mitigation measures to be implemented within the SPA from collection of the standard SAMMS tariff (to be secured by either s106 agreement or unilateral undertaking on all qualifying developments) will 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.

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.





Appeal Decision

Site visit made on 22 August 2018

by **H Miles BA(Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 28 September 2018

Appeal Ref: APP/V2255/W/18/3199746 47 Brier Road, Sittingbourne, Kent ME10 1YJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr Paul Muehlthaler against the decision of Swale Borough Council.
 - The application Ref 17/502909/OUT, dated 1 June 2017, was refused by notice dated 24 November 2017.
 - The development proposed is the erection of a two bedroom detached dwelling.
-

Decision

1. This appeal is allowed. Planning permission is granted for the erection of a two bedroom detached dwelling in accordance with the terms of the application, Ref 17/502909/OUT, dated 1 June 2017, subject to the conditions set out in the schedule at the end of this decision.

Procedural Matters

2. Outline planning permission is sought with all matters reserved. I have determined the appeal on this basis. Submitted drawings (1221/II and 1221/IB) include some illustrative details of access, appearance, landscaping, layout and scale. These are considered on an indicative basis only.
3. The decision notice refers to Grove Park Road rather than Grove Park Avenue. Based on the evidence submitted and my observations, the correct street name appears to be Grove Park Avenue and as such this has been used in this decision.
4. During the course of the consideration of this appeal the revised National Planning Policy Framework (the Framework) has been published. I have invited both main parties to submit comments on the relevance of the revised Framework to this case. I have taken any comments received into consideration and I have assessed this appeal in light of the revised Framework.

Main Issue

5. The main issue is the effect of the proposed development on the character and appearance of the area, in particular on Grove Park Avenue.

Reasons

6. Grove Park Avenue is a residential no-through road. The part closest to the appeal site forms a T shape at the end of the road and is fronted by two storey

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

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- residential houses, mainly semi-detached but with some detached properties. Due to the bends in the road the width of these properties' frontages are varied. Evidence submitted shows that garden sizes also vary, particularly at this end of the road. However, the extent of these garden areas is not visible in the streetscene. Furthermore, I note that land slopes upwards from the entrance to Grove Park Avenue to the appeal site.
7. When viewing the site from Grove Park Avenue, the front garden and hardstanding to No. 24, which is partly enclosed by what appears to be a retaining wall, adjoin on one side. Between the site and No. 23 are the end of the rear gardens to Brier Road properties. These sit at a higher level than Grove Park Avenue with boundary treatment including fencing and planting visible. This results in a domestic character to this part of Grove Park Avenue.
 8. The majority of the appeal site is in use as the rear garden to 47 Brier Road. The land has been built up so the garden is broadly level with the ground level of the host property, which results in a retaining wall and steeply sloping grass verge fronting Grove Park Avenue. A public footpath runs along the side of the property.
 9. Based on what I have seen and read, I find that two storey detached dwellings form an integral part of the character of this area. Furthermore, I acknowledge that as a result of the bends in the road, the size of the plot frontages and accesses and the orientation of dwellings relative to the road vary. Whilst the detailed design would be secured at reserved matters stage, I find that a dwellinghouse on this site would accord with these characteristics and make a positive contribution to the pattern and form of development in this location.
 10. Matters of layout and scale are also not for determination at the outline stage. Therefore, the detailed layout of the proposal would be considered as part of a reserved matters application. However, I find that the plot would be of a sufficient size and shape to accommodate a dwellinghouse without being cramped.
 11. From the evidence presented, I find that there is an assortment of sizes and shapes of garden areas in the part of Grove Park Avenue that forms the immediate context for the proposed development. This variety is a key part of the character of the area. Consequently, I find that the size of the garden area proposed would enhance this variety and therefore the character of the locality.
 12. I note that indicative drawings have been submitted showing that the land could be excavated, which would ensure that the proposed dwelling would be at a similar level to Grove Park Avenue properties. This provides me with assurance that development at this level could be achieved. As such, I consider that a dwelling of the size shown on the illustrative drawings would be similar in height to nearby houses. Furthermore, given the reasonable separation distances from the closest properties I find that the proposed dwelling would not be overbearing. The topography of the street is a positive part of its character and the indicative proposals to further reveal this difference in levels would, in my view, celebrate this relationship.
 13. The proposed dwelling would have a more direct relationship with Grove Park Avenue than Brier Road, and would be viewed as part of this backdrop of existing built form by occupiers in Brier Road. Furthermore, I observed that nearby properties on Brier Road have a relationship with 23 Grove Park Avenue

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similar to that proposed. Therefore, within this existing context, the proposed dwelling would not result in a harmful loss of openness to the rear of Brier Road properties, and as such the development would not harm this aspect of the character of the area.

14. Therefore, in these respects I conclude that the proposal would have no significant detrimental effect on the character and appearance of the area. As a result, it would not be contrary to policies CP4 and DM14 of the Swale Borough Local Plan – Bearing Fruits 2031(2017). Amongst other matters, these policies seek to ensure that development is of a high quality design, appropriate to its surroundings and set general development criteria including the reflection of the positive characteristics and features of the site and locality.

Other Matters

15. Issues including the principal of residential development on this site, effect on living conditions of existing occupiers including overlooking and loss of privacy, air quality, the impact on the adjoining footpath, parking, water run off and quality of the living conditions for future occupiers have been drawn to my attention. These matters are largely identified and considered within the Council officer's report and the Council did not feel that these were reasons to refuse the application, noting that this is an outline application with all matters reserved. Moreover, I have been provided with no substantive evidence which would prompt me to disagree with the Council's original conclusions on these matters.
16. I note comments in relation to the impact on property values. However, it is a long established principle that planning is concerned with land use in the public interest. Therefore, the protection of purely private interests such as property values should be afforded little weight. I have also had regard to concerns raised relating to precedent. Notwithstanding this, each proposal must be considered on its own merits and I confirm that I have determined this appeal accordingly. As a result, these other matters do not lead me to differ from my overall conclusion.

Conditions and Conclusion

17. I have attached conditions relating to the submission of reserved matters and the time limits associated with this. I have also included a condition specifying the relevant plans as this provides certainty.
18. I have also attached conditions which set out guiding principles for reserved matters, these conditions include providing details on access, landscaping appearance and scale of the proposal. Moreover, a condition relating to the details of site levels is required in the interests of character and appearance. Conditions regarding windows and the maintaining of separation distances are necessary in the interests of the living conditions of existing and future occupiers.
19. The Council has recommended part of a condition restricting permitted development rights for the proposed new dwelling. However, Planning Practice Guidance notes that these conditions should only be used in exceptional circumstances. I do not consider that the circumstances of this case (a single new dwelling in a residential area) amount to exceptional circumstances, nor

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- have I been presented with evidence to justify this. Therefore I do not consider that this condition meets the test of necessity and so it is not included below.
20. As issues of landscaping and access are reserved matters, the details as suggested within the Council's conditions relating to landscaping and parking would be included in the subsequent determination of these reserved matters. Therefore these conditions would not meet the test of necessity so are not included. The Council have recommended a condition requiring details of retaining walls to ensure adequate foundations are in place. These details would not be relevant to planning and therefore the condition is not attached.
21. In view of the scale of development, its location and likely construction period, I am not persuaded that a Construction Method Statement is required and as such, I have omitted the suggested condition accordingly. I have however attached conditions in relation to working hours and hours for impact pile driving to protect living conditions of existing occupiers.
22. For the reasons above, and subject to the conditions listed, I conclude that the appeal should be allowed.

H Miles

INSPECTOR

APPENDIX 1

Appeal Decision APP/V2255/W/18/3199746

Schedule of Conditions

- 1) Details of the access, appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") of the development hereby permitted 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 matters shall be made to the local planning authority not later than 3 years from the date of this permission.
- 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plans: 1221/II, Site Plan – 17/502909/OUT – 47 Brier Road.
- 5) The details submitted pursuant to condition (1) above shall show that the new dwelling shall not be sited less than 21 m from the nearest first floor rear (north facing) window of 47 Brier Road, and the new property shall not include any rear (south facing) window above ground floor level serving a habitable room. The development shall then, be completed strictly in accordance with the approved details.
- 6) 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.
- 7) Demolition or construction works shall take place only between 0730-1900hours on Monday to Friday and 0730-1300hours on Saturday and shall not take place at any time on Sundays or on Bank or Public Holidays.
- 8) Any impact pile driving in connection with the construction of the development shall take place only between 0900-1700hours on Monday to Friday and shall not take place at any time on Saturdays, Sundays or on Bank or Public Holidays.

2.2 REFERENCE NO - 18/505315/FULL			
APPLICATION PROPOSAL			
Erection of 5no. detached houses with associated access and parking including detached carport to Plot 2.			
ADDRESS Land At The Tracies Newington Kent ME9 7TQ			
RECOMMENDATION - Grant			
SUMMARY OF REASONS FOR RECOMMENDATION/REASONS FOR REFUSAL			
The revised proposal is acceptable with regards to the relevant policies of the development plan; Bearing Fruits (2031), government guidance in the revised NPPF and all other material considerations such as are relevant. It would not give rise to any material harm to the visual amenity of the surrounding countryside or have adverse impacts to the residential amenity of adjoining properties. It would preserve the setting of the nearby designated heritage assets.			
REASON FOR REFERRAL TO COMMITTEE			
Parish Council objection			
WARD Hartlip, Newington And Upchurch	PARISH/TOWN COUNCIL Newington	APPLICANT Mr D King AGENT Shaw Design Services Ltd.	
DECISION DUE DATE 07/12/18		PUBLICITY EXPIRY DATE 16/11/18	
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):			
15/508683/OUT	Outline application for the erection of four detached dwellings with associated access, garages and carports.	Refused Appeal Allowed	2017
PAA/13/0300	Redevelopment of site for housing	Unacceptable in principle	2013
SW/03/0850	Outline application for residential development	Withdrawn	2003
SW/00/0126	Erection of 4 detached dwellings with integral garages.	Refused Appeal Dismissed	2000
SW/00/0125	Erection of two dwellings with integral garages	Refused Appeal Dismissed	2000
SW/96/1055	Erection of 5 detached houses and garages	Refused	1996
SW/81/471	Outline application for residential development	Refused	1981
SW/80/1110	Outline application for the erection of 6 four-bedroom houses with one garage	Refused	1980
SW/75/226	Outline application for 36 houses	Refused	1975
SW/75/225	Outline application for 6 houses	Refused	1975
NK/9/62/193A/7054A	Use of land for residential development refused	Refused	1972
NK/9/67/32B/9198B	Use of land as a site for the extension of 'The Tracies' estate.	Refused	1971
NK/9/67/32	Erection of 13 dwellings	Refused Appeal Dismissed	1967
NK/9/62/193/7054	Use of land for residential development	Refused	1962

1 DESCRIPTION OF SITE

- 1.1 The application site comprises of an irregular shaped plot located to the east of the residential development known as 'The Tracies'. The site is lies just outside the defined settlement boundary of Newington a designated Rural Local Service Centre in the adopted Local Plan, Bearing Fruit (2013). The site is approximately 0.30 hectares in size and has a previous historical agricultural use as an orchard.
- 1.2 The site is accessed directly from 'The Tracies, a public highway that currently serves the existing seven detached houses in the cul-de-sac. There is an existing unmade public foot path (ZR61) that crosses the site which in effect divides it into northern and southern parcels.
- 1.3 The architectural character within The Tracies generally comprises of two-storey detached residential properties constructed predominately of brick facing material to the principal elevations with pitched tiled roof. The dwellings have generous rear gardens although the front gardens which adjoin the public highway are relatively modest.
- 1.4 There are several terraced houses of a variety of building types, scale, and massing to the north of the existing development at The Tracies.

2 PROPOSAL

- 2.1 Outline permission was granted on 6th July 2018 at appeal for the erection of 4no. four bedroom detached dwellings with associated access and parking including an attached double garage, two detached double car ports and an integral garage at the site.
- 2.2 The current submission proposes erection of 5no. detached houses with associated access and parking including a detached carport to plot 2. The scheme is submitted on the basis that the principle of the site accommodating four large detached dwellings has been established at appeal, and the current proposal for five dwellings represents the most effective use of the land. The scheme was the subject of pre-application discussions and amended further to address concerns relating to excessive hardstanding within the development.
- 2.3 The submission is accompanied by plans showing five detached dwellings of traditionally designed and appearance. The buildings are arranged in an enclosed format as a continuation of the existing development within the cul-de-sac. Four of the proposed dwellings would be located largely over the footprint of the previously approved development. The additional dwelling is positioned at the centre of the open space between plots 2 and 5 to provide a focal point and sense of completion for the development.
- 2.4 Plot 1 -This is to the north western part of the site and is occupied by a 4 bedroom detached two-storey dwelling with integral garage. It would be 7.7 metres high with eaves at 5 metres. The roof would be pitched and the front elevation would feature a projecting gable feature set down from the main roof and a porch. There would be 4 bedrooms at first floor with one en-suite and a family bathroom. The ground floor would accommodate a hall entrance, living dining room, kitchen, downstairs toilet, study and garage.
- 2.5 Plot 2 – This is located at the north eastern part of site and would be a 4 bedroom detached dwelling covered in hipped tiled roof featuring a gablet. It would have a bay window feature at ground floor and a detached carport which is located close to the south east facing elevation. The building would be 7.7 metres high with eaves at 5 metres. The ground floor would have living room, family room, kitchen, dining room,

hall, utility and cloak room. There would be 4 bedrooms at first floor one with en-suite facilities and a family bathroom.

- 2.6 Plot 3 – This amounts to the proposed additional dwelling which is positioned at the centre of the site. The principal elevation would have direct views from within The Traces. It would have a hipped roof with a gabled feature and porch at the front. The building would have a ridge height of 7.7 metres with eaves at 5 metres. There would be a dining/living room, breakfast/kitchen area, hall entrance study and an integral garage at ground floor. The accommodation provided at first floor would be 4 bedrooms, one with en-suite facilities and a family bathroom.
- 2.7 Plots 4 and 5 - The dwellings on plot 4 and 5 to the south of the application site would have an identical design featuring a barn hip and a gable feature at the front elevation which is set down from the ridge. Each would have 4 bedrooms at first floor two with en-suite facilities. There is an integral garage, living/dining room breakfast/kitchen, porch cloak room and porch at ground floor.

3 SUMMARY INFORMATION

	Existing	Proposed	Change (+/-)
Site Area (ha)	0.30	0.30	0
Approximate Ridge Height (m)	n/a	7.7m	0
Approximate Eaves Height (m)	n/a	5m	0
No. of Residential Units	0	5	+5

4 PLANNING CONSTRAINTS

- 4.1 Adjacent to - Newington High Street Conservation Area
- 4.2 Adjacent to Lion House, a grade II listed building

5 POLICY AND CONSIDERATIONS

- 5.1 **The National Planning Policy Framework (NPPF):** Paras 8 (three dimensions of sustainable development); 10, 11 (presumption in favour of sustainable development); 47 (Determining applications); 54, 55, 56, 57 (planning conditions and obligations); 61 (delivering sufficient supply of homes); 124, 127, 128, 130, 131 (good design); 174, 175, 176, 177 (Biodiversity); 189, 190, 191 and 192 (Proposals affecting heritage assets).
- 5.2 **National Planning Practice Guidance (NPPG):** Design and public rights of way.
- 5.3 **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); CP2 (Promoting sustainable transport); CP3 (Delivering a wide choice of high quality homes); CP4 (Requiring good design); DM7 (Vehicle parking); DM14 (General development criteria); DM19 (Sustainable design and construction); DM21 (Water, flooding and drainage); DM28 (Biodiversity and geological conservation); DM32 (Development involving listed buildings); and DM33 (Development affecting a conservation area).

6 LOCAL REPRESENTATIONS

6.1 10 representations have been received from local residents raising the following (summarised) issues:

- Increase in traffic and congestion
- The density of the development is inappropriate for this countryside location
- Loss of natural wildlife.
- Reptile report makes no mention of insects and endangered species
- Presence of established walnut tree
- Loss of established trees
- Harm to the integrity of the Medway Estuary & Marshes SPA
- The development is contrary to policies of the adopted local plan.
- Increase in noise
- Recent appeal decision in the area sets the precedence for this application to be refused
- Air pollution within the AQMA of Newington high Street

7 CONSULTATIONS

7.1 Newington Parish Council raises objection to the proposal and comments as follows:

Newington Parish Council accepts with regret the decision of the Planning Inspectorate to allow the appeal for 4 detached houses in The Tracies. Councillors note the comments in 4.2 in the agent's design and access statement and whilst we accept the development of the five houses could potentially close the gap, the Parish Council and residents are concerned that the indicative gap on the application next to plots 3, 4 and 5 would still make a wide enough access giving the potential for future development to the east on arable land. Councillors do not understand why plot 5 could not be turned 90° to close the gap.

7.2 **KCC Highways and Transport:** Comments that the development proposal does not meet the criteria to warrant involvement from the Highway Authority in accordance with the current consultation protocol arrangements.

7.3 **Swale Footpath Group:** State that the applicant recognizes the need for a diversion of ZR61 to enable development. As the new route would run close to the proposed houses, their privacy and security will need consideration (good fences or walls?) at an early stage.

7.4 **Kent County Council Public Rights of Way and Access Service:** Comments that:

- The existence of the right of way is a material consideration. Should consent be granted, the development will impact upon the public use, enjoyment and amenity of the Public Right of Way.
- The applicant states public footpath ZR61 passes through the site, however the legal alignment and the walked route on the ground are not in the same location. In line with consent relating to planning application 15/508683/OUT the applicant has applied to divert the legal alignment of the footpath onto a suitable route through the proposed development.

7.5 **Environmental Health:** Raises no objection. Recommends conditions relating to the construction phase of the development and the protection of the residential amenity of neighbouring properties.

8 BACKGROUND PAPERS AND PLANS

- 8.1 The submission is accompanied by the following plans/drawings: Plan/Drawing 1826-01 Location Plan, Plan/Drawing 1826-02 Site Layout, Plan/Drawing 1826-03 Site Survey, Plan/Drawing 1826-04 Plot 1 Plans, Plan/Drawing 1826-05 Plot 2 Plans, Plan/Drawing 1826-06 Plot 3 Plans, Plan/Drawing 1826-07 Plot 4-5 Plans, Plan/Drawing 1826-08 Plot 1 Elevations, Plan/Drawing 1826-09 Plot 2 Elevations, Plan/Drawing 1826-10 Plot 3 Elevations, Plan/Drawing 1826-11 Plot 4 Elevations, Plan/Drawing 1826-12 Plot 5 Elevations, Plan/Drawing 1826-13 Plot 2 Carport, Design and access Statement, Reptile Survey, and a Phase 1 Ecology Survey.

9 APPRAISAL

Principle of Development

- 9.1 The principle of residential development at the application site with regards to the erection of 4no. detached dwellings including garages and carports with associated access and parking was established under the appeal allowed at the site (attached as Appendix 1). Therefore, the key question for members in this current submission is whether the site is capable of accommodating the additional dwelling proposed without harm visual harm to amenities of the local area. It is also necessary to consider the cumulative impact the current proposal might have on nearby heritage assets and highway safety.

Visual Impact:

- 9.2 The application site is located at the end of an existing cul-de-sac of seven detached houses and is relatively well contained by existing residential development to the north, south and west. The area to the west of the site whilst open and green is unremarkable in character. Although the scheme currently proposed would require some degree of alteration of the approved layout to accommodate the additional dwelling, the development would still appear as 'a natural extension to The Tracies as noted in the appeal inspector's report. In my view the location of the additional unit would help enclose the eastern part of the site providing a sense of completion for the development. The siting of the additional dwelling would almost certainly preclude further develop on land to the east of the site which weighs in favour of this proposal.
- 9.3 The proposed layout, scale and mass reflects the general character of the surrounding area that generally comprise of two storey properties. Although the revised scheme would result in an increase in site density, it is a more effective use of the land and would still remain within the range of densities in the surrounding area. Importantly, the resulting development would not appear as cramped form of development or give rise to any material harm to the visual amenity of the locality or the wider setting.
- 9.4 The development utilises a verity of architectural styles, fenestration and form of roof configuration that is in keeping with the visual character of the area. Traditional materials are proposed which would help ensure that the development responds positively to and integrates well within it's surroundings. The revised scheme is well contained within the site and would not result in harm to the character and appearance or the intrinsic beauty of the countryside.

Residential Amenity

- 9.5 The development would have residential neighbours to the north, south and west of the application site. However, the separation distances between the existing and proposed dwellings would be such that the scheme would not adversely affect the amenities of any neighbour in terms of over shadowing, loss of light, outlook or privacy. Each property would have acceptable outdoor amenity provision and in considering the separating distances,

orientation, positioning and angles of fenestration, the proposal is acceptable in relation to the amenities of the future occupants of the proposed buildings in terms of outlook, privacy, light or general disturbance.

Highways

9.6 The development would include independent access and adequate off street parking provision within the scheme is compliant with Kent Highway parking standards. Considering the nominal additional traffic likely to be generated by the revised proposal, the impact on highway safety and the free flow of traffic is likely to be minimal. Kent Highways and Transport does not raise any objections to the proposal. Whilst objections have been raised regarding a likely adverse impact of increased vehicular traffic on the local road network in general and rural lanes in particular, it is not considered that the increased vehicular traffic that would result from this revised proposal would compromise highway safety, the integrity of the country lanes or local amenity in the vicinity of the site.

9.7 The existing public footpath (ZR61) that passes through the site is indicated to be retained within the overall scheme, however, an application have now been submitted to Kent Council under the Public Path Orders of the Town and Country Planning Act 1990 seeking diversion of the footpath around the outer perimeter of the development.

Heritage Impacts

9.8 The site lies adjacent to Newington High Street Conservation Area and Lion House, a grade II Listed building and due consideration needs to given to the desirability of preserving these heritage assets. The appeals inspector in his report on the previously approved scheme states that; *'while the development would form part of the setting of Newington High Street Conservation Area and Lion House a grade II listed building on High Street, the setting of those heritage assets would be preserved'*. This revised development although for 5 dwellings is well designed and would not be significantly different in terms of layout and appearance from the previously approved scheme. I do not believe that it would have a harmful impact on the special character of the High Street Conservation Area. Equally, the proposal would not harm the setting of the listed building at Lion House.

Landscaping

9.9 Although there are no protected trees within the site, there appear to be a number of established trees within it and whilst the application is not accompanied by a landscaping scheme, the proposals provide a good opportunity for the introduction of landscaping that will increase biodiversity and bring significant environmental enhancement to this site. A planning condition seeking Arboricultural Method Statement to protect existing tress on the land, and a landscaping scheme that is sympathetic to the site's countryside context to help soften the appearance of the development is necessary.

Ecology

9.10 The guidance in the NPPF encourages opportunities to incorporate biodiversity enhancements in and around new developments. In terms of ecological impacts of the development, the application is accompanied by a Phase I Ecology Survey and a Reptile survey which are considered to be sufficient for the site. The KCC Ecologist has been consulted and raises no objection to the proposal subject to conditions requiring updated ecological survey and a bat scoping survey prior to work commencing on trees. The ecology/biodiversity matters raised by neighbouring objectors are adequately addressed by the conditions appended.

Impact on SPA and Ramsar Sites

9.11 I have for completeness set out an Appropriate Assessment below. Since this application would result in an increase in residential accommodation on the site, impacts to the SPA and Ramsar sites may occur from increased recreational disturbance. Due to the scale of the development there is no scope to provide on site mitigation and therefore off site mitigation is required by means of developer contribution at the rate of £239.61 per dwelling. The Agent has provided written confirmation that the applicant would be willing to pay this mitigation fee, which will be secured by way of a unilateral undertaking.

Other Matters

9.12 The planning issues raised by Newington Parish Council and neighbouring objectors have been addressed in the main appraisal section of this report.

10 CONCLUSION

10.1 The application site has extant permission for 4no. dwellings and the current proposal entails revision of the approved scheme to provide 5no. dwellings. The revised scheme is of appropriate scale, layout and design and does not give rise to any unacceptable visual harm to countryside interest or visual amenity of the general vicinity of the site. I have considered the impact of the development on the residential amenities of neighbouring residential occupiers and have found no adverse impacts significant enough to warrant a refusal of planning permission. The proposal would preserve the architectural integrity and features of special interest of nearby designated heritage assets. With adequate off-street parking provision that is compliant with Kent Highways parking standards, and negligible impact on highway safety and the free flow of traffic a conditional approval is recommended.

11 RECOMMENDATION

11.1 GRANT Subject to the following conditions:

CONDITIONS to include

- (1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission;

Reason: In accordance with the provisions of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

- (2) The development hereby permitted shall be carried out in strict accordance with the following approved plans: 1826-02 Rev. A - Site Layout, 1826-03 Site Survey, 1826-04 Plot 1 Plans, 1826-05 Plot 2 Plans, 1826-06 Plot 3 Plans, 1826-07 Plot 4-5 Plans, 1826-08 Plot 1 Elevations, 1826-09 Plot 2 Elevations, 1826-10 Plot 3 Elevations, 1826-11 Plot 4 Elevations, 1826-12 Plot 5 Elevations, 1826-13 Plot 2 Carport

Reason: To ensure a satisfactory appearance to the development and to safeguard the enjoyment of their properties by existing and prospective occupiers.

Pre Commencement Conditions

- (3) The development shall not commence past slab level until written details of the materials to be used in the construction of the external surfaces of the new build dwellings and hard surfaces have been submitted to and approved in writing by the Local Planning Authority and the development shall be constructed using the approved materials and maintained thereafter unless otherwise agreed in writing by the local planning authority;

Reason: To ensure a satisfactory appearance to the development.

- (4) No development shall take place until details of a sustainable drainage scheme for the disposal of surface water and waste water have been submitted to and approved by the local planning authority. The scheme shall be implemented and thereafter managed and maintained in accordance with the approved details.

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

- (5) 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.

Reason: In the interest of residential amenity and to ensure adequate on site parking and turning provision is made for construction traffic in the interest of highway safety and the free flow of traffic.

- (6) Prior to any works on trees being carried out a bat scoping survey, recommended emergence surveys and details of a mitigation strategy must be submitted to the LPA for written approval. The trees must be felled as detailed within the approved mitigation strategy.

Reason: In the interest of ecology and biodiversity on the site.

- (7) Prior to any vegetation clearance a detailed ecological mitigation and enhancement strategy informed by an updated ecological survey(s) must be submitted for written approval by the LPA.

Reason: To protect and enhance the ecology and biodiversity on the site.

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

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

- (9) All trees to be retained must be protected by suitable fencing of a height not less than 1.2m at a distance as specified in Table 1 or Figure 2 of BS 5837 (2012) 'Trees in

Relation to Design, Demolition and Construction' before any equipment, machinery or materials are brought on to the site and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed, nor fires lit, within any of the area fenced in accordance with this condition and the ground levels within that area shall not be altered, nor shall any excavation be made, without the written consent of the Local Planning Authority.

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

- (10) 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.

- (11) No development including site clearance and demolition shall take place until an Arboricultural Method Statement (AMS) in accordance with the current edition of BS 5837 has been submitted to and approved in writing by the local planning authority. The AMS should detail implementation of any aspect of the development that has the potential to result in the loss of, or damage to trees, including their roots and, for example, take account of site access, demolition and construction activities, foundations, service runs and level changes. It should also detail any tree works necessary to implement the approved scheme and include a tree protection plan. The development shall proceed in accordance with the approved measures.

Reason: To enable the Landscape Officer access the impact of the development on trees to be retained and in the interests of landscape, visual impact and amenity of the area and to ensure a satisfactory appearance to the development.

Construction Phase

- (12) The approved details of the parking/turning areas shall be completed before the commencement of the use of the buildings hereby permitted and shall thereafter be kept available for such use. No development, whether permitted by the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2015 (or any order revoking and re-enacting that Order, with or without modification) or not, shall be carried out on the areas indicated or in such a position as to preclude vehicular access to them;

Reason: Development without adequate parking/turning provision is likely to lead to parking inconvenient to other road users and in the interests of road safety.

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

Reason: In the interest of residential amenity.

Post Construction

- (14) 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.

- (15) Upon completion, no further development 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), shall be carried out.

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

- (16) Prior to occupation of the development hereby permitted external lighting shall be in place that is in accordance with a lighting design strategy that has previously been submitted to and approved in writing by the LPA. The strategy shall:

a) Identify those areas/features on site that are particularly sensitive for bats and in which lighting must be designed to minimise disturbance, and;

b) Show how and where external lighting will be installed (through the provision of appropriate lighting contour plans and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent bats using their territory or having access to their breeding sites and resting places.

c) Include measures to reduce light pollution and spillage.

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

Reason: In the interest of biodiversity protection and visual amenity.

- (17) The development shall be designed to achieve a water consumption rate of no more than 110 litres per person per day, and the dwellings shall not be occupied unless the notice for the dwellings of the potential consumption of water per person per day required by the Building Regulations 2015 (As amended) has been given to the Building Control Inspector (internal or external).

Reason: In the interests of water conservation and sustainability.

INFORMATIVES

1. Any planning consent given confer no consent or right to disturb or divert any Public Right Of Way at anytime without the express permission of the Highway Authority.
2. Attention is drawn to Sections 60 & 61 of the COPA 1974 and to the Associated British Standard COP BS 5228: 2009 for noise control on construction sites. Statutory requirements are laid down for control of noise during works of construction and demolition and you are advised to contact the EHM regarding noise control requirements.

In accordance with paragraph 38 of the National Planning Policy Framework (NPPF), July 2018 the Council takes a positive and proactive approach to development proposals focused on solutions. We work with applicants/agents in a positive and creative way by offering a pre-

application advice service, where possible, suggesting solutions to secure a successful outcome and as appropriate, updating applicants / agents of any issues that may arise in the processing of their application.

In this instance;

The applicant/agent was advised of changes required to the application and these were agreed. The application was considered by the Planning Committee where the applicant/agent had the opportunity to speak to the Committee and promote the application.

Habitat Regulations

Appropriate Assessment under the Conservation of Habitats and Species Regulation 2017

The Appropriate Assessment (AA) have been undertaken without information provided by the applicant.

The site is within 6km south of the Medway Estuary and Marshes Special Protection Area (SPA) which is a European designated site 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.

The proposal therefore has the potential to affect the site's special features of interest, and an Appropriate Assessment is required to establish the likely impacts of the development. In considering the European site interest, Natural England advises the Council that it should have regard to any potential impacts that the proposal may have. Regulations 63 and 64 of the Habitat Regulations require a Habitat Regulations Assessment. For similar proposals NE also advise that the proposal is not necessary for the management of the European sites and that subject to a financial contribution to strategic mitigation and site remediation satisfactory to the EA, the proposal is unlikely to have significant effects on these sites.

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 Strategic Access Management and Monitoring Strategy measures (SAMMS), and needs to progress to consideration under an AA.

However the proposed development is of a very small scale and, in itself and in combination with other development, would not have an adverse effect on the integrity of the SPA, subject to the conditions set out within the report.

Notwithstanding the above, NE has stipulated that, when considering any residential development within 6km of the SPA, the Council should secure financial contributions to the Thames, Medway and Swale Estuaries Strategic Access Management and Monitoring (SAMM) Strategy in accordance with recommendations of the North East Environmental Planning Group (NKEPG), and that such strategic mitigation must be in place before the dwellings are occupied.

Due to the scale of the development there is no scope to provide on site mitigation such as on site dog walking area or signage to prevent the primary cause of bird disturbance which are recreational disturbance including walking, dog walking (particularly off the lead), and predation of birds by cats.

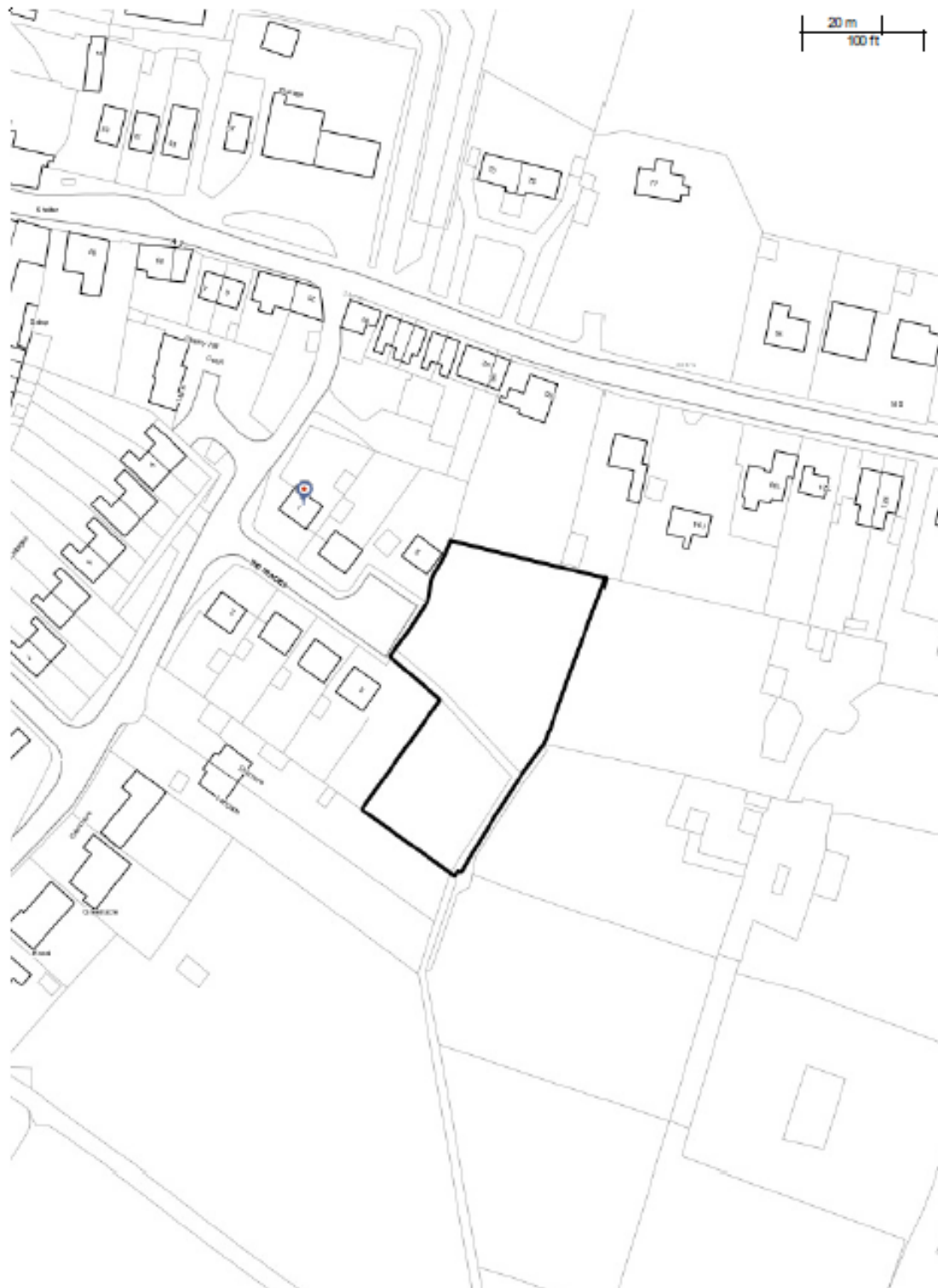
Based on the correspondence with Natural England (via the NKEPG), I conclude that off site mitigation is required.

In this regard, whilst there is likely to be impacts upon the SPA arising from this development, the mitigation measures to be implemented within the SPA from collection of the standard SAMMS tariff (to be secured by either a s106 agreement or unilateral undertaking on all qualifying developments) will ensure that these impacts would 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 organizations, including SBC, KCC, Medway Council, Canterbury Council, the RSPB, Kent Wildlife Trust, and other (<https://birdwise.org.uk/>).

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.



	<p>18/505315/FULL - Land at The Traceries, Newington ME9 7TQ Scale: 1:1250 Printed on: 27/12/2018 at 11:00 AM by AngelaA</p>	<p>© Astun Technology Ltd</p>
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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: 6th July 2018

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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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 services¹. 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 analysis², while the Council has relied on historic ALC maps based on reconnaissance field surveys undertaken in the 1960s and 1970s³. 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

¹ Table 4.3.1 of the Local Plan

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

³ Paragraph 1.1.5 of the Reading Agricultural Consultants Limited report

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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 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 site⁴. 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.

⁴ 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

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

6

APPENDIX 1

Appeal Decision APP/V2255/W/18/3195507

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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2.3 REFERENCE NO - 18/502095/FULL & 18/502096/LBC		
APPLICATION PROPOSAL Conversion of existing barn to residential use, including revised internal layout, minor changes to external windows and doors (Wagon window/door and single door) and erection of a new outbuilding; as amended by drawing 000-22 Revision R7 received 10 September 2018.		
ADDRESS Green Farm Barn Stalisfield Road Stalisfield Faversham Kent ME13 0HY		
RECOMMENDATION – Grant Planning Permission and Listed Building Consent		
REASON FOR REFERRAL TO COMMITTEE Parish Council objections to proposed outbuilding only		
WARD East Downs	PARISH/TOWN COUNCIL Stalisfield	APPLICANT Mr Jon Hutchings AGENT Guy Hollaway Architects
DECISION DUE DATE 11/07/18		PUBLICITY EXPIRY DATE 29/06/18

Planning History

SW/14/0324

Listed Building Consent for proposed new internal arrangement, final window and shutter positions

Approved. Decision Date: 08.05.2014

SW/12/1247 & SW/12/1248

Conversion of redundant timber frame barn to residential use

Approved. Decision Date 15.04.2013

SW/12/0797

Listed Building Consent for the demolition and rebuilding of the plinth walls, south wall and floors, repairs and alterations to the timber frame (all retrospective) and the replacement of the metal sheet roof with thatch.

Approved. Decision Date 15.10.2012

SW/07/1311 & SW/07/1312

Conversion of existing barn to residential.

Approved. Decision Date: 21.12.2007

SW/02/1422 & SW/02/1423

Conversion of redundant agricultural barn to residential use

Approved. Decision Date: 17.11.2004

1. DESCRIPTION OF SITE

1.1 The site consists of a C17 century Grade II listed barn, which is in the process of repair and conversion to a dwelling. The barn is in a sensitive and remote rural location, outside of any established built-up area boundary. It is situated in the Stalisfield Green conservation area and within the Kent Downs Area of Outstanding Natural Beauty (AONB).

1.2 There is a very long and complicated planning history for the property, going back over a decade. In 2004, the initial planning permission and listed building consent for the conversion of the barn were granted under references SW/02/1422 & SW/02/1423.

- 1.3 In 2008, planning and listed building consent were granted for the repair and conversion of the barn under planning references SW/07/1311 & 1312.
- 1.4 In 2012, works having been commenced, it was found that there were problems with the existing foundations and timber frame. Works on these which differed from those approved commenced, and a retrospective application was made under planning reference SW/12/0797.
- 1.5 When the drawings to discharge conditions on these applications were received, it was noted that they differed somewhat from those approved under references SW/12/1247 & 1248. Officers visited the site, and found that distinct changes to the approved works had been carried out without consent. The applicant was not aware that these changes had been made, and commenced legal proceedings against the architect who had overseen the works. However, this still left the problem that unauthorised works had occurred, which had resulted in significant loss of historic fabric.
- 1.6 These issues were addressed under planning references SW/12/1247 & 1248. Although by then historic fabric had already been lost, these applications mitigated the matter to some extent, and it was felt that it would be wrong to prosecute the applicant, who was neither aware of nor authorised the unlawful works.
- 1.7 Finally, an application to change the proposed internal layout and some commensurate fenestration was approved in 2014 under planning reference SW/14/0324.
- 1.8 Since then works have continued slowly. A new thatched roof has been completed, and all fenestration has been installed, thus rendering the building watertight. Internal works are ongoing, with the new first floor having been inserted. However, the applicant has decided that he wishes to change the floor plans, and to construct a new outbuilding on the site of a previous building that stood on the site until at least 2009, but which has since been demolished along with a number of other former farmyard buildings here.

2. PROPOSAL

- 2.1 The proposal is for internal changes to the building, some minor changes to fenestration and the construction of a new outbuilding within the curtilage of the barn.
- 2.2 The internal changes mainly concentrate on the internal arrangement of accommodation across the two floors. The previously approved drawings showed a 'topsy-turvy' arrangement with bedrooms at ground floor level, with living rooms, etc. at first floor level. The scheme that is proposed shows both living accommodation and bedrooms spread across both floors. The ground floor accommodates the kitchen and associated facilities in the left with dining in the middle bay and additional bedrooms and bathrooms in the right hand bay. The main living room is on the first floor right hand bay, as is the Master bedroom within the left-hand bay and a gallery-landing area in the middle bay. The new staircase would also be relocated.
- 2.2 The minor fenestration changes reflect the changes in the layout, and refer to a single door and the window and door situation regarding the main cart doors. All replacement and new doors and window screens are to be of traditional design and manufactured in green oak to suit the existing openings. The design of the new screens will have a simple framed vertical emphasis and be recessed. All windows are to follow approved details as per previous listed building approvals and are currently being installed.

- 2.3 Large wagon doors / windows are proposed to be of a similar design and in line with the external wall. Shutters are to be positioned as open 90° in relation to the external walls. Two new external timber doors are proposed, both in line with historical photographs - one to the side of the west wagon door and one to the west corner. Both openings were present originally - the one by the west cartgate was a pedestrian door (to allow access to the barn when the main doors were shut) - the other was probably an opening to allow pitching of straw from the barn to the northern yard.
- 2.4 The proposal also includes the installation of a new threshing floor. The original threshing floor was taken up at the same time as the other unauthorised works noted above, and was stored in such a manner that the historic fabric rotted very quickly. Both the case Officer and the conservation Officer have inspected the original timbers, and it is difficult to see how they could be used or restored again, the damage being quite considerable.
- 2.5 The proposed outbuilding, which would serve as a plant room and a workshop, would measure 9.7 metres in depth by 3.6 metres in width, and would be situated just to the north of the existing building in the same position as a previous building of similar size which is evident on historic plans and photographs. The amended design would follow the design ethic of traditional agricultural outbuildings, being finished with a corrugated iron roof and black stained weatherboarding.

3. PLANNING CONSTRAINTS

Area of Outstanding Natural Beauty KENT DOWNS

Conservation Area Stalisfield Green

Listed Buildings SBC Ref Number: 984/SW

Description: G II GREEN FARM, STALISFIELD ROAD, STALISFIELD, FAVERSHAM

4. POLICY AND CONSIDERATIONS

The National Planning Policy Framework (NPPF): Paragraphs 11 – Sustainable Development; 79 – Optimal viable use of heritage assets; and 196 – Less-than-substantial harm to heritage assets.

Development Plan: Bearing Fruits 2031: The Swale Borough Local Plan 2017: Policies ST3 (Settlement Strategy); ST7 (Faversham and Kent Downs Area Strategy); CP4 (Good Design); CP8 (Conserving and Enhancing the historic environment); DM14 (General Development Criteria); DM16 (Alterations); DM24 (Conserving and enhancing valued landscapes); DM32 (Listed Buildings) and DM33 (Conservation Areas).

5. LOCAL REPRESENTATIONS

- 5.1 No local representations have been received

6. CONSULTATIONS

- 6.1 Stalisfield Parish Council raises no objection to the changes to the main building, but raises objection to the proposed outbuilding. In view of the Parish Council's concerns, the applicant has been in contact with the PC, demonstrating that there was a building on this site until relatively recently, and changing the proposed design of the building, but the PC still raise objection as follows:

'Councillors have considered the amended proposals and while they had no objections to the conversion of the barn, there were concerns regarding the proposed new outbuilding. Councillors are concerned that the outbuilding is still too close to the barn and will detract from the historic significance of the barn which currently sits by itself. The Council re-iterates its previous objections that:

-It is not in the vernacular of the village

-It will be visible from the front and side and will detract from the layout from the plot

-It is not aesthetic or in keeping with the area.'

7. APPRAISAL

7.1 Firstly, it must be acknowledged that the principle of development here has been accepted and approved in every application before the present applications. As such, the pertinent points to consider are the effect of the proposal upon the character and appearance of the Area of Outstanding Natural Beauty (AONB); the effect upon the character and appearance of the conservation area; and the commensurate effect upon the listed building and its setting. For the sake of regularity, this report will consider each matter in turn, although it is readily acknowledged that these issues sometimes merge with each other.

7.2 In accordance with Policy DM24, for an application within the AONB to succeed, it must comply with the requirements of Policy DM24 of Bearing Fruits 2031: The Swale Borough Local Plan 2017. I would contend that the careful design and conservation of this important listed building has enhanced this part of the AONB, having resulted in the careful restoration and conversion of the barn from the somewhat derelict shell which it presented less than fifteen years ago. Policy DM24 requires proposals within the AONB to conserve and enhance *'the special qualities and distinctive character of the AONB in accordance with national planning policy.'* I would contend that the proposal precisely conforms with this requirement.

7.3 This particular conservation area comprises of a number of pleasing buildings of greater or lesser historic importance. The present application would vastly improve the conservation area, presenting a well-designed conversion. I would also argue that the proposed outbuilding is also acceptable in these terms, being a low-key structure, using traditional materials found in small agricultural buildings throughout the county, and of a design to replicate such structures. As such, I am satisfied that the proposal complies with policy DM33 of the Local Plan which requires that proposals within a conservation area must *'pay special attention to the use of details and materials'* and *'reinstate those (features) which would enhance it'*.

7.4 I acknowledge the fact that the proposed outbuilding is situated close to the main building. However, the applicant has proved that a building of a similar scale and finish, has been on this site until circa 2009. Added to this, historically, it was unusual to find a large barn on its own; general practice being for such a barn to be within a range of buildings, such as stables, byres, etc. Indeed, at least two other smaller agricultural buildings seem to have existed on this site. It appears logical to me that a smaller agricultural building appears in close proximity to the barn, and the design and finish of that proposed respects the type of design and scale that would usually be found within an agricultural range. As such, although I acknowledge the views of the Parish Council,

in this matter, I do not agree with their observations. I am of the opinion that the proposal as a whole conforms with policy DM32 of the local Plan, as the proposal will preserve *'the building's special architectural or historic interest and its setting'*.

- 7.5 With regard to the proposed changes relating to the conversion of the barn, I would contend that these all comply with the requirement to preserve the character and setting of the listed building, particularly noting the historic precedent of the former smaller doors noted. I regret the loss of the original threshing floor, but I would confirm that it is now beyond practical repair and the proposed replacement threshing floor, though not aping the original, would be a good modern representation of the original, thus continuing the building's link to its past, and thereby preserving its character.

8. CONCLUSION

- 8.1 As such, I am of the opinion that the applications, if approved, would have no adverse effect upon either the AONB, the conservation area, or the listed building, and I recommend that the applications be approved, subject to strict accordance with the conditions given below.

9. RECOMMENDATION

GRANT both planning permission and listed building consent for the development subject to the following conditions:

CONDITIONS

18/502095/FULL

- (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) Works hereby approved shall be completed in strict accordance with approved drawings 000-15 Revision R0, 000-20 Revision R7, 000-21 Revision R7, 000-22 Revision R7, 000-25 Revision R2, 000-26 Revision R2, 000-40 Revision R0, 000-50 Revision R4, 000-51 Revision R2, 000-74 Revision R1, 000-78 Revision R1 and 000-90.

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

- (3) No new external joinery shall be installed in the approved outbuilding other than in complete accordance with detailed drawings at a suggested scale of 1:5 of all new external joinery work and fittings together with sections through glazing bars, frames and mouldings for the that shall first have been submitted to and approved by the Local Planning Authority.

Reason: In the interest of the special architectural or historic interest of the adjacent listed building.

- (4) No doors shall be installed in the main barn other than in complete accordance with joinery details at two scales, 1:20 and 1:2 or 1:1 which have first been submitted to and approved in writing by the Local Planning Authority.

Reason: In the interest of the special architectural or historic interest of the listed

building.

- (5) New wagon doors to the main barn shall be installed prior to the first occupation of the building, in accordance with details to be approved under the terms of condition (3) above. Thereafter, the new wagon doors shall remain in situ in perpetuity.

Reason: In the interest of the special architectural or historic interest of the listed building.

- (6) No occupation of the main barn shall commence until a new threshing floor has been installed in complete accordance with detailed drawings at two scales, 1:20 and 1:2 or 1:1 which shall have first been submitted to and approved in writing by the Local Planning Authority.

Reason: In the interest of the special architectural or historic interest of the listed building.

- (7) No occupation of the new outbuilding shall commence until details in the form of samples of external finishing materials to be used in the construction of the outbuilding 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 the special architectural or historic interest of the adjacent listed building.

- (8) The outbuilding hereby permitted shall be used only for uses ordinarily incidental to the enjoyment of the occupiers of the adjacent dwellinghouse formed from the conversion of Green Farm Barn.

Reason: In the interests of residential amenity.

- (9) No vents, ducts, flues, meter boxes, alarm boxes, ductwork or other appendages shall be fixed to the exterior of the new outbuilding.

Reason: In the interest of the special architectural or historic interest of the listed building.

- (10) No occupation of the main barn shall commence 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.

- (11) All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of the main barn 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.

- (12) Upon completion of the approved landscaping scheme, any trees or shrubs that are

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

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

The Council's approach to the application

In accordance with paragraph 38 of the National Planning Policy Framework (NPPF), July 2018, the Council takes a positive and proactive approach to development proposals focused on solutions. We work with applicants/agents in a positive and creative way by offering a pre-application advice service, where possible, suggesting solutions to secure a successful outcome and 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.

18502096/LBC

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

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

- (2) Works hereby approved shall be completed in strict accordance with approved drawings 000-15 Revision R0, 000-20 Revision R7, 000-21 Revision R7, 000-22 Revision R7, 000-25 Revision R2, 000-26 Revision R2, 000-40 Revision R0, 000-50 Revision R4, 000-51 Revision R2, 000-74 Revision R1, 000-78 Revision R1 and 000-90.

Reason: In the interest of the special architectural or historic interest of the listed building.

- (3) No new joinery shall be installed in the approved outbuilding other than in complete accordance with detailed drawings at a suggested scale of 1:5 of all new external and internal joinery work and fittings together with sections through glazing bars, frames and mouldings for the that shall first have be submitted to and approved by the Local Planning Authority.

Reason: In the interest of the special architectural or historic interest of the adjacent listed building.

- (4) No doors shall be installed in the main barn other than in complete accordance with joinery details at two scales, 1:20 and 1:2 or 1:1 which have first been submitted to and approved in writing by the Local Planning Authority.

Reason: In the interest of the special architectural or historic interest of the listed building.

- (5) New wagon doors to the main barn shall be installed prior to the first occupation of the main barn, in accordance with details to be approved under the terms of condition (3) above. Thereafter, the new wagon doors shall remain in situ in perpetuity.

Reason: In the interest of the special architectural or historic interest of the listed building.

- (6) No occupation of the main barn shall commence until a new threshing floor has been installed in complete accordance with detailed drawings at two scales, 1:20 and 1:2 or 1:1 which shall have first been submitted to and approved in writing by the Local Planning Authority.

Reason: In the interest of the special architectural or historic interest of the listed building.

- (7) No occupation of the new outbuilding shall commence until details in the form of samples of external finishing materials to be used in the construction of the outbuilding 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 the special architectural or historic interest of the adjacent listed building.

- (8) No vents, ducts, flues, meter boxes, alarm boxes, ductwork or other appendages (except fittings in the bathroom and kitchen) shall be fixed to the interior or exterior of the part of the main barn.

Reason: In the interest of the special architectural or historic interest of the listed building.

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.



18/502095/FULL & 18/502096/LBC - Green Farm Bar, Stalisfield Road, Stalisfield, Faversham ME13 0HY
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2.4 REFERENCE NO - 17/502604/REM		
APPLICATION PROPOSAL Reserved Matters application, pursuant to application 14/502729/OUT, for the construction of 127 dwellings, public open space, landscape planting, pedestrian, cycling and vehicular links; and associated infrastructure. Related only to the northern section of the site as shown on drawing number BOV1150305 LP.01 C (Location Plan).The discharge of Condition 1 (Reserved Matters) pursuant to application 14/502729/OUT. (Appearance, Landscaping, Layout and Scale being sought).		
ADDRESS Ospringe Brickworks Sumpter Way Faversham Kent ME13 7NT		
RECOMMENDATION APPROVE subject to the receipt of amended landscaping details for the western buffer boundary, no objection being raised by KCC Ecology and conditions as set out below.		
SUMMARY OF REASONS FOR RECOMMENDATION: the proposed reserved matters details are considered to be acceptable and in accordance with both the outline planning permission for the wider site, reference 15/502729/OUT, and the requirements of the adopted Local Plan, including Policy A14, which allocates land at the Western Link for housing development.		
REASON FOR REFERRAL TO COMMITTEE Faversham Town Council Objection		
WARD Watling	PARISH/TOWN COUNCIL Faversham Town	APPLICANT Bovis Homes Limited AGENT Boyer Planning
DECISION DUE DATE 30/08/17		PUBLICITY EXPIRY DATE 26/10/18

Planning History

18/503034/NMAMD

Non Material Amendment to amend the trigger point to first occupation on the development to allow sufficient time for the works as described in Condition 24 to be carried out without undue delay to the delivery of dwellings, both private and affordable of approved planning permission 14/502729/OUT

Approved Decision Date: 12.09.2018

18/505630/SUB

Submission of Details Pursuant to Condition 22 (Part 1) - Supplementary Geo-Environmental Desk Study and Preliminary Site Investigation and (Part 2) the Site Investigation Strategy of planning permission 14/502729/OUT

Pending Consideration Decision Date:

17/502187/SUB

Submission of details pursuant to Condition 7: Development Brief (original application ref: 14/502729/OUT).

Approved Decision Date: 30.10.2018

17/503344/SUB

Submission of Details to Discharge Condition 12 Part i (Archaeology) and Condition 24 (Off-Site Highway Works) Subject to 14/502729/OUT

Approved Decision Date: 18.09.2018

17/503384/SUB

Submission of details pursuant to Conditions 10: Detailed travel plan, Condition 13: Method statement for ecological mitigation, Condition 14: Ecological Design and Management Strategy & 17: Traffic noise level survey (original application ref: 14/502729/OUT).

Pending Consideration Decision Date:

17/503960/SUB

Submission of details pursuant to Conditions 23: Dust suppression details, 25: Protection against deposits of mud and similar substances on the public highway, 26: Details of parking for site personnel/operatives, & 27: Provisions to accommodate operatives/construction vehicles loading, off-loading & turning on site (original application reference: 14/502729/OUT).

Pending Consideration Decision Date:

14/502729/OUT outline (Access not reserved) Demolition of brick making and drying sheds, 2 stores, existing site office and a cottage and the construction of up to 250 dwellings, new vehicular access and roundabout off Western Link, public open space and associated infrastructure

Approved

EIA/13/0029 Screening Opinion for construction of up to 250 dwellings, public open space, two vehicular access points, demolition of existing buildings and associated infrastructure.

Decision Date: 07.11.2013

EIA/12/0012 Screening Opinion

Decision Date: 16.07.2012

EIA/12/0013 Screening opinion

Decision Date: 26.04.2012

Between 2009 and 2012 a number of applications were submitted for employment uses on this site. In the 1970s and 1980s a number of applications relating to the brickmaking business were submitted.

Members will also note that an application (reference 18/506283/REM) has recently been submitted (valid date – 11 December 2018) for the southern part of the wider site, known as the Red Brickworks, for the construction of 123 dwellings. Approval is sought for all outstanding reserved matters, namely layout, scale, appearance and landscaping.

1. DESCRIPTION OF SITE

- 1.1 The application site comprises just the northern area of the original site and is an area of grass and spoil heaps that is bordered on all sides by well-established trees and hedgerows. It is located to the west of Faversham, on the urban edge of the town adjacent to the Western Link. The site – which has an area of 4.58 hectares - undulates in various locations, although the general land fall is from south to north. To the north, south and east are existing residential areas, Bysingwood Primary School and an open Area of High Landscape Value to the west.
- 1.2 The outline planning permission for the wider site (which measures 7.9 hectares) confirmed the location of the vehicular access to the site which will be via a new roundabout to be constructed on the Western Link with a cycle/pedestrian access to

the east leading into Lower Road, which will latterly become a bus route through the site.

- 1.3 This development will link to the southern site adjacent to the existing property 'Hollybank' via a road and an area of public open space.

2. PROPOSAL

- 2.1 Following the granting of the outline permission under reference 14/502729/OUT (for the construction of up to 250 dwellings) conditions were attached to the permission which required, amongst other things, the submission of the reserved matters details following the approval of a Development Brief (condition 7) from which set out the road layout, connectivity within the site, the landscaping, surface water drainage, architectural treatment of the buildings, biodiversity, storey height strategy and the retention of the brick chimney and clay wash mill. However, the subsequent splitting of the site and sale has required the Development Brief to be a document produced by both house builders to cover the whole site whilst the reserved matters applications for each parcel of land are to be dealt with individually. The Development Brief for the whole site was approved on October 30th 2018 under reference 17/502187/SUB. This reserved matters application therefore seeks permission on the northern part of the site for the details of the Appearance, Landscaping, Layout and Scale for the construction of 127 dwellings and the public open space, landscape planting, pedestrian, cycling and vehicular links; and associated infrastructure.
- 2.2 The vehicular access to the site was confirmed – as noted above - in the earlier outline permission which approved a new roundabout off the Western Link which will provide the only private vehicular access to the site. The Transport Assessment attached to the previous application proposed and condition 10 of the subsequent approval requires a Travel Plan to be provided to show how it would “*reduce vehicular flows on to the highway network*” In part to offset the traffic generated by the development a further access initially for cycle and pedestrian use is to be provided to the east of the site which will then, following completion of the 200th dwelling on the site and in line with the Section 106 agreement which covers the entire site be modified, into a public bus route.
- 2.3 The development comprises 127 houses which is a mix of detached, semi detached and terraced houses of 2, 3 and 4 bedrooms and 1 and 2 bedroom flats located in 4 blocks – each of which would be three storeys - throughout the site. The final layout of the site evolved from the concept and illustrative masterplan that was produced to accompany the outline application.
- 2.4 The design and detail of the houses have been amended by the architecture to better reflect the modern approach stipulated within the approved Development Brief.
- 2.5 As there is no identifiable vernacular within the immediate area the northern area, it is proposed that the houses will reflect the historic brickworks and will be constructed in yellow bricks and take on a contemporary style.
- 2.6 As per the Section 106 agreement attached to 14/502729/OUT, 39 affordable houses are to be provided on the site, (30% of 127 houses) and the breakdown of these are:

10 x affordable houses (Plots 41 – 50):

- 1 x 3 Bed Shared Ownership
- 2 x 2 Bed Shared Ownership
- 4 x 2 Bed Affordable Rent Tenure
- 3 x 3 Bed Affordable Rent Tenure

29 x Affordable Flats (including two coach houses):

- Block A Plots 1 -9 will be provided as shared ownership flats
- 3 x 1 Bedroom Flats
- 6 x 2 Bedroom Flats
- Block C Plots 66-74 will be provided as affordable rent tenure (ART)
- 4 x 1 Bedroom Flats
- 5 x 2 Bedroom Flats
- 1 x 2 bedroom coach house (Plot 65)
- Block D Plots 98-106 will be provided as affordable rent tenure (ART)
- 4 x 1 Bedroom Flats
- 5 x 2 Bedroom Flats
- 1 x 2 bedroom coach house (Plot 97)

- 2.7 In terms of hard landscaping, the surface material to be used for the roads will be surfaced in tarmac and the private driveways and parking bays will be concrete block paved. There is a mix of brick walls with brick on edge coping and fencing for the boundary treatments.
- 2.8 In terms of soft landscaping, a substantial landscape buffer is to be provided to the west of the site along the Western Link road. This needs to be provided along with the retention of the existing Roadside Nature Reserve (RNR) and a new area to be provided to provide mitigation for the area to be lost during the creation of the new access to the site. Additionally, within the site attenuation ponds, part of the SUDS will provide wetland habitat, open spaces with grass and trees and landscape buffers and tree planting are around the site, including within private gardens.

3. PLANNING CONSTRAINTS

- 3.1 There are no planning constraints that warrant mention here.

4. POLICY AND CONSIDERATIONS

The National Planning Policy Framework (NPPF): Para 8, 11 (achieving sustainable development) Para 38, 47 (decision making) para 73 (delivering sufficient supply of homes) Para 92 96 98(promoting healthy and safe communities) Paras 109,110 (Sustainable transport) para 127, 130, (Achieving well designed places) para 165 (meeting challenge of climate change).

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); ST7 (The Faversham area and Kent Downs Strategy); CP2 (Promoting sustainable transport); CP3 (Delivering a wide choice of high quality homes); CP4 (Requiring good design); CP7 (Conserving and enhancing the natural environment - providing for green infrastructure: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); DM24 (Conserving and enhancing valued landscapes); DM28 (Biodiversity and geological conservation); DM29 (Woodlands, trees and hedges)

Following the submission of the application in May 2017, local residents and technical consultees provided comments. However, following amendments to the application all previous consultees were re contacted for their views on the amended schemes.

5. LOCAL REPRESENTATIONS

- 5.1 Swale Footpaths Group commented that footpath ZF6 is unaffected

6. CONSULTATIONS

- 6.1 **Faversham Town Council:** Objected to the application stating that they had *“...previously requested that the route from the roundabout on the Western Link to Kiln Court be protected but it has not been in this application and secondly that they note the open space is at the North end of the site and it would be preferable for this to be relocated to the middle of the site, were it would be more accessible and visible.”*
- 6.2 **Kent Highways and Transportation:** Commented that the amended layout has taken on board the issues that had been raised earlier with the applicant and subsequently discussed with them at several meetings. They are satisfied that the road hierarchy, and increased parking provision from what was originally submitted, is now appropriate, together with the other changes that have been made to the layout. Consequently, they had no objections to the proposals in respect of highway matters and confirmed that no further highway conditions beyond those already secured with the Outline approval are required.
- 6.3 **Kent County Council Archaeological Officer:** The archaeological condition in connection with this application has been addressed and no further works are required.
- 6.4 **Kent County Council Flood & Water Management:** Offered no objection to these proposed amendments in layout of the site, but did reiterate previous comments made on the 20 June 2017, in particular those relating to the preferred option of having individual plot soakaways instead of trench soakaways. Secondly, no drainage calculations have been submitted at this time to demonstrate the drainage systems operation for the varying storm events and they recommend that full calculations are submitted at the detailed design stage. It should also be demonstrated that no discharge occurs within made/contaminated ground.
- 6.5 **Kent County Council PROW & Access Service:** Highlights the existence of Public Footpath ZF6 and Public Bridleway ZF17, which pass through the proposed development site
- 6.6 **Highways England:** offered no further comments
- 6.7 **Natural England** offered no comments on the amended information provided in support of the discharge of condition 1 but did recommend the views of our in-house ecologist are gained regarding there are any implications for biodiversity.
- 6.8 **Southern Water** offered no objections to the reserved matters application for access, appearance, landscaping, layout and scale.

- 6.9 **Kent Wildlife Trust:** objects to the application as the information shown in the Landscape Management and Maintenance Plan does not match the Landscape Masterplan drawing and as such are inconsistent with the management and mitigation of the Roadside Nature Reserve (RNR)
- 6.10 **UK Power:** Objected to the application on the basis of their understanding that an electricity substation is located within 6m of the site. (However there is no electricity substation within 6 m of the site, although one is proposed on the site.)

7. BACKGROUND PAPERS AND PLANS

14/502729/OUT
17/502187/SUB
17/502604/REM and existing plans

8. APPRAISAL

- 8.1 This is a reserved matters application which seeks approval for the details of the appearance, landscaping, layout and scale of the construction of 127 dwellings and the public open space, landscape planting, pedestrian, cycling and vehicular links; and the associated infrastructure.
- 8.2 Outline planning approval was granted under reference 14/502729/OUT for the principle of the development but also to confirm the access arrangements to the site, which included a new roundabout off Western Link as the only approved vehicle access point.
- 8.3 This application follows on from the Development Brief which was submitted in respect of condition 7 of this permission and approved on 30th October 2018. The Development Brief set out the key design and development parameters to be applied across the whole of the area included within the outline consent, so a key consideration in assessing this reserved matter application from a design perspective is adherence to the principles and more specific development criteria set out in the approved brief document, approved under ref. 17/502187/SUB.
- 8.4 It is important to note that the scheme has gone through a very detailed amendment process during the consideration of the application and amendments have been made to the layout of the development and the design and style of the housing and the flat blocks, which we subsequently re consulted on and received the comments listed above.
- 8.5 This application is before Members due to an objection received from Faversham Town Council where they objected on two grounds. Firstly, that they *“had previously requested that the route from the roundabout on the Western Link to Kiln Court be protected but it has not been in this application”*. I note when this application was first submitted in May 2017 and Faversham Town Council were consulted and they stated that *“road access from the roundabout to Kiln Court should be maintained as a corridor for future access.”* However, it remains the case then as now that any comments regarding the access should have been flagged up at the outline application stage, to which the Town Council did offer comments but no objection and with no reference to the access to the east. Despite the Town Council’s comments the access to the site had already been considered, accepted and approved under planning reference 14/502729/OUT. Therefore it should be remembered that this is a Reserved Matters application, with only issues of appearance, landscaping, layout and scale being the issues for decision at this stage.

- 8.6 The Town Council secondly commented that *“the open space is at the North end of the site. It would be preferable for this to be relocated to the middle of the site, were it would be more accessible and visible”* However, the three main areas of public open space are shown on the site layout drawings and these are located in the north of the site, in the centre of the site, close to the pedestrian and cycle route to the residential properties in Lower Road and beyond and to the south. This area to the south will in fact link up with the public open space to be provided by the site to the south to create a larger area of public open spaces between the two sites.
- 8.7 This site is providing 1.22 ha of useable open space in line with the approved Development Brief and the Section 106 agreement attached to the previous outline approval, it is dispersed throughout the site to the benefit of the residents and is the most rationale locations once consideration of access, pedestrian routes and public footpaths are considered, as such I do not consider there to be any benefit in it being relocated.
- 8.8 In terms of the assessment of the appearance, landscaping, layout and scale these are assessed in the context of the character of the area and the Heritage-related site constraints and opportunities. However, now the site has been split, the application site does not contain any heritage assets as such. Whilst the single storey dwelling known as ‘Hollybank’, which is considered to form a non-designated heritage asset by virtue of its unusual and characterful architectural form, is located immediately adjoining the southern boundary of the site and can be viewed from key angles to its front and west elevations. However, I consider there to be no material heritage impacts arising from the proposed development as the heritage significance of the property is very limited. In any case, the applicant has appropriately altered the layout from submission to improve the openness and setting to the west of the property so that its distinctive architectural form can be appreciated.
- 8.9 The nearest designated heritage asset to the application site is the Syndale Conservation Area, but this is located some 400 metres or so to the south of the application site, and would be visually separated from it by the Linden Homes development in the southern half of the allocated housing area.
- 8.10 In terms of the layout, the final version of the scheme now before us for determination contains less vehicular movement connectivity than would be ideal, this must be balanced by a good level of connectivity for pedestrians and cyclists and an arguably more significant level of landscaping than could have been achieved with less cul-de-sac type roads.
- 8.11 Critically, the layout makes good use of tandem parking to the side of houses and reasonably well landscaped frontage parking bays and rear parking courts so that the street scenes that would be created would not be dominated by parked vehicles.
- 8.12 The large and usable public open spaces - whose location has been objected to by the Town Council - are provided at the northern and southern ends of the application site area which would combine well with the existing and anticipated land uses to the north and south of the site, and there would be an appropriate hierarchy of street types from ‘main street’ i.e. the principle access road to ‘shared driveways’ with the latter representing the more quiet corners of the proposed housing development, where pedestrians would share the hard surfacing with vehicles.
- 8.13 The layout also allows for an appropriate mix of housing types from the 1 bed apartment units up to 4 bedroom detached houses with adequate external amenity space for the occupants of the apartments, decent rear garden sizes for all of the houses and no unacceptable issues with overshadowing and/or overlooking.

- 8.14 The quality of the architectural treatment of the units arguably varies to some degree across the site. However, the agreed changes to the apartment blocks are positive given the more prominent role these play in creating new townscape at this location. I consider that the scale of these blocks (whilst 3 storey in form) is considered compatible with protecting the special visual qualities of the adjacent Area of High Landscape Value and view across this towards the western edge of the town.
- 8.15 Excepting the apartment blocks which display a modern, articulated flat roof elevational treatment, the design approach essentially utilises traditional pitched roof housing forms and pairs these with a modern fenestration design using relatively fine-profiled, colour-coated aluminium framed windows with a varied depth of reveal (and in some case projection) to achieve a type of fusion design with an overall contemporary feel. This type of housing design has been used to good effect elsewhere. It is however reliant on a crispness of detailing which is to be agreed by appropriate planning conditions to ensure its success. I considered that the design approach of the apartment blocks and house types, although markedly different in their overall appearance, would work well together and create an appealing visual contrast in the areas of the scheme where they would be seen together.
- 8.16 The approach before us for consideration, so far as the housing units are concerned, does not display the more clearly distinctive contemporary approach that officers were aiming for however, it is nevertheless still a scheme which if applied with consistent attention to detail and to the overall design theme is capable of working to good effect such that I consider this to be an acceptable scheme.
- 8.17 In terms of the soft landscaping I am confident that there is sufficient soft landscaping, to ensure that this dense residential development will provide a pleasant environment for its residents and visitors, and soften the appearance of the development in views of the open countryside immediately to the west, which is designated as an Area of High Landscape Value (Kent Level).
- 8.18 The hard surfacing to the roads and parking spaces is tarmac but with the shared surfaces and private concrete block driveways it would provide a good variety of textures and colours to break up these necessary hard surface areas.
- 8.19 Lastly, a key requirement of the development brief is the provision of an overall landscape strategy incorporating the retention of existing planting where possible with special regard to be paid to the western boundary of the site and the provision of an area to mitigate for the lose of some of the Roadside Nature Reserve (RNR) and the continued functionality of the remainder. The landscape treatment to the eastern boundary is not unimportant and in this respect, the design response is considered appropriate.
- 8.20 The western boundary of the site is more visually sensitive as it lies directly adjacent the (Kent Level) Area of High Landscape Value to the west, and a well considered landscape approach is therefore needed to ensure that views across this special landscape towards what will in effect be the westernmost edge of the town will present a positive image of both the development itself, and also reflect positively on the town as a whole. Additionally this landscaping needed to ensure the functionality of the RNR was maintained and be of benefit to the ecology of the area.
- 8.21 In policy terms I consider the avoidance, minimisation and mitigation of adverse impacts on the special landscape character, and the form and degree of landscaping provided to the western boundary of the site and on the site in general does provide an appropriate and positive design response to the policy (DM24) requirement and the development brief requirements.

- 8.22 However, it remains the case that confirmation that the proposed landscaping works and the future maintenance plan will not harm the RNR or the ecology of the area is not forthcoming. However the ecologists and landscape architects for the applicant and KCC Ecologist continue to discuss the issue and anticipate agreement to be forthcoming which I intend to report verbally to Members.

9. CONCLUSION

- 9.1 I am of the opinion that all of the reserved matters now proposed, with the exception of the landscaping on the western buffer boundary, have been addressed satisfactorily, and I recommend that the proposal be approved, subject to the receipt of satisfactory landscaping details.

10. RECOMMENDATION

- 10.1 GRANT Subject to the receipt of amended landscaping details for the western buffer boundary, no objection being raised by KCC Ecology and the following conditions for the following reasons:

CONDITIONS to include

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

SL.01 Rev R, CSL.01 Rev P, BDML.01 RevJ, LP.01 Rev C, SE.01 Rev F, HT.HAW.e Rev D, HT.HAW.p Rev B, HT.JUN.e1 Rev D, HT. JUN.e2 Rev D, HT.JUN.p Rev B, HT.MAG.e Rev D, HT.MAG.p Rev B, HT.SH2.e Rev D, HT.SH2.p Rev A, HT.SPR.e Rev D, HT.SPR.p Rev B, HT.SPR.A.e Rev D, HT.SPR-A.p Rev B, HT, X310.e1 Rev D, HT.X310.e2 Rev D, HT.X310.p Rev A, HT.CHE.e Rev D, HT.CHE.p Rev B, HT.CHE-A.e Rev D, HT.CHE-A.p Rev B, HT.CYP-1.e Rev D, HT.CYP-1.p Rev A, HT.CYP-2.e Rev D, HT.CYP-2.p Rev A, FB-A.cpe Rev D, FB-A.pe Rev E, FB-B.cpe Rev D, FB-B.pe Rev E, FB-C.cpe Rev D, FB-C.pe Rev H FB-D.cpe Rev D, FB-D.pe Rev G, P41-44.e Rev D, P41-44.p Rev B, P48-50.e Rev D, P48-50.p Rev B, P62-64.e Rev D, P62-64.p Rev A, P23-24_36-37_77-78.e Rev D, P23-24_36-37_77-78.p Rev A, GAR 01.pe, GAR.02.pe, and JBA 16/115 – 01v.

Reasons: For the avoidance of doubt.

- (2) No development beyond the construction of foundations shall take place until clearly labelled sample board of the facing and roofing materials to be used for each apartment block and each house type, and variation thereto (excluding doors and windows), to be submitted and agreed.

Reason: In the interest of visual amenity.

- (3) No development beyond the construction of foundations shall take place until Manufacturer/supplier colour brochure and technical specification details of the window and door product system(s) to be used, to be submitted and agreed.

Reason: In the interest of visual amenity.

- (4) No development beyond the construction of foundations shall take place until details of any vents or flues required to service the proposed housing and apartment units, to be submitted and agreed (details to include enhanced elevation and roof plan

drawings showing the specific location of these items, together with manufacturer/supplier colour brochure and technical specification details of the products to be used).

Reason: In the interest of visual amenity.

- (5) No development beyond the construction of foundations shall take place until the following key construction detail drawings to be provided in the form of 1:1 or 1:2 scale sections and submitted and agreed before any development commences:
- (a) Eaves and verge detailing for each house type and variation thereto;
 - (b) Timber cladding and facing brickwork vertical junction (typical detail),
 - (c) Reveal depth(s) for each type of window and door opening for each apartment block and each house type (and variation thereto).

Reason: In the interest of visual amenity.

- (6) No development beyond construction of the foundations shall take place until full hard and soft landscaping details (which shall consist only of native species) have been submitted to and approved in writing by the Local Planning Authority for those areas not covered by the details submitted for the western buffer area adjacent to the Western Link Road.

Reason: In the interest of visual and landscape amenity and enhancing biodiversity.

- (7) The development shall be completed strictly in accordance with details in the form of cross-sectional drawings through the site showing proposed site levels and finished floor levels which shall 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.

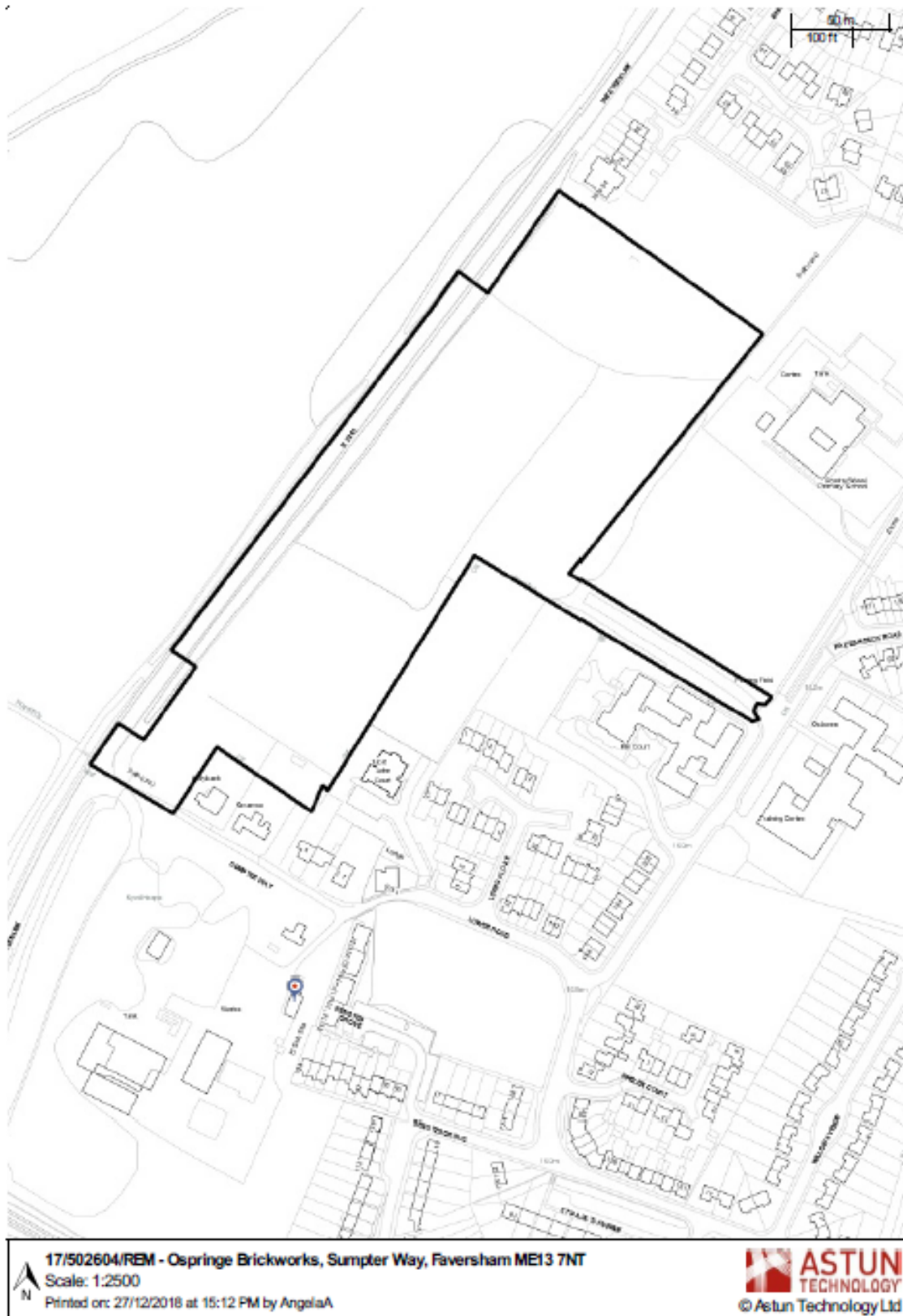
The Council's approach to the application

In accordance with paragraph 38 of the National Planning Policy Framework (NPPF), July 2018 the Council takes a positive and proactive approach to development proposals focused on solutions. We work with applicants/agents in a positive and creative way by offering a pre-application advice service, where possible, suggesting solutions to secure a successful outcome and 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.



2.4 REFERENCE NO - 14/502729/OUT			
APPLICATION PROPOSAL			
Outline (all matters reserved except access) - Demolition of brick making and drying shed, 2 stores, existing site office and a cottage; Construction of up to 250 dwellings, new vehicular access and roundabout on Western Link, public open space and associated infrastructure.			
ADDRESS Ospringe Brickworks Sumpter Way Faversham Kent ME13 7NT			
RECOMMENDATION- Grant subject to conditions and subject to:			
<ol style="list-style-type: none"> 1. The signing of a section 106 agreement for developer contributions towards: primary and secondary schools; libraries, adult social care; community learning; youth services; waste and recycling bins; allocation of land for a future bus route; provision of 30% affordable housing across the residential site; provision of open space contribution for among other things the restoration of the adjacent disused allotments and off-site enhancement to the local play area; provision of a roundabout with the Western Link, contribution towards mitigation of the impacts on the Special Protection Area (exact project to be still be agreed with the Green Space Manager) and the 5% monitoring charge; 2. Clarification from the developer on the on-site contribution and the long term maintenance approach to the retained historic features on the site and additional comments from the Green Space Manager regarding this matter and any conditions required as a result; and 3. Additional comments from Network Rail in relation to the Level Crossing where the Public Right of Way ZF9 crosses the railway line and any conditions required as a result. 			
SUMMARY OF REASONS FOR RECOMMENDATION			
This site is allocated in 'Bearing Fruits 2031 (Submission version April 2015) under Policy A12 for up to 240 dwellings. The proposal is now for up to 250 dwellings, which would slightly exceed the proposed allocation for the site. Whilst the proposal would result in some harm (which I quantify below) the need for the development outweighs the limited harm that would be caused.			
REASON FOR REFERRAL TO COMMITTEE			
Ospringe Parish Council objection and the significance of the proposal.			
WARD Watling	PARISH/TOWN COUNCIL Faversham Town Council	APPLICANT W T Lamb Holdings Limited AGENT LMA Planning Limited	
DECISION DUE DATE 14/11/14	PUBLICITY EXPIRY DATE 14/11/14	OFFICER SITE VISIT DATE October 2014	
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):			
App No	Proposal	Decision	Date
SW/12/0159	Application for a new outline planning permission to replace extant outline planning permission in order to extend the time limit for implementation to provide new buildings for additional B1, B2 and B8 employment use; creation of new access	Approved subject to conditions	30 th April 2012

	from Western Link and new roundabout		
<i>Summarise Reasons: In accordance with Local Plan policies.</i>			
SW/09/0120	Application for outline planning permission to provide new buildings for additional B1, B2 and B8 employment use; creation of new access from Western Link and new roundabout	Approved subject to conditions	31 st March 2009.
<i>Summarise Reasons: In accordance with Local Plan policies.</i>			

MAIN REPORT

1.0 DESCRIPTION OF SITE

- 1.01 The application site is located on the western edge of Faversham, within the built-up area boundary of the town. The site is known as Cremer Whiting Brickworks and is situated immediately adjacent to Western Link (to the east) and is bound by existing residential development to the north and east with the railway to the south and the designated countryside to the west of the site. This countryside is designated as a Special Landscape Area (SLA- see Policy E9 of the adopted Local Plan 2008).
- 1.02 The site is gently sloping, with intermittent areas of steeply sided earth moulding and spoil heaps. Along the northern boundary, land falls away steeply down towards existing open space and housing (Whiting Crescent) beyond that area, with the site located on a slightly higher plateau than the surrounding areas. To the south, the site is lower than Western Link, due to the road bridge over the railway line, providing visual enclosure. The site features an earth bund along part of the western boundary of the site. The site area is 7.91 ha (or 19.5 acres).
- 1.03 Running through the site are three public rights of way (one running directly adjacent to Keramos and Hollybank in the middle of the site and one through the northern part of the site) and a third which is located and runs along the site’s southern boundary. Keramos and Hollybank are accessed via a private driveway off Lewis Close.
- 1.04 Located adjacent to the south-eastern boundary is an area of disused allotments (a contribution is proposed towards the reinstatement of this allotment). A play area and kick about space is located adjacent to the site whilst Bysingwood Primary School sits adjacent to the northern end of the site.
- 1.05 A designated Roadside Nature Reserve (RNR) is located along side part of Western Link and supports a range of grassland habitat (please note drawing ‘Roadside Nature Reserve Drawing 01 2nd June 2015). The verge is situated on both sides of the road and totals 1300 metres in length; the width varies from 4 to 15 metres.

- 1.06 The site is located less than 1km from the Swale Special Protection Area (SPA) and Ramsar site. The application site is also located close to parts of The Swale Site of Special Scientific Interest (SSSI). Bysing Woods and Oare Gunpowder Works, a country park and a nature reserve are located also near the site.
- 1.07 Bus services 3 and 3A pass in close proximity to the site and offer regular services into the town centre, railway station and other surrounding areas. Please note that the Developer is making provision for a bus route to run through the site which is covered by the draft S106 submitted as part of the application. The site is easily accessible from both the A2 and M2.
- 1.08 The Design and Access statement states the following:

'The brickworks formerly consisted of two plants separated by the existing access on Western Link. The land to the north, known as Yellow Brickworks was formerly a yellow stock seasonal yard and the land to the south, known as Red Brickworks was a red stock kiln unit. The yellow brickworks closed in 1963 with the red brickworks site ceasing production in 2007. Since then the red brickworks site has been used for storage and the yellow brickworks cleared and left open. There are a number of existing buildings within the red brickworks. These include a small office, cottage, large sheds, a kiln building, wash mill and chimney. There are also a number of areas of hard standing and a spoil heap.'

2.0 PROPOSAL

- 2.01 Outline planning permission is sought for up to 250 dwellings with new vehicular access and roundabout at Western Link, public open space and associated infrastructure, including the demolition of the brick making and drying sheds, two stores, existing site office and a cottage. All matters are reserved (namely layout, landscaping, scale and appearance) for future consideration, except for access, which is a detail to be assessed as part of this application. Therefore consideration should focus on the principle of the development at this stage, not the detailed matters, except for access. The Master Plan provided is for illustrative purposes only, indicating how 250 residential units could be sited on the site with access points and open space and this may be subject to change at the reserved matters stage should Members resolve to grant permission for this application. Officers currently have some reservation about the proposed layout of the development in terms of the creation of on-site useable open space and the focus of the retained historic features of the site within the new the proposed site layout. However, these are issues to be dealt with at the reserved matters stage.
- 2.02 The proposal indicates an indicative landscaping approach to the site (drawing number CMP-02 REV B) to minimise adverse landscape and visual effects of this edge of settlement boundary development. The Design and Access statement highlights specific areas of landscaping as follows:

- Retention of existing trees and tree groups with landscape value;

- New tree, woodland and hedgerow planting throughout the site to principally comprise locally indigenous species;
- New native woodland buffer planting adjacent to the Western Link as an extension of the existing tree belt, to integrate the proposed development within the surrounding countryside and reduce its visual impact on local views;
- New trees, hedgerows and ornamental planting designed to provide a strong landscape framework and setting for the new development;
- New native woodland buffer planting to filter views toward the adjacent railway line;
- Creation of new footpath link along a former access track, involving clearance of overgrown weeds and scrub and planted to enhance amenity and wildlife value;
- Enhancement of public footpath routes through the site;
- Creation of a network of proposed hedgerows and ornamental planting to provide physical and visual separation between housing and public areas
- Creation of pattern of different grass types including amenity, wildflower and wet grassland; and
- Retention of existing brickwork features to add character and visual interest to open space

2.03 With regards to access, a new roundabout is proposed on the Western Link providing the sole vehicular access on to the site. Various pedestrian and cycle access points into the site are proposed whilst a new pedestrian crossing point is proposed across the Western Link to link up with an existing Public Right of Way ZF17.

2.04 The proposal would mostly consist of family housing with a 30% provision towards affordable housing- the tenure split remains to be agreed though the applicant is offering the following 60/40 tenure split in favour of affordable rent. Members will note the Housing Strategy and Enabling Officers comments at paragraph 7.20 below.

Affordable Rent – 45 units		
No.	Unit Type	Unit Size m²
8	1b2p flat	45.00
11	2b3p flat	57.00
8	2b4p house	67.00
11	3b5p house	82.00
7	4b6p house	94.90

Shared Ownership – 30 units		
No.	Unit Type	Unit Size m²
11	2b4p house	67.00
19	3b5p house	82.00

2.05 A mix of dwelling types would be provided to meet local market demands. The majority of the residential development being two storeys in height, although some three storey development would be proposed depending on the site topography at certain points within the site. A mix of flats, terraced, semi-detached and detached properties are proposed. 4.92 ha (12 acres) of residential land use are proposed with 2.26ha (5 acres) of open space which would breakdown into the following:

Open Space Breakdown	Hectares (ha)
Useable open space	1.19
Additional open space (mitigation landscaping, boundary landscaping)	0.83
Attenuation area (as shown on drawing CMP-02 REV B Concept Masterplan 02)	0.23
Play area (as shown on drawing CMP-02 REV B Concept Masterplan 02)	0.01
Total	2.26

2.06 In addition to the provision as outlined in the above table, the applicant intends to provide a financial contribution to off-site improvements to existing play areas in the surrounding area, as well as the reinstatement of the allotment to the south east of the site.

2.07 The Master Plan drawing No CMP-02 REV B provided is for illustrative purposes only. Although indicative details in relation to the proposed design, layout, parking, street scene, and specific materials have been provided these are potentially subject to change at the reserved matters stage.

2.08 The submitted Design and Access statement makes the following comments:

'Key features:

- *Creation of a strong and legible landscape framework within which development areas are located*
- *Existing brickworks features to be retained in open space*
- *Buildings used to define key spaces and*
- *Good quality existing trees and hedgerows to be retained within open space and on the boundary to the site*
- *Pedestrian and cycle connections linking the site to the adjacent neighbourhoods*
- *Pedestrian and vehicular access to the allotments adjacent to the site*
- *On and off site play provision to serve the new and existing community*
- *Retention of the existing Public rights of way running across the site with improved setting and landscaping*

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ITEM 2.4

- *A new round about on Western Link to access the site alongside two additional pedestrian refuges to ease movement along the public rights of way*

2.09 The application is supported by a number of reports including the following:

- Planning Statement
- Design and Access statement
- Statement of Community Involvement
- Transport Assessment and Framework Travel Plan
- Landscape and Visual Impact Assessment
- Phase 1 and 2 Ecological Appraisal
- Air Quality Assessment
- Noise Assessment
- Vibration Report
- Site Investigations Report
- Archaeological Assessment
- Utilities Report
- Drainage Strategy and Flood Risk Assessment
- Arboriculture Impact Assessment
- Gypsy and Traveller Off set funding paper
- Energy Statement
- Heritage Statement
- Building Conditions Survey
- Draft Section 106 Legal Agreement

2.10 From the above listed reports, I draw the following summarised key points:

2.11 The Planning Statement

- Delivery of up to 250 dwellings- both market and affordable housing
- Creation of public open space, landscaping and a new roundabout
- Proposal is generally compliant with the land use planning objectives sought by Policy A12 of the emerging Local Plan
- Extensive engagement has taken place with local residents and key stakeholders
- The need for additional housing within the Borough is an important material consideration in favour of permission

2.12 The Design and Access statement

- New vehicular access to Western Link via a roundabout
- Pedestrian and cycle links
- Provision of open useable space
- Retention of existing landscape features such as important trees and hedgerows
- Provision of on and off site play facilities to benefit existing and the new community

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ITEM 2.4

- Provision of sustainable urban drainage systems within the public open space
- Creation of linear public open space corridors linking the existing residential neighbourhoods with Western Link

2.13 Landscape and Visual Impact Assessment

- Viewpoints are mostly located around the periphery of the site from local roads, public footpaths and adjacent housing areas
- Distant views are located to the north-east and east of Faversham
- There will be no significant or moderately significant temporary adverse landscape effects upon the landscape character of the site nor upon the surrounding landscape (some of which has a local landscape designation)
- There will be no landscape or visual effects upon the North Downs SLA, Kent Downs AONB or the Faversham conservation area

2.14 Arboriculture Impact Appraisal and Method Statement

- The majority of the trees lost as a result of this proposal are low category because of their poor condition or small size
- Three moderate quality trees will be lost but they are well within the site and their loss will have no significant impact on the present character of the site
- There is plenty of space for tree planting and a comprehensive landscaping scheme
- The size of the new trees and their future growth will significantly enhance the contribution of this site to local amenity and more than compensate for the loss of the existing trees

2.15 Flood Risk Assessment

- The site lies entirely within Flood Zone 1
- There are no predicated flood levels supplied by the Environment Agency for this site
- There are no known flooding incidents occurring at or near the site
- The use of SuDS would be required to be incorporated into the design of the proposal

2.16 Extended Phase 1 Habitat Survey

- Within the application site a limited range of habitat types were identified including semi-improved grassland, hedgerows, dense and scattered scrub and semi-mature broadleaved trees
- Outside of the application boundary, habitats include amenity grasslands, in the grounds of Bysing Wood Primary School, scrub, an orchard, gardens, buildings and scattered broadleaved trees
- A number of trees can support roosting bats

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ITEM 2.4

- Suitable emergence and re-entry surveys to be undertaken on buildings and trees to be demolished/removed
- The presence of common reptiles in the onsite grassland habitats should be further investigated- the agent has already provided additional information in this regard

2.17 Heritage Statement on the Industrial Buildings

- The proposed retention of the chimney and wash-mill are to be welcomed
- The long term survival of the chimney might require some kind of maintenance strategy

2.18 Archaeological Desk Based Assessment and Watching Brief on Geo-Environmental Site Investigation

- It would appear likely that archaeological features or deposits will be disturbed by groundworks
- The site lies within an area of high archaeological potential with evidence for human occupation in the vicinity from the prehistoric period onwards
- Archaeological monitoring of any further preliminary groundworks is recommended

2.19 Air Quality Assessment

- Vehicle movements associated with the proposed development will generate exhaust emissions
- The proposed development is predicated to result in a 'small' increase in concentrations, at the lower end of this magnitude of impact at 1.8% within the Ospringe Air Quality Management Area (AQMA)
- It is considered the development would complement the Air Quality Policy by developing the site for residential use and reduce traffic at peak times compared to the extant permission
- The extant permission would generate higher levels of HGV's which the application site would not

2.20 Transport Assessment

- The site is well located within the local highway network with easy access onto the A2 and M2 (part of the Strategic Road Network)
- No safety issues have been identified in the surrounding area
- Sustainable travel to the town is promoted via the proposed pedestrian and cycle links
- The proposed development is forecast to generate 105 two-way trips in the morning peak hour and 112 two-way trips in the evening peak hour
- This is a significant reduction on the extant employment development for the site of 110 less two-way trips in the morning peak hours and 60 two-way trips in the evening peak hour

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- Junction capacity assessment for the proposed access junction and the A2 London Road/Western Link round about demonstrates that both junctions will operate within capacity during the morning and evening peak hours
- In order to offset the development generated traffic impact, the site will be accompanied by a Travel Plan which should reduce the vehicular flows on the highway network.

2.21 Following comments received from KCC Ecology requesting further information in relation to the concern regarding the proposed reptile mitigation, the agent provided additional information. The agent confirmed that the mitigation could be controlled/delivered by a suitably worded planning condition and that a programme of exclusion and/or translocation of any reptile present within the road-side verge to be lost would be detailed in the reptile mitigation strategy. He further confirmed that several reptile presence/absence surveys were conducted and whilst a specific reptile survey wasn't conducted at the site this is not normally required at the Outline application stage. The developer has identified receptor sites within their ownership- one parcel of land that is currently being considered is a parcel of land located west of Western Link within close proximity of the site. KCC Ecology have confirmed that they raise no objection to this approach and Members will note the relevant conditions below.

2.22 Details of this application were assessed by the Council's Design Panel on 18th March 2014. The Panel made some useful comments which are summarised as follows:

- Although the site has long been in industrial use it seems to lend itself well to residential use
- The character of the new area could be strengthened in two ways; firstly by reinforcing the connections and edges of the development and secondly by referencing the industrial history of the site in a more meaningful way
- Open space located right adjacent to Western Link is likely to have limited amenity value
- There is opportunity to release more open space by redistributing building density- the existing three storey dwellings on the adjacent site to the east sit comfortably in this context
- The history of the site should be incorporated into the design
- Character areas should be much more strongly defined

3.0 SUMMARY INFORMATION

	Existing	Proposed	Change (+/-)
Site Area (ha)	7.91	7.91 (or 19.5 acres)	0
No. of Storeys	Varied	2/3 storey	
No. of Residential Units	0	250	+ 250
No. of Affordable Units	0	75	+75

4.0 PLANNING CONSTRAINTS

- 4.01 The site lies adjacent to the Ospringe Air Quality Management Area, which is centred on Ospringe Street, the A2. A designated Roadside Nature Reserve is located along side part of Western Link. The site is located less than 1km from the Swale Special Protection Area (SPA) and Ramsar site. The application site is also located adjacent to parts of The Swale Site of Special Scientific Interest (SSSI) and the Special Landscape Area. Bysing Woods and Oare Gunpowder Works, a country park and a nature reserve, are also located near the site.
- 4.02 Running through the site are three public rights of way (one ZF17 running directly adjacent to Keramos and Hollybank in the middle of the site, one ZF6 through the northern part of the site) and a third (ZF9) which is located and runs along the site southern boundary.
- 4.03 Allocated for 240 dwellings in the emerging Local Plan Submission Version.
- 4.04 There is potential for archaeological importance on site and historic structures.

5.0 POLICY AND OTHER CONSIDERATIONS

- 5.1 In this case, the emerging Local Plan position is key and very relevant to the determination of this application. This section will therefore deal with this first before moving on to the national policy position.
- 5.2 The adopted 2008 Local Plan remains the primary consideration for determining this application. This will be discussed in further detail later in this section.
- 5.3 However, the emerging Local Plan and the policies of the draft Local Plan Bearing Fruits 2031 The Swale Borough Local Plan Part 1 Submission version (submitted to the Planning Inspectorate in April 2015) must be given substantial weight as material considerations considering how advanced the Local Plan is now, especially as Members of the Local Development Framework Panel have resolved to allocate the site for residential development in the submission version of the Local Plan.

Draft Local Plan (December 2014) Policy A12

5.4 The Draft Local Plan presented to Members on 28th October 2014 included the following policy allocating the site for 240 dwellings. The policy states:

“Planning permission will be granted for 240 dwellings on land at the Western Link, Faversham, as shown on the Proposals Map. Development proposals will:

1. Provide a design and layout which responds to the prominent position of the site on the western approach to Faversham. Development will be led by an integrated landscape strategy that will provide landscaping and habitat creation to achieve a substantial landscaped western boundary to the site to additionally minimise visual impacts;
2. Improve the quality of the environment and housing choice to strengthen the housing market area of the adjacent deprived neighbourhood;
3. Produce a mix of housing in accordance with Policy CP3, including provision for affordable housing and Gypsies and Travellers in accordance with Policies DM8 and DM10;
4. Undertake a transport assessment and implement any highway and other transportation improvements arising from the proposed development;
5. Achieve pedestrian and cycle links to existing residential areas;
6. Assess impacts upon and ensure that air quality objectives are not compromised;
7. Assess and respond to any undesignated heritage assets on and adjoining the site in accordance with Policy CP8;
8. Achieve a net gain for biodiversity overall by:
 - a. preparation of an ecological assessment to determine the site's interests (inc. the adjacent roadside nature reserve) and to bring forward proposals for mitigation if adverse impacts cannot be avoided, having considered the retention of existing vegetation/habitats as far as possible;
 - b. using appropriate landscaping and open space to encourage biodiversity and to offset any recreational impacts that may arise;
 - c. making an assessment of potential impacts upon the Bysing Wood local wildlife site and providing such measures for their mitigation; and
 - d. determining the need for a Habitats Regulations Assessment and address any matters arising, including potential financial contributions toward wider management measures.
9. Provide infrastructure needs arising from the development.”

Swale Borough Local Plan 2008 (Saved Policies)

5.5 All policies cited below are considered to accord with the NPPF for the purposes of determining this application and as such, these policies should still be afforded significant weight in the decision-making process.

5.6 Policies FAV 1 is the primary saved policies of relevance to the determination of this application. Policy FAV1 is the strategic policy covering the whole of Faversham and its surrounding rural areas. It states:

'Within the Faversham and Rest of Swale Planning Area, conservation of the historic and natural environment is the prime and overriding consideration. Within this context, the Borough Council will enhance the role of the market town to support its own local needs and those of its rural hinterland. This will be achieved by promoting development proposals that can retain and harness local skills to achieve a greater diversity in employment, housing and community life, in scale and character with Faversham and its surrounding countryside and communities. Within this planning area, the identified Area Action Plans and elsewhere, the following planning priorities will be pursued:

1. *to set scales of development that reflect local needs and environmental character to achieve a better balance between the population and employment opportunities alongside a reduction in commuting to other areas;*
2. *to retain and improve existing employment land and buildings that would otherwise exacerbate the population and employment imbalance if lost to housing development;*
3. *to safeguard and enhance the diversity of Faversham's small-scale historic character and its maritime traditions, alongside that of its surrounding countryside, landscape and communities;*
4. *to enhance Faversham creek and creekside so that it functions as a place of special interest and activity with strong associations with the water;*
5. *to raise the standard of the environment through high quality design, and the protection, enhancement, and management of environmental resources, including the creation of a network of accessible open spaces (a green grid);*
6. *to support proposals that can meet as much of Faversham's development needs as possible from land and buildings within the existing urban area so as to minimise greenfield land development;*
7. *to provide for employment development, at a scale appropriate to the environment, on sites well related to the communication network, the existing urban framework and rural settlements;*
8. *to support and diversify the services and activities, including tourism, in Faversham town centre so as to enhance its economic health;*
9. *where appropriate, to promote rural sites and initiatives for employment and protect and improve rural services and facilities, to diversify the rural economy and support the role of the market town;*
10. *to effectively manage the risk of flooding; and*
11. *avoiding any significant adverse environmental impacts, and where possible, enhancing the biodiversity interest of internationally designated sites for nature conservation.'*

5.7 Policy SP1 (Sustainable Development) outlines the Council's approach to sustainable development stating:

'In meeting the development needs of the Borough, proposals should accord with principles of sustainable development that increase local self-sufficiency, satisfy human needs, and provide a robust, adaptable and enhanced environment. Development proposals should:

1. *Avoid detrimental impact on the long term welfare of areas of environmental importance, minimise their impact generally upon the environment, including those factors contributing to global climate change, and seek out opportunities to enhance environmental quality;*
2. *promote the more efficient use of previously-developed land, the existing building stock, and other land within urban areas for urban and rural regeneration, including housing, mixed-uses and community needs;*
3. *ensure that proper and timely provision is made for physical, social and community infrastructure;*
4. *provide a range and mix of housing types, including affordable housing;*
5. *provide for sustainable economic growth to support efficient, competitive, diverse and innovative business, commercial and industrial sectors;*
6. *support existing and provide new or diversified local services;*
7. *promote ways to reduce energy and water use and increase use of renewable resources, including locally sourced and sustainable building materials;*
8. *be located so as to provide the opportunity to live, work and use local services and facilities in such a way that can reduce the need to travel, particularly by car;*
9. *be located to promote the provision of transport choices other than the car;*
10. *be of a high quality design that respects local distinctiveness and promotes healthy and safe environments; and*
11. *promote human health and well-being.'*

5.8 Also of relevance to the determination of this application are the following saved Local Plan policies;

- SP2 (Environment)
- SP3 (Economy)
- SP4 (Housing)
- SP7 (Transport and Utilities)
- E1 (General Development Criteria)
- E6 (Countryside)
- E9 (Protecting the Quality and Character of the Boroughs Landscape)
- E10 (Trees and Hedges)
- E11 (Protecting and enhancing the Borough's Biodiversity and Geological Interest)
- E12 (Sites designated for their importance to biodiversity or geological conservation)
- E19 (Good Quality Design)
- B2 (Providing for New Employment)

H2 (Providing for New Housing)
 T1 (Providing Safe Access to the Highway Network)
 T2 (Essential Improvements to the Highway Network)
 C2 (Housing Developments and the Provision of Community Services and Facilities)
 C3 (Open Space within Residential Development)
 B14 (New Employment Sites)
 B15 (Land at Western Link, Faversham) which states that:

‘The Borough Council will grant planning permission for the development of 8.3 ha of land east of the Western Link, Faversham, as shown on the Proposals Map, for employment use (primarily Use Class B1) provided that:

- 1. access to the whole site is from a single point on the Western Link Road;*
- 2. the provision, at the developer's expense to the satisfaction of the Highway Authority, of other highway and transportation measures, arising from the development of the site, including those that may be identified by a Transport Impact Assessment on the A2; and*
- 3. a high quality landscaping scheme, that will include buffering between existing and proposed uses, is provided along the boundaries of the site.’*

B19 (Land East of Faversham)
 MU2 (Land at Graveney Road, Faversham)
 AAP3 (Land at Oare, Faversham)

National Planning Policy

5.9 Also of importance to the determination of this application is the guidance as set out in the National Planning Policy Framework (NPPF) and the National Planning Practice Guidance (NPPG).

The National Planning Policy Framework (NPPF)

5.10 The NPPF sets out the Governments position on the planning system explaining that *“The purpose of the planning system is to contribute to the achievement of sustainable development. The policies in paragraphs 18 to 219 of the NPPF, taken as a whole, constitute the Government’s view of what sustainable development in England means in practice for the planning system. At the heart of the National Planning Policy Framework is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision taking. For decision taking this means:*

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

- *Specific policies in this Framework indicate development should be restricted.*

5.11 It further outlines a set of core land use planning principles (para 17) which should underpin both plan-making and decision taking including to contribute to conserving and enhancing the natural environment and reducing pollution and encourage the effective use of land by reusing land that has been previously developed (brownfield land), provided that it is not of high value.

5.12 At Paragraph 47 it states that *“planning authorities should meet local housing needs and identify five year housing land supply with an additional 5% buffer”*. Paragraph 49 states *“that housing application should be considered in the context of the presumption in favour of sustainable development”* and that *“Relevant policies for the supply of housing should not be considered up to date if the local planning authority cannot demonstrate a five year supply of deliverable housing sites.”*

5.13 Paragraphs 47-55 seek to significantly boost the supply of housing.

6.0 LOCAL REPRESENTATIONS

6.1 One letter of general comments has been received making the following summarised comments:

- The attributes of Faversham (beautiful scenery, a town full of character) have gradually been eroded
- Numerous housing developments have sprung up
- Traffic has increased
- Soon Faversham will become similar to a London suburb
- Housing has increased but recreational areas and public facilities have not- there will be a shortage of places in schools and at doctors surgeries
- The development would affect privacy, tranquillity of the area and views
- At present Sumpter Way is a quiet no-through road used by dog walkers and local residents
- Proposed housing would be high density, create noise and pollution
- The visual appearance of the area will be dramatically changed for the worse
- The density of the houses should be reduced and green spaces increased
- Screening is needed between Sumpter Way and the new houses

6.2 Six letters of objections have been received making the following summarised comments

- Lack of infrastructure to support additional housing development in Faversham
- The proposal does not enhance the local community in any way and would just add to the pressure on local services
- The A2 will not cope with the traffic
- There is a range of bird life on the land- where will they relocate to?

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- Loss of the wildflowers will reduce the bee population
- Development should be presented in the context of the wider plan for Faversham and not just as a small development
- The application site is ‘greenfield’ land not ‘brownfield’ land
- The application site and the surrounding area is rich in natural habitats for a diverse number of species
- Slow worms and other reptiles are very common on the site, fox dens are also located on the site
- The site may have archaeological significance- this needs to be explored further
- Construction traffic would affect the local residents
- Pollution from extra traffic
- Concerned that Hazebrouck Road would become a thoroughfare rather than the existing quiet cul-de-sac

7.0 CONSULTATIONS

7.01 Faversham Town Council support the application subject to the submission of an Environmental impact Assessment (an ES was not required in this instance, though Members will note the comprehensive set of supporting documents submitted with the application) and satisfactory mitigation of any adverse impacts and to satisfactory proposals for mitigation of increased atmospheric pollution in Ospringe Street.

7.02 Ospringe Parish Council objects to the application on the following grounds:

- The development would exacerbate the current traffic problems on the A2 considerably
- It would add to the worsening pollution creep from the A2 traffic, the A2/London Road being recognised by Swale BC as having unacceptable levels of pollution
- A housing development in this location would considerably aggravate the extent of current traffic congestion, which is evidenced at many times of the day but especially during morning rush hour
- Additionally there is insufficient school capacity, in particular primary school capacity, in the area to cope with children of families who would move to the new development

7.03 Southern Water has confirmed that there is currently inadequate capacity in the local network to provide foul sewage disposal to service the proposed development. The proposed development would increase flows to the public sewage system, and existing properties and land may be subject to a greater risk of flooding as a result. Additional off-site sewers, or improvements to existing sewers, will be required to provide sufficient capacity to service the development. Suggested condition on details of drainage proposed.

- 7.04 The Lower Medway Drainage Board raises no objection to the development and is pleased that the applicant proposes to dispose of surface water runoff by open systems, rather than closed, underground systems which are more difficult to maintain. Provided the proposed infiltration basins are appropriately designed to accommodate the 1 in 100 year rainfall event (+30% to allow for the predicted effects of Climate Change) and exceedance arrangements are adequately considered/detailed, the Board's interests should remain unaffected. Please note that land and property to the east of the site (between Hazebrouck Road and The Knole) have suffered from high ground water levels and localised flooding over the last winter. This situation must not be worsened by any development in this area. It is therefore requested that drainage arrangements be made subject to a condition requiring details and agreed in close consultation with the LPA, Environment Agency and KCC.
- 7.05 Kent County Council Public Rights of Way and Access raise no objection subject to the development not commencing until the footpath diversion (running along the northern boundary of the site) has been confirmed and a new route provided and a condition requiring this. Members should note that the layout details would be assessed under the Reserved Matters application and that the submitted layout plan is only indicative at this stage. I have sought additional comments in relation to the possible diversion of the public footpath crossing the level crossing and KCC Public Rights of Way and Access *'in principle, support Network Rails aim to reduce the risk to the public using the footpath. Any physical improvements to the crossing to be funded from the development would be a matter for discussion with Network Rail. My understanding is that as the pedestrian crossing is not directly affected by the development proposals so any application to divert or extinguish the footpath would have to be made using the Highways Act 1980. If Network Rail wish to pursue this option they should contact KCC Public Rights of Way Service directly. It would be a separate process to the planning application and there is no guarantee of an application being successful.'*
- 7.06 Kent Highways Services raise no objection subject to the provision of the roundabout and the safeguarding of the future provision of land to create a future bus route through the site.
- 7.07 The Environment Agency raises no objection to the proposal subject to conditions on surface water drainage details, no infiltration of surface water drainage, remediation strategy, verification report and piling.
- 7.08 The Crime Prevention Design Advisor (Kent Police) raises no objection to proposal subject to the suggested informative.

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- 7.09 Kent Wildlife Trust originally objected to the application due to the impacts on the Roadside Nature Reserve and the lack of assessment of these impacts. Following additional information provided by the agent additional comments have been received from KWT (letter dated 18th December 2014) who confirm that no objection is raised subject to conditions requiring a survey and assessment of the impacts upon the Roadside Nature Reserve; impacts upon invertebrates associated with open mosaic habitats that follows Natural England guidelines; a Mitigation Strategy to set out the mitigation required to address impacts upon reptiles, the RNR, and invertebrates associated with the open mosaic habitat (to include monitoring and long-term management). Members will note the relevant conditions below.
- 7.10 Stage Coach raises no objection to the development subject to the future provision of space for a turning circle and the future introduction of a bus gate provided through the narrow strip of land between Lower Road and Hazebrouck Road.
- 7.11 Kent County Archaeology raises no objection to the proposal subject to conditions requiring the submission of an archaeological evaluation and mitigation details and the recording of any demolition or conversion works. The retention of the pug wash and chimney stack are welcomed as important reminders of the history of the site and the important brick making industry in this area of Swale. With the retention of the structures it is important that sufficient provision is made for their future long term maintenance within the residential scheme. KCC Archaeology recommends that provision is also made for on-site interpretation of the structures and their role in the former brickworks which will help to strengthen the historic sense of place of the new development on the site. I am awaiting comments from the Open Space Officer in relation to the long term management of the retained historic features and will update Members at the meeting.
- 7.12 Kent County Ecology originally raised concerns in relation to ecology impacts. Following the submission of additional information KCC Ecology support the application subject to the conditions below.
- 7.13 Natural England makes the following summarised comments:
- The proposed site is located in close proximity to a European designated site and therefore has the potential to affect its interest features
 - The site is close to The Swale Special Protection Area (SPA) and is also listed as the Swale Ramsar Site and also notified at a national level as The Swale Site of Special Scientific Interest
 - The Local Authority should have regard for any potential impacts may have
 - The application does not include a Habitats Regulation Assessment
 - The Local Authority should determine whether the proposal is likely to have any significant effects on any European site

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- The Local Authority should secure contributions towards the cost of implementing the Strategic Access Management and Monitoring (SAMM)
- The development may provide opportunities to incorporate features into the design which are beneficial to wildlife

7.14 The Kent County Council Development Manager (Development Investment Team) has requested the following contributions:

Primary School contribution: £590.24 per applicable flat & £2360.96 per applicable house ('applicable' means: all dwellings except 1 bed of less than 56sqm GIA, and sheltered accommodation) towards an extension at the existing local Primary School **(total for 250 houses = £590,240)**

Secondary School contribution: £137.50 per applicable flat & £550 per applicable house towards a future extension to a local Secondary School **(total for 250 houses = £137,500)**

Libraries: £230.09 per household **(total for 250 houses = £57,522.50)**

Adult Education: £43.35 per household **(total for 250 houses = £10,837.50)**

Youth: £55.55 per household **(total for 250 houses = £13,887.50)**

Social Services: £262.90 per household, plus 3 wheelchair accessible units as part of the affordable housing delivery **(total for 250 houses = £65,725)**

Total for 250 houses (estimated): £875,712.50

7.15 Swale Footpaths Group confirms that there is one right of way just outside the site to the south, a second crosses it east-west and a third just cuts across the site's northern end.

7.16 The Environmental Protection Team Leader raises no objection to the principle of development subject to conditions requiring a survey to establish traffic noise levels and contamination survey. Furthermore, with regards to the air quality issues there is sufficient evidence within it to be confident that air quality will not reach levels of concern within the site, therefore not adversely affect the existing Ospringe AQMA.

7.17 The Council's Tree Consultant does not object to the proposal and makes the following comments:

'From a tree perspective, the application comes with a detailed tree report by Barrell tree consultant's ref 12204-AIA2-PB dated 30th May 2014. In principle, I would agree with its content and the grading of the trees present on the site and provided the development adheres to the recommendations I have no objections.'

The Council's Tree Consultant suggests two conditions in relation to the retention of trees and erection of tree protection measures, as outlined in the submitted Tree Report.

7.18 Green Space Manager originally comments and raised no objection to the proposal subject to clarification on the usable public open space within the development and further comments that most of the proposed open space *'either provides buffer to Western Link, open attenuation or the setting of the preserved structures.'* He further states that:

'There are significant access opportunities to existing open spaces, small amount of woodland and play area, close to the development site. Access to the existing allotment site has also been included which is a positive improvement. The draft S106 Agreement identifies off-site contributions, transfer of open space and commuted sums to maintain in the future. However there needs to be clarification of who/how the preserved structures are to be dealt with as the Council would, I expect, be reluctant to take these on as assets.'

A contribution of **£861.80 per dwelling** (totalling £215,450 for 250 dwellings) is sought towards the enhancement to the off-site play area and the restoration of the adjacent allotments. I have received additional comments from the Green Space Manager which I am discussing with him and the developer and will update Members at the meeting in relation to the long-term management of the historic structures.

7.19 The Climate Change Officer raises no objection to the proposal subject to a sustainable measures condition.

7.20 The Housing Strategy and Enabling Officer makes the following comments:

- From an affordable housing perspective we would seek **30% affordable homes**, which should be a **reasonable and proportionate mix to the rest of the development**.
- Based on delivery of 250 dwellings, 30% of the total provision would provide **75 affordable units being delivered on site**.
- **70% of the units must be for affordable rent (social rent): 53 dwellings**
- **30% of the units must be for intermediate housing: 22 dwellings**
- **Clustering** - The affordable housing units should be evenly **distributed across the site in clusters of between 6 and 15 dwellings**.
- Housing would seek affordable wheelchair adapted homes on this site, the number of which would be agreed with the Registered Provider.
- When a schedule of accommodation is provided further detail regarding the affordable housing requirements will be provided, including phasing requirements.

7.21 Network Rail have made the following comments:

'After reviewing the information provided in relation to the above planning application, Network Rail have a number of concerns relating to the proposed development and are of the opinion that this development will import additional risk to the operational railway. These concerns are outlined below.

- 1. The level crossing currently scores a risk level of C5 (which is generally considered high risk) due to insufficient sighting of approaching trains. There is a severe track curvature which is currently mitigated by whistle boards. However, whistle boards are no longer recognised as a sufficient form of risk mitigation and so if, as a consequence of the development, the use of the level crossing increases other mitigation apparatus will need to be installed.*
- 2. There is currently no provision in the draft s.106 Agreement for any works to improve the level crossing (e.g new gates, new level crossing deck, straightening of crossing deck, visual and audible warning systems). It is likely that given the proposed number of dwellings the level crossing will require works. The developer should fund any and all such measures as any increased usage of the level crossing will be as a direct consequence of the development and outside of Network Rail's control. If no works are deemed to be immediately necessary it is suggested that monies should still be set aside for any 'future-proofing' required at the level crossing or for any issues that may arise following occupation of the new dwellings.*
- 3. It would be preferable for the level crossing to be removed and either replaced with a footbridge (to be funded by the developer) or the footpath be diverted/extinguished as part of the development itself. The area around the level crossing is proposed to be an attenuation pond with open shrub land and thus may encourage anti-social behaviour and children/teenagers hanging around the level crossing. This increases the risk of an incident at the level crossing as well as trespass on the railway and would be unacceptable to Network Rail.*
- 4. The level crossing is currently a footpath only; therefore bicycle use is prohibited. The 'concept masterplan' labels the location of the level crossing a 'pedestrian/cycle access point'. Whilst wicket gates are currently situated at the level crossing cycle use should not be promoted at the level crossing. Such promotion would encourage users to cycle over the level crossing rather than push bicycles; this imports a huge risk onto the railway and one that would be unacceptable to Network Rail.*
- 5. Given the proposed layout of the site it is not felt that there would be any benefit in retaining the current footpath route as it does not lead to any sites of special interest; it currently leads from a housing estate to a very busy A2 London Road. By retaining the footpath and the level crossing users will not only be at risk when using the level crossing, but will then*

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have to walk alongside a busy road. There would be no loss of amenity value to users and would also allow the development site to be securely fenced off from the railway.

Furthermore, the applicant should also be made aware of comments made by the Network Rail Asset Protection Team in view of protection of Network Rail Assets.”

7.22 Highways England raise no objection to the development.

8.0 BACKGROUND PAPERS AND PLANS

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

9 APPRAISAL

9.01 I consider that the key material considerations in assessing this application area as follows:

- The housing land supply position and the principle of the proposed development and the draft/emerging Local Plan allocation
- Residential amenity implications
- Highway network impact
- Impact on the surrounding landscape quality and visual amenity
- Heritage assets and future long term retention and archaeology
- Biodiversity and Ecology implications
- Surface water drainage/Flood risk
- Developer contributions

The Housing land supply position and the principle of the proposed development/the draft/emerging Local Plan allocation

9.02 In respect of the adopted Local Plan, like the emerging plan, it recognises in Faversham the need to set scales of development that reflect local needs and environmental character to achieve a better balance between the population and employment opportunities. The adopted Local Plan sought to achieve this whilst safeguarding and enhancing the diversity of Faversham's small-scale historic character and its maritime traditions, alongside that of its surrounding countryside, landscape and communities. The introduction of the NPPF in March 2012 changed the way in which planning decisions could be made, particularly in respect of housing developments.

9.03 The NPPF (at paragraph 49) makes clear that relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites. Whilst the NPPF allowed a years grace before these requirements fully came into force, this period has now expired. As such, the Council's current lack of a five year supply of housing sites (currently 3.17 years supply) is a significant material consideration in favour of this development (and other housing proposals).

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Notwithstanding that, the fact that the Council are currently in the process of, and at quite an advanced stage of completing a new Local Plan, shows a direction of travel of the Council that has been through several stages of public consultation. The Council has now submitted the emerging Local Plan to be considered by the Inspector for adoption and this site is allocated in this emerging Local Plan for dwellings.

- 9.04 It is important to note that the site is allocated for residential development in the emerging Local Plan and as such it cannot be considered to be premature in coming forward at this stage. The site is located in the build-up area and the site has not come forward for employment/residential use during the Local Plan 2008.
- 9.05 In conclusion, whilst the contribution to housing land supply is a material consideration in this case, it is not the only consideration. However, that in combination with the future allocation of the site is a strong material consideration in this case and it should be acknowledged that granting planning permission would make a strong contribution towards housing land supply and put the Council in a much stronger position to successfully defend appeals for housing sites in unsuitable locations.
- 9.06 Members will also note that this is a brownfield site that is being proposed for allocation which has previously been allocated in the adopted Local Plan 2008 for employment use. The change in allocation for residential development is simply a reflection of the fact that there were insufficient suitable and available previously developed sites identified by the Strategic Housing Land Availability Assessment to meet the total housing need for the Borough and as a result of the site failing to come forward as an employment site since the adoption of the 2008 Local Plan.

Residential Amenity

- 9.07 In terms of residential amenity, again the impact can only be looked at in general terms as the specific design and layout will be determined at the reserved matters stage. This is a matter that has already been considered in general terms when the site was assessed for allocation in the emerging Local Plan. The proposed development, being an edge of settlement development, would clearly have a significant impact on the character of the surrounding area and alter the outlook for people using Western Link either as pedestrians or vehicle users. Though part of the site is currently used for the storage of bricks, the majority of the site is overgrown and disused so the proposal would therefore introduce an urban character to this site and to the surrounding views. This will inevitably have an impact on the amenity of the nearest properties. However, the Borough has to provide additional housing, and the impact of this development has been considered by Members and Officers alike to be not so significant as to warrant allocating an alternative site over this one. It will be important at reserved matters stage to ensure the development is designed in a manner than minimises this impact as much as

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possible. In my opinion the residents most likely to be affected by the proposal are the residents of Bensted Grove, Hollybank, Keramos, Lower Road and Whiting Crescent. It is imperative that at the detailed stage of planning, their amenity is given serious consideration.

- 9.08 It is important to consider the contribution the development would make to the local area such as the affordable housing provision, contribution towards local open space and notably towards the reinstatement of the allotments located in close proximity to the site.
- 9.09 Finally, Members will note the conditions suggested below including the requirement for a Development Brief (see condition 7) which will need to be used to minimise the adverse impacts on neighbours.
- 9.10 With regards to air quality the Environmental Protection Team Leader has confirmed that sufficient evidence has been submitted to be confident that air quality will not reach levels of concerns within the site and therefore not adversely affecting the existing Ospringe AQMA. Furthermore, it should be noted that the site has previously been allocated in the adopted Local Plan 2008 for commercial use which would also have led to additional vehicular movements and I am therefore of the opinion that the development now proposed (residential use), is unlikely to have a significant impact on the AQMA.

Highways implications

- 9.11 In my opinion, which is shared by Kent Highways Services the proposal would not have a significant impact on the local and wider highway network. It is important to take into consideration that full commercial use of the site could be implemented at any stage which would create a significant increase in traffic. Furthermore, the site was allocated for commercial use in the current adopted Local Plan 2008 which would have significant more impacts on the highway network and traffic movements comparable in scale at peak times with that of the proposed full residential scheme which is now before us. The essential off-site highway works (roundabout) will be secured through the signing of the S106 agreement which also includes the safeguarding of land for the potential future bus route through the site (roundabout is shown on the submitted indicative site plan- drawing number CMP-02 Rev B) . The highway improvements include the pedestrian crossing points on Western Link, the roundabout to provide access from the Western Link and the improved bus turning facility in Lower Road- all of which form an improvement to the current situation. The proposal also creates a much needed pedestrian and cycle route within the site to link into the adjacent housing developments.
- 9.12 The proposed vehicular access is a consideration under this application and I can confirm that no objections to the siting of the access have been raised by Kent Highway Services. The introduction of the roundabout would ensure that there is a speed reduction feature along this part of the Western Link and therefore the highway safety impact is unlikely to be significant and could indeed be a positive one.

Impact on the surrounding landscape quality and visual amenity

- 9.13 At this stage, the visual impact of the proposal can only be considered in very broad terms due to the uncertainty of all matters of design, height of buildings, materials, location etc. However, this site will result in a new gateway to the town and as such it is key that the design of the entire scheme is of a high quality with local traditional materials and carefully designed to ensure visually it is appropriate to its surroundings. These messages have been strongly conveyed to the applicants and their agent, as have the messages from the Design Panel in respect of the layout. The indicative layout submitted with the application is likely to be subject to some changes with creation of perhaps more integrated useable areas of landscaping and the retention/mitigation of the heritage assets located on the site.
- 9.14 I am firmly of the opinion that successful landscaping along the north-western boundary with the Western Link is vitally important to ensure that a high quality gateway to the town is achieved. The site already has some prominent landscaping in-situ and we would fully expect the landscaping details submitted at the detailed application stage to strengthen this landscaping.
- 9.15 I am of the view that this development can fit in well with the surrounding area and create a high quality residential scheme that has a minimal impact on the surrounding residential developments or on the adjacent open countryside. It will be important to consider the style and heights of the dwellings/flats on the edges of the development site to ensure that the site does not result in an overly prominent development. As noted above, conditions imposed here will allow the final details to be fully controlled to ensure a high quality design is achieved.

Heritage assets and future long term retention and archaeology

- 9.15 The site does have some structures of archaeological importance such as the pug wash (a machine used to mix water with clay) and historic chimney stack, both of which are proposed to be retained. KCC Archaeology do not raise any objection to the proposal but do seek the submission of an archaeological evaluation and mitigation details and the recording of any demolition or conversion works. The retention of the pug wash and chimney stack are welcomed as important reminders of the history of the site and the important brick making industry in this area of Swale. With the retention of the structures it is important that sufficient provision is made for their future long term maintenance within the residential scheme. KCC Archaeology recommends that provision is also made for on-site interpretation of the structures and their role in the former brickworks which will help to strengthen the historic sense of place of the new development on the site. I am awaiting comments from the Green Space Manager and Applicant in relation to the long term management of the retained historic features and will update Members at the meeting.

Biodiversity and Ecology implications

- 9.16 As noted above, the site is located less than 6km from the Swale SPA and as such it is likely that the future occupiers of the site will be using the SPA for recreational purposes in some instances. It is therefore likely that there will be some limited impact on the SPA which will need to be addressed through appropriate mitigation measures. I have been in long discussions with the agent and relevant stakeholders including seeking legal advice with regards to the best solution and appropriate action against the likely impact. The agent has confirmed, at the outset of the application, that they are willing to provide the requested contribution towards the SPA mitigation (£223.58 per dwelling) and as such it has been agreed that funds will go towards a local project and possibly some suitable signage/information boards which will help to mitigate the possible future impacts from the additional recreation use of the SPA. The Council's legal team are currently finalising the wording within the S106 to address this matter and I will update Members at the meeting.
- 9.17 I have also considered the potential for the scheme to impact upon the Swale Special Protection Area (SPA), which relate to the ecological value of the Swale waterway and adjoining land. I have sought the advice on this matter from Natural England KCC Ecology who confirm that in the absence of the contribution towards the SPA mitigation measures an Appropriate Assessment would be required. Natural England have confirmed that if integral avoidance measures such as providing the financial contribution is agreed by the applicant then it is unlikely that a proposal is likely to have significant effect upon the SPA. In this instance the developer has confirmed that they would pay the contribution (£223.58 per dwelling) and as such I conclude that an Appropriate Assessment is not required as mitigation measures can be put in place as required. In addition the site is not located in close proximity to the SPA (though within 6km) and other areas for recreational use such as the Bysing Woods and Oare Gunpowder Works, a country park and a nature reserve are located also near the site. It should also be noted that the site makes a significant on-site contribution to open space so it is very likely that the future occupants of the residential properties will make use of this useable open space whilst also using the nature reserve and country park located in closer proximity to the site than the SPA.
- 9.18 The site also lies adjacent to a Roadside Nature Reserve (RNR SW01), for a distance of approximately 100 metres (total length of RNR is 1300 metres) of which will be impacted upon by the development. Again the applicant has provided mitigation proposals and re-location of any protected species found which KCC Ecology do not object to, to be secured by condition. The applicant is seeking to provide an extension to the RNR, at the southern end of the RNR as well as mitigation towards the south of the site along the boundary to Western Link. The application has been submitted with a detailed Mitigation Strategy and the agent has provided additional details in relation to the proposed receptor sites, translocation of reptiles from within the donor sites to the receptor sites and monitoring of the receptor sites post transfer of the animals as requested by KCC Ecology. These details are considered acceptable.

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9.19 On balance whilst there will be some limited impact on biodiversity and ecology I am firmly of the view that these can be successfully addressed by the mitigation measures proposed as well as the contribution towards the SPA.

Surface water drainage/Flood risk

9.20 The site is not located within an area known to be at risk of flooding, being located in Flood Zone 1. However, the Environment Agency and The Lower Medway Drainage Board have drawn attention to the possibility of surface water flooding and have recommended conditions to deal with this issue. The Lower Medway Drainage Board has raised objection to the application on the basis that they welcome the use of Suds. I am content that this issue can be dealt with via an appropriate condition as set out below.

Developer contributions

9.21 The site would provide 30% affordable housing as in accordance with the adopted Local Plan. The applicant is proposing a tenure split of 60% affordable rented tenure with 40% for intermediate housing (shared equity). The agent has provided substantial evidence, including recent market trend figures and a support letter from a local housing association substantiating this tenure split. I am discussing this evidence with the Council's Housing Officer and will report verbally at the meeting as to its acceptability.

9.22 As discussed above the developer is making further contributions towards the mitigation of the impacts on the Swale SPA (namely £223.58 per dwelling, totalling £55,895), the highway improvements consisting of improvement of bus turning facilities, future provision for bus route through the site, KCC contributions (see 7.14 above), as outlined above and retention of the historic elements of the site. The exact method for the long-term management of the historic structures is yet to be agreed and I am awaiting comments from the Council's Green Space Manager and the agent and will update Members at the meeting.

9.23 Wheelie bin contribution is also sought, totalling £9,875 for 250 houses as well as the 5% monitoring charge, which would amount to £57,846.63. **The total contribution is £1,214,779.13.**

Other Matters

9.24 Members will note that there is no provision towards on-site gypsy/traveller sites. Taking into consideration the recent appeal decision under APP/V2255/A/14/2224500 (his full decision letter is appendix to my report) for the residential site at Brogdale Place, I note the Inspectors conclusions which were as follows:

"I accept that in accordance with paragraph 216 of the Framework, account can be taken of emerging policies. However the SBLP has not yet been submitted for examination and there are unresolved objections to that part of SBLP Policy

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CP3 relating to the provision of gypsy and traveller sites. Furthermore the particular approach to site provision inherent in the policy is not one that is set out in the Framework or in the Planning Policy for Traveller Sites. Consequently I believe that very little weight can be attached to SBLP Policy CP3. As a result I find no policy justification for the Council's approach of seeking the provision of a gypsy and traveller pitch on the site."

I am therefore of the opinion that it is not appropriate to pursue the provision towards gypsy/traveller pitches in this case.

- 9.25 The indicative layout plan does show a pedestrian link to the footpath which currently crosses the level crossing. Network Rail has raised some concerns regarding the likely increased use of the level crossing as a result of this development. Whilst from a sustainability and functional perspective a direct pedestrian link to the level crossing would normally be sought, given the Network Rail concerns, it is considered that this issue can be resolved during the approval of reserved matters with further negotiation between Network Rail, the developer and the Borough Council.
- 9.26 The agent has also confirmed that any built structures, as submitted at the detailed application stage will be over 3m from Network Rail Land and that the off-setting of the soakaway from Network Rail's land is provided. This will need to be explored further at the detailed design stage. Network Rail have also raised concerns in relation to surface water drainage and Members should note that this is addressed by the use of a condition which addresses this concern. This can be used to ensure that the site is well drained in an acceptable manner.

10.0 CONCLUSION

- 10.01 To conclude, the development would broadly meet the aims of the allocation at Policy A12 in Bearing Fruits 2031 and would bring significant benefits. The housing would help the Council towards meeting a five year supply of sites and enable it to be in a more secure position for fighting appeals for less appropriate sites, especially at Faversham. Whilst the proposal would result in some limited harm, including to residential amenity, to the surrounding wider landscape and traffic flow, the need for the development, in my view, significantly outweighs the limited harm that would be caused.
- 10.02 I therefore recommend that planning permission be granted subject to the signing of the S106 agreement, clarification from the developer on the on-site contribution and the long term maintenance approach to the retained historic features on the site and additional comments from Network Rail and the agent in relation to the level crossing maintenance.

RECOMMENDATION – GRANT Subject to the following conditions

CONDITIONS to include

1. Details relating to the appearance, landscaping, layout and scale (the reserved matters) of the proposed buildings 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 off approval on different dates, the final approval of the last such matter to be approved.

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

4. The development hereby approved shall be carried out in accordance with the following approved drawings in so far as it relates to access:

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

5. The details submitted pursuant to condition (1) shall show not less than 2.260 hectares shall be reserved as public open space. No permanent development whether permitted by the Town and Country Planning (General Permitted Development) Order 1995 (as amended) or not shall be carried out in the areas so shown without the prior written approval of the Local Planning Authority.

Reason: In accordance with the terms of the application and to ensure that these areas are made available in the interests of the residential amenities of the area.

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 in pursuance of condition (1) above shall be in accordance with a Development Brief that shall first have been agreed in writing by the Local Planning Authority and which shall include the following:

- (a) Details of the road layout for the site
- (b) Connectivity for pedestrians and cyclists between the site and the town centre
- (c) An overall landscape strategy (including a strategic planting scheme and incorporating the retention of existing planting where possible) for the application site and adjoining land in the applicants ownership with special regard to the eastern boundary
- (d) An overall sustainable surface water drainage strategy for the application site (based on a network of open ditches and ponds)
- (e) A strategy for the architectural treatment of the buildings on the site, including elevational treatment, roof design and the palette of colours
- (f) A strategy to enhance opportunities for biodiversity across all parts of the application site
- (g) A strategy for storey heights; and
- (h) Retention of 'brick chimney' and 'clay wash mill' as shown on submitted strategic landscape masterplan.

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

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

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

9. The details submitted pursuant to condition (1) shall show a buffer strip of no less than 10 metres in width retained (for strategic planting) where the site adjoins Western Link.

Reason: In the interests of visual amenity and landscape quality.

10. Prior to the commencement of the development hereby permitted, a detailed travel plan shall be submitted to and agreed in writing by the Local Planning Authority in conjunction with Kent Highways Services and Highways England. The travel plan shall include targets to reduce the number of car journeys and promote the use of public transport and other sustainable transport measures. It will also include a review date and a commitment to further measures should the targets not be met.

Reason: To ensure that the number of trips generated from the site are limited to prevent the number of trips passing through M2 junction 7 from exceeding the available capacity.

11. 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 by the Local Planning Authority. This drainage strategy should be based on SUDS principle and shall be designed to ensure that runoff rates are no greater than existing conditions. A drainage Infrastructure Maintenance Plan should be incorporated into the strategy which should set out the information and procedures the owners/operators of the development will adhere to and an assessment of the hydrological and hydro geological context of the development. The approved details shall be implemented before the first use of the development hereby permitted.

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

12. No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of
- i. archaeological field evaluation works in accordance with a specification and written timetable which has been submitted to and approved by the Local Planning Authority; and
 - ii. following on from the evaluation, any safeguarding measures to ensure preservation in situ of important archaeological remains and/or further archaeological investigation and recording in accordance with a specification and timetable which has been submitted to and approved by the Local Planning Authority.

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

13. No development shall take place (including any demolition, ground works, site clearance) until a method statement for ecological mitigation, including (but not necessarily limited to) reptiles, invertebrates, bats, nesting birds and the Roadside Nature Reserve, has been submitted to and approved in writing by the Local Planning Authority. The content of the method statement shall include the:

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

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

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

14. No development shall take place (including any demolition, ground works, site clearance) until an Ecological Design and Management Strategy (EDMS) for the reptile receptor site and Roadside Nature Reserve mitigation area has been submitted to and approved in writing by the Local Planning Authority. The content of the EDMS shall include the following.

- a) Purpose and conservation objectives for the proposed works;
- b) Review of site potential and constraints;
- c) Detailed design(s) to achieve stated objectives;
- d) Extent and location/area of proposed works on appropriate scale maps and plans;
- e) Type and source of materials to be used, e.g. native species of local provenance;
- f) Timetable for implementation demonstrating that works are aligned with the proposed phasing of development;
- g) Aims and objectives of management
- h) Appropriate management actions for achieving aims and objectives;
- i) Prescriptions for management actions, including preparation of a work schedule;
- j) Details of the body or organisation responsible for implementation of the plan;
- k) Ongoing monitoring and remedial measures.

The EDMS shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body (ies) responsible for its delivery. The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the EDMS are not being met) how

contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme. The approved plan will be implemented in accordance with the approved details.

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

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

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

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

Reason: To ensure that historic building features are properly examined and recorded.

- 17.The commencement of the development shall not take place until a survey has been carried out to establish traffic noise levels affecting the site. The survey shall be carried out in accordance with a written protocol, details of which shall be submitted to and approved by the Local Planning Authority before the survey is carried out.

A report giving:

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

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

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

Reason: the interests of residential amenity.

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

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

19. No occupation 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 protect groundwater and comply with the NPPF

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

Reason: To protect groundwater which is a controlled water and comply with the NPPF.

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

Reason: To protect groundwater and comply NPPF.

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

Reason: To protect groundwater and comply with the NPPF.

23. Prior to each phase of development approved by this planning permission no development shall take place until a remediation strategy that includes the following components to deal with the risks associated with contamination of the site shall each be submitted to and approved, in writing, by the local planning authority:

1. A preliminary risk assessment which has identified:
 - all previous uses
 - potential contaminants associated with those uses
 - a conceptual model of the site indicating sources, pathways and receptors
 - potentially unacceptable risks arising from contamination at the site.
2. A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
3. The results of the site investigation and the detailed risk assessment referred to in (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
4. A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

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

Reason: To protect groundwater and comply with the NPPF

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

Reason: In the interests of residential amenity.

25. No work shall commence on the development site until off-site highway works identified on the approved drawings, have been carried out in accordance with a design and specification to be approved in writing with the Local Planning Authority and to be fully implemented to the satisfaction of the Local Planning Authority. These works shall include the roundabout and pedestrian refuges shown on Plan 7, and enlargement of the bus turning area in Lower Road, adjacent to Kiln Court.

Reason: In the interests of amenity and road safety.

26. As an initial operation on site, adequate precautions shall be taken during the progress of the works to guard against the deposit of mud and similar substances on the public highway in accordance with proposals to be submitted to, and agreed in writing by the Local Planning Authority. The agreed details shall then be retained throughout the demolition of development.

Reason: In the interests of amenity and road safety.

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

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

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

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

29. The details submitted in pursuance of reserved matters shall show adequate land, reserved for parking or garaging in accordance with the Approved County Parking Standards and, upon approval of the details this area shall be provided, surfaced and drained to the satisfaction of the Local Planning Authority before any building is occupied and shall be retained for the use of the occupiers of, and visitors to, the premises. Thereafter, no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order), shall be carried out on the land so shown or in such a position as to preclude vehicular access to the reserved vehicle parking area.

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

30. No dwelling shall be occupied until space has been laid out within the site in accordance with details to be submitted to and approved in writing by the Local Planning Authority for cycles to be securely sheltered and stored.

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

31. The access details shown on the approved plans shall be completed prior to the occupation of any buildings hereby approved, and the access shall thereafter be maintained.

Reason: In the interests of highway safety

32. 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.

33. Before the first occupation of a dwelling the following works between that dwelling and the adopted highway shall be completed as follows:

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

Reason: In the interests of highway safety

34. 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.

35. No external lighting shall be constructed at the site other than on private domestic residences or in accordance with a scheme that has first been submitted to and approved in writing by the Local Planning Authority. The lighting scheme shall be designed in a manner that minimises impact on neighbouring residential amenity and bats.

Reason: In order to prevent potential harm to neighbouring residential amenity and the local bat population.

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

Reason: In the interests of biodiversity.

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

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

Reason: In the interests of residential amenity.

38. All hard and soft landscape works shall be carried out in accordance with the approved details, (which shall be native species and of a type that will encourage wildlife and biodiversity, where possible). 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.

39. 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.

40. Notwithstanding the provisions of Class A, Part 2, Schedule 2, of the Town and Country Planning (General Permitted Development) Order 1995 (as amended) or any order revoking and re-enacting that Order, no fences, gates walls or other means of enclosure shall be erected within the application site without the prior written approval of the Local Planning Authority.

Reason: In the interests of residential amenity.

41. In this condition "*retained tree*" means an existing tree, which is to be retained in accordance with the approved plans and particulars.

Paragraphs i) and ii) below shall have effect until the expiration of 5 years from the date of completion of the development for its permitted use. No retained tree shall be damaged, cut down, uprooted or destroyed, nor shall any retained tree be pruned other than in accordance with the Arboricultural Impact Assessment and Method Statement Report (Ref; 12204-AIA2-PB, dated 30th May 2014), without the written approval of the Local Planning Authority. Any pruning approved shall be carried out in accordance with British Standard 3998:2010 Tree Work - Recommendations or any revisions thereof.

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

iii) The installation of tree protection barriers, the methods of working and the means installing equipment, fencing, foundations, and hard surfacing shall be undertaken in accordance with the Arboricultural Impact Assessment and Method Statement Report (Ref; 12204-AIA2-PB, dated 30th May 2014)

Reason: To protect and enhance the appearance and character of the site and locality

42. The approved barriers and/or ground protection as detailed in the Arboricultural Impact Assessment and Method Statement Report (Ref; 12204-AIA2-PB, dated 30th May 2014), shall be erected before any equipment, machinery or materials are brought onto the site and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed, nor fires lit, within any of the areas protected in accordance with this condition. The siting of barriers/ground protection shall not be altered, nor ground levels changed, nor excavations made within these areas without the written consent of the local planning authority;

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

The Council's approach to this application:

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

Offering pre-application advice.

Where possible, suggesting solutions to secure a successful outcome.

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

In this instance:

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

Case Officer: Tracy Day

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.



The Planning Inspectorate

Appeal Decision

Hearing held on 27 January 2015

Site visit made on 28 January 2015

by **C J Anstey** BA (Hons) DipTP DipLA MRTPI

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

Decision date: 13 May 2015

Appeal Ref: APP/V2255/A/14/2224509

Brogdale Road/Brogdale Place, Faversham, Kent, ME13 8SX.

- 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 Shepherd Neame Ltd. against the decision of Swale Borough Council.
- The application Ref SW/13/1567, dated 23 December 2013, was refused by notice dated 25 March 2014.
- The development proposed is the erection of 63 dwellings, open space, pedestrian and vehicular access, car parking, landscaping and associated works.

Decision

1. The appeal is allowed and outline planning permission is granted for the erection of 63 dwellings, open space, pedestrian and vehicular access, car parking, landscaping and associated works at Brogdale Road/Brogdale Place, Faversham, Kent, ME13 8SX., in accordance with the terms of the application Ref SW/13/1567, dated 23 December 2013, and the plans submitted with it, subject to the conditions set out in the attached Schedule.

Preliminary Matters

2. At the Hearing an amended red-line site plan (drawing no. D-SLP- Rev A) was submitted on behalf of the appellant to replace that considered by the Council as part of the planning application (drawing no. D-SLP). The amended plan excludes a narrow sliver of land along the southern boundary of the site to reflect the appellant's land ownership. I have considered the appeal on the basis of this amended site plan given that it constitutes a non-material amendment and no interests would be prejudiced by this small reduction in the size of the site.
3. The planning application was also accompanied by a 1:500 scale illustrative layout plan. This layout plan shows the disposition of the dwellings on the site, the road layout and the location of the open space. As part of the appeal documentation a revised illustrative plan was submitted (drawing no. DACA-DWG) to reflect the revised site boundary. I have taken account of this plan in my consideration of the appeal.
4. A finalised Section 106 agreement, signed by the appellant, the Borough Council and the County Council, was submitted by the County Council after the close of the Hearing. I have taken this into account in my decision.

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Main Issues

5. The main issues in this case are:

- whether relevant policies for the supply of housing in the Borough are up-to-date, having regard to the 5-year supply of housing land;
- the effect on the rural character of Brogdale Road and the rural approach to Faversham, having regard to the historical development and form of the town;
- whether there would be a significant loss of the best and most versatile agricultural land;
- whether the scheme should include provision for gypsy and traveller accommodation; and
- whether the appeal scheme represents sustainable development, to which the *National Planning Policy Framework's 'presumption in favour'* applies.

Reasons

Description

6. The appeal site, which is about 3.4ha in area, is a rectangular, fairly flat, grassed field. It is situated in an urban fringe location on the southern edge of Faversham and to the south of London Road (A2). The site is bounded to the south and north by post and wire fencing and to the west by a 2m high deciduous hedgerow. Along the eastern boundary are a number of mature leylandii conifer trees.
7. To the north, between the site and London Road, there is a small housing estate, Brogdale Place, and other dwellings. Brogdale Road marks the site's eastern boundary and joins London Road to the north. On the east side of Brogdale Road there are a few scattered houses, school playing fields and beyond that the Abbey Secondary School. Immediately to the west is a commercial nursery, where there is a dense coverage of green houses and poly-tunnels. To the south there is gently rising open farmland extending to the M2 motorway which lies some 600m to the south.
8. The illustrative layout shows 63 dwellings, including 2, 3 and 4/5 bedroom houses. Of these 30% would be affordable housing. The developable area would measure about 2.3ha with some 1.1ha of open space located next to Brogdale Road and the southern boundary. The main vehicular access would be from Brogdale Road, towards the southern boundary of the site, with a pedestrian access in the north-east corner.

Development plan policies

9. There are a number of saved development plan policies in the adopted *Swale Local Plan 2008 [2006-2016] (SLP)* that are considered to be relevant to the determination of this appeal. The amount of weight to be attached to each of these policies is dealt with under the various issues, having regard to the government's *National Planning Policy Framework (the Framework)* and *Planning Policy Guidance (the Guidance)*.
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10. *SLP Policy SP1: Sustainable Development* is a general policy that seeks to ensure that new development accords with the principles of sustainable development. Amongst other things the policy indicates that development proposals should: avoid harming areas of environmental importance; secure the efficient use of previously-developed land; and reduce the need to travel.
11. *SLP Policy SP4: Housing* is designed to ensure that sufficient land is provided to satisfy housing need in accordance with the SLP's spatial strategy. *SLP Policies SH1: Settlement Hierarchy* and *H5: Housing Allocations* seeks to direct the majority of the Borough's housing growth (5,428 dwellings) to the Thames Gateway Planning Area (Sittingbourne and Isle of Sheppey) with limited development to meet local needs in Faversham and the Rest of the Swale Planning Area (377 dwellings). *SLP Policy H2: Housing* specifies that permission for new residential development will be granted for sites that are allocated or within defined built-up areas. Outside of the defined built-up areas and allocated sites new residential development will only be granted for certain limited exceptions.
12. *SLP Policy E6: Countryside* is designed to protect the quality, character and amenity value of the countryside and ensure that development outside the defined built-up boundaries is restricted to that which needs to be there. *SLP Policy E9; Protecting the Quality and Character of the Borough's Landscape* confirms the importance of protecting the quality, character and amenity value of the wider landscape of the Borough.
13. *SLP Policy FAV1: The Faversham and Rest of Swale Planning Area* specifies that the conservation of the historic and natural environment is the prime and overriding consideration. One of the priorities identified in the policy is support for meeting Faversham's development needs within the urban area so as to minimise greenfield land development.

Emerging local plan policies

14. *Bearing Fruits 2031: The Swale Borough Local Plan Part 1 [Publication Version December 2014] (SBLP)* is the emerging local plan. It was made available for consultation during December 2014 and January 2015 and the Council intend to submit the plan to the Planning Inspectorate for independent examination in the coming months. I have been referred by the Council to several policies in this plan and these are set out below under the relevant issue as is the weight to be attributed to them.

Issue 1: Supply of housing

15. On the basis of the housing requirement contained in the adopted SLP the Council accepts that within the Borough there is 3.17 years of housing land supply and a shortfall of 1,437 dwellings. These figures include provision for a 5% buffer and take account of the shortfall of dwelling completions in past years in accordance with the Sedgfield method. In my judgement, having regard to the material submitted, this is a reasonable assessment of the current position as regards housing land supply within the Borough.
 16. In my view, therefore, there is a significant shortfall of deliverable housing sites in the Borough. Although I am aware of the distribution of housing development inherent in the SLP and the Council's recent endeavours to identify and release additional housing sites in Faversham this does not change
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my finding that in the Borough there is a shortage of deliverable housing sites. As the Council cannot demonstrate a 5-year supply of deliverable housing sites paragraph 49 of the *Framework* makes it clear that relevant policies for the supply of housing should not be considered up to date.

17. It is evident that certain of the adopted development plan policies are solely concerned with the supply of housing. These include *SLP Policy SP4: Housing*, *SLP Policy SH1: Settlement Hierarchy*, *SLP Policy H5: Housing Allocations* and *SLP Policy H2: Housing*. Although these policies remain part of the development plan they attract very little weight in view of the marked shortfall of housing land in the Borough.
18. Other adopted development plan policies contain elements that relate to the supply of housing. *SLP Policy SP1: Sustainable Development* endeavours to steer development to previously developed land within urban areas. *SLP Policy FAV1: The Faversham and Rest of Swale Planning Area* develops this approach by stating that Faversham's development needs will be met within the urban area so as to minimise green field development. *SLP Policy E6: Countryside*, amongst other things, seeks to restrict development outside built-up areas. Again although these policies remain part of the development plan those elements of the policies that relate to the supply of housing attract very little weight in view of the marked shortfall of housing land in the Borough.
19. Emerging *SBLP Policies ST3: The Swale settlement strategy* and *ST7: The Faversham area and Kent Downs strategy* indicate that Faversham will be a secondary urban focus for growth at a scale compatible with its historic and natural assets. Clearly these are housing supply policies. As the *SBLP* has not yet been submitted for examination and there are outstanding objections relating to the supply of housing very little weight can be attributed to these policies.
20. Applying *paragraph 215 of the Framework* it is considered that the local policies and elements of certain policies referred to above are inconsistent with the housing supply policies contained in *paragraph 47 of the Framework*.
21. I conclude, therefore, on the first main issue that since the Council cannot demonstrate a 5-year supply of deliverable housing sites, all relevant policies and parts of relevant policies for the supply of housing have to be regarded as out of date. In turn this means that in determining this appeal very little weight can be attributed to housing supply policies related to the distribution of development across the Borough, the release of previously developed sites in preference to the use of green field sites, and resisting housing outside built-up areas.

Issue 2: Rural character and appearance

22. Historically Faversham has mainly developed to the north of the A2. As a result the Council argues that development to the south of the A2 should not be allowed as it fails to respect the historical development and form of the town. From the material submitted and the discussion at the Hearing I am unclear as to why the historical development of Faversham and its current form is seen as being so significant that it merits protection. In reaching this view I am mindful that the historic core of Faversham lies some distance to the north of the A2 whilst a considerable amount of the land to the north of the A2 is occupied by housing estates of more recent origin. Furthermore there is already existing

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- development south of the A2 including housing and a large secondary school and associated playing fields.
23. Notwithstanding this an important element of adopted *Policy SLP Policy E6: Countryside* is the protection of the quality, character and amenity value of the countryside. Similarly one of the elements of *SLP Policy SP1: Sustainable Development* is the avoidance of harm to areas of environmental importance. As these elements accord with national guidance these parts of the policies need to be accorded significant weight. *SLP Policy E9; Protecting the Quality and Character of the Borough's Landscape* also accords with national guidance and should be attributed significant weight.
24. Although the appeal site is not within a landscape designated for its quality or within the setting of the Ospring Conservation Area it forms part of the attractive open countryside to the south of Faversham and is clearly valued by local people. Consequently in its present state the site positively contributes to the rural character of Brogdale Road and the rural approach to Faversham. The proposal, therefore, would detract from the rural character and appearance of the local area.
25. There are a number of factors, however, that have a bearing on the degree of harm that would result. The appeal site is relatively small compared to the considerable amount of agricultural land extending southwards towards the M2 and is bounded by residential development to the north, glasshouses and poly-tunnels to the west, and school playing fields and several houses to the east. It is also at a slightly lower level than the agricultural land further to the south. As a result it is much more self-contained than other sites in the area. In my judgement these particular characteristics of the site and the surroundings would lessen the development's impact on the wider landscape. Furthermore the submitted illustrative layout makes provision for sizeable areas of open space and planting along the Brogdale Road frontage and southern boundary. In time this would help soften the appearance of the development and provide an appropriate area of transition between the developed part of Faversham and the countryside. Taking account of these factors it is my view that the proposed scheme would have a moderate adverse impact on the rural character of Brogdale Road and the rural approach to Faversham.
26. I conclude, therefore, on the second main issue that the proposal would have a moderate adverse impact on the rural character of Brogdale Road and the rural approach to Faversham. This brings the proposal into conflict with elements of *Policies SLP Policy E6: Countryside* and *SP1: Sustainable Development*, and with *SLP Policy E9; Protecting the Quality and Character of the Borough's Landscape*.

Issue 3: Agricultural land quality

27. The Council contend that the development of the site would lead to the unnecessary loss of the best and most versatile agricultural land and increase the pressure to develop other such land in the area. In support of this the Council refer to emerging *SBLP Policy DM31: Agricultural Land* which indicates that apart from in a limited number of specified instances development will not generally be permitted on the best and most versatile agricultural land (specifically Grades 1, 2 and 3a).

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28. I accept that in accordance with *paragraph 216* of the *Framework*, account can be taken of emerging policies. However the *SBLP* has not yet been submitted for examination. Furthermore the wording of *SBLP Policy DM31* is different from that set out in *paragraph 112* of the *Framework* which advocates the use of poorer quality land in preference to that of a higher quality where significant development of agricultural land is demonstrated to be necessary. The *Framework* does not rule out the development of the best and most versatile land as a matter of principle. In the light of this I consider very little weight can be attached to *SBLP Policy DM31*.
29. In my view the proposal does not involve a significant loss of the best and most versatile agricultural land. At 3.4 ha in area the field is very small in comparison to the amount of agricultural land around Faversham, most of which is of similar quality. I also note that the Council has recently identified other good quality agricultural land around Faversham for development. As it is not related to any other land-holding in the area its loss would not prejudice the continued operation of any farming business. Whilst acknowledging the Council's concerns about the release of other high quality land in the area south of the A2 each proposal needs to be determined on its particular merits, including its overall scale and relationship with existing development.
30. I conclude, therefore, on the third main issue that the proposal would not involve a significant loss of the best and most versatile agricultural land.

Issue 4: Gypsy and Traveller site accommodation

31. Emerging *SBLP Policy CP3: Delivering a wide choice of high quality homes*, in particular Criterion 6, indicates that for housing developments of 50 dwellings or more provision should be made for on-site gypsy and traveller pitches. The supporting text states that pitch provision should be at the rate of 1% of the total number of dwellings. The Council considers that in accordance with this policy a single gypsy and traveller pitch should be provided on the appeal site. I note that there is no support for this approach in the *SLP*.
32. I accept that in accordance with *paragraph 216* of the *Framework*, account can be taken of emerging policies. However the *SBLP* has not yet been submitted for examination and there are unresolved objections to that part of *SBLP Policy CP3* relating to the provision of gypsy and traveller sites. Furthermore the particular approach to site provision inherent in the policy is not one that is set out in *the Framework* or in the *Planning Policy for Traveller Sites*. Consequently I believe that very little weight can be attached to *SBLP Policy CP3*. As a result I find no policy justification for the Council's approach of seeking the provision of a gypsy and traveller pitch on the site.
33. It is evident from the material submitted and the discussion at the Hearing that there is a need for additional gypsy and traveller site provision in the Borough. However it is less clear how this need is currently distributed and where it should be met. As a result it has not been established that Faversham is an appropriate location for additional gypsy site provision or whether there are more suitable areas available. Furthermore at a more detailed level gypsy sites usually include several pitches so that families can live together in small family groups. Consequently there is uncertainty as to whether a single pitch would address the need or prove attractive to would-be occupiers. In the light of this I do not believe that it has been established that there is sufficient evidence to support the provision of a single gypsy and traveller pitch on the appeal site.
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34. I conclude, therefore, on the fourth main issue that the development need not include provision for gypsy and traveller accommodation.

Issue 5: Sustainable development

35. *Paragraph 14 of the Framework* makes it clear that there is a presumption in favour of sustainable development, which has three dimensions: economic, social and environmental. In my judgement the proposal would fulfil the economic role of sustainable development and would contribute to building a strong, responsive and competitive economy, by helping to ensure that sufficient land is available to support growth. In terms of the social dimension the scheme would contribute to boosting housing supply by providing a range of sizes and types of housing for the community, including a number of affordable housing units. The site is available and in the absence of any significant constraints could be developed in the near future.

36. As regards environmental considerations the site is reasonably well located in terms of accessibility to the various services and facilities available in the town, including schools. Although the historic medieval core of Faversham town centre is located some distance away it is not so far as to rule out access by walking or cycling. For longer trips alternatives to the private car are readily available with regular train services from Faversham station to London St Pancras and Victoria, Canterbury and Dover. There is also a regular bus service operating along the nearby A2 to Sittingbourne. The proposed 1ha of land to be given over to public open space will increase the opportunity for recreational activities, whilst the proposed pedestrian crossing will make it safer and easier to cross London Road.

37. It is clear from my consideration of the second main issue that in terms of the environment the proposal would have a moderate adverse impact on the rural character of Brogdale Road and the rural approach to Faversham. However it is my view that the positive attributes of the development, in terms of the economic, social and environmental gains outweigh the negative visual impact, and that when taken as a whole the scheme would constitute sustainable development. Consequently the *Framework's* presumption in favour of sustainable development applies.

38. I conclude, therefore, on the fifth main issue that the proposed scheme constitutes sustainable development and therefore the *Framework's* 'presumption in favour' applies.

Other matters

39. Local people have raised a number of other concerns including the impact on highway safety, traffic congestion, residential amenity, biodiversity, drainage, and the capacity of local services and facilities. However, having considered all the material before me, including the views of statutory authorities and the various reports submitted, none of these matters individually or cumulatively would be likely to cause overriding harm, and they are not, therefore grounds for dismissing the appeal. In particular I note that the Highway Authority has acknowledged that there would be no unacceptable impacts to the safe and free flow of traffic on London Road and Brogdale Road.

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Overall planning balance

40. I have concluded that the proposal does not involve a significant loss of the best and most versatile agricultural land, and that the proposed development need not include provision for gypsy and traveller accommodation. These considerations, therefore, are neutral and do not weigh against the scheme.
41. I have found that the proposed scheme constitutes sustainable development and therefore the *Framework's* 'presumption in favour' applies. In determining this I have found that there are a number of economic, social and environmental benefits associated with the scheme. These factors weigh heavily in favour of allowing the appeal.
42. I have found that since the Council cannot demonstrate a 5-year supply of deliverable housing sites, all relevant policies and relevant parts of policies for the supply of housing have to be regarded as out of date and accorded very limited weight. *Paragraph 14* of the *Framework* makes it clear that planning permission should be granted, where relevant policies in the development plan are out-of-date, unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the *Framework* taken as a whole.
43. My conclusion on the second main issue is that the proposal would have a moderate adverse impact on the rural character of Brogdale Road and the rural approach to Faversham, and is therefore contrary to development plan policy. In my judgement, however, this adverse impact would not significantly and demonstrably outweigh the identified benefits of the proposed development.

Conditions

44. I have considered the planning conditions put forward and discussed at the Hearing in the light of the advice in *the Guidance*. I have applied the standard outline conditions (*Conditions 1, 2 & 3*). To ensure that the development proceeds in accordance with what has been approved the plans are specified (*Condition 4*). The submission of samples of materials for approval is required to make sure that those used are in keeping with local character (*Condition 5*). In the interests of public amenity and safety the development needs to be laid out in accordance with the principles of 'Secure by Design' (*Condition 6*). Parking space, and the retention of such areas, is necessary to minimise on-street parking and associated disturbance to residents (*Condition 7*).
45. Given the sensitive location of the site on the edge of Faversham and the need to ensure a high quality development a Development Brief for the site needs to be produced to guide the scheme (*Condition 8*). Most of the material required for the production of this Brief is contained in the application and hearing documents. In order to control the height of the new dwellings, thereby minimising the impact on the surrounding area, details of existing and proposed levels are required (*Condition 9*).
46. The provision of appropriate sewerage and drainage works to serve the site are necessary (*Condition 10*). The roads and associated elements need to be laid out in a satisfactory and timely manner (*Condition 11*). Landscaping details are required to ensure that the site is suitably landscaped and in keeping with local character (*Conditions 12 & 13*). In the event that any contamination is found on the site a remediation scheme strategy will be required (*Condition 14*). The

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dwellings need to meet appropriate levels of sustainable construction (*Condition 15*).

47. During the construction period various matters, including the parking of vehicles and plant, hours of operation, burning of waste, condition of roadways and dust emissions, need to be controlled to protect highway safety or residential amenity (*Conditions 16-21*).
48. As no exceptional reasons have been put forward the removal of permitted development rights is not justified. As provision for cycle parking would be within domestic curtilages there is no need to require the provision of covered secure cycle parking facilities.

Section 106 Agreement

49. The finalised section 106 agreement, which will make provision for affordable housing, public open space and social and community infrastructure, is compliant with *paragraph 204* of the *Framework and Regulation 122* of the *CIL Regulations 2010*.

Overall Conclusion

50. My overall conclusion, therefore, is that there are compelling grounds for allowing the appeal subject to appropriate planning conditions. None of the other matters raised outweigh the considerations that have led to my decision.

Christopher Anstey

Inspector

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APPEARANCES

FOR THE APPELLANT:

Michael Bedford	Barrister (acting as legal representative)
Simon Milliken	Principal, Milliken & Company , Chartered Surveyors & Town Planners
Jonathan Billingsley	Director, The Landscape Partnership
Chris Blamey	Director, RGP (Transport Planning)
Michael Bax	Senior Partner (Rural), BFT Partnership

FOR THE LOCAL PLANNING AUTHORITY:

Tracey Day	Development Management
Shelly Rouse	Planning Policy
Libby McCutcheon	Senior Planning Solicitor
Richard Lloyd-Hughes	Rural Planning Ltd.
Alan Best	Planning Policy
Claire Dethier	Development Management

INTERESTED PERSONS:

Bryan Lloyd	Council for the Protection of Rural England
Janet Turner	Faversham Society
Joan Tovey	Local resident
David Bass	Local resident (also representing other local residents)
Priscilla Walker	Local resident

DOCUMENTS

1. Swale Local Plan Policy H4 Providing Accommodation for Gypsies and Travelling Show-persons handed in for the appellant
2. Statement on behalf of Mr D Bass and Mrs P Walker and 46 other local residents
3. Section 106 Agreement
4. Council’s statement on housing land supply (27/1/2015)
5. Extract from SHLAA handed in for the appellant
6. Mr Lloyd’s statement
7. LDF Panel report (23/2/2012)
8. Statement of Common Ground
9. Council’s Committee Report relating to mixed use development on land east of Love Lane, Faversham
10. Mr Bedford’s closing statement on behalf of the appellant
11. Statement of Common Ground relating to housing land supply
12. Bearing Fruits 2013 The Swale Borough Local Plan Part 1 Publication Version (December 2014)
13. Finalised Section 106 Agreement

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PLANS

- A. 1:1250 scale red-line site plan submitted with outline application (drawing no. D-SLP)
- B. 1:1250 scale amended red-line site plan submitted during hearing (drawing no. D-SLP- RevA)
- C. 1:500 scale illustrative layout plan submitted with application
- D. J C White – Topographical survey plans submitted with application
- E. Boundary of Faversham Conversation Area handed in for the appellant.
- F. Illustrative Masterplan for mixed use development on land east of Love Lane, Faversham
- G. Revised Figure 01A from Appendix 1 of Mr Billingsley’s hearing statement
- H. Revised 1:500 illustrative layout plan (drawing no. DACA-DWG)

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SCHEDULE OF CONDITIONS

- 1) Details of the access, appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters referred to in Condition 1 above shall be made to the local planning authority not later than three years from the date of this permission.
- 3) The development hereby permitted shall begin not later than two years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the approved plans [i.e. drawing no. D-SLP-Rev A at 1:1250 scale, illustrative layout plan - drawing no. DACA-DWG - at 1:500 scale, and J C White - Topographical survey plans].
- 5) No development shall commence until samples of the materials to be used on the external elevations of the dwellings hereby permitted, have been submitted to and approved in writing by the local planning authority. Thereafter, the development shall not be constructed other than in accordance with these approved materials.
- 6) Prior to the commencement of development full details of how the development will meet the principles of 'Secure by Design; shall be submitted to the local planning authority for approval in writing and shall be implemented in accordance with the approved details.
- 7) The details pursuant to condition (1) above shall show adequate land to the satisfaction of the local planning authority reserved for the parking or garaging of cars (in accordance with the currently adopted Kent County Council Vehicle Parking Standards). The land so identified shall be kept available for this purpose at all times and no permanent development, whether permitted by the Town and Country Planning (General Permitted Development Order 1995) or not, shall be carried out on such land (other than the erection of a private garage or garages) or in a position as to preclude vehicle access thereto.
- 8) The details submitted in pursuance of condition (1) shall be in accordance with a Development Brief that shall first have been agreed by the local planning authority and which shall include the following:
 - (a) details of the road layout for the site;
 - (b) connectivity for pedestrians between the site and the town centre;
 - (c) an overall landscape strategy for the site;
 - (d) an overall sustainable surface water drainage strategy for the site (based on a network of open ditches and ponds);
 - (e) a strategy for the architectural treatment of the buildings on the site, including elevational treatment, roof design and palette of colours;
 - (f) a strategy to maximise opportunities for biodiversity across all parts of the application site;

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- 9) The details submitted in in pursuance of condition (1) shall show details of existing and proposed ground levels across the site and the levels of the proposed floor slabs and heights of the proposed dwellings and shall be submitted to and approved in writing by the local planning authority. Development shall be carried out as approved.
- 10) Prior to the commencement of development hereby approved full details of the method of disposal of foul and surface waters as part of a drainage strategy shall be submitted and approved in writing by the local planning authority. This drainage strategy shall be based on SuDS principles and shall be designed to ensure that run-off rates are no greater than existing conditions. A drainage infrastructure Maintenance Plan should be incorporated into the strategy which should set out the information and procedures the owners/operators of the development will adhere to. The approved details shall be implemented before the first use of the development hereby permitted.
- 11) 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 and driveway gradients, and street furniture, as appropriate, shall be constructed and laid out in accordance with details to be submitted at the reserved matters stage and approved in writing by the local planning authority 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. The works as approved shall be completed prior to the occupation of the fiftieth dwelling.
- 12) All hard and soft landscape works approved pursuant to condition (1) above shall be carried out in accordance with the approved details. These details shall include existing trees, shrubs and other features, planting schedules, noting species (which should be native species where possible and of a type that will enhance or encourage local biodiversity), plant sizes and numbers where appropriate, means of enclosure, hard surfacing, materials and an implementation programme. The works shall be carried out prior to the occupation of the fiftieth dwelling or in accordance with a programme first agreed in writing with the local planning authority.
- 13) Upon completion of the approved landscaping scheme, any trees or shrubs removed, dying, being severely damaged or becoming seriously diseased within five years of planting shall be replaced with trees and shrubs of such size and species as may be agreed with the local planning authority, and within whatever planting season is agreed.
- 14) If during development contamination not previously identified is found to be present at the site then no further development (unless agreed in writing by the local planning authority) shall be carried out until the developer has submitted a remediation strategy to the local planning authority detailing how the unsuspected contamination shall be dealt with and obtained written approval from the local planning authority. The remediation strategy shall be implemented as approved.
- 15) The dwellings shall meet at least the Level 3 Rating of the Code for Sustainable Homes or any other specification approved by the local

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

- 16) During construction of the development adequate space shall be provided on site, in a position previously agreed with the local planning authority, to enable all employees and contractors and construction vehicles to park, load and off-load, and turn within the site.
- 17) 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 and Saturdays 0730-1300 hours, unless in association with an emergency or with the prior written approval of the local planning authority.
- 18) No impact pile driving in connection with the construction of the development hereby approved shall take place on site on any Saturday, Sunday or Bank Holiday, nor any other day except between the following times: Monday to Friday 0900-1700 hours, unless in association with an emergency or with the prior written approval of the local planning authority.
- 19) No burning of waste or refuse shall take place on the site during construction works other than may be agreed in writing by the local planning authority.
- 20) No development shall take place until measures, including wheel washing facilities, to prevent the deposit of mud and other debris on the public highway have been agreed in writing by the local planning authority. The agreed measures shall be implemented and retained on site during the construction period unless any variation has been agreed by the local planning authority.
- 21) No development shall take place until a programme for the suppression of dust during the construction period has been agreed in writing by the local planning authority. The agreed programme shall be implemented during the construction period unless any variation has been agreed by the local planning authority.

2.5 REFERENCE NO - 18/501863/FULL		
APPLICATION PROPOSAL Erection of a new single storey special educational needs primary school with formation of a new access onto Vellum Drive and associated car parking and drop-off area, pedestrian access, drainage, areas for formal and informal outdoor play, and landscaping works.		
ADDRESS Land East Of Vellum Drive Sittingbourne Kent ME10 5BE		
RECOMMENDATION: Grant subject to conditions		
SUMMARY OF REASONS FOR RECOMMENDATION: The proposed development is considered to be acceptable as a matter of principle as it would be located on vacant land within the defined built-up area boundary. The relevant material planning consideration have been carefully considered (see 'appraisal' section below) together with the responses received from technical consultees and the development has been found to be acceptable, and in line with the relevant parts of the NPPF and the applicable policies in the adopted Local Plan. As noted above, the recommendation to approve is subject to conditions as set out below.		
REASON FOR REFERRAL TO COMMITTEE: The application site is Council-owned land.		
WARD The Meads	PARISH/TOWN COUNCIL Bobbing	APPLICANT Education & Skills Funding Agency AGENT DHA Planning Ltd
DECISION DUE DATE 04/07/18		PUBLICITY EXPIRY DATE 18/05/18

Planning History:

SW/13/1328	Approval of reserved matters (pursuant to SW/11/0637) relating to the development by Redrow homes of 224 houses and flats at Archers Park, and consisting of layout, scale, appearance and landscaping.	Reserved matters approved.	15/8/2014
SW/11/0637	Development of up to 300 dwellings on land known as Archers Park, immediately to the south and west of the application site.	Outline planning permission granted	16/10/2013
SW/99/0073	This included details for the community woodland and "siting of school site", though not details of the position of the primary school or any other reserved matters for it.	Reserved matters approved	17/5/1999
SW/96/0717	Mixed use development including residential, office and commercial uses, shopping and community facilities, school, community woodland, associated infrastructure and services.	Outline planning permission granted.	20/1/1998

With regard to SW/96/0717, this outline planning permission is subject to a Section 106 agreement that includes clauses relating to the land the subject of the current application; under the s106 agreement, the land has been transferred to this Council. KCC did not take up

the option to develop the site for a primary school, and subsequently was to be used as an extension to the Community Woodland. The land was not formally planted up, though until recently it was used informally for recreation.

In addition to the need for planning permission, a separate Deed of Variation will be required in order for the terms of the s106 agreement to be varied to allow the proposed school to be built out on the land.

The other recent development in the area, including the Watermark commercial development on the western side of Vellum Drive, has considerable planning history. However, none of it is of sufficient relevance to the current application as to warrant inclusion here.

1. DESCRIPTION OF SITE

- 1.1 The site, which is approximately rectangular, is located immediately to the south of Staplehurst Road (the B2006) with its western boundary adjoining Vellum Drive. To the west and north the area is characterised by a mix of housing and commercial uses that constitute The Meads and Watermark developments.
- 1.2 Further to the west, Staplehurst Road connects with the A249 trunk road, which runs approximately north-south and is located immediately to the west of the Archers Park housing development, which includes Bristol Close.
- 1.3 Part of the southern site boundary adjoins dwellings on Bristol Close: Numbers 1 and 5 to 12 inclusive adjoin the site boundary; Number 1 is side-on to the application site, while the other houses back on to it. The dwellings in question are all two-storey.
- 1.4 To the east - and to part of the southern boundary - the site adjoins public open space, which consists primarily of a Community Woodland.
- 1.5 The application site measures 1.73 hectares (or 4.27 acres).
- 1.6 A public right of way – namely ZR111 – runs to the east and south of the site, connecting The Meads development to the areas of housing on the southern side of the main railway line.
- 1.7 Members will note that the site – which is not allocated for development in the adopted Local Plan - currently provides space for informal recreation for dog walkers and others and is characterised by areas of rough grass, other vegetation and sporadic tree growth. The latter include a mature oak tree (Category B), located close to Vellum Drive. Eleven less substantial trees, including a number of oaks and a mix of other species, have recently been removed. There are no buildings on the site.
- 1.8 The site is broadly level with only slight changes in the topography, with a maximum height of approximately 21.5 metres Above Ordnance Datum (AOD).

2. PROPOSAL

- 2.1 Full planning permission is sought for the erection of three-form entry (3FE) primary school specifically for children with Autism Spectrum Disorder (ASD) and Speech, Language and Communication Needs (SCLN). Members will note that the school will have 83 staff members supporting a total enrolment of 168 pupils. The supporting Planning Statement notes that this will be the first such three FE school in Swale and East Kent
- 2.2 Members will note that the pre-application process for this development included a Design Review by Design South East (held on 24 January 2018). As set out in the Design and Access Statement, on Page 8, the Review considered the ‘building location and orientation’, ‘building form and internal layout’, ‘materials’, ‘landscaping, car parking and boundaries’, and ‘corridor layout’.
- 2.3 The development proposal is explained in detail at paragraphs 3.1.1 to 3.1.15, on pages 12 and 13 of the Planning Statement, and Members will note the following:
- 2.3.1 The school will have “*state-of-the-art facilities*” designed to ensure that “*pupils have the best learning experience possible*”
- 2.3.2 The facilities will include SEN Sports Spaces and Outdoor Teaching Spaces
- 2.3.3 The building will be laid out to “*create a flow through the site for pupils and staff, with a single-storey and separate winged design to allow for age-specific development and play.*”
- 2.3.4 Every classroom will have “*linked outside space*” and Members will note that the landscape scheme will provide “*an attractive and easy to maintain learning environment in the forest school ethos*”.
- 2.3.5 The building is orientated to “*maximise natural daylighting while avoiding over-heating and glare*”.
- 2.3.6 The positioning of the building on the site has been chosen with regard to the proximity to the housing to the south (Bristol Close), the need to retain the mature oak tree adjacent to Vellum Drive and in order to provide outdoor space on the eastern part of the site, “*...providing a visual transition towards the undeveloped community woodland to the east.*”
- 2.4 The building would have an internal floor area of 3,220 square metres. The maximum width of the school - towards the southern end of the building, where wings project from both sides of the central corridor (and adjoining rooms) – would be 90.8 metres (divided between two sections measuring 41.8 metres and 49 metres); the maximum north-south dimension would be 83.8 metres.
- 2.5 Given the buildings irregular floor plan, Members are encouraged to view the ground floor plan to fully appreciate what is proposed, and to understand how the floor area would be divided between classrooms, the main hall (180 square metres) and dining areas (129 square metres) and other spaces such as corridors, office space and kitchens.
- 2.6 The building would be single storey and feature ridged roofs, extending to a maximum height of eight metres, towards the eastern end of the north elevation, where the main hall and entrance to the building would be located. Elsewhere, the ridge height would be seven metres and the eaves height 4.4 metres. On the southern elevation, the section

of the building located closest to the adjoining dwellings would extend to a ridge height of 6.2 metres, with an eaves height of 3.6 metres.

- 2.7 The walls would be finished in a combination of facing brick (main and contrasting feature brick areas), and cladding to part of the west elevation (to Vellum Drive). The roof would be clad in profile metal sheeting and feature sun pipes and wind catchers.
- 2.8 With regard to car parking, Members will note that provision would be made for 91 cars, including five disabled spaces. In addition, five motorcycle spaces will be provided. Members will also note that the layout of the scheme allows for the stacking of up to 32 vehicles during drop-off and pick-up periods. The Planning Statement notes that *“the drop-off and collection period will operate over prolonged periods, rather than a single arrival and departure time...”*
- 2.9 With regard to cycle parking, the initial submission has been amended and the latest site layout shows the provision of cycle stands and a shelter to be located just to the east of the main building. Further details are awaited and I will update Members at the meeting.
- 2.10 Further to paragraph 1.7 above, Members will note that – as set out in Planning Statement at 5.10.2 – eleven trees – all Category C – are ultimately to be removed in order to accommodate the proposed development. In addition to those that have already been taken out, four street trees – all Himlayan Birch – will also be removed to accommodate the vehicular access and visibility splays.
- 2.11 With regard to bin storage, Members will note that the proposed layout shows a bin storage area in the north-west corner of the site. The applicant has indicated that a timber, hit-and-miss style structure would enclose the bin storage area. A condition is included below to control the details of this structure.

3. SUMMARY INFORMATION:

	Existing	Proposed	Change (+/-)
Site Area (ha)	1.73	1.73	0
Maximum Ridge Height (m)	NA	8.0	+8.0
Typical Eaves Height (m)	NA	5.0 to 3.6	Up to +5.0
No. of Storeys	NA	1	NA
Gross Internal Floor Area	NA	3,220	+3,220
Parking Spaces	NA	91 (including five disabled spaces)	+91

4. PLANNING CONSTRAINTS

- 4.1 The site is located within Flood Zone 1, meaning that the risk of flooding is considered to be low. Nevertheless, surface water drainage arrangements are an important material consideration, and are discussed in the ‘appraisal’ section below.
- 4.2 The site is not located in or adjoining a conservation area or close to a listed building(s) or other above-ground heritage assets. However, part of the site is constrained by archaeological potential. This has influenced the proposed siting of the building, and the issue is discussed below.

5. POLICY AND CONSIDERATIONS

- 5.1 National Planning Policy Framework (NPPF): Members will note that the applicant's Planning Statement includes an appraisal of the relevant NPPF paragraphs on Pages 16 to 18.
- 5.2 However, since the submission of the planning application, the original NPPF has been replaced by a new, 2018 version. In light of this, the applicant has provided an addendum to the original Planning Statement, which sets out the paragraphs in the new NPPF that are considered to be relevant.
- 5.3 I consider the following paragraphs are relevant to this proposal: 2 (NPPF is a material planning consideration), 8, 9, 11 (presumption in favour of sustainable development), 38 (LPA approach to decision making), 94 (planning for schools), 102, 111 (approach to transport / highway issues), 127 (high quality buildings and places), 128,131 (design quality), 153 (green energy), 175 (biodiversity), and 176 (ecological designations).
- 5.4 The following National Planning Practice Guidance (NPPG) is considered to be relevant: Air Quality; Noise; Design; Natural environment; Use of planning conditions; Travel plans, transport assessments and statements; Water supply, waste water and water quality;; Flood Risk and coastal change; Open Space, sports and recreational facilities, public rights of way and local green space.
- 5.5 Swale Borough Local Plan 2017: Bearing Fruits 2031 - ST1 (sustainable development), ST5 (Sittingbourne area strategy), CP2 (sustainable transport), CP1 (strong economy), CP2 (sustainable transport), CP4 (good design), CP5 (health and wellbeing), CP6 (community facilities and services to meet local needs), DM6 (managing transport demand and impact), DM7 (vehicle parking), DM14 (general development criteria), DM17 (open space, sports and recreation provision), DM19 (sustainable design and construction), DM21 (water, flooding and drainage), DM28 (biodiversity and geological conservation), DM29 (woodland trees and hedges), and DM34 (Archaeological sites).
- 5.6 As noted at Paragraph 1.7 above, the site is not allocated for development in Swale Borough Local Plan 2017.
- 5.7 None of the Council's Supplementary Planning Documents are of particular relevance in this instance.

6. LOCAL REPRESENTATIONS

- 6.1 The application has been advertised by site and press notice, and letters were sent to adjoining addresses and a number of those in the wider vicinity.
- 6.2 Eleven responses have been received, and these are summarised in the following paragraphs:
- 6.2.1 Three representations in support have been received and the issues raised are summarised as follows:
- Specialist school places are 'sorely' needed, particularly in east Kent, where children often having to travel considerable distances across the area each day to school;

- Children with extra needs should have educational opportunities, and can ‘thrive in the right environment’;
- Levels of unemployment are typically very high for autistic people, and better education could help address this;
- Noise mitigation measures for the classroom environment should be controlled through the planning process

6.2.2 Six representations raising objection - including five from local residents – have been received and are summarised as follows:

- Not consulted about application, or included in pre-application local engagement;
- Given failure to consult properly locally, not sure how application can proceed;
- Not clear whether traffic issues have been properly considered, particularly the access ‘in and out of Vellum Drive via the roundabout’;
- Traffic may back-up on to the Staplehurst Road, which is ‘a 50mph road which is busy all day’ and may need to be upgraded to accommodate the extra traffic from the school;
- Parking on Vellum Drive will need to be managed, but this may not be possible as Vellum Drive has not been adopted, and parking in the area will be inadequate;
- The development would be harmful to the ‘hundreds of species of wildlife’ (‘including rabbits and insects’) that currently use the site;
- The application would result in the loss of a valued open space (one of very few locally) for walking, exercising and similar activities, and which is considered to be much safer than the adjacent Community Woodland;
- Noise from the school would detract from residential amenity;
- This proposal is a different proposition from the primary school originally envisaged – and granted outline permission under SW/96/0717 in 1998 – and which would have served a local educational need. As such, the argument for the current proposal is weakened;
- As the primary school originally envisaged was not provided, the site should instead be planted as a community woodland as envisaged under the 1998 planning approval;
- Local residents are dismayed that by enclosing the site with temporary fencing, the outcome of the planning application seems to have been pre-empted;
- A local councillor may have pre-empted the outcome of the application by commenting favourably online;
- If the development is approved, the area will become a ‘dismal, urbanised place’
- Neighbours would experience a loss of privacy, and loss of light / over-shadowing;
- Safety standards will be compromised locally by heavy traffic;
- Development will detract from visual amenity;
- Air quality will be harmed (partly because the green space to be developed potentially absorbs pollution currently);
- What is meant by supporting staff?

6.2.3 Two representations making observations, but neither in support or opposition, have been received, and the issue raised are summarised as follows:

- The principle of the proposal is supported, but concern is raised about the proposed siting of the building;
- The position of the building would be close to houses and could adversely impact on residential amenity;
- Siting the building further from the Bristol Close houses would be preferred

- Loss of a number of trees would be regrettable and could be harmful to resident birds, including migratory ones;
- The trees also act as a ‘sound and visual barrier’ between houses and Staplehurst Road
- Existing car parking problems, would be exacerbated;
- The position of the access is also of concern;
- Given uncertainty about finished levels, it is difficult to assess potential harm to residential amenity; and
- Noise, smell and dust concerns are raised, in relation to the construction phase and the subsequent operation of the school.

7. CONSULTATIONS

- 7.1 **KCC Highways and Transportation** note that the submitted Transport Assessment (TA) reflects amendments to the trip generation following pre-application discussions. They also note that the roundabout junction with Staplehurst Link Road (B2006) will operate within capacity at 2028 once traffic associated with the proposed school is factored in. The supporting data showing that 67% pupils attending the school will be from outside Swale and therefore the majority of vehicles movements associated with bringing children to the school will be via the Strategic Road network (including the A249, just to the west of the application site). The view of Highways England “*will therefore be paramount*”.
- 7.2 Having considered the swept path analysis, it is considered that the proposed access and visibility splays – as shown on the Access Detail Plan (H-01 revision P1) – are acceptable. Members will note that as the vision splays will be contained within the adoptable highway the provision of sightlines will be controlled by the technical approval of the S38 or S278 agreement to construct the access, and as such a planning condition is not required.
- 7.3 With regard to car parking and provision for drop-off and pick-up of pupils, the space available (in the form of a loop road within the site) is considered to be adequate, noting that 91 formal parking spaces are shown and that the loop route “*...can stack a single line of approximately 37 vehicles...*”
- 7.4 In conclusion, no objection is raised provided Highways England are satisfied that there will be no unacceptable impact “*...along the A249 corridor junctions...*” and to the imposition of conditions (eight in total) as stated. The suggested conditions are set out below.
- 7.5 In their initial response, **Highways England (HE)** stated that despite pre-application engagement, further information was required in respect of trip generation and trip distribution resulting from the proposed development in order for them to provide final comments in respect of potential implications for the Strategic Road Network, which includes the A249 and the M2. The applicant then provided additional information consisting of a Technical Note, dealing with HE’s request and in particular the potential impacts on the A249 corridor and the M2, between Junctions 5 and 7.
- 7.6 Following a meeting on 17 October 2018, attended by both highways authorities, KCC Education, the Department for Education (DfE), the applicant’s design team and the planning case officer, further information was provided, giving a more refined

assessment (based on site-specific information provided by KCC and the DfE) of the likely vehicle movements arising from the development.

- 7.7 Highways England's main area of concern had been potential impacts on traffic flows through Junction 5 of the M2, but in the light of the new information they concluded that *"...the impact of development traffic on the operation of Junction 5 is significantly reduced compared to the previous assessment...the residual cumulative impact on Junction 5 could not be considered 'severe'"*. Noting that the scheme would generate *"minimal additional traffic"* on the Strategic Road network in Peak Hours", they now offer no objection to the development.
- 7.8 **UK Power Networks** initially raised objection, noting the presence of an *"electricity substation located within six metres of the proposed works..."* Members will note that the site location plan has been amended to exclude the substation from the application site.
- 7.9 **KCC Flood and Water Management** raise no objection subject to further assessment being undertaken at the 'detailed design stage', and to the imposition of three planning conditions (relating to a detailed SUDS scheme, an 'operation and maintenance manual' and a verification report for the SUDS scheme). It is also recommended - as the site is located within 'Ground Source Protection Zone 1' [for ground water] - that the Environment Agency be consulted.
- 7.10 **Environment Agency** raise no objection subject to conditions in respect of piling design, potential contamination found during construction and the prevention of infiltration of surface water drainage into the ground.
- 7.11 **Kent Police** state that the application has been considered in accordance with the National Planning Policy Framework (NPPF) 2012 (Section 7 Para 58 and Section 8 Para 69) and the DCLG Planning Practice Guidance March 2014 (Design Section - Paras 10 and 11) – Crime Prevention.
- 7.12 *"Having reviewed the online plans and documentation, the applicant/agent has clearly demonstrated that they have considered crime prevention and have attempted to apply the seven attributes of CPTED. Therefore we await the decision on this application."*
- 7.13 Members will note that the development is not going to be built to Secured by Design (SBD) standard. However, the issue of designing out opportunities for crime and anti-social behaviour has been considered in the development of the design, and Kent Police raise no objection.
- 7.14 **Sport England** provided a holding response, but no substantive comments were made about the development.
- 7.15 **Bobbing Parish Council** *"...has no objections and would be supportive..."* though they make the observations, which I have summarised as follows:
- School events could be problematic given increased traffic on Staplehurst Road;
 - Entrance on to Vellum Drive should be moved further from junction with Staplehurst Road;
 - Suggest a reduced speed limit on Staplehurst Road; and

- Parking restrictions are needed on Vellum Drive in front of school site.

7.16 **Southern Water** raise no objection subject to conditions in respect of details of foul and surface water drainage. The consultation response also advises that it is the responsibility of the applicant to ensure that the site is properly surveyed to establish whether a public sewer(s) are present under the site.

7.17 **County Archaeological Officer** notes that:

“The site of the proposed school is known to contain sensitive heritage assets and has potential for further significant archaeological remains associated with prehistoric and later burial activity. Although the area has been subject to extensive brickearth extraction, recent formal investigations and a number of identified cropmarks indicate ring ditches, burials and associated features survive along a ridge of high ground extending through the site.”

7.18 The response also states:

“Although it would have been preferable for the design and layout to be guided by the results of an archaeological evaluation, there has already been some consideration of the archaeology with the predicted location of the ring ditches situated underneath a tennis court, car parking and open space. The main buildings have been sited to hopefully avoid important archaeology but this is based on deskbased assessment. It is only through fieldwork that the precise location, extent and significance of archaeological remains can be clarified. This approach is welcome although I note this application is a detailed application and as such there might be limited opportunities to safeguard archaeology through design, especially in relation to drainage and landscaping works.”

7.19 The Archaeological Officer goes on to conclude:

“In summary, the proposed site of the SEN school contains significant heritage assets and has the potential for further important, complex and sensitive archaeology. The application is supported by a reasonable desk-based assessment but it would have been preferable for this detailed application to have been informed by the results of an archaeological field evaluation. I stress the value of undertaking the evaluation prior to determination of this application. However, if it is considered necessary to determine this application at this stage, I recommend the following conditions [see conditions (12) and (13) below] are placed on any forthcoming consent...”

7.20 The applicant’s archaeologists have subsequently undertaken an evaluation through trial trenching across much of the site. In response, KCC Archaeology advise: *“Some areas were not accessible but a reasonable area was covered. The evaluation did reveal evidence of at least one of the ring ditches and some other multi-period activity. However, on the basis of the results so far, there are no indications of extensive and significant archaeology which may be severely impacted by the school scheme. There are archaeological remains which will need to be subject to appropriate archaeological mitigation but these can be agreed as part of finalising proposed groundworks for the school.*

7.21 *We have received an interim report on the evaluation works from CgMs. We do need a full evaluation report and there will be a need to agree detailed archaeological mitigation measures but, based on current information, archaeology can be addressed through the conditions recommended.”* Members will note conditions (12) and (13) below.

- 7.22 **KCC SEN [Special Educational Need] Assessment and Placement** have written in support of the application, *“welcoming the proposed three-form entry primary school”*. The letter also notes the significant number of children in Kent *“...in receipt of an Education, Health and Care Plan (EHCP)...”*, which equated in 2016 to 2.9% of the total school population, or 7043 children. Of those, 2958 had Autistic Spectrum Disorder. That number amounted to a 37% increase over the number for five years earlier. For Swale, the number of primary aged pupils (Years R to 6) with an EHCP was 317 as of January 2016, and this is expected to increase by approximately 6% in the period to 2020. The letter concludes: *“In the light of this significant evidence, I am pleased to confirm that the County Council expects to commission all the available places at Aspire...”*
- 7.23 **Climate Change Officer** raises no objection, and notes: *“Although the size of this development would normally require a BREEAM standard of “very good” [in accordance with DM19 of the Local Plan 2017] it is unlikely this will be achieved due to ecological factors. The applicant has demonstrated that most of the categories within the rating will reach a “very good” standard but the overall rating will be a “good”.*”
- 7.24 The **Environmental Protection Team Leader** raises no objection, having considered the potential for ground contamination and for adverse impacts on residential amenity during the construction period. A condition is not required in respect of the former, but with regard to the latter a ‘Code of Construction Practice’ condition is required and I have included this below.
- 7.25 **KCC Ecology** raise no objection, and Members will note that comments are given in respect of reptiles, breeding birds, bats (detailed lighting scheme), hedgehogs and badgers, the clearance of existing vegetation, site management and biodiversity enhancements.
- 7.26 In accordance with KCC’s advice, reptile mitigation has now been undertaken in the form of the translocation of a population of slow worms and common lizards to a receptor site at the Milton Creek Country Park. Accordingly, this issue is resolved and a planning condition is not required.

Bat and hedgehog / badger comments are dealt with by conditions, while I have recommended an informative to deal with breeding birds. In the light of amended details and further comments from KCC Ecology, a further condition is included below to deal with ecological management and biodiversity enhancements.

- 7.27 The **Greenspaces Officer** has responded as follows: *“Confirm we are supportive of the application and that having considered the plans feel the landscaping is appropriate mix for the school while recognising the location adjacent to the Community Woodland.”*

8. BACKGROUND PAPERS AND PLANS

- 8.1 Application Form and Certificate B, Planning Statement (August 2018), Design and Access Statement (March 2018), Ecological Assessment (February 2018), Reptile Mitigation Strategy (March 2018), Reptile Translocation Report (October 2018), Transport Assessment (April 2018), Interim Travel Plan (April 2018), Flood Risk Assessment (April 2018), Phase 1 Preliminary Risk Assessment (March 2018), Statement of Community Involvement (April 2018), Written Scheme of Investigation for an Archaeological Evaluation (December 2017), Archaeological Evaluation Summary

Report (July 2018), Below Ground Drainage (Initial Design Concept)(March 2018), Generic Risk Assessment (March 2018), Geotechnical Report on Ground Investigation (September 2018), Arboricultural Implications Report, Drainage Strategy, BREEAM Pre-Assessment, Noise Survey, Contamination Survey, Sustainability Assessment, Construction Management Plan and Lighting Assessment.

8.2 The submitted plans are as follows:

- Location plan (ASPSC BBA 00 XX DR L 1001 S3 P05);
- Proposed site plan (- 1003 S3 P10);
- Tree Removals and Protection (-1014 S3 P05);
- Site Access Plan (-1015 S3 P05);
- Elevations (-A-3001-S8-P05);
- Ground floor plan (-A-2001-S8-P08);
- GA Sections (A-4001-S8-P02);
- Proposed site sections (-L-4002-S8-P01);
- Roof GA plan (-A-2001-S2-P02);
- Soft landscape plan 1 of 2 (-L-8021-S3-P06);
- Soft landscape plan 2 of 2 (-L-8022-S3 P04);
- Landscape materials (-L-9004-S8-P03);
- Hard Landscape Plan 1 of 2 (-L-8001-S3 P08);
- Hard Landscape Plan 2 of 2 (-L-8002-S3 P07);
- Underground Drainage Layout (-D-50000-P01);
- Typical Drainage Details (Sheets 1 to 6)(drawing numbers –D-58001 P01 to –D-58006 P01);
- External Lighting Plan (-DR-E-40900-P01);
- External Lighting Luminaire Lux Plot (-E-40900-P01); and
- Various Views of the proposed development (eight in total).

9. APPRAISAL

Principle of Development

9.1 The application site is located within the built-up area boundary for Sittingbourne, and adjoins a mix of residential and commercial uses. Members will have noted above that the original planning permission for the wider Meads development (which included the application site) envisaged a primary school being developed on the site. As such, and noting that the site is not allocated for any specific type of development in the Local Plan 2017, I consider that the principle of developing the proposed school on this site is acceptable.

Visual Impact

- 9.2 The proposed layout and architectural treatment are explained in the Planning Statement and the Design and Access Statement and a summary of what is proposed is set out at paragraphs 2.1 to 2.11 above.
- 9.3 As noted at paragraph 2.2 above, before the planning application was submitted, the emerging proposals were subject to an independent Design Review by Design South East. The decision letter is appended. This exercise was followed by a meeting between officers, the design team and interested Members.
- 9.4 As explained in the Design and Access (D&A) Statement, the proposal now before Members has emerged from a comprehensive process that considered a number of different arrangements for the siting, configuration and elevational treatments of the building. The Design Review process was a key element of this work and it covered on Page 9 of the D&A Statement. While it is clear that the scheme has been improved following the Design Review, it should be acknowledged that the changes have not been fundamental and this is arguably because the site is heavily constrained by archaeology (which has limited the possibilities in terms of the siting of the building), noise and “visual distraction” from Staplehurst Road (the building has been kept away from this), the need to retain the mature oak tree, and the requirement to provide good levels of natural light and sun-light to teaching areas, while minimising the possibility of over-heating to classrooms during the Summer.
- 9.5 Aspects of the design, such as the corridors and the entrance from Vellum Drive, have been refined since the Design Review in the light of feedback from the Panel and the comments of officers.
- 9.6 The architecture of the building will be simple and reasonably low-key, with traditional facing materials and native planting used to complement the setting.
- 9.7 It is considered that the scheme now before Members will provide a good environment for the pupil cohort, their teachers and other staff, as well as being a sympathetic addition to local environment, which contains an eclectic mix of architectural styles.

Residential Amenity

- 9.8 There are a number of concerns raised by residents of Bristol Close, which is located to the south of the application site. At the south-western corner of the building, the minimum separation distance would be seventeen metres, where the school would address Numbers 6 and 7, Bristol Close. The proposed layout includes space for the provision of intermittent tree planting and other landscaping to soften this relationship.
- 9.9 As set out at paragraph 2.6 above, this part of the school – all of which would be single storey - would have a ridge height of 6.2 and an eaves height of 3.6 metres.
- 9.10 There is considered to be no scope for any significant over-looking from the school, given that it would be single storey, and the separation and orientation (the school is to the north of the houses) is such that levels of light and sunlight enjoyed by the houses would not be unacceptably affected. The school would also not be unduly over-bearing.

- 9.11 The Environmental Protection Team Leader raises no objection (see paragraph 7.24 above), and concludes that the relationship between the proposed school and the houses in Bristol Close would be acceptable.
- 9.12 No other dwellings would immediately adjoin the development site and the houses on Archers Park would be located further from the school and their amenity would not be materially affected.
- 9.13 Conditions are recommended below in order to minimise the impacts of the construction process on residential amenity.

Highways

- 9.14 Given that approximately two-thirds of pupils attending the school will be from outside Swale, there was understandable focus on potential additional traffic movements along the strategic road network and, in particular, through key junctions including Junctions 5 and 7 of the M2, but the applicant has now demonstrated that significant adverse impacts will not result. An important element of the development will be mitigation provided through a Green Travel Plan (secured by planning condition) to ensure that trips to and from the site by non-car modes are maximised.
- 9.15 As set out at paragraphs 7.1 to 7.7 above, detailed feedback on the scheme has been received from both KCC Highways and Transportation (who are responsible for the local road network) and Highways England (responsible for strategic roads, which include the A249 and the M2) and in the light of additional information, both organisations now raise no objection to the scheme.

Landscaping

- 9.16 The application is supported by detailed hard and soft landscaping drawings, which have been amended to enhance the proposals. These include the introduction of 53 individually-planted native trees and hedge planting, together with the retention of the mature oak tree and an area of scrub in the north-east corner of the site. Various areas of wildflower meadow are proposed.
- 9.17 As well as enhancing biodiversity at the site and giving general amenity benefits, the planting will break-up the areas of car parking, soften the visual appearance of the boundary security fence and provide some relief to any potential impact on the residential amenity of the dwellings just to the south of the site.
- 9.18 As well as the above-mentioned security fencing, Members will note the other fencing proposed within the site and the approach to hard surfacing (notably for the car parking and turning areas), where a mixture of tarmac and a gravel system are used. This approach will benefit visual amenity and surface water drainage.
- 9.19 The hard and soft landscaping details are considered to be acceptable, and Members will note the relevant conditions below.

Ecology

- 9.20 Members will note the comments made by KCC Ecology, which are summarised at paragraphs 7.25 and 7.26 above, and that they raise no objection given that reptiles have now been translocated to a new receptor site and the mature oak tree located

close to the Vellum Drive frontage is to be retained. This is beneficial in both ecological and visual respects, and will form part of a comprehensive scheme of native tree planting proposed as part of this development.

- 9.21 Conditions are included below to mitigate potential impacts on protected species and to ensure that all relevant opportunities to enhance biodiversity are incorporated in the proposed development.
- 9.22 A lighting condition to minimise impacts on bats is also set out below. An initial plan has been submitted in an attempt to satisfy the requirements of the condition, but it is not acceptable to KCC Ecology. I have raised this with the agent and a further plan may well be submitted before the Committee meeting. I will update Members.
- 9.23 The application site is located within the six-kilometre buffer for the Special Protection Area, and this issue is mentioned in the Ecological Assessment (Ecology Solutions, February 208) submitted alongside the application. I note that, at paragraph 7.6 of that, it is concluded that “...*given the scale of the proposals and their isolated nature (being buffered from the SSSIs [and SPAs] by developed residential land), it is not considered likely that any direct or indirect effects on the interest features of the SSSIs would occur.*” Noting also that the development wont result in new residents in the locality and that the children will generally not be leaving the site during the school day, I agree with this conclusion and consider it reasonable to conclude that there will not be material impacts on the designated sites, namely the Swale and Medway Marshes SPAs, Ramsar sites and SSSs.

Archaeology

- 9.24 The original planning submission included an Archaeological Desk Based Assessment, which identified ‘*a high potential for prehistoric remains...moderate to high potential for the remains of Anglo-Saxon burials...and low to moderate potential for Roman remains.*’ The applicant’s archaeological consultants then produced a Written Scheme of Investigation and the development (particularly the siting of the building, which has been selected to avoid the main area of archaeological interest) has then been taken forward in a way that is designed to minimise potential impact on archaeology. Since the submission of the application, archaeological work has been on-going, and a further report (entitled Archaeological Evaluation Summary Report) has subsequently been provided.
- 9.25 Members will note the summary of the comments from KCC Archaeology at paragraphs 7.17 and 7.21 and that they raise no objection subject to conditions, which are included below (see conditions 12 and 13).

Drainage

- 9.26 KCC Flood and Water Management (see paragraph 7.9 above) and the Environment Agency (see Paragraphs 7.10 above) raise no objection to the proposed development, subject to the imposition of appropriate planning conditions(conditions (5), (6) and (7) below) and as such I consider that the development is acceptable from a surface water drainage perspective.
- 9.27 With regard to foul drainage, Southern Water raise no objection (see paragraph 7.16 above) and that the condition recommended by them in respect of foul drainage is set out below – see number (11).

Sustainable Design and Construction

- 9.28 Page 29 of the Design and Access Statement explains the approach to sustainable design and construction. The Climate Change Officer's comments at paragraph 7.23 above should also be noted together with Policy DM19 of the Local Plan.
- 9.29 The development will incorporate a reasonable package of sustainable design and construction measures, and although a planning condition would typically be imposed to secure either a 'very good' or 'good' rating under the BREEAM accreditation system for measuring the sustainable design and construction standard of a new commercial building, in this case the applicant has explained why this is not appropriate. Members will note the following from the planning agent:
- "As Aspire is an SEN school, we can't apply a standard BREEAM assessment but would need to get BRE to write a bespoke assessment, which was estimated at an additional £3k. This was discussed in pre-apps and agreed that this was not a good use of project funds... Attached is the pre-assessment with commentary for information. You will see that we hit the V.Good level, (55%+) but we can't get this officially as the ecology credit is mandatory for V.Good and displacing that much wildlife doesn't work in our favour. I hope this gives sufficient comfort that the design that will be approved is sustainable in line with BREEAM principles to avoid the need for a condition as discussed at pre-application stage, but we'd be happy to discuss further."*
- 9.30 In the light of this explanation, and noting that the development has been designed with the need to mitigate impacts on the environment in mind, I recommend that Members approve the development without the imposition of a BREEAM or other sustainable design and construction condition.

10. CONCLUSION

- 10.1 The educational facilities that are proposed would not only be of significant benefit to children with the relevant special educational needs living in Swale, but would also provide capacity to help meet the corresponding need arising in other parts of East Kent.
- 10.2 The initial pre-application submission has been developed through the Design Review process and with the benefit of officer input before the submission of the planning application. Since then, some further refinement of the scheme has taken place.
- 10.3 Having considered the scheme in the light of the technical consultation responses set out in Section 7 above and against the sub-headings used in the 'appraisal' in Section 9, I conclude that the development is acceptable and in accordance with the relevant elements of the new NPPF and the applicable policies in the Local Plan, subject to the imposition of conditions as set out below.
- 10.4 I therefore consider that planning permission should be granted.

11. RECOMMENDATION

GRANT Subject to the following conditions:

CONDITIONS to include:

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

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 completed strictly in accordance with proposed site levels as shown on drawing 'Proposed Site Sections (-L-4002-S8-P01).

Reason: In order to secure a satisfactory form of development having regard to the nature of the site levels and noting the relationship with adjacent dwellings.

- (3) 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 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 and loading, off-loading or turning on the site for such vehicles;
- 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
- Measures to ensure that the site is surveyed immediately before construction commences to ensure that neither badgers nor hedgehogs are present.

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.

Reason: In the interests of minimising disturbance to residents living in the vicinity of the site and disturbance to biodiversity.

- (4) No external lighting shall be constructed at the site other than in accordance with a scheme that shall have been submitted to and approved in writing by the Local Planning Authority. The scheme shall be designed to minimise the potential for impacts on bats.

Reason: In order to prevent potential harm to the local bat population.

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

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

- (6) 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;
- 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), as per the requirements of Paragraph 165 of the NPPF and its associated Non-Statutory Technical Standards.

- (7) The building hereby permitted shall not 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.

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

Reason: The Site is underlain by a secondary and principle aquifer and in a Source Protection Zone (SPZ) 1. Construction activities could cause turbidity in public supply.

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

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

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

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

- (11) No development beyond the construction of foundations shall take place until details of the proposed means of foul water sewerage disposal have been submitted to, and approved in writing by, the Local Planning Authority.

Reason: In order to ensure that adequate provision is made for the disposal of foul and water from the development.

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

- i) archaeological field evaluation works in accordance with a specification and written timetable which has been submitted to and approved by the Local Planning Authority;
- ii) following on from the evaluation, any safeguarding measures to ensure preservation in situ of important archaeological remains and/or further archaeological investigation and recording in accordance with a specification and timetable which has been submitted to and approved by the Local Planning Authority; and
- iii) a scheme for archaeological interpretation – in the form of a display board or similar – together with a programme for its provision.

Reason: To ensure that features of archaeological interest are properly examined and recorded and that due regard is had to the preservation in situ of important archaeological remains.

- (13) No development shall take place until fencing has been erected - in a manner to be agreed with the Local Planning Authority, about the Bronze Age barrows identified as cropmarks - and no works shall take place within the area inside that fencing without the written approval of the Local Planning Authority.

Reason: To ensure that important archaeological remains are not adversely affected by construction works.

- (14) The scheme of tree planting and hard and soft landscaping shown on Soft Landscape Plans 1 of 2 (- L – 8021 S3 P06), 2 of 2 (- L – 8022 S3 P04), and Hard Landscape Plans 1 of 2 (- L 8001 S3 P08) and 2 of 2 (- L – 8002 S3 P07) shall be carried out within 12 months of the completion of the development. Any trees or shrubs removed, dying, being severely damaged or becoming seriously diseased within five years of planting shall be replaced with trees or shrubs of such size and species as may be agreed in writing with the Local Planning Authority.

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

- (15) The Category B tree (Turkey Oak) shown to be retained on the 'Tree Removals and Protection Plan' (revision P05) shall be retained throughout the lifetime of the development, and during the construction phase shall be protected in accordance with the details appended to the Arboricultural Implications Report (February 2018).

Reason: In the interests of visual amenity and protecting biodiversity.

- (16) No development beyond the construction of foundations shall take place until details of tree protection measures for the proposed trees have been submitted to and approved in writing by the Local Planning Authority. The tree planting shall then be undertaken in accordance with the approved details.

Reason: In the interests of visual amenity and encouraging biodiversity.

- (17) No development beyond the construction of foundations shall take place until details of the proposed arrangements for the initial establishment and on-going management (for a minimum period of five years following implementation) for the Wildlife Meadow areas as shown on drawings Soft Landscape Plans 1 of 2 (- L – 8021 S3 P06), 2 of 2 (- L – 8022 S3 P04) have been submitted to and approved in writing by the Local Planning Authority. The areas shall then be maintained in accordance with the agreed details.

Reason: In the interests of visual amenity and encouraging biodiversity.

- (18) Within 6 months of construction commencing an ecological enhancement and management plan must be submitted to the Local Planning Authority for written approval. It must include the following information:

- Site plan clearly showing the management areas
- Details of what management is required
- Timings of the management
- Frequency of the management
- Details of ecological enhancements to be incorporated in to the site (to include log piles and at least two hedgehog houses and two bat boxes)
- Details of management plan reviews

The works must be implemented as detailed within the approved plan, and retained as approved in perpetuity.

Reason: In the interests of encouraging biodiversity.

- (19)The area shown on the submitted layout (namely - 1003 S3 P10) as vehicle parking and turning space shall be provided and surfaced in accordance with the submitted details before the use is commenced or the premises occupied, and shall be retained for the use of the occupiers of, and visitors to, the premises, and no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order), shall be carried out on that area of land so shown or in such a position as to preclude vehicular access to this reserved parking space.

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

- (20)Prior to the development being brought into use, an updated School Travel Plan shall be prepared and submitted to and approved in writing by the Local Planning Authority. The Travel Plan shall then be implemented in accordance with the approved framework and shall remain in force for the duration of the approved use. There shall be an annual review of the Travel Plan (for a minimum of 5 years) from the date of approval of the plan to monitor progress in meeting the targets for reducing car journeys.

Reason: To ensure the development accords with the measures set out in the travel plan, and in the interests of sustainable development and promoting public transport, walking and cycle visits.

- (21)The access details shown on the approved plans (namely - 1003 S3 P10 and - 1015 S3 P05) shall be completed to the satisfaction of the Local Planning Authority prior to the first occupation of the building hereby approved, and shall thereafter be maintained as such unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of highway safety.

- (22)The vehicular entrance gates erected shall be of a sliding type running parallel to the site frontage as shown on the Proposed Site Plan (namely –L-1003-S3-P10) hereby approved.

Reasons: In the interests of highway safety and convenience.

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

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

Reason: In the interests of residential amenity.

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

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

Reason: In the interests of residential amenity.

(25)The development hereby approved shall be carried out in accordance with the following approved plans:

- Location plan (ASPSC BBA 00 XX DR L 1001 S3 P05);
- Proposed site plan (- 1003 S3 P10);
- Tree Removals and Protection (-1014 S3 P05);
- Site Access Plan (-1015 S3 P05);
- Elevations (-A-3001-S8-P05);
- Ground floor plan (-A-2001-S8-P08);
- GA Sections (A-4001-S8-P02);
- Proposed site sections (-L-4002-S8-P01);
- Roof GA plan (-A-2001-S2-P02);
- Soft landscape plan 1 of 2 (-L-8021-S3-P06);
- Soft landscape plan 2 of 2 (-L-8022-S3 P04);
- Landscape materials (-L-9004-S8-P03);
- Hard Landscape Plan 1 of 2 (-L-8001-S3 P08);
- Hard Landscape Plan 2 of 2 (-L-8002-S3 P07);
- Underground Drainage Layout (-D-50000-P01); and
- Typical Drainage Details (Sheets 1 to 6)(drawing numbers –D-58001 P01 to –D-58006 P01).

Reason: In the interests of proper planning.

(26)Before the building hereby approved is first used, details of the bin storage enclosure shall be submitted to and approved in writing by the Local Planning Authority. The approved structure shall then be provided within 28 days and then retained in perpetuity.

Reason: In the interests of visual amenity.

(27)Further to the information shown on the proposed Site Plan (drawing number –L-1003 S3 P10), the school shall not be first used until the cycle stands and shelter have been provided in accordance with full details that shall first have been submitted to, and approved in writing by, the Local Planning Authority. The cycle stands and shelter shall then be retained as such in perpetuity.

Reason: In the interests of making appropriate provision for sustainable forms of transport.

(28)The use of the premises hereby permitted shall be restricted to the hours of 7 am to 9.30 pm on weekdays, 7 am to 12 noon on Saturdays, and shall not take place at any time on Sundays or Bank Holidays.

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

(29)The development hereby approved shall be used for the purpose of a primary school and for no other purpose, including any other purposes in Class D1 (non residential institutions) of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended).

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

(30) No development beyond the construction of foundations shall take place until details in the form of samples of external finishing materials (brick, cladding panels and roof material) 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.

(31) No development beyond the construction of foundations shall take place until details in the form of British Standards or commercial specifications of the proposed colouring of the cladding panels have been approved by the Local Planning Authority, and works shall be implemented in accordance with the approved details.

Reason: In the interest of visual amenity.

(32) No development beyond the construction of foundations shall take place until details in the form of colour brochures and technical specifications for powder-coated aluminium doors and windows, and of the rainwater goods, have been submitted to, and approved in writing by, the Local Planning Authority. The development shall then be constructed in accordance with the agreed details.

Reason: In the interests of visual amenity.

Appendix – Design Review letter (dated 10 February 2018)

INFORMATIVES

- (1) 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.
- (2) With regard to designing out opportunities for crime and anti-social behaviour and pursuant to Section 17 of the Crime and Disorder Act 1998, the applicant is encouraged to liaise with Kent Police if further advice on these issues is required.
- (3) 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. Please read our New Connections Services Charging Arrangements documents which has now been published and is available to read on our website via the following link <https://beta.southernwater.co.uk/infrastructurecharges>
- (4) It is the responsibility of the applicant to ensure , before the development hereby approved is commenced, that all necessary highway approvals and consents where required are obtained and that the limits of highway boundary are clearly

established in order to avoid any enforcement action being taken by the Highway Authority. 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.

- (5) Information about how to clarify the highway boundary can be found at <https://www.kent.gov.uk/roads-and-travel/what-we-look-after/highway-land/highway-boundary-enquiries>

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

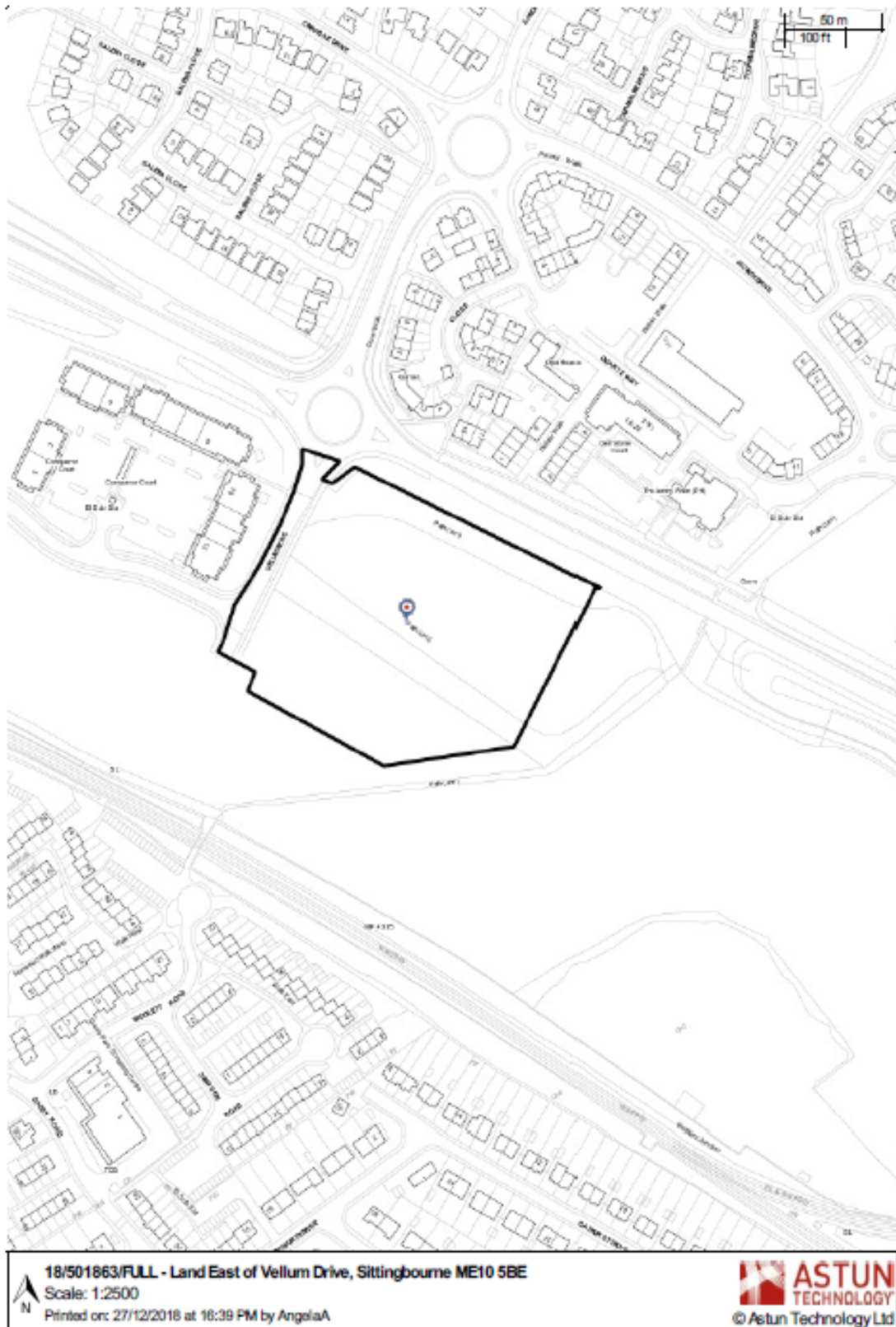
The Council’s approach to the application

In accordance with paragraph 38 of the National Planning Policy Framework (NPPF), July 2018 the Council takes a positive and proactive approach to development proposals focused on solutions. We work with applicants/agents in a positive and creative way by offering a pre-application advice service, where possible, suggesting solutions to secure a successful outcome and 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.





Design Review

**Aspire Special
School
Vellum Drive
Sittingbourne**

10 February 2018



Aspire Special School, Vellum Drive, Sittingbourne, Kent
Reference: 675.1-1038

Report of Design Review Meeting
Date: 24 January 2018
Location: Swale House, East Street, Sittingbourne

Panel

Richard Portchmouth (Chair), Architecture
Luke Engleback, Landscape Architecture
Angela Koch, Planning/Urban Design
Steve Smith, Architecture/Urban Design
Magali Thomson, Architecture

Also attending

David Tittle, Design South East
Simon Algar, Swale Borough Council
Jim Wilson, Swale Borough Council
Cllr James Hunt, Swale Borough Council
Cllr Mike Henderson, Swale Borough Council
Cllr Andy Booth, Swale Borough Council
Tony Whitaker, BAM Construction Ltd
Michael Gibbs, Bond Bryan Architects
Matthew Blythin, DHA Planning
Robin Craig, Bond Bryan Architects
Caroline Gibbs, Bond Bryan Architects
Rameez Saiyed, AECOM

Site visit

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

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



Summary

This is a tricky and challenging site and brief and, as with most schools currently, a restricted budget. Ambitious goals have been set as part of the brief which we would support. However, we do not feel that the current proposals represent a successful resolution of the brief. While some thought has gone into providing the range of internal spaces that the school will need and to issues such as how lunches will be facilitated, the main drivers of design seem to have been the site constraints and the avoidance of risks associated with the students' condition. Few of the positive aspirations articulated in the documents seem to find expression in the design. It is unfortunate that the ultimate client, the school operator, was not present at the review as they might have been able to articulate their positive aspirations which would have enabled a discussion of how the building design could facilitate them. Involving potential parents and students in the design would be a positive move.

We recommend that a number of areas of the design: the long corridors, the orientation, the internal and external arrival points, the building form and materials and the landscape design need to be re-examined. A starting point for such a re-examination might be to look at precedence of successful and inspiring schools for this student group, focussing not on how they overcome the difficulties of the user-group but on how they use their buildings positively to enhance learning and care. We were told that the school had visited 6-8 different units of different types for this user-group but it seems that the lessons learnt from those visits were all about what not to do. Our overwhelming impression was that the function of the building was containment. A more positive approach is needed which focusses on opportunities rather than constraints and brings joy to those learning, teaching and caring in and around this building.

Background

This is a proposal for a new primary school for up to 168 children with Autism Spectrum Disorder and Speech Language and Communication Needs to be developed on behalf of Grove Park Community Primary School and supported by the Education and Skills Funding Agency. It will be a 3,400 sqm building with 100 car parking spaces. The school is to be built on a 1.7 hectare site to the south of Vellum Drive which is part of a wider development known as the Meads consisting of 1,200 homes and a local centre. The site was previously allocated for a general primary school but was not required by the County Council. It is currently undeveloped and used for dog walking providing a link to the new community woodland beyond. The site includes a small area of archaeological interest.

Project objectives

Five objectives have been articulated for this project and we explore below the extent to which these current proposals achieve them.

1. Provide a purpose designed landmark building designed to inspire and motivate students. We cannot see how the current low level building, set back at an angle from the Vellum Drive and Staplehurst Road could be seen as a landmark. However, while this should be seen as a civic building, not hidden from view, we question whether 'landmark' is quite the right word to use. Regarding the second part of this objective, we are not convinced that the external and internal environment of this building will inspire and motivate students.



2. Provide the local community with exceptional facilities, including a new sports facility;

Certain facilities are provided which might be used by the local community, if the school is able and willing to facilitate such arrangements. An understanding is needed about how the design might facilitate that.

3. Exploit its prominent location to promote the School and its activities within Sittingbourne.

This presumably refers to its proximity to Staplehurst Road. We can see nothing in the design which contributes to achieving this objective. The dominant element from Staplehurst Road will be the car park.

4. Enhance the sport offer on the site including new soft and hard surface areas.

The design delivers these facilities.

5. To create a high quality learning environment that contributes to its setting and the community, creating a clear identity synonymous with the delivery of high quality education.

We are far from convinced that this objective will be achieved by the internal and external environment proposed.

Building location and orientation

The proposed location and orientation of the building are said to be driven by the need to avoid building over the area of archaeological sensitive area and to avoid early morning solar glare entering the classrooms. However, we were not shown any options that had been tested regarding the orientation and its effects on light. The result of the proposed orientation is that the building sits at a diagonal on the site. At variance with the grain of the surrounding neighbourhood and therefore delivering a message of being separate. This undermines the objective of giving the building a civic presence within the neighbourhood. It also means that the external areas where students can spill out from the class rooms are awkwardly shaped left-over spaces.

This has been deliberately designed as a 'finger' building to maximise edges and allow light into the classrooms. There will be times of year and times of day when west, south and east facing classrooms experience direct sunlight. Only an extensive study of options can demonstrate that there is a particular orientation which significantly reduces glare. There is a need to provide sheltered external space in many places around the school and this might also play a role in providing shading to the classrooms.

Building form and internal layout

The most disappointing aspect of the proposed design is the long and relatively narrow internal corridors, totally lacking in daylight, which are the only circulation areas. Children need visual references for wayfinding and daylight for wellbeing. We cannot believe that there is not a viable and workable solution that could introduce more natural light into these corridors, such as by the use of clerestories, nor that corridor widths could not be varied to provide more social spaces and aid wayfinding. We understand that special schools are advised to have a greater proportion of space dedicated to circulation. Changes in colour, texture and proportion could also help with orientation.

While we appreciate that a lot of the teaching and support activities that will take place within this school need to take place in secure spaces with minimal distraction, and that very



few of these are required to have no external light, we find it hard to believe that everything must happen behind closed doors. The result of this design is to create something which has a strongly institutional feel and will lack legibility, and while we are sure that the school will take measures to make the space as bright and inviting as possible they will be fighting against the internal environment.

We understand that unlike a mainstream school, there will be staggered arrival times for students, however as some arrive by minibus and some are early or late, there will inevitably be bunching of arrivals. The external and internal arrival space seems inadequate to cope with a process which will often require direct handover from parents or carers to teachers or teaching assistants. More generosity in these spaces would both be more functional and more welcoming.

We question whether there could not be a greater variation in building height and a consequent reduction in building footprint, perhaps by putting some staff areas on an upper floor. We were told that this is not viable, but we would like to see that tested.

Materials

We question whether the extensive use of brick is the best economic decision for this building given the extent to which the budget seems to be restricting ambition in other areas. The large area of metal roof has an industrial feel which we feel might not create an inviting environment.

Landscape, car parking and boundaries

The landscape design seems to be underdeveloped. For example, there seems to be no SUDS strategy. A series of separate external break-out areas are conceived for different year groups but there is a lack of detail as to how the landscape will support the learning activity of each of these groups.

On a wider level we were told that the school are attracted to the idea of a 'forest school' but there was nothing in the plans that showed how they might access the community woodland or how elements of woodland might be brought within the school boundary. There does not seem to have been any attempt to explore and exploit the educational or therapeutic benefits of the landscape through topographical seating or sensory elements or to make more functional aspects, such as rainwater run-off, into interesting features. At the review meeting we heard from a local councillor about how rainwater harvesting and attenuation are deployed in a nearby school as interesting and educational features.

We appreciate that what appears to be a high level of parking will be needed to cope with the high staffing levels and the need for secure vehicle drop-off for many of the students. The proposed car park layout seems rational, but it would have been helpful to see other options explored as to its position. As stated above, more generosity in the drop off area would be helpful and some greening of this area, and the car park in general, would make it more welcoming. SUDS features could be used to add interest and support biodiversity.

There is a clear need for a secure boundary to the school because of the potential behavioural difficulties that the students might experience from time-to-time. A strategy to soften and bring character to this boundary and reduce its institutional feel is needed. This might be



achieved through a combination of mesh fencing and hedging. The large oak tree which we understood is to be retained is not shown clearly on all plans so it is not possible to verify that its root zone has been protected.

This review was commissioned by BAM Construction Ltd with the knowledge of Swale Borough Council.

CONFIDENTIALITY

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

APPENDIX 1

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2.6 REFERENCE NO - 17/506603/REM		
APPLICATION PROPOSAL Approval of reserved matters relating to scale, layout, appearance and landscaping for the erection of 310 dwellings, pursuant to conditions 1, 4, 10 and 24 of outline planning permission 15/504264/OUT. Approval sought for residential part of outline scheme only.		
ADDRESS Land At Perry Court London Road Faversham Kent ME13 8YA		
RECOMMENDATION - That the reserved matters are APPROVED.		
SUMMARY OF REASONS FOR RECOMMENDATION/REASONS FOR REFUSAL The reserved matters would accord with the terms of the outline planning permission and the scale, layout, appearance and landscaping of the residential scheme is acceptable and in accordance with the Local Plan.		
REASON FOR REFERRAL TO COMMITTEE The application is contrary to views expressed by Ospringe Parish Council.		
WARD Watling	PARISH/TOWN COUNCIL Ospringe	APPLICANT BDW Kent AGENT
DECISION DUE DATE 26/04/18		PUBLICITY EXPIRY DATE 27/11/18

Planning History

18/503057/FULL

Erection of a 3 storey, 66 bed care home for older people with associated access, car park and landscaping.
Pending Consideration

18/502735/FULL

Erection of a new supermarket (Use Class A1) and a hotel (Use Class C1) along with associated accesses, car and cycling parking, lighting, drainage, hard and soft landscaping and associated infrastructure.
Pending Consideration

17/506598/SUB

Submission of Details to Discharge Condition 23 Parts a-k (Development Brief) Subject to 15/504264/OUT
Approved Decision Date: 27.12.18

15/504264/OUT

Outline application (with all matters reserved other than access into the site) for a mixed use development comprising: up to 310 dwellings; 11,875sqm of B1a floorspace; 3,800sqm of B1b floorspace; 2,850sqm of B1c floorspace; a hotel (use class C1)(up to 3,250sqm) of up to 100 bedrooms including an ancillary restaurant; a care home (use class C2)(up to of 3,800sqm) of up to 60 rooms including all associated ancillary floorspace; a local convenience store (use class A1) of 200sqm; 3 gypsy pitches: internal accesses; associated landscaping and open space; areas of play; a noise attenuation bund north of the M2; vehicular and pedestrian accesses from Ashford Road and Brogdale Road; and all other associated infrastructure.
Approved Decision Date: 27.03.2017

SW/14/0015

Outline application (with some matters reserved other than access into the site) for a mixed use development comprising: up to 315 dwellings; 11,875sqm of B1a (offices) floorspace; 3,800sqm of B1b (research and development) floorspace; 2,850sqm of B1c (Light industrial) floorspace; a hotel (use class C1)(up to 3,250sqm) of up to 100 bedrooms including an ancillary restaurant; a care home (use class C2)(up to of 3,800sqm) of up to 60 rooms including all associated ancillary floorspace; a local convenience store (use class A1) of 200sqm; internal accesses; associated landscaping and open space; areas of play; a noise attenuation bund north of the M2; vehicular and pedestrian accesses from Ashford Road and Brogdale Road; and all other associated infrastructure.

Refused Decision Date: 09.06.2014

1. DESCRIPTION OF SITE

1.01 The application site is comprised of former agricultural fields which are defined by hedgerows which run in a north to south direction. The total area of the site is 33.1 hectares in size. There are no buildings located on the site and a public footpath crosses the site from Brogdale Road to Perry Court, i.e. west to north. Preparatory and access works in connection with the outline permission (new roundabout to Ashford Road, archaeological works) have been undertaken on the site.

1.02 To the north of the application site lies The Abbey School, Perry Court Farm and varying residential properties. To the east, lies Ashford Road and residential dwellings which form a linear pattern along this road from north to south. The southern boundary of the site is defined by the M2 motorway. The site is bound to the west by Brogdale Road and the two residential dwellings, known as 'Ash Tree Cottages'.

1.03 A Grade II listed Oasthouse, which forms part of Perry Court Farm, is located directly north-west of the Site and was built in 1904. Additionally, Orchard Cottages, which are also Grade II listed, are located beyond Ashford Road to the north-east, and a Grade II listed Gazebo located adjacent to the A2 and Ashford Road junction, are within fairly close proximity of the application site. It is also noted that a listed windmill is located to the south of the M2.

1.04 The topography of the site falls away from two local highpoints in the south-east and the south-west corners of the site, to a shallow vegetated valley running from the M2 motorway to the centre of the site. The lowest point within the site lies in the north-west corner. The surrounding landform is gently sloping and in general falls slowly through Faversham where it meets and drains into Faversham Creek.

1.05 The boundaries of the site on Ashford Road and Brogdale Road are defined by hedgerows and landscaping of varying quality, with some gaps. Boundary landscaping on the Ashford Road frontage has been removed to facilitate the roundabout and highways works on this road. The land levels of the site are raised above Ashford Road by up to 2 metres. Likewise the site levels are raised above Brogdale Road, but not to the same extent as Ashford Road.

1.06 The site is allocated in the adopted local plan for a mixed use development and benefits from outline planning permission for such development granted under 15/504264 (see planning history). The outline permission has fixed the main access points into and out of the site from Ashford Road (via a new roundabout as now built) and Brogdale Road (via a T junction) respectively.

- 1.07 An area of land lying to the south of the site, beyond the M2, is defined as an Area of High Landscape Value. The Kent Downs Area of Outstanding Natural Beauty is located less than half a mile to the south-west of the application site – beyond the M2.

2. PROPOSAL

- 2.01 This application seeks reserved matters approval for the layout, scale, appearance and landscaping of the residential element of the outline permission as required to be submitted under condition 1 of 15/504264/OUT. Details in relation to conditions 4 (the extent of residential development within the site), 10 (car parking provision) and 24 (levels and cross sections) are also required as part of the reserved matters and have been submitted. The area of the site under the control of the applicant extends to approximately 20.70 hectares, including open space. A total of 310 dwellings are proposed, occupying a land area (excluding the open space) of approximately 9.1 Hectares.
- 2.02 The residential development would be contained within three main areas, separated from one another by areas of open space. One residential area would be sited to the north east of the site, adjacent to The Abbey School and Ashford Road. A second area would be located in a more central position on the site, and the third area would be to the north west and adjacent to Brogdale Road and the Oast House, Perry Court Farm, which is Grade II listed.
- 2.03 The residential areas generally correspond with the illustrative masterplan submitted at outline stage. However a parcel of land to the east of the site, shown to be part of the residential area at outline stage, is not included as part of this application. Partly as a result of this, some of the residential development has encroached slightly into the open space as shown on the illustrative masterplan at outline stage. This also includes a minor incursion into land beyond the settlement boundary to the south of Ash Tree Cottages. This boundary is not physically defined. Four dwellings would partly straddle this settlement line by no more than 5 metres, together with a private drive and parking area serving these units.
- 2.04 The drawings submitted demonstrate that despite this encroachment, the residential development would still deliver 11.3 Hectares of open space, against a site-wide requirement of 15 Hectares (as secured under the S106 Agreement with the outline application). The remaining 3.7 Hectares of open space would be delivered on those parts of the site that are not subject to this application.
- 2.05 The layout of the development incorporates a primary road that runs through the site from Ashford Road to Brogdale Road, The road has been intentionally designed to avoid being a straight through-road – to deter rat-running through the site. The primary road largely contains the denser built form within the site, with a more loose-knit layout on the edges of the development. A number of secondary roads and rural lanes lead off this primary road.
- 2.06 The buildings proposed would all be two storeys, and would generally be between 8 and 9 m in height. A number of “focal” buildings are proposed within the development at key locations. These are identified in a variety of ways, either through greater detailing, enhanced use of materials, or taller eaves and ridge heights (or a combination of these). The tallest focal building on site would be 9.5 metres in height.
- 2.07 The design approach for the dwellings follows a relatively traditional style of conventional brick / rendered / tile hung elevations under hipped or gabled roofs. The

scheme utilises a series of different “house types” and incorporates a variety of architectural features and detailing to add interest / variety. This includes use of gable and gablet features, contrasting brick banding, stone cills and quoins, projecting bay windows, contrasting brick plinths, porches and canopies.

- 2.08 The housing mix as proposed (following amendments) would provide 10 x 1 bed flats, 46 x 2 bed flats and dwellings, 132 x 3 bed dwellings and 122 x 4 bed dwellings.
- 2.09 30% of the dwellings will be provided as affordable housing, resulting in 93 affordable dwellings in total. The affordable housing units would be split to provide 70% as affordable rented units and 30% as shared ownership units. 6 units would be provided as wheelchair adaptable homes. The affordable housing mix would be 10 x 1 bed units, 32 x 2 bed dwellings, 33 x 3 bed dwellings and 18 x 4 bed dwellings.
- 2.10 This application has been submitted to seek reserved matters approval for the entire residential development within the site. The precise phasing arrangements for this development are yet to be submitted – and will be subject to a separate requirement for approval under the terms of the S106 agreement.
- 2.11 For the avoidance of doubt, the landscaping sought for approval under this reserved matters application relates to those areas within and immediately surrounding the proposed residential development. The wider strategic landscaping of the site is subject to a separate planning condition (32) of the outline permission and is also subject to control under the S106 agreement.

3. PLANNING CONSTRAINTS

- 3.01 The site is allocated for a mixed use development in the Local Plan.
The site is located within the built confines of Faversham.
The oast building to the north is Grade II listed.
The land to the south of the M2 motorway is within an Area of High Landscape Value
Public Right of Way ZF18 crosses through the site
High Pressure and Medium Pressure gas pipelines cross the site

4. POLICY AND CONSIDERATIONS

- 4.01 **The National Planning Policy Framework (NPPF)** - Since the application was made, the Government has published a revised version of the NPPF (on 24 July 2018). It must be taken into account in preparing the development plan, and is a material consideration in planning decisions. The Framework should be read as a whole (including its footnotes and annexes). The most relevant sections to this application are as follows –
- 4.02 Paragraphs 8 (the three overarching objectives of sustainable development), 10&11 (the presumption in favour of sustainable development), 12 (the importance of the development plan in decision making), 38 (the approach to decision making in a positive and creative way), 54-56 (use of planning conditions and Planning Obligations), 59 (supporting the Government’s objective of significantly boosting housing), 61 (housing mix), 62/64 (affordable housing), 91 (promoting healthy / safe communities), 92 (providing social / recreational facilities), 96 (access to high quality open space), 98 (protection / enhancement of public rights of way, 110 (priority to pedestrians, cyclists and access to public transport within developments), 117 (making effective use of land), 122 (achieving appropriate densities), 124-130 (achieving well designed places), Chapter 16 (conserving / enhancing the historic environment).

4.03 National Planning Practice Guidance (NPPG) -

Conserving and Enhancing the Historic Environment
 Design
 Health and Wellbeing
 Open space, sports and recreation facilities
 Use of Planning Conditions

4.04 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), ST3 (Swale settlement strategy), ST4 (meeting local plan targets), ST7 (the Faversham area strategy), CP2 (promoting sustainable transport), CP3 (delivering a wide choice of quality homes), CP4 (good design), CP5 (health and wellbeing), CP6 community facilities to meet local needs), CP7 (providing for green infrastructure), CP8 (conserving / enhancing the historic environment), MU7 (land at Perry Court, Faversham, 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), DM28 (biodiversity and geological conservation), DM29 (woodlands, trees and hedges), DM32 (development involving listed buildings).

4.05 The main relevant local plan policy is MU7, which is specific to the site and set out in full below –

Planning permission will be granted for a mixed use development at Perry Court Farm, Faversham, as shown on the Proposals Map, to include a minimum of 370 dwellings (inc. care home), together with 18,525 sq. m of B1a, B1b, B1c class employment uses (with a further 2 ha reserved for future employment use), supporting uses and landscaping and open space. Development proposals will:

1. Be in accordance with Policy CP 4 and in particular demonstrate and provide a strong landscape framework (shown by a submitted Landscape Strategy and Landscape and Ecological Management Plan, informed by a landscape and visual impact assessment) to include:

- a. substantial width of woodland planting along the site boundary with the M2, which shall additionally safeguard the setting of the Kent Downs AONB;*
- b. additional substantial areas of woodland planting and green space e.g. community orchards and allotments, within the south western quarter of the site near Brogdale Road;*
- c. retained, managed and enhanced hedgerows and shelterbelts;*
- d. footpath and cycle path routes within green corridors linked to the adjacent network; and*
- e. planting selected to reinforce the local landscape character area.*

2. Be of high quality design, with building siting, form, height and materials related to the existing built form and topography of the site and the surrounding context and to include consideration of:

- a. the setting of landscape and heritage assets;*
- b. the rural approaches to the town; and*
- c. building heights demonstrating they have been influenced by, and show respect for, views from the south.*

3. Provide for a mix of housing in accordance with Policy CP 3, including provision for affordable housing in accordance with Policy DM 8;

4. Through both on and off site measures, ensure that any significant adverse impacts on European sites through recreational pressure is mitigated in accordance with Policies CP 7 and DM 28, including a financial contribution towards the Strategic Access Management and Monitoring Strategy;

5. *Submit a detailed Heritage Assessment to consider the significance of the impact of development at the local level on the heritage setting of the town and other heritage assets in accordance with policies DM 32-DM 33. An archaeological assessment should consider the importance of the site and, if necessary propose mitigation in accordance with DM 34;*
6. *Provide the majority of B1 class employment floorspace as B1a (offices). Employment uses other than B1 will not be permitted unless it is clearly shown that B1 uses would not be achievable. Proposals for alternative employment uses must demonstrate they would not diminish the quality of the development, whilst proposals for main town centre uses will need to be the subject of a impact assessment;*
7. *Undertake an Air Quality Assessment to ensure that the Ospringe AQMA is not compromised, with, if necessary, the use of innovative mitigation measures;*
8. *Submit a Noise Assessment and implement any mitigation arising;*
9. *Be supported by a Transport Assessment to determine the need and timing for any improvements to the transport network and the phasing of development. Development shall undertake such mitigation as necessary which shall include:*
 - a. *interim improvements at Junction 7 of the M2;*
 - b. *improvements to the junctions of the A2/A251 and to the A2/Brogdale Road;*
 - c. *pedestrian and cycling routes;*
 - d. *public transport enhancements to improve links to the town centre; and*
 - e. *implementation of an agreed travel Plan; and*
10. *Provide infrastructure needs arising from the development, including those matters identified by the Local Plan Implementation and Delivery Schedule, in particular those relating to libraries, education and health.*

5. LOCAL REPRESENTATIONS

- 5.01 52 letters of objection received (including 15 from the same household). These raise the following matters (summarised) –
- The existing public footpaths should be retained on site
 - Previous objections (at outline stage) remain
 - No relevant infrastructure to support new housing
 - Impact of development on already congested local roads and junctions
 - Profit is being put before the community and environment
 - The public footpath proposed to the north of the site is too close to Perry Court Cottages and impacts upon privacy and security. It should be relocated further south.
 - Poor visibility at crossing point over Brogdale Road from proposed footpath.
 - Loss of arable / agricultural land
 - Greater likelihood of rat running through existing roads to avoid congestion
 - Ashford Road is at a standstill during peak times, and is too narrow to allow 2 HGV's to pass one another
 - Walking from the site will be difficult due to the lack of suitable crossing points over Ashford Road and the A2 – meaning that more people will use cars.
 - Rise in air pollution
 - Screening and acoustic fencing should be provided to existing dwellings on Ashford Road
 - Cumulative impact of developments in area – including Brogdale Road and Preston Fields on infrastructure and traffic
 - Brogdale Rd is a narrow country lane and is not suitable for increased traffic
 - Safety issues for children using local roads.
 - Brownfield sites should be developed, not greenfield ones
 - Loss of countryside will be devastating
 - The proposal will result in more traffic on the M2
 - Local primary schools are oversubscribed and under funded

- Local NHS facilities are at breaking point
- Additional traffic will impact upon the ability of the fire station to respond to emergencies
- Faversham will lose its unique qualities that set it apart from other towns
- Assurances should be given that traffic calming measures are provided on the A2, an alternative route is created from Oare to the M2, and direct access provided from the new development to the M2.
- It will spoil the green countryside around Brogdale and change in the character of the area
- Noise and disturbance from the development
- It will open the door to further developments to the south of the A2
- How will extra water supplies be provided?
- The ground height of buildings is significantly higher than the A251, creating an unsightly entrance to a medieval market town
- Correspondence with Highways England has revealed that they have major concerns regarding the development until upgrades plans for the A2 / A251 junction are provided.
- The outline scheme was only passed due to the Council's failure to have a plan in place at the time, and should be rescinded.
- Unclear how the green travel plan can be implemented
- A new traffic assessment should be undertaken as there is now a proposal for a discount supermarket in addition to the development approved under the outline permission.
- The layout fails to follow a grid structure as per the historic character of Faversham
- The access road is tortuous and entails unnecessary vehicle mileage and fuel consumption
- The relationship between two roads in the south east corner is clumsy and artificial
- The loop and access format compromises the legibility of the estate
- Pedestrian routes are not overlooked
- The roundabout on Ashford Road is out of character and dangerous for pedestrians / cyclists
- The layout does not encourage social interchange amongst the different residential areas
- The scheme should be linked to improved facilities for pedestrians and cyclists to cross the A2 to access the town centre
- A simpler layout with clearer east to west routes would relate better to the surrounding area, reduce vehicle journey lengths and improve air quality.
- The land banks at the side of Ashford Road are gradually sliding down in places. Who will be responsible for stopping this further?
- Further updated traffic surveys should be undertaken.
- Housing development in Faversham has always been to the north of the A2.

6. CONSULTATIONS

Faversham Town Council

- 6.01 Originally raised objection to the scheme. However, following amendments, Faversham Town Council support the application and welcome the changes to the design and layout that have been incorporated following consultation with the council and the local community.

Ospringe Parish Council

6.02 Raise concern regarding the following matters –

- The main road running east to west across the site will be used as a rat run
- This will lead to increased use of Brogdale Road and other local lanes.
- The Brogdale Road access should be limited to emergency services only
- The impact on Brogdale Road is now greater as 62 houses have been permitted to the north of the site, the expansion of Brogdale Farm, and nearby developments such as Salters Lane (250 homes) and Willow Farm, Painters Forstal.
- Adequate cycle and footpath links should be provided through the site and beyond to the A2 and wider area.
- The design of the dwellings is uninspiring, and does not make reference to the Ospringe Design Statement
- Better sustainability initiatives should be provided, including improved public transport and enhanced pedestrian / cycle facilities.
- A comprehensive programme for construction works should be provided to reduce congestion and parking

KCC Highways

6.03 Following amendments to the scheme, KCC Highways raise no objection to the application subject to conditions, and make the following comments -

1. Road hierarchy. The issues concerning the width of the proposed primary street have been addressed. The primary street is now proposed to be 6m wide with footways on both sides.
2. Pedestrian/Cycle access. The development provides excellent 2.5m wide routes East-West and North-South through the development away in overlooked open space away from vehicular traffic. A continuous footpath link heading North from the Primary Road is now provided on the Western side of the development alongside Brogdale Road.
3. Parking. Parking provision is in accordance with KCC policy IGN3 meeting rural/suburban edge standards. In total 130 Visitor spaces were required and 134 have been provided. The visitor spaces are generally provided in close proximity to the dwellings with tandem parking arrangements as requested.
4. Refuse and Fire tender tracking. Tracking drawings 6930 – 563 E for fire tender is agreed as complete. Refuse tracking drawing 6930 – 564 E is almost complete but requires minor amendments. Dwellings 81 and 82 are omitting a refuse collection point. Tracking has not been completed in front of dwellings 225 and 226 and should be completed. Dwellings 81, 82 and 137 to 145 require a refuse collection point.

Highways England

6.04 No objection. Having examined the reserved matters application pursuant to the outline permission 15/504264/OUT we are satisfied that the proposals will not materially affect the safety, reliability and/or operation of the Strategic Road Network.

KCC Drainage team

6.05 No objection raised

KCC Archaeologist

6.06 The archaeological interest within the site is being dealt with separately under condition 20 of the outline permission. I am satisfied that the reserved matters are covered in the scope of that WSI (Written Scheme of Investigation).

KCC Rights of Way team

- 6.07 Advise that discussions have been held with the developer to clarify the Definitive alignment of public footpath ZF18 through the open space. Request that the layout plans are amended to follow this, however if this is not possible then an application to divert will be required. No objection raised, subject to a condition dealing with the above.

Swale Footpaths Group

- 6.08 No comments other than to advise that any upgrade of public footpaths to a bridleway would need to be subject to due process of law.

Southern Water

- 6.09 Advise that network reinforcement is required to accommodate the development, funded through the New Infrastructure Charge with the remainder funded through Southern Water's Capital Works programme. Some initial dwellings may be able to connect pending such reinforcement.

- 6.10 *Officer note – these comments are relevant to condition 21 of the outline permission which requires means of foul drainage to be submitted to and approved by the Local Planning Authority. This application originally sought approval of condition 21, but this has been withdrawn by the applicant and will be resubmitted at a later date. On this basis, I do not consider that the Southern Water comments are relevant to this reserved matters application*

Kent Police

- 6.11 Advise that some further detailed analysis of crime prevention is required in the layout of the development.

Health and Safety Executive

- 6.12 Raise no objection to the application, but advise that the operator of the gas pipeline should be consulted.

Scotia Gas Networks

- 6.13 No comments received

Environment Agency

- 6.14 We have assessed this application as having a low environmental risk. We therefore have no comments to make.

Natural England

- 6.15 Raise no objection but advise that –
- A HRA together with an appropriate financial contribution should be sought based on the proximity of the site to the Swale SPA and Ramsar sites
 - Loss of agricultural land needs to be part of the planning balance. Soil management measures are required.

- 6.16 *Officer note – Members will be aware that this is a reserved matters application. A financial contribution under the SAMMS strategy has been secured at outline stage to mitigate against impacts on the SPA and Ramsar site. Likewise the loss of agricultural*

land was considered and accepted at this stage. These matters are not for consideration as part of the reserved matters.

KCC Ecology

- 6.17 We presume that the detailed landscape plans will be submitted at a later date and have no detailed comments to make at this time but we are pleased that the site wide plans have confirmed that the locations of the open space/landscape areas will ensure that the connectivity throughout the whole site will be retained

Environmental Health

- 6.18 No objection subject to a condition to require an acoustic survey to be undertaken with mitigation measures (if required) for the residential development.

SBC Greenspaces Manager

- 6.19 No objection to wider landscape design for the open space. Requests suitable provision of dog bins throughout the space, and information / interpretation details where habitats are created and/or enhanced.

SBC Tree Consultant

- 6.20 Advises that the general layout and planting and type of species chosen are acceptable. However the trees proposed on plots 102, 105, 106, 112, 113, 128 and 196 do not appear to have any species marked against them, and this needs to be confirmed.

SBC Strategic Housing and Health Manager

- 6.21 Following amendments to the affordable housing mix to accommodate 4 x ground floor flats and 2 x 2 bed houses as wheelchair adapted homes, no objection is raised to the affordable housing provision provided by the applicant.

7. BACKGROUND PAPERS AND PLANS

- 7.01 The application has been submitted with detailed layout and elevation plans, a Design and Access Statement, Heritage Statement, Arboricultural Assessment and a Minerals Statement. The plans include cross sections and levels information, as required under condition 24 of the planning permission.

8. APPRAISAL

- 8.01 Members may query why this application is being reported to committee given that Faversham Town Council support the scheme. Whilst the vast majority of the site does fall within the town council boundaries (including the area housing all the residential development), a small section of the site in the south east corner (within the public open space) falls within the administrative boundaries of Ospringe Parish Council – and as such the concerns raised by the Parish Council trigger the requirement to report this application to committee.

- 8.02 The principle of residential development on this site has been established by both the allocation of the site within the adopted Local Plan for a large scale mixed use

development, and by the grant of outline planning permission under 15/504264. This reserved matters application seeks approval for the layout, appearance, scale and landscaping of the scheme insofar that it relates to the residential development permitted as part of the outline scheme (excluding the care home).

- 8.03 “In principle” matters such as highways impacts / traffic generation, air quality, loss of countryside and agricultural land have been considered acceptable in granting outline permission, and these are not subject to consideration as part of the reserved matters, despite the fact that these have been raised by many objectors to this application. The access points to the development have also been fixed at outline stage, comprising a roundabout (now built) on Ashford Road and a junction onto Brogdale Road.
- 8.04 This application for reserved matters has been made on a parcel of land totalling 20.7 Hectares, including open space to be delivered as part of the residential development. This excludes land to the east and south of the site shown indicatively at outline stage to accommodate a care home, hotel and employment uses. It also excludes an area of land of approximately 0.5 hectares on the east side of the site, designated under the outline permission for residential development / a local shop. The total area of the site, including the above parcels, measures 33.1 Hectares.
- 8.05 The terms of the outline permission secured the following requirements relevant to this application.
- That at least 15 Hectares of open space is delivered as part of the wider development (secured under the S106 agreement)
 - That 30% of dwellings would be delivered as affordable units, based on 70% as rented and 30% as shared ownership (secured under the S106 Agreement)
 - That the reserved matters shall show the residential development restricted to the residential areas as identified indicatively on the illustrative site layout drawing submitted with the outline application. (condition 4 of the outline permission)
 - That reserved matters shall show adequate land for car parking (condition 10)
 - That the reserved matters shall be in accordance with a Development Brief that shall first have been agreed in writing by the Local Planning Authority (Condition 23)
 - That the reserved matters shall include cross sections drawings of existing and proposed site levels (condition 24)
- 8.06 The Development Brief has been approved (17/506598) and, in short, sets the following parameters relevant to the residential development –
- A street hierarchy for the development of primary and secondary streets, rural lanes and private drives, with specifications for the broad design of each road type
 - Dedicated pedestrian and cycle routes through the site, providing links with existing public rights of way and new pedestrian access points onto Brogdale Road and Ashford Road. The routes also connect to provide internal circuits within the site.
 - An overall landscape strategy for the site, based on the provision of 15.2 Ha of open space
 - Provision of a surface water drainage strategy based on SuDS
 - Architectural treatment of dwellings to be based upon local vernacular design.
 - Use of feature buildings in important locations
 - Relevant buildings to be designed to turn corners well and provide interest.
 - A strategy to utilise predominantly 2 storey residential buildings, with some 2.5 storey buildings within the primary route. Variety will be provided through different roof styles, use of topography and the use of feature buildings.
 - Measures to set buildings back from Brogdale Road and Ashford Road and to provide appropriate landscaping to these roads.

8.07 Policy MU7 of the adopted Local Plan sets out a list of specific objectives and criteria (numbered 1-10) for development proposals to follow on this site, as set out in paragraph 4.05 earlier in this report. Insofar that this relates to this reserved matters application, I would highlight the following criteria as being relevant to this specific application –

- (2) *Be of high quality design, with building siting, form, height and materials related to the existing built form and topography of the site and the surrounding context and to include consideration of:*
 - a. *the setting of landscape and heritage assets;*
 - b. *the rural approaches to the town; and*
 - c. *building heights demonstrating they have been influenced by, and show respect for, views from the south.*
- (3) *Provide for a mix of housing in accordance with Policy CP 3, including provision for affordable housing in accordance with Policy DM 8;*
- (5) *Submit a detailed Heritage Assessment to consider the significance of the impact of development at the local level on the heritage setting of the town and other heritage assets in accordance with policies DM 32-DM 33.*
- (8) *Submit a Noise Assessment and implement any mitigation arising;*

8.08 For clarification, the other criteria listed under the policy has either been subject to assessment at outline stage, or is subject to a specific condition as part of the outline permission, as set out below

- (1) *A strong landscape framework* – 15 Hectares of open space were secured as part of the S106 agreement with the outline permission. A Green Infrastructure and Biodiversity Management Plan and strategic landscaping details for the site were secured under conditions 22 and 32 of the outline permission, and are subject to separate approval.
- (4) *Mitigation of impacts on the SPA* – A SAMMS payment was secured under the S106 Agreement with the outline permission.
- (6) *Restriction to B1 Employment* – this was restricted under condition 39 of the outline permission.
- (7) *Air Quality* – the effect of the development on air quality was assessed as part of the outline application and found to be acceptable.
- (9) *Transport Impacts* – these were assessed as part of the outline application. Financial contributions totaling £808,450 were secured under the S106 agreement towards improvements to the A2 / A251 junction, J7 of the M2, off-site public footpath improvements, and sustainable transport measures. A sustainable travel plan was also secured under the S106 agreement.
- (10) *Infrastructure Needs* – these were assessed as part of the outline application and identified contributions were secured under the S106 agreement.

8.09 Members will also note from the planning history above that further planning applications have been submitted for development of the land to the east of the residential area, adjacent to Ashford Road. These applications do not comply with the terms of the outline planning permission and as such have been submitted as “stand-alone” full planning applications. They include a care home and hotel scheme as were also permitted under the outline scheme. However the care home is larger than the parameters approved, and the applications now include a supermarket proposal, which was not part of the outline permission. These applications will be determined on their own merits, taking into account the extent to which they comply with the development plan (including the site allocation), national policy and any other material considerations. However, for the purposes of this application, I would advise members that they should consider the reserved matters against the parameters of the outline planning application, and not the full applications that are under consideration.

Layout,

- 8.10 The scheme has been developed based on a number of overarching design principles established in part through the outline permission, and also the Development Brief, as approved under condition 23 of the outline permission and summarised above. In this process, my officers have sought numerous amendments to the scheme to improve the layout and design as originally submitted.
- 8.11 The indicative plans at outline stage showed the residential development to be split into three areas, separated by large areas of open space. The reserved matters generally follow this layout, as required under condition 4 of the outline permission, with large areas of open space separating the three housing areas, and roads to connect the areas to each other. The layout has resulted in some adjustment to the boundaries of the housing areas and the open space areas shown at outline stage. However these were only indicatively shown, and a small degree of flexibility has been used to accommodate a satisfactory layout. This does involve a very small encroachment beyond the settlement boundary line as defined in the local plan to the south. However this is very limited in effect, with dwellings partially extending into this area by no more than 5 metres. There is no physical site feature that defines this settlement line. In my opinion, the impact on the countryside arising from this would be very limited and not sufficient, in the context of this application, to amount to material harm.
- 8.12 As well as creating three physically separate housing areas, the layout also uses character areas, referred to as 'Rural Edge, Urban Realm' and 'Oast View'. The key difference between these three areas is density and associated spacing between the buildings, with the 'Urban Realm' areas largely occupying the central parts of each housing area, including the primary road through the site. This character area contains a higher level of housing density, includes a slant towards terraced and semi detached units and includes all the proposed 2.5 storey dwellings. The 'Rural Edge' character area includes those units on the periphery of each housing area – and predominantly fronting open green space. The 'Oast View' character area, as one might expect, contains houses all of which would have varying degrees of a view of the grade II listed Malthouse and Oasthouse at Perry Court. The houses at this location appropriately display a finer level of architectural detailing and the principal frontages with a view of the listed building are effectively book-ended/framed by two pairs of 'feature buildings'.
- 8.13 The layout is designed with houses facing Ashford Road and Brogdale Road. Due to the nature of these roads and differences in land levels (the site is 2 metres higher than Ashford Road in places), the proposed dwellings would not take direct access from Brogdale or Ashford Road, and would utilise the main access points into the site. The dwellings facing Ashford Road would be set back from the road boundary by a distance of at least 24 metres, separated by an area of green space. This is a purposeful "principle" derived from the outline permission, and helps manage the prominence and scale of the proposed dwellings given the difference in levels between the site and Ashford road. The layout of dwellings fronting Brogdale Road has been designed with a varied building line, different house types and good sized gaps between dwellings, to provide a more organic frontage to this road, so far as possible for an "estate" style large scale development.
- 8.14 The layout is designed so that all dwellings provide active frontages to roads, and many dwellings front onto areas of green space. This would provide a wider attractive appearance to the development (rather than open space backing onto rear gardens), provides an attractive outlook for residents and natural surveillance of the open space.
- 8.15 The primary road within the development would run east to west through the site between the two main approved access points on Ashford Road and Brogdale Road

(these access points being approved as part of the outline permission). It has been designed to avoid a straight road through the site, to reduce potential for rat running and to maintain low vehicle speeds. It also includes a series of raised tables at key junctions, and a small number of “squares” where there is a greater sense of enclosure and views are framed. The primary road would link to a number of smaller secondary roads and rural lanes, which are narrower in width and more informal in appearance. The road layout and street hierarchy adopted within the scheme is acceptable to KCC Highways.

- 8.16 The scheme includes a substantial network of footpaths and cycle routes through the site. The layout has been designed to retain existing public footpaths on site – although Members will note that the KCC Rights of Way team has identified a discrepancy with the precise line of the definitive public footpath through the open space, and request a planning condition to deal with this. New footpath routes would be created and pedestrian links to Brogdale Road and Ashford Road would be provided to the north of the site. The existing footpath route to the north of the site, through Perry Court and the Abbey School would be retained and enhanced through funding secured under the outline permission. KCC Highways consider the on-site pedestrian and cycle links to be a particularly good feature of the scheme.
- 8.17 The layout would be punctuated by substantial areas of open space. The main area of open space would be to the south west of the site, and would contain a playing pitch, allotments, a proposed orchard area and substantial open space and new planting. In addition to this, large areas of open space would be provided to the north west of the site (adjacent to the listed oast building), between the three housing areas, and fronting Ashford Road. These include two formal play areas for children, swales and infiltration basins. The overall extent of open space would substantially exceed the requirement under Policy MU7 of the Local Plan for the entire site. Although the application shows there would be some “creep” beyond the indicative residential boundaries shown at outline stage, the residential development would provide 11.3 Ha of the total of 15 Hectares of open space required under the S106 agreement. I consider this would be proportionate to the extent of the reserved matters submission, with the remaining 3.7Ha of open space to be delivered under subsequent applications on the remainder of the site which totals 12.4Ha in size. The extent and layout of the open space is generally acceptable to the Council’s Greenspaces manager, although some amendments to the detailed design of the play areas is sought, and car parking in connection with the sports pitch is also required. These matters can be secured by a planning condition.
- 8.18 The layout of the development has also been designed so that an area of open space extends southwards from the north boundary adjacent to the listed oast house to the primary road within the development. The location of this space has been purposefully designed to provide a vista of the neighbouring listed oast building from within the development which, in my opinion, would positively add to the layout and design of the scheme, and draws on a locally important feature.
- 8.19 The housing mix is set out in paragraph 2.08 above. My officers have negotiated a significant reduction in 4 bed units on the site from 175 as first proposed. Nonetheless, Members will note the housing mix is still heavily weighted towards 3 and 4 bed units. I note that the officer report for the outline application stated “The proposed dwelling type, mix and number will predominantly reflect the general character of the area and likely comprise a greater proportion of family sized housing in response to local characteristics.” In addition, I note that the supporting text to policy CP3 of the Local Plan states that “the development of family housing in keeping with the character of the existing area should be encouraged”. On this basis, I consider the housing mix to be appropriate to this edge of settlement site.

- 8.20 The scheme would make a significant contribution towards affordable housing through the delivery of 93 affordable units. The layout and type of affordable housing proposed is acceptable to the Council's Strategic Housing Officer.
- 8.21 The rectangular parcel of land adjacent to plots 144-159 was originally shown to be part of the residential development at outline stage – albeit that it was also allocated to accommodate a local shop. This land does not form part of the reserved matters and is not within the control of the applicant. This does create a degree of uncertainty as to the future use of this parcel of land. However, the outline permission included a hotel, care home, local retail unit and B1 employment floor space – and the parcel of land could still be utilised for such uses under the terms of the outline scheme.
- 8.22 Members will also note that a separate planning application has been made for a care home to be erected on this land parcel. As noted above, the outline permission for the site included a care home of up to 60 bedrooms. However the application currently submitted (Ref 18/503087/FULL) is for a 66 bed care home and exceeds the size of the care home permitted. As this it falls outside of the terms of the outline permission, it cannot be considered as a reserved matters application, hence why it has been submitted as a stand-alone full planning application. This application is currently under consideration – and for this reason Members should not give this specific application any significant weight in their decision-making process. However they should give weight to the potential for the uses as set out in the paragraph above to come forward on this land, and on this basis I am satisfied that the exclusion of this land from the residential development would be unlikely to result in it becoming a left over or vacant plot of land in the longer term.

Scale and appearance

- 8.23 From the outset, the application has been based upon a primarily two storey form of residential development with traditional elevations and detailing. There are some departures from this, namely selected terraces that are 2.5 storeys in height, and the use of feature buildings which occupy key locations and have been designed with greater emphasis either on scale (for example by using raised eaves heights), or articulation / material finishes. There was, and still is an argument to suggest that the applicant could have been more adventurous in their approach to elevational treatment by putting forward a distinctive contemporary approach to recognise the development as a twenty-first century expansion of the town.
- 8.24 Notwithstanding this, the development has well presented elevations with variety in materials, house types and detailing. All the house types display traditional pitched roof forms with variations including hips and dormers, broken eaves and gabled and hipped bays and wings. The window designs are either sash or casement types, whilst the doors are typically panelled and part glazed and in the case of front entrances, set below an open canopy porch of simple form. The proportions of the buildings generally work well with the fenestration design, and the scheme manages to avoid negative design issues such as inappropriate blank elevations and slack roof pitches which could otherwise detract from its overall sense of visual appeal and coherence.
- 8.25 The feature buildings essentially provide an upgrade from the standard house types with the options consisting of a combination of different material finishes, a hipped roof alternative (to the standard gable design), increased eaves height and/or the inclusion of chimneys.
- 8.26 The potential monotony of two storey buildings is broken up by the use of differing roof types and ridge lines, as well as some larger scale units as set out above. Importantly,

the topography of the site also acts to create variation in the roof lines. As the drawings demonstrate, the scheme would deliver a series of attractive street scenes, much of which would also be seen in the context of a strong landscaped setting. The limitation in building height utilised across the residential development also limits the wider impact of the development on the rural landscape to the south and west.

- 8.27 The scheme was subject to a Design Review in September 2017, prior to submission of the application. The review panel raised some concerns regarding the layout of the development and the access points, particularly the use of a roundabout onto Ashford Road. However this was fixed under the outline permission, as were the allocation of general areas within the development for different uses. The applicant has taken on board some comments raised, for example orientating the layout to provide views of the neighbouring oast, using hierarchy to create higher densities along the primary road. A Building For Life Assessment has also been undertaken by my officers and the development generally scores well in this respect.

Impact on setting of listed building

- 8.28 Policy MU7 of the Local Plan states that a heritage assessment must be submitted to consider the significance of impacts upon heritage assets in accordance with policies DM32 and DM33. Policy DM32 of the Local Plan states that development affecting the setting of a listed building will be permitted provided the interest of the listed building and its setting is preserved.
- 8.29 Section 66 of the Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990 states that “In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses” Members should note that this places a strong presumption against any harm to a listed building.
- 8.30 The NPPF states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. Any harm should require clear and convincing justification. Where a development would lead to substantial harm, this should be refused unless it can be demonstrated that such harm is necessary to achieve substantial public benefits that outweigh that harm. Where a development proposal would lead to less than substantial harm, this should be weighed against the public benefits of the proposal.
- 8.31 The Oast House at Perry Court Farm is located to the north of the site on the Brogdale side of the development. The building is Grade II listed and dates from 1904. The list description states that this is a fine building of its kind, consisting of 2 square oast houses at the East end, 1 at the West end and a 3-storey malthouse or granary between. The oast houses at the ends of the buildings have pyramidal slate roofs with the tops cut off to make way for the cowls.
- 8.32 The significance of the building is as a fine example of an oast composition, which of course is distinctive to the Kent countryside. Although the oast is no longer in agricultural use (it is a business premises), the building retains its original form and character. The Heritage Statement submitted with the application states that as well as its architectural and historical interest, it derives a relatively small degree of significance

from its setting. The statement concludes that there would be some harm to this setting, but that this would be less than substantial harm.

- 8.33 In reaching this conclusion it is important to note that such harm should be weighed against the public benefits of the proposal. In this instance, the oast is sited 55 metres from the site boundary. The layout of the proposed development has been designed with a substantial area of open space immediately adjacent to this boundary. As a result, a gap of some 95 metres would be maintained between the closest proposed dwellings and the oast building. The closest dwellings would be two storeys in height. The oast would clearly be dominant in scale in relation to these proposed buildings, and the open space proposed to the north of the site would assist in retaining a setting to the oast building.
- 8.34 Clearly, the principle of residential development on the wider site as granted through the outline permission and site allocation in the Local Plan would change the existing rural setting to the south of the listed oast building. However, I am satisfied that the layout and design of the proposed development would minimise impacts on the setting of the listed building for the reasons as set out above. I consider any harm would be of no greater consequence than would have been considered during the outline scheme or allocation of the site for development. I also note that the extent of residential development in this part of the site is somewhat less than the area indicatively shown at outline stage.
- 8.35 Whilst any harm to a heritage asset carries strong weight, the public benefits of bringing forward a key allocated housing site, together with the sensitive layout of the scheme to minimise such impacts is, in my opinion, sufficient to carry greatest weight. On this basis, I do not consider the impacts on the setting of the listed building to be unacceptable.

Residential Amenity

- 8.36 The dwellings on the east side of the site would be sited a minimum of 45 metres from existing dwellings on the east side of Ashford Road. Views from these properties would change, and I note that the development site is up to 2 metres higher than the level of Ashford Road. However loss of a view is not a material planning consideration, and I do not consider at this distance that the scale and form of the residential development would be harmful to the provision of light, outlook and privacy to these properties.
- 8.37 The two dwellings at Ash Tree Cottages on Brogdale Road would be enclosed on three sides by the application site. The residential development would be sited to the north and east of these properties. However, they enjoy very large gardens, and the closest proposed dwellings to the east would be sited some 40-50 metres from the existing dwellings, and a gap of some 15 metres would be maintained to the closest proposed dwelling fronting Brogdale Road to the north. On the basis of this separation distance, together with the orientation of the proposed dwellings in relation to the existing dwellings, I do not consider that the development would unacceptably impact upon outlook, light or privacy to these properties. Again, the view from these properties would substantially change, but this is not a material planning consideration.
- 8.38 As set out above, the oast is used as a business centre, and is separated from the application site by a car park and grassed amenity space. The layout of the reserved matters shows that the proposed dwellings on this part of the site would be set back from the boundary, and I consider this relationship to be acceptable on amenity grounds.

- 8.39 Perry Court Cottages are sited on the north east boundary of the site. They would also be separated from the closest dwellings within the development by an area of open space, meaning that the existing and proposed dwellings would be some 80 metres apart. Following concerns raised by the occupants of these properties, the footpath to the north of the site leading to Brogdale Road has been moved further away from the rear gardens to these properties, with the ability for new planting on this boundary.
- 8.40 Perry Court stands in substantial grounds to the north of the site and a separation gap in excess of 60 metres would be maintained to the closest new dwelling. Again I consider this relationship to be acceptable.
- 8.41 Overall, I consider the layout, scale and appearance of the dwellings would not cause unacceptable impacts on surrounding existing buildings, and would not be in conflict with Policy DM14 of the Local Plan.

Landscaping

- 8.42 The detailed landscaping of the site for the purposes of this reserved matters application is limited to the soft landscaping proposals submitted for the land immediately within and surrounding the residential development. This excludes the detailed proposals for landscaping of the public open space, which is subject to separate control under condition 32 of the outline planning permission, and under the S106 agreement.
- 8.43 The application would include some removal of boundary vegetation on Brogdale Road and Ashford Road to facilitate access and highways works required by KCC. The vegetation on part of the Ashford Road frontage has already been removed to facilitate the new roundabout, and was carried out in liaison with my officers. This was necessary due to strict terms applied by KCC on the closure Ashford Road – which was only permitted during the summer holiday period. Landscaping removed on the site boundaries will be replaced with suitable new planting, in accordance with condition 32 of the outline permission.
- 8.44 The application seeks to retain existing hedgerows within the site and on other boundaries, including the landscaping surrounding Ash Tree Cottages.
- 8.45 The landscaping scheme submitted with this reserved matters application relates to the landscaping of internal roads and individual units. It includes street planting along the primary road which would add to the street scene and helps break up areas of frontage parking. Shrub and hedge planting would be provided around the residential units, which in turn would provide attractive frontages.
- 8.46 For the purposes of the landscaping provided under this reserved matters, the Council's Tree Consultant is satisfied that the layout and species mix is generally appropriate. Some clarification is sought over the species mix for new planting on some plots – and this can be controlled via a planning condition.

Other Matters

- 8.47 Parking - KCC Highways advise that parking provision for the development, including visitor parking, is acceptable. Condition 10 of the outline permission secures this in perpetuity.
- 8.48 Members will note the concerns raised by Ospringe Parish Council. Highways impacts were considered at outline stage. There was no requirement set under the outline permission that Brogdale Road should be for emergency vehicles only. As set out

earlier, the footpaths within the site are deemed to provide good connections. In terms of housing design, the dwellings are within Faversham, not Ospringe, and I do not consider the Ospringe Design Statement to be of relevance. Notwithstanding this, the design leans on a traditional form of Kentish vernacular which, if implemented well, would not be at odds with this statement. Finally, a condition on the outline permission secures the requirement for a Construction and Environmental Management Plan to be submitted and approved by the Council.

9. CONCLUSION

9.01 The reserved matters are considered to demonstrate an appropriate scale, layout and appearance, and follow the general parameters of the outline permission. The small encroachment beyond the settlement boundary to the south is minimal and I consider this has very little impact on the countryside in real terms. The scheme has been designed to minimise impacts upon the setting of the adjacent oast, and I consider the benefit of bringing this allocated site forward for development outweighs the less than substantial harm that would arise to the setting of this building. The relationship with neighbouring dwellings is considered acceptable in planning terms, although I acknowledge that the view from surrounding dwellings would be substantially changed.

9.02 In conclusion, I consider the development would accord with the relevant criteria under policy MU7 of the local plan.

10. RECOMMENDATION

10.01 That reserved matters approval should be GRANTED, subject to the conditions as set out below.

Appendices:

- (i) Decision notice for 15/504264/OUT
- (ii) Building for Life Assessment

CONDITIONS to include

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans:

1275 100-1 Rev J, 100-2 Rev L, 100-3 Rev J, 101-1 Rev E, 101-2 Rev E, 101-3 Rev C, 101-4 Rev H, 101-5, Rev H, 101-6 Rev H, 101-7 Rev H, 101-8 Rev E, 101-9 Rev E, 101-10 Rev E, 106-1 Rev E, 106-2 Rev E, 106-4 Rev E, 110-1 Rev H, 110-2 Rev H, 150 Rev A, 54-1 Rev G, 54-2 Rev H, 54-3 Rev H, 54-4 Rev F, 55 Rev A, 56.

HT-Wu-(URPS)-02 Rev C, HT-Wu-H-(URPS)-02 Rev C, HT-Wu-H-(URPS)-03 Rev C, HT-A-B-G-G-(RE)-01 Rev C, HT-A-B-G-G-(RE)-02 Rev B, HT-A-B-J-(UPRS)-01 Rev B, HT- -A-B-J-(UPRS)-02 Rev B, HT-G-G-(URFB)-01, HT-G-G-(URFB)-02, HT-H-G-G-G-(URPS)-01, HT-H-G-G-G-(URPS)-02, HT-H-G-G-G-(URPS)-03.

HT-AB-(OV)-01 Rev C, HT-AB-(OV)-02 Rev B, HT-AB-(RE)-01 Rev C, HT-AB-(RE)-02 Rev C, HT-AB-(RE)-03, HT-AB-(RE)-04, HT-AB-(UR)-01 Rev C, HT-AB-(UR)-02 Rev C, HT-AB-(UR)-03, HT-AB-(UR)-04, HT-AN-(RE)-01 Rev A, HT-AN-(RE)-02 Rev

A, HT-AN-(REFB)-01 Rev A, HT-AN-(UR)-01 Rev B, HT-AN-(UR)-02 Rev B, HT-AN-(URFB)-01 Rev A, HT-AN-(URFB)-02 Rev A, HT-AN-(URPS)-01 Rev B
HT-AN-(URPS)-02 Rev B, HT-AN-(REFB)-02 Rev A, HT-A-B-G-J-J-G-H(RE)-01, HT-A-B-G-J-J-G-H(RE)-02, HT-A-B-G-J-J-G-H(RE)-03, HT-A-B-G-J-J-G-H(RE)-04.

HT-BR-(UR)-01 Rev A, HT-BR-(RE)-01 Rev A, HT-BR-(RE)-02 Rev A, HT-BR-(RE)-03, HT-BR-(RE)-04, HT-BR-(UR)-02 Rev A, HT-BR-(URPS)-01 Rev A, HT-BR-(URPS)-02 Rev A, HT-CO-(OVFB)-01 Rev A, HT-CO-(OVFB)-02 Rev A , HT-CO-(RE)-01 Rev C, HT-CO-(RE)-02 Rev C, HT-CO-(URPS)-02 Rev B, HT-D & K (UR)-01 Rev D, HT-D & K (UR)-02 Rev D, HT-DR-(OV)-01 Rev C, HT-DR-(OV)-02 Rev B, HT-DR-(RE)-01 Rev C, HT-DR-(RE)-02 Rev C, HT-CO-(REFB)-01 Rev A, HT-CO-(REFB)-02, HT-CO-(URPS)-01 Rev B, HT-DR-(RE)-05, HT-DR-(RE)-06, HT-DR-(UR)-03 Rev A HT-DR-(UR)-04 Rev A, HT-EA-(OVFB)-01 Rev A, HT-EA-(OVFB)-02 Rev A, HT-EA-(RE)-01 Rev A, HT-EA-(RE)-02 Rev A, HT-EA-(REFB)-01 Rev A, HT-EA-(REFB)-02 Rev A
HT-EN-(RE)-01 Rev D, HT-EA-(REFB)-04 Rev A, HT-EA-(REFB)-03 Rev A

HT-EN-(URPS)-01, HT-EN-(URPS)-02, HT-G-G-(URPS)-01 Rev A, HT-G-G-(URPS)-02 Rev A, HT-G-G-G-(UR)-01 Rev B, HT-G-G-G-(UR)-02 Rev B, HT-H-(UR)-01 Rev B, HT-H-(UR)-02 Rev B, HT-H-G-(URPS)-01 Rev B, HT-H-G-(URPS)-02 Rev A, HT-H-G-G-(UR)-01 Rev A, HT-H-G-G-(UR)-02 Rev A
HT-H-G-G-(URFB)-01 Rev C, HT-H-G-G-(URFB)-02 Rev B, HT-H-G-G-(URPS)-01 Rev A, HT-H-G-G-(URPS)-02 Rev A, HT-HD-(REFB)-01, HT-HD-(REFB)-02, HT-HD-HD-(REFB)-01 Rev C, HT-HD-HD-(REFB)-02 Rev A
HT-HD-WA-(UR)-01 Rev A, HT-HD-WA-(UR)-02 Rev A , HT-HD-WA-(URPS)-01 Rev D, HT-HD-WA-(URPS)-02 Rev C, HT-HO-(OV)-01 Rev C, HT-HO-(OV)-02 Rev B, HT-HO-(OV)-03, HT-HO-(OV)-04, HT-HO-(RE)-01 Rev C, HT-HO-(RE)-03 Rev A, HT-HO-(RE)-04 Rev A, HT-HO-(RE)-05, HT-HO-(RE)-06, HT-HO-(REFB)-01 Rev B, HT-HO-(REFB)-02 Rev B, HT-HO-(REFB)-03 Rev A, HT-HO-(REFB)-04, HT-HO-(UR)-01 Rev C, HT-HO-(UR)-02 Rev C, HT-HO-(URFB)-01 Rev A, HT-HO-(URFB)-02 Rev A, HT-HO-(URPS)-01 Rev B, HT-HO-(URPS)-02 Rev B, HT-HO-(URPS)-03 Rev A, HT-HO-(URPS)-04 Rev A, HT-HO-(RE)-02 Rev C, HT-H-J-(URPS)-01, HT-H-J-(URPS)-02.

HT-IN-(OV)-01 Rev A, HT-IN-(OV)-02, HT-IN-(RE)-01, HT-IN-(RE)-02, HT-IN-(UR)-01, HT-IN-(UR)-02, HT-J-(UR)-01 Rev C, HT-J-(UR)-02 Rev C, HT-J-(URPS)-01 Rev C, HT-J-(URPS)-02 Rev C, HT-KI(UR)-03A, HT-KI(UR)-04A, HT-KI(URPS)-01 Rev C, HT-KI(URPS)-02 Rev B, HT-KI(URPS)-03, HT-KI(URPS)-04, HT-KI-(RE)-01 Rev C, HT-KI-(RE)-02 Rev C, HT-KI-(RE)-03, HT-KI-(RE)-04, HT-KI-(UR)-01 Rev E, HT-KI-(UR)-02 Rev E.

HT-LA-(OV)-01 Rev C, HT-LA-(OV)-02 Rev B , HT-LA-(OVFB)-01 Rev C, HT-LA-(OVFB)-02 Rev C, HT-LA-(OVFB)-03 Rev A, HT-LA-(OVFB)-04 Rev A, HT-LA-(RE)-01 Rev C, HT-LA-(RE)-02 Rev C, HT-LA-(REFB)-01 Rev C, HT-LA-(REFB)-02 Rev C, HT-LA-(REFB)-03 Rev A, HT-LA-(REFB)-04 Rev A, HT-LA-(REFB)-05 Rev A, HT-LA-(REFB)-06 Rev A, HT-LA-(REFB)-07 Rev B, HT-LA-(REFB)-08 Rev B, HT-LA-(REFB)-09 Rev B, HT-LA-(REFB)-10 Rev A, HT-LA-(REFB)-11 Rev A, HT-LA-(REFB)-12, HT-LA-(REFB)-13 Rev A, HT-LA-(REFB)-14, HT-LA-(REFB)-15 Rev B, HT-LA-(RE)-01 Rev C, HT-LA-(REFB)-16 Rev A, HT-LA-(UR)-01 Rev C, HT-LA-(URFB)-01 Rev B
HT-LA-(UR)-02 Rev C

HT-M-J-M-(URPS)-03 Rev C, HT-NU-(URFB)-01 Rev B, HT-NU-(URFB)-02 Rev A, HT-NU-(URFB)-03 Rev A, HT-NU-(URPS)-01 Rev B, HT-NU-(URPS)-02 Rev A, HT-NU-(URPS)-03 Rev A, HT-NU-(URPS)-04, HT-NU-(URPS)-05, HT-NU-(URPS)-06, HT-RO-(RE)-01 Rev A, HT-RO-(RE)-02 Rev A, HT-RO-(UR)-01 Rev B, HT-RO-(UR)-

02 Rev B, HT-RO-(URFB)-01 Rev B, HT-RO-(URFB)-02 Rev B, HT-RO-(URPS)-01 Rev B, HT-RO-(URPS)-02 Rev B, HT-Wu-(URPS)-01 Rev C, HT-Wu-(URPS)-01 Rev C, HT-WF-N-H-(URPS)-01, HT-WF-N-H-(URPS)-02, HT-WF-N-H-(URPS)-03, HT-WF-N-H-(URPS)-04.

Reason: To accord with the terms of the application and in the interests of proper planning

- 2) No development beyond the construction of foundations shall take place until details of car parking for the sports pitch, including the siting, number of spaces type of surface treatment, and measures to deter use other than in connection with the sports pitch, 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 prior to occupation of any dwellings within the phase of development that will deliver the sports pitch.

Reason To ensure adequate car parking is provided for users of the sports pitch.

- 3) No development beyond the construction of foundations shall take place until full details of any above-ground plant or equipment to be installed at the pumping station on the northern boundary of the site has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: In the interests of visual amenity and to protect the setting of the listed building.

- 4) Notwithstanding the submitted drawings, no development beyond the construction of foundations shall take place until a revised scheme for the provision of play equipment in the area shown on the approved plans has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details prior to the occupation of any dwellings within the phase of development that will deliver the play areas

Reason: To ensure suitable areas of play are provided within the development.

- 5) The visibility splays as shown on the approved plans shall be completed prior to first occupation of any dwelling and shall thereafter maintained free from obstruction above a height of 900mm.

Reason: In the interests of highways safety

- 6) No development beyond the construction of foundations shall take place in any phase until a scheme to demonstrate that the internal noise levels within the residential units and the external noise levels in back garden and other relevant amenity areas will conform to the standard identified by BS 8233 2014, Sound Insulation and Noise Reduction for Buildings - Code of Practice, has been submitted to and approved in writing by the Local Planning Authority. The work specified in the approved scheme shall then be carried out in accordance with the approved details prior to occupation of any unit and be retained thereafter.

Reason: To provide a suitable residential environment to future occupants of the development.

- 7) Notwithstanding the approved plans, no development in any phase containing the route of public right of way ZF18 shall take place until either
- a) Plans are submitted to demonstrate that the definitive route of the public right of way would be maintained; or
 - b) Confirmation of the order permanently diverting or extinguishing the public right of way it has been notified to the local planning authority in writing.

The developer shall notify the local planning authority in writing of the interim arrangements for temporary diversion agreed with the relevant authority (including width and alignment of interim route, boundary demarcation, signage for users and a timescale for the duration of the interim route arrangements).

No dwelling in that phase (or sub-phase) shall subsequently be first occupied until the new route of the public path to be provided under public path order has been provided; and has been certified by the relevant authority and notification of this provided to the Local Planning Authority in writing.

Reason: To ensure that public rights of way are properly safeguarded in the public interest.

- 8) No development beyond the construction of foundations shall take place in any phase until the following hard landscaping details for that phase have been submitted to and approved in writing by the Local Planning Authority –
- i) Full details of surfacing materials for roads, private drives, parking areas, footpaths/ cycle paths, to include the access surface material for the electricity sub station adjacent to plot 202 (where relevant to that phase), and the method of marking out car parking spaces
 - ii) Details of the height, position and type of lighting units to be installed within the site
 - iii) Details of any fences, walls or other means of enclosure
 - iv) Details of bin storage facilities
 - v) Details of secure cycle storage facilities

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

Reason: In the interests of visual amenity, and biodiversity.

- 9) No development beyond the construction of foundations shall take place until details of the proposed tree species and sizes for the tree planting proposed on plots 102, 105, 106, 112, 113 and 128 (as shown on the Landscaping drawings sheets 4 and 5) have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

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

- 10) All hard and soft landscape works shall be completed in each relevant phase in accordance with the approved details, prior to first occupation of that phase, or in accordance with an implementation scheme that has first been submitted to and approved in writing by 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) 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.

- 13) No development beyond the construction of foundations shall take place on Plots 19 to 23 (inclusive), Plots 1,2,3, 9, 11 to 18 (inclusive) and Plots 87 to 94 (inclusive) until the following drawings and details have been submitted to and approved in writing by the Local Planning Authority -

- i) 1:1 or 1:2 vertical section details of the eaves and verge detailing for each house type and variation thereto;
- ii) 1:1 or 1:2 vertical section details of the timber cladding and facing brickwork vertical junction (typical detail),
- iii) 1:1 or 1:2 part plan and/or part vertical section showing the reveal depth(s) for each type of window and door opening for each house type (and variation thereto),
- iv) 1:10 elevation detail of the window arches, the open porch canopies (front and side elevations), the bay windows (front and side elevations), the dormer windows, including the flashing detail to be used (front and side elevations), and the dummy chimneys, including the pot, flashing and flaunching details to be used (front and side elevations)
- v) Details of any flues or vents required to service the proposed housing units (to include enhanced elevation and roof plan drawings showing the specific location of these items, together with manufacturer/supplier colour brochure and technical specification details of the products to be used),
- vi) Manufacturer/supplier colour brochure and technical specification details of the window and door/garage door product system(s) to be used,
- vii) Manufacturer/supplier brochure and technical specification details of the specific rainwater goods systems/products to be used.

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

Reason: In the interests of visual amenity.

- 14) 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, unless otherwise shown on the approved drawings..

Reason: In the interests of visual amenity.

- 15) Before the development hereby permitted is first used, the proposed windows in the first floor south facing elevation to plot 19 shall be obscure glazed to not less than the equivalent of Pilkington Glass Privacy Level 3, and these windows shall be incapable of being opened except for a high level fanlight opening of at least 1.7m above inside floor level and shall subsequently be maintained as such.

Reason: To prevent overlooking of adjoining properties and to safeguard the privacy of neighbouring occupiers.

- 16) No development beyond the construction of foundations shall take place until details of ecological enhancements to be incorporated into the layout and design of the residential development have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: In the interests of biodiversity.

INFORMATIVES

The Council's approach to the application

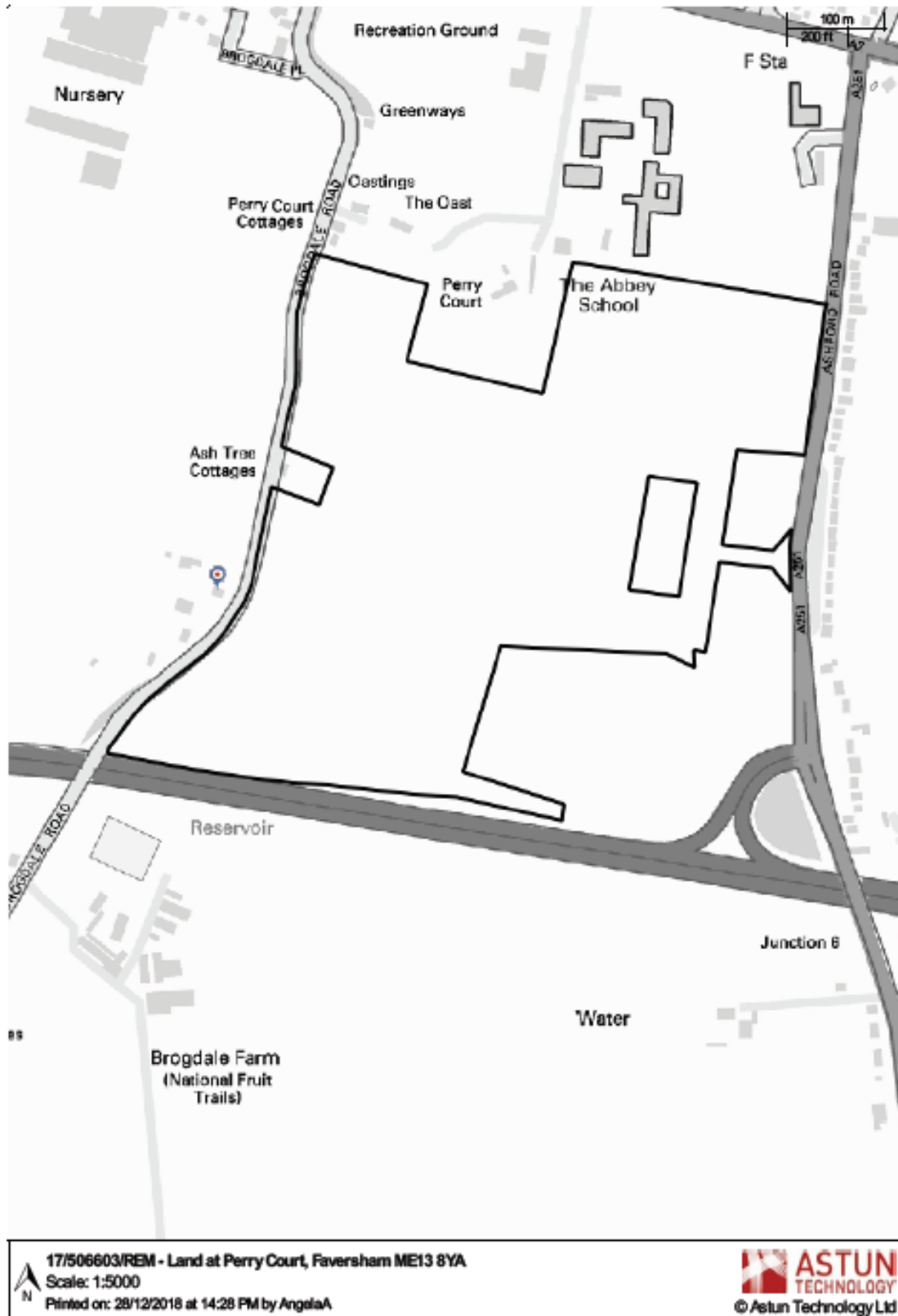
In accordance with paragraph 38 of the National Planning Policy Framework (NPPF), July 2018 the Council takes a positive and proactive approach to development proposals focused on solutions. We work with applicants/agents in a positive and creative way by offering a pre-application advice service, where possible, suggesting solutions to secure a successful outcome and as appropriate, updating applicants / agents of any issues that may arise in the processing of their application.

The application has been subject to a series of amendments to achieve a satisfactory outcome.

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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Hallam Land Management Ltd
 C/O Barton Willmore
 FAO Mr Robin Shepherd
 The Blade
 Abbey Square
 Reading
 Berkshire
 RG1 3EB



27 March 2017

PLANNING DECISION NOTICE

APPLICANT:	Hallam Land Management Ltd
DEVELOPMENT TYPE:	Large Maj Dwellings
APPLICATION REFERENCE:	15/504264/OUT
PROPOSAL:	Outline application (with all matters reserved other than access into the site) for a mixed use development comprising: up to 310 dwellings; 11,875sqm of B1a floorspace; 3,800sqm of B1b floorspace; 2,850sqm of B1c floorspace; a hotel (use class C1)(up to 3,250sqm) of up to 100 bedrooms including an ancillary restaurant; a care home (use class C2)(up to of 3,800sqm) of up to 60 rooms including all associated ancillary floorspace; a local convenience store (use class A1) of 200sqm; 3 gypsy pitches: internal accesses; associated landscaping and open space; areas of play; a noise attenuation bund north of the M2; vehicular and pedestrian accesses from Ashford Road and Brogdale Road; and all other associated infrastructure.
ADDRESS:	Land At Perry Court London Road Faversham Kent ME13 8YA

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

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

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- (1) Details relating to the layout, scale and appearance of the proposed building(s) within a relevant phase, and the landscaping of that phase shall be submitted to and approved by the Local Planning Authority before any development within that phase is commenced.

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

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

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

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

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

- (4) The details submitted pursuant to condition (1) above shall show the residential development restricted to the residential areas as identified indicatively on the 'Illustrative Site Layout' Drawing Number: 5187-PL2-02 Revision B.

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

- (5) For each phase of the development hereby approved, no development shall take place within a relevant phase until details have been submitted to the Local Planning Authority and approved in writing, which set out what measures will be taken to ensure that the development in that phase 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 of the phase of development in question as approved, and retained as such in perpetuity.

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

- (6) No development shall take place until details of a scheme for the long-term monitoring of breeding birds using the site has been submitted to, and approved in writing by, the Local Planning Authority.

Reason: In the interests of monitoring breeding bird populations within the site.

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- (7) 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.

- (8) Before the first occupation of a dwelling / premises the following works between that dwelling / premises and any 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.

- (9) None of the dwellings in a relevant phase hereby approved shall be first occupied until details of measures to ensure that the emergency vehicular access to the approved housing is used only in the event of an emergency have been submitted to and approved in writing by the Local Planning Authority. The agreed measures shall then be implemented in accordance with a programme that shall also have been agreed in writing by the Local Planning Authority. Following implementation, the approved measures shall then be retained in perpetuity.

Reason: In the interests of highway safety and convenience.

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

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

- (11) The details submitted pursuant to condition (1) above shall show adequate land reserved for the parking of vehicles and for the loading and off-loading of commercial

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vehicles, and upon approval of the details 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 to this reserved space; such land and access thereto shall be provided prior to the occupation of the building hereby permitted and shall be used for or be available for use for the parking, loading and off-loading of vehicles at all times when the premises are in use.

Reason: The development, without the provision of parking, loading and off-loading space, would be detrimental to amenity and likely to lead to inconvenience and danger to road users by virtue of vehicles parked on the public highway amenity

- (12) 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.

- (13) The access details shown on the approved plans shall be completed prior to the occupation of any buildings hereby approved, and the accesses shall thereafter be maintained and shall make use of bound surface materials for the first 5 metres of the access from the edge of the adopted highway

Reason: In the interests of highway safety.

- (14) Full details of the bunding (include plans and cross section of the bund) shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of any residential development and implemented subject to an implementation plan approved in writing by the Local Planning Authority.

Reason: In the interests of visual amenity

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

5187-PL-01 Rev B	Redline Plan
10182/HL/02 Rev C	Proposed Roundabout Ashford Road
10182/HL/03 Rev A	Proposed Junction Brogdale Road

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

- (16) 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.

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- (17) No development shall take place until a detailed mitigation strategy for all protected species has been submitted to, and approved in writing by, the Local Planning Authority. The development shall then be implemented in accordance with the agreed arrangements.

Reason: In the interests of protecting and encouraging biodiversity.

- (18) No development shall take place until a strategy for updating ecological surveys, where development is not implemented within two years of the date of the surveys, has been submitted to and approved in writing by the Local Planning Authority. The development shall then be implemented in accordance with the agreed strategy.

Reason: In the interests of protecting and encouraging biodiversity.

- (19) No development of the residential phase of the scheme, nor of the commercial phase, hereby approved shall take place until a Construction and Environmental Method Statement for that phase has been submitted to and approved in writing by the Local Planning Authority. The approved Statements for both the residential and commercial elements of the scheme shall be adhered to throughout the construction period for those phases. These shall include details relating to:
- (i) The control of noise and vibration emissions from construction activities including groundwork and the formation of infrastructure, along with arrangements to monitor noise emissions from the development site during the construction phase;
 - (ii) The loading and unloading and storage of plant and materials on site;
 - (iii) The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
 - (iv) The control and suppression of dust and noise including arrangements to monitor dust emissions from the development site during the construction phase;
 - (v) Measures for controlling pollution/sedimentation and responding to any spillages/incidents during the construction phase;
 - (vi) Measures to control mud deposition off-site from vehicles leaving the site;
 - (vii) The control of surface water drainage from parking and hard-standing areas including the design and construction of oil interceptors (including during the operational phase);
 - (viii) The use if any of impervious bases and impervious bund walls for the storage of oils, fuels or chemicals on-site;
 - (ix) The location and size of temporary parking and details of operatives and construction vehicle loading, off-loading and turning and personal, operatives and visitor parking;
 - (x) Lighting strategy for the construction phase, designed to minimise light spillage from the application site; and
 - (xi) Phasing of the development in accordance with the phasing plan in the S.106.
 - (xii) Arrangements to limit the hours when construction vehicles can use the A2/A251 junction until such time as the Junction Improvement Works have been delivered.

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

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- (20) No development of a relevant phase shall take place until the applicant, or their agents or successors in title, has secured the implementation of:
- (i) archaeological field evaluation works for that phase in accordance with a specification and written timetable which has been submitted to and approved in writing by the Local Planning Authority; and
 - (ii) following on from the evaluation, any safeguarding measures for that phase to ensure preservation in situ of important archaeological remains and/or further archaeological investigation and recording in accordance with a specification and timetable which has been submitted to and approved in writing by the Local Planning Authority.

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.

- (21) Construction of any phase of the development hereby approved shall not commence until details of the proposed means of foul drainage for that phase have been submitted to and approved in writing by the Local Planning Authority, in consultation with Southern Water, Natural England and the Environment Agency.

Reason: In the interests of achieving an acceptable scheme of foul drainage and in the interests of minimising flood risk and ground water contamination.

- (22) No development shall take place until a Green Infrastructure and Biodiversity Management Plan (GIBMP), has been submitted to and approved in writing by the Local Planning Authority, and the development shall be implemented in accordance with the agreed details.

Reason: In the interests of protecting and encouraging biodiversity

- (23) The details submitted in pursuance of condition (1) above shall be in accordance with a Development Brief that shall first have been agreed in writing by the Local Planning Authority and which shall include the following:

- (a) Details of the road layout for the site;
- (b) A comprehensive network of segregated pedestrian and cycle routes;
- (c) An overall landscape strategy for the application site;
- (d) An overall sustainable surface water drainage strategy for the application site (based on a network of open ditches and ponds);
- (e) A strategy for the architectural treatment of the buildings on the site, including elevational treatment, roof design and the palette of colours;
- (f) A strategy to maximise opportunities for biodiversity across all parts of the application site, including within the residential parcels;
- (g) A lighting plan for the site, to include details of the lighting columns, the type and luminance of the lighting units with glare shields and details of lux levels, both inside and outside the site;
- (h) A strategy for dwelling storey heights;
- (i) A strategy for ensuring the sympathetic development of part of the site close to Brogdale Road and Ashford Road;
- (j) A strategy for cycle parking; and

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(k) A strategy to ensure that development is set back by an appropriate distance from the high-pressure gas pipeline that crosses the site.

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

- (24) The details submitted pursuant to condition (1) above shall include cross-sectional drawings through a relevant phase, of the existing and proposed site levels within that phase and the immediately adjacent land. The development of that phase 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.

- (25) Prior to each phase of development approved by this planning permission being commenced a remediation strategy that includes the following components to deal with the risks associated with contamination of that phase shall be submitted to and approved, in writing, by the local planning authority

1. A preliminary risk assessment which has identified:
 - all previous uses
 - potential contaminants associated with those uses
 - a conceptual model of the site indicating sources, pathways and receptors
 - potentially unacceptable risks arising from contamination at the site.
2. A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
3. The results of the site investigation and the detailed risk assessment referred to in (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
4. A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these components require the express written consent of the local planning authority. The scheme shall be implemented as approved. Sufficient information has been provided to satisfy part 1 of the above condition.

Reason: To ensure any possible land contamination related to historic site activities is addressed in line with current planning guidance on sustainable development. To protect controlled waters and comply with the NPPF: Paragraph 109 states that the planning system should contribute to and enhance the natural and local environment by preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of water pollution.

- (26) No occupation of each phase of 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

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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 protect controlled waters and comply with the NPPF.

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

Reason: To protect controlled waters and comply with the NPPF.

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

Reason: To protect controlled water and comply with the NPPF.

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

Reason: In the interests of highway safety and convenience.

- (30) During construction provision shall be made on the site, to the satisfaction of the Local Planning Authority and in accordance with details that shall first have been agreed in writing with them, to accommodate operatives' and construction vehicles parking, loading, off-loading or turning on the site.

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

- (31) No development within a relevant phase shall take place until a full tree survey, tree impact assessment, tree protection plan and arboricultural method statement in accordance with the recommendations of BS 5837:2012 for that phase have been submitted to and approved in writing by the local planning authority. The method statement shall detail implementation of any aspect of the development that has the potential to result in the loss of or damage to trees and hedges, including their roots, and shall take account of site access, demolition and construction activities, foundations,

APPENDIX 1

service runs and level changes. It shall also detail any tree works necessary to implement the approved scheme.

Reason: No such details have been provide and to safeguard existing trees to be retained and to ensure a satisfactory setting and external appearance to the development.

- (32) No development shall take place until a detailed strategic landscape scheme (which shall be native species and of a type that will encourage wildlife and biodiversity) designed in accordance with the principles of the 'Swale Landscape Character and Biodiversity Appraisal' (2011) has been submitted to and approved in writing by the Local Planning Authority. The scheme shall show all existing trees, hedges and blocks of landscaping on - and immediately adjacent to - the site and indicate whether they are to be retained or removed. It shall detail measures for protection of species to be retained, provide details of on-site replacement planting to mitigate any loss of amenity and biodiversity value together with the location of any habitat piles and include a planting specification, a programme of implementation and a minimum five year management programme.

Reason: No such details have been submitted and to ensure a satisfactory setting and external appearance to the development

- (33) 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.

- (34) (i) 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 on the preliminary strategy prepared by Brookbank Consulting Ltd (May 2015) and shall demonstrate that the surface water generated by this development (for all rainfall durations and intensities up to and including the climate change adjusted critical 100yr storm) can be accommodated and disposed of through open infiltration features located within the curtilage of the site.
- (ii) 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.

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

- (35) 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 controlled water and comply with the NPPF

- (36) Before development commences within a relevant phase details shall be submitted (or as part of reserved matters) for the installation of fixed telecommunication infrastructure and High Speed Fibre Optic (minimal internal speed of 100mb) connections to multi point destinations and all buildings including residential, commercial and community within that phase. This shall provide sufficient capacity, including duct sizing to cater for all future phases of the development with sufficient flexibility to meet the needs of existing and future residents. The infrastructure shall be laid out in accordance with the approved details and at the same time as other services during the construction process.

Reason: In the interests of residential amenity.

- (37) The off-site highway works associated with the development are indicated on the following drawings:

- a) 10182/HL/02 Rev C - Proposed Roundabout Ashford Road
- b) 10182/HL/03 Rev A - Proposed new Junction onto Brogdale Road
- c) 10182/HL/02 Rev C - footpath provision to the site frontage along Ashford Road, and provision of a pedestrian crossing
- d) 10182/HL/06 Rev A - improvement of the Brogdale Road footpath
- e) 10182/HL/06 Rev A - improvement of the Brogdale Road/A2 junction

No work shall commence on the development site until off site highway works (a) above have been carried out in accordance with a design and specification that shall first have been approved in writing with the Local Planning Authority, and been fully implemented to the satisfaction of the Local Planning Authority. Off site highway works (b) above shall be constructed in accordance with the phasing plan to be approved pursuant to the Section 106 agreement dated 23 March 2017.

No occupation of the development site shall take place until the off site highway works c), d) and e) above have been carried out in accordance with a design and specification that shall first have been approved in writing with the Local Planning Authority, and been fully implemented to the satisfaction of the Local Planning Authority.

Reason: In the interests of highway safety and convenience.

- (38) Details relating to the upgrade of the existing public footpath (known as ZF18) to a public bridleway within the site shall be submitted to, and approved in writing by, the Local Planning Authority before the development is commenced and shall be implemented in accordance with the agreed details and a

APPENDIX 1

timetable that shall have been agreed in writing with the Local Planning Authority before the development is commenced.

Reason: In the interests of highway and pedestrian safety and convenience.

- (39) All land allocated for development as employment land, Use Class B1 and shown on the submitted 'Illustrative Layout' Drawing Number: 5187-PL2-02 Revision B shall be retained for such uses and for no other purpose.

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

Informative(s):

- (1) 1. It is the responsibility of the applicant to ensure before the development hereby approved is commenced, that all necessary highway approvals and consents where required are obtained and that the limits of highway boundary are clearly established in order to avoid any enforcement action being taken by the Highway Authority. The applicant must also ensure that the details shown on the approved plans agree in every aspect with those approved under such legislation and common law. It is therefore important for the applicant to contact KCC Highways and Transportation to progress this aspect of the works prior to commencement on site.

Environment Agency Informatives:

2. Waste on site

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

excavated materials that are recovered via a treatment operation can be re-used on-site providing they are treated to a standard such that they fit for purpose and unlikely to cause pollution

treated materials can be transferred between sites as part of a hub and cluster project some naturally occurring clean material can be transferred directly between sites.

Developers should ensure that all contaminated materials are adequately characterised both chemically and physically, and that the permitting status of any proposed on site operations are clear. If in doubt, the Environment Agency should be contacted for advice at an early stage to avoid any delays.

The Environment Agency recommends that developers should refer to our:

Position statement on the Definition of Waste: Development Industry Code of Practice and;

website at www.environment-agency.gov.uk for further guidance.

Fuel, Oil and Chemical Storage

Any facilities for the storage of oils, fuels or chemicals shall be provided with secondary containment that is impermeable to both the oil, fuel or chemical and water, for example a bund, details of which shall be submitted to the local planning authority for approval. The minimum volume of the secondary containment should be at least equivalent to the

APPENDIX 1

capacity of the tank plus 10%. If there is more than one tank in the secondary containment the capacity of the containment should be at least the capacity of the largest tank plus 10% or 25% of the total tank capacity, whichever is greatest. All fill points, vents, gauges and sight gauge must be located within the secondary containment.

The secondary containment shall have no opening used to drain the system. Associated above ground pipework should be protected from accidental damage. Below ground pipework should have no mechanical joints, except at inspection hatches and either leak detection equipment installed or regular leak checks. All fill points and tank vent pipe outlets should be detailed to discharge downwards into the bund.

Advice for developers

We have produced advice with Natural England and the Forestry Commission on how new development can help improve the environment. This is in line with the national planning policy framework (NPPF) "the planning system should contribute to and enhance the natural and local environment" (Para 109).

<https://www.gov.uk/government/publications/planning-a-guide-for-developers>

3.Scotia Gas Networks Informatives:

The high pressure gas pipeline in the vicinity of the proposed development has a Building Proximity Distance (BPD). The building proximity distance (zone 1) is 3 metres either side of the pipeline. This should not however be confused with the HSE consultation zones 2 & 3 which will be considerably greater. Zone 1 is a safety factor with reference to habitable buildings as recommended by IGE/TD/1. It is calculated from the diameter, material, wall thickness and pressure of the particular pipeline. Under Pipeline Safety Regulations 1996 this distance is declared to the HSE. Any intrusion within this safety zone should not be taken lightly and any intention to proceed should be accompanied by a risk assessment or provision of other supporting evidence especially in the event of any legal proceedings at a later date. I have attached a copy of our plans showing the pipeline in relation to this site. Pipelines laid in private land are protected by a Deed of grant, which prohibits certain activities within the easement strip like no addition to or removal of surface levels, no structures over or within the specified distance of the pipeline. Further details are available if you require them. A request to us for any copies could incur a small fee, payable in advance. The easement strip is 8 metres in width. 4 metres either side from the centre-line of the pipeline. Any vehicle crossings over the pipeline will require: calculations to prove that no additional stresses will be incurred; a design showing the roadway in relation to the pipeline; and method statements to be agreed with SGN before it goes ahead. Road crossings need to be kept to a minimum.

This pipeline is of prime importance to the gas supplies of this area. Should any work be contemplated it is essential that you comply with the restrictions detailed below and in the document SGN/SP/SSW22 in order to protect our plant and equipment and for the safety of your own operatives

- 1) No mechanical excavation is allowed within 3 metres either side of pipeline.
- 2) No plant or storage of equipment shall be made within any easement strip.
- 3) If any metallic pipes or cables are being laid in proximity to gas pipelines then interference testing will be required, the cost of which to be borne by the promoter of the works. A minimum clearance of 600mm is required.

APPENDIX 1

- 4) All precautions stated in publication SGN/SP/SSW22 (Safe Working in the Vicinity of High Pressure Gas Pipelines) shall be fully complied with in all respects. Acceptance of SSW22 shall be acknowledged by the responsible site person signing and returning the form Appendix A (back page) to the SGN representative contacted in (7).
- 5) No thrust boring shall take place within three metres of the pipeline.
- 6) All planting within the easement strip should comply with Notes for Guidance on Tree Proximity.
- 7) Before commencing work on site you must contact our Pipeline Maintenance Section on 0141 4184093 at least three days before work commences. A Southern Gas Networks representative will then contact you to arrange to visit site. Details of working near to high-pressure gas pipelines can then be discussed.
- 8) Pipeline sections that are planned and agreed by SGN to be permanently covered (i.e. by road surface) will require a coating survey. SGN will repair any indicated coating defects free of charge. The survey costs will be borne by the promoter of the works. Prior to any surface cover cathodic protection coupons and reference cells will require installation at no cost to SGN.
- 9) This pipeline is cathodically protected and as such has test cables located in surface boxes, were these to be lost through this work we would look to you for remedial action at no cost to SGN.
- 10) Intrusive construction methods will require an agreed method statement prior to work starting.
- 11) The minimum proximity between the high pressure gas pipeline and any wind turbine should be 1.5 times the fixed mast height excluding the turbine of the wind turbine. If you are planning to construct a wind turbine closer than this, then you must contact SGN immediately.
- 12) Any extended period of SGN site supervision may incur charges to you. These will be charged based on visiting times, materials and occurrences. You will be informed when these come into effect and be invoiced direct.
- 13) Any piling or boreholes within 15 metres of the pipeline may require vibration monitoring. No piling or boreholing must take place within 3 metres of the pipeline.

4. Broadband Provision

The BT GPON system is currently being rolled out in Kent by BDUK. This is a laid fibre optical network offering a single optical fibre to multi point destinations i.e. fibre direct to premises.

5. Southern Water

The applicant should enter into a formal agreement with Southern Water to provide the necessary sewerage infrastructure required to service this development. Please contact Atkins Limited at Anglo St James House, 39A Southgate Street, Winchester, SO23 9EH, or 'southernwater.co.uk'

- (2) This development is also subject to an agreement under Section 108 of the Town and Country Planning Act 1990 as amended.

APPENDIX 1

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

The Council's approach to this application:

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

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

In this instance the application was considered to be acceptable.



James Freeman
Head of Planning Services
Swale Borough Council

IMPORTANT - YOUR ATTENTION IS DRAWN TO THE ATTACHED NOTES

APPENDIX 1

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

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

Appeals to the Secretary of State

If you are aggrieved by the decision of your local planning authority (LPA) to refuse permission for the proposed development, or to grant it subject to Conditions, then you can appeal to the Secretary of State (SoS) under Section 78 of the Town and Country Planning Act 1990. **Please see "Development Type" on page 1 of the decision notice to identify which type of appeal is relevant.**

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

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

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

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

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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) *
Integrating into the neighbourhood		
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
Creating a place		
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
Street and home		
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.

APPENDIX 2

SITE ADDRESS: Perry Court, Faversham

APPLICATION NO.: 17/506603/REM

1. CONNECTIONS

ITEM	COMMENT	(SBC use) ✓/✗
1a Where should vehicles come in and out of the development?	The access points were approved at outline stage	✓
1b Should there be pedestrian and cycle only routes into and through the development?	Numerous pedestrian and cycle links are provided within the development, providing internal routes and links to the A2 (via public footpath ZF18, Brogdale Road and Ashford Rd. these have been designed to predict likely desire routes (north towards Faversham)	✓
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?	The main road runs through the site in a design purposefully to avoid rat running. Pedestrian and vehicle links are provided between each housing area and throughout the site. The development connects into existing pedestrian links into the wider neighbourhood, and provides new pedestrian and vehicle links.	✓
1d How should the new development relate to existing development?	The parameters for this were largely set at outline stage. The new development is set back from Ashford Road but does face it. Development fronting Brogdale road has a closer relationship to this. In both cases, due to levels changes and highways issues, houses do not take direct access onto these roads. The development would be much different in scale and layout to existing modest linear development on Ashford Rd, and more sporadic development on Brogdale Road.	✓

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?	The site is located close to a secondary school and the railway line / local shops are approximately 0.5 miles away. An on-site local shop was approved as part of the outline permission, but has not come forward to date.	✓
Where new facilities are proposed: 2b Are these facilities what the area needs?	The provision of a local shop will most likely be subject to market conditions and whether the development would be able to support it.	✓/✗
2c Are these new facilities located in the right place? If not, where should they go?	The proposed local shop would be located close to the Ashford Road entrance and adjacent to the residential development. This has potential to pick up passing trade as well as trade from the development itself.	✓
2d Does the layout encourage walking, cycling or using public transport to reach them?	The layout provides good walking and cycling routes within the site – and is close to bus services on the A2 and within walking distance of the train station.	✓

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?	A travel plan (including public transport incentives) was secured under the S106 agreement as part of the outline permission.	✓
3b Where should new public transport stops be located?	None are provided within the development, as the main transport corridor is on the A2	✓/✗

4. Meeting local housing requirements

APPENDIX 2

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)?	The scheme provides mainly family homes. This will limit the market, but the local plan policy CP3 does encourage the development of family housing in this market area.	✓/✗
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?	The proposal includes 93 dwellings (30%) as affordable homes – with 70% of these being rented units.	✓
4c Are the different types and tenures spatially integrated to create a cohesive community?	The affordable homes are distributed throughout the site, but are grouped in clusters.	✓

5. Character

ITEM	COMMENT	(SBC use) ✓/✗
5a How can the development be designed to have a local or distinctive identity?	The development has adopted a traditional vernacular approach, and uses materials designed to reflect local styles and uses.	✓
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?	See above. The development creates its own distinct character through the extent of open space provided and way in which the development layout is designed to use the open space as a feature.	✓

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?	The setting of the listed oast house to the north of the site is an important consideration. The site is also visible across the landscape from the south (M2), east and west. The large area of open space to the south provides an open setting to these views.	✓
6b Are there any existing trees, hedgerows or other features, such as streams that need to be carefully designed into the development?	The site is generally open but there are boundary hedges and some hedgerows within the site. Some have been / are proposed to be removed due to highways requirements.	✓
6c Should the development keep any existing building(s) on the site? If so, how could they be used?	There are no existing buildings on site.	✓

7. Creating well defined streets and spaces

ITEM	COMMENT	(SBC use) ✓/✗
7a Are buildings and landscaping schemes used to create enclosed streets and spaces?	The proposal uses street hierarchy to create a more enclosed primary and secondary street layout. The “rural edge” is more spaced.	✓
7b Do buildings turn corners well?	Yes	✓
7c Do all fronts of buildings, including front doors and habitable rooms, face the street?	Yes – and many face onto the large areas of open space.	✓

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?	The layout is roughly based on a grid system, but there are cul-de-sacs and private drives. The primary road layout winds through the site intentionally to deter rat running. Pedestrian and cycle routes are clear.	✓

APPENDIX 2

8b Are there any obvious landmarks?	The neighbouring listed oast building.	✓
8c Are the routes between places clear and direct?	The pedestrian and cycle links are clear and direct.	✓

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?	The road layout is designed to wind through the development with raised tables in places to slow vehicles speeds	✓
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?	Minor roads would not be subject to significant traffic and all units face the street, to encourage social interaction. Many units face directly onto green space which can be used for play or social space.	✓

10. Car parking

ITEM	COMMENT	(SBC use) ✓/✗
10a Is there enough parking for residents and visitors?	The proposal meets the relevant parking requirements for residents and visitors.	✓
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?	Some exceed the 5 property threshold, but are well overlooked, and are not separated from the development.	✓
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?	A large area of open space (over 11 Ha) would be delivered under this scheme, containing a range of typologies.	✓
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?	Yes, two play areas are provided within the scheme.	✓
11c How will they be looked after?	Most likely by a management company, although the Council does have the option to take on the open space.	✓

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?	The se details are subject to a condition.	TBC
12b Is access to cycle and other vehicle storage convenient and secure?	These details are subject to a condition	TBC

PLANNING COMMITTEE – 10 JANUARY 2019

PART 3

Report of the Head of Planning

PART 3

Applications for which **REFUSAL** is recommended

3.1 REFERENCE NO - 18/505513/FULL			
APPLICATION PROPOSAL			
Reconstruction of bay window to front extending to first floor. Insertion of side window, replacement balustrade, along with internal alterations.			
ADDRESS 54 The Leas, Minster-on-Sea, Sheerness, Kent ME12 2NL			
RECOMMENDATION - Refuse			
SUMMARY OF REASONS FOR REFUSAL			
<p>The proposed first floor bedroom window, by virtue of its siting in the eastern flank wall of the house adjacent to the private open courtyard area of no. 55 The Leas, would have a detrimental impact on the residential amenity of this neighbouring property, contrary to Policies CP4, DM14 and DM16 of "Bearing Fruits 2031: The Swale Borough Local Plan 2017" and to the advice of the Council's adopted Supplementary Planning Guidance entitled "Designing an Extension – A Guide for Householders".</p> <p>The design and siting of the proposed two storey front bay extension, by virtue of its projection towards and close proximity to The Leas, would create an overly conspicuous and dominant built structure in the street scene in a manner detrimental to the character and appearance of the area and visual amenities, contrary to Policies CP4, DM14 and DM16 of "Bearing Fruits 2031: The Swale Borough Local Plan 2017" and to the advice of the Council's adopted Supplementary Planning Guidance entitled " Designing an Extension - A Guide for Householders".</p>			
REASON FOR REFERRAL TO COMMITTEE			
Application called in by Councillor Andy Booth			
WARD Minster Cliffs	PARISH/TOWN COUNCIL Minster-On-Sea	APPLICANT Mr Andrew Hill AGENT	
DECISION DUE DATE 24/12/18		PUBLICITY EXPIRY DATE 27/11/18	
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):			
App No	Proposal	Decision	Date
SW/91/1301	Rear garden fence to eastern boundary, covered way and side gate	Approved	03/03/92
SW/91/0907	Rear garden fences, side gate and covered way	Refused	17/10/91
SW/90/0062	Two storey side extension and single storey rear extension	Approved	13/03/90
SW/81/0065	Bedroom extension	Approved	18/03/81
SW/80/0186	Lounge extension	Approved	19/03/80

SW/80/0146	Alteration to front elevation	Approved	17/03/80
SW/75/0930	Side extension to form additional living accommodation	Refused	17/11/75

1.0 DESCRIPTION OF SITE

- 1.01 54 The Leas is a two storey, detached house which fronts the beach and the sea. The front elevation of the property comprises a gable end, with a curved bay window on the ground floor. To the left of the elevation is the front entrance door and an integral garage; above this is a first floor balcony. To the front there is paved driveway providing off-street parking for several vehicles, and a generous garden to the rear.
- 1.02 The property has already been significantly extended. Permission was granted under application SW/90/0062 for a two storey side extension and a single storey rear extension.
- 1.03 The application site is located within the defined built up area boundary of Minster. The Leas has a mix of housing types and the host property occupies a prominent position in the street scene, located between a bungalow to the east, and a large chalet bungalow to the west.

2.0 PROPOSAL

- 2.01 The application seeks planning permission for a two storey bay window extension to the front elevation; the insertion of a first floor window in the eastern flank wall of the property; a replacement glass balustrade to the existing first floor balcony; and internal alterations.
- 2.02 The proposed two storey bay window would project 1.2m forwards of the main front wall of the house to the same building line as the existing front balcony, and it would measure 4.66m wide. It would have a square design, with picture windows to the front elevation, and side windows on the ground and first floor in both flank elevations. The proposed bay extension would measure 5.4m to the eaves, and 7.25m in overall height to the top of the proposed hipped gable roof. The materials would include brickwork to match the existing dwelling, render to the front elevation between the ground and first floor picture windows, and blue-black cement tiles to the bay roof.
- 2.03 The application proposes the formation of two additional bedrooms (4 in total) from the existing first floor office space. One side window would be introduced into the eastern flank wall of the house at first floor level to serve the proposed 4th bedroom.
- 2.04 To the front of the dwelling, the metal balustrade to the existing first floor balcony would be removed and replaced with glazed panels measuring 0.9m high.
- 2.05 The submitted drawings also show a proposed roof light to the single storey flat roof at the rear of the dwelling. However, as this would amount to permitted development I will make no assessment of this.

3.0 PLANNING CONSTRAINTS

- 3.01 None relevant.

4.0 POLICY AND CONSIDERATIONS

- 4.01 The National Planning Policy Framework (NPPF) and the National Planning Practice

Guidance (NPPG)

- 4.02 The Swale Borough Local Plan “Bearing Fruits 2031” (adopted 2017). Policies CP4 (good design), DM7 (parking), DM14 (general development criteria) and DM16 (alterations and extensions).
- 4.03 The Council’s adopted Supplementary Planning Guidance (SPG) titled “Designing an Extension” is also relevant, and remains a material planning consideration having been through a formal consultation and adoption process.
- 4.04 Kent Design Guide Review: Interim Guidance Note 3 – Residential Parking (November 2008).

5.0 LOCAL REPRESENTATIONS

- 5.01 None received.

6.0 CONSULTATIONS

- 6.01 Minster-on-Sea Parish Council initially supported the application. No reasons for support were given.

As I was inclined to refusal of the application I contacted the Parish Council to establish their specific material planning comments, in accordance with the Council’s Constitution.

Minster-on-Sea Parish Council confirmed on 29 November 2018 that they would support the Case Officer’s position and support a refusal.

7.0 BACKGROUND PAPERS AND PLANS

- 7.01 Application papers and drawings referring to application reference 18/505513/FULL.

8.0 APPRAISAL

Principle of Development

- 8.01 The site is situated within the defined built up area boundary of Minster in which the principle of development is acceptable subject to amenity and other relevant policy considerations.

Residential Amenity

- 8.02 In respect of the proposed two storey bay window, there would be a separating distance of approximately 1.5m from the proposed extension to the boundary with no. 53 The Leas, and I take into consideration that this neighbouring property is also set back approximately 1m from this boundary. The distance from the proposed bay window to the common boundary with no. 55 to the west is approximately 5m. Given the distance involved, I do not believe that the bay extension would detrimentally overbear or adversely impact the outlook of these neighbouring properties.
- 8.03 As the frontage of the property is made up of the highway, the beach and the sea, I do not believe that the front facing picture windows of the proposed two storey bay extension would give rise to any unacceptable overlooking impacts. The secondary side windows of the bay extension would not look directly into the windows of the adjacent properties either side of the host property, and any open areas that could potentially be overlooked by these windows are already visible from public vantage

points; therefore no objection on loss of privacy grounds could be justifiably sustained here. Overall, I have no serious concerns in terms of overlooking from this element of the application.

- 8.04 The proposal would introduce a first floor side window into the eastern flank wall of the house to serve the proposed 4th bedroom. The Council's adopted Supplementary Planning Guidance advises that side windows should be avoided to reduce overlooking and mutual loss of privacy. No. 55 The Leas has an open courtyard area located immediately adjacent to the eastern flank wall of the host property, and the position of the proposed first floor side window would overlook this private courtyard area that is clearly being used for the occupiers' enjoyment. I consider that the proposed development would result in an unacceptable increase in actual and perceived loss of privacy at no. 55 The Leas that would be contrary to policy advice. It should be noted that the use of an obscure-glazed, high level window here would not provide an acceptable solution, as such a window would provide the only light to a bedroom, resulting in a poor standard of amenity for the occupants of the host dwelling. In my opinion, the proposed first floor side window would result in harmful overlooking and perceived intrusion for the residents of no. 55 The Leas; and this would amount to a reason for refusal.

Parking

- 8.05 The number of bedrooms would increase from two to four as a result of the proposal. The parking requirements for a four bedroom property in the suburban area according to the Kent Design Guide Review – IGN3 is for two off-street parking spaces, and this would be comfortably met by the paved driveway to the front of the property. I therefore consider the parking arrangements to be acceptable.

Visual Impact

- 8.06 There are a number of properties along The Leas that have front facing balconies with a glazed balustrade design. I therefore take the view that that the proposed replacement of the existing ornate metal balustrade to the front balcony with a glazed balustrade would be in keeping with the surrounding dwellings, and would not have an unacceptable impact upon the appearance of the host property.
- 8.07 The existing property when viewed from the highway is already a prominent dwelling within the street, its front building line being one of the foremost along The Leas; this is amplified as a result of the property being located between a bungalow to the east, and a chalet bungalow to the west. The existing curved ground floor bay window projects by approximately 0.8m from the main front wall of the house, and the proposed ground floor bay window would project by an additional 0.4m; this would accord with the Council's adopted SPG which recommends that ground floor extensions should be limited to a 1.2m front projection. However, the addition of a 1.2m deep bay window at first floor, with its square design, and hipped gable roof above, would in my view materially increase the overall scale and bulk of the property relative to the other properties in this part of the street scene. This increased scale and bulk would be exacerbated by having brought the front elevation even closer to the road, when the dwelling is already visually prominent within the road, and in relation to the dwellings either side of it. As a result, I consider that the property would represent an overly conspicuous and dominant built structure in the street scene. In this respect the proposal would have an unacceptable impact on the street scene through its siting and design, conflicting with current policy and guidance. This would amount to a reason for refusal.

9.0 CONCLUSION

9.01 To conclude, I consider the proposal is unacceptable in relation to its harmful impact upon the residential amenity of neighbouring property no. 55 The Leas, and by virtue of its detrimental impact on the street scene. I therefore recommend that planning permission be refused.

10.0 RECOMMENDATION – REFUSE for the following reasons:

- (1) The proposed first floor bedroom window, by virtue of its siting in the eastern flank wall of the house adjacent to the private open courtyard area of no. 55 The Leas, would have a detrimental impact on the residential amenity of this neighbouring property, contrary to Policies CP4, DM14 and DM16 of "Bearing Fruits 2031: The Swale Borough Local Plan 2017" and to the advice of the Council's adopted Supplementary Planning Guidance entitled "Designing an Extension - A Guide for Householders".
- (2) The design and siting of the proposed two storey front bay extension, by virtue of its projection towards and close proximity to The Leas, would create an overly conspicuous and dominant built structure in the street scene in a manner detrimental to the character and appearance of the area and visual amenities, contrary to Policies CP4, DM14 and DM16 of "Bearing Fruits 2031: The Swale Borough Local Plan 2017" and to the advice of the Council's adopted Supplementary Planning Guidance entitled " Designing an Extension - A Guide for Householders".

The Council's approach to the application:

In accordance with paragraph 38 of the National Planning Policy Framework (NPPF), July 2018 the Council takes a positive and proactive approach to development proposals focused on solutions. We work with applicants/agents in a positive and creative way by

- Offering a pre-application advice service.
- 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.



3.2 REFERENCE NO - 18/505689/FULL & 18/505690/LBC		
APPLICATION PROPOSAL Partial demolition of existing rear extension and erection of single storey rear extension with roof lights. Replacement timber sash windows to front and rear elevation.		
ADDRESS 12 Abbey Street Faversham Kent ME13 7BE		
RECOMMENDATION - Refuse		
REASON FOR REFERRAL TO COMMITTEE Town Council support		
WARD Abbey	PARISH/TOWN COUNCIL Faversham Town	APPLICANT Mr M Williamson AGENT Peter Jackson Architects
DECISION DUE DATE 02/01/19		PUBLICITY EXPIRY DATE 07/12/18

Planning History

SW/96/0264

LISTED BUILDING CONSENT TO REMOVE STRUCTURES BUILT AGAINST GARDEN WALL Approved Decision Date: 26 March 1996

1. DESCRIPTION OF SITE

- 1.1 12 Abbey Street is a three storey house which forms part of a Grade II listed group of buildings which form a continuous terrace fronting the street, located within the Faversham conservation area. Numbers 11 and 12 Abbey Street are listed buildings dating from the late medieval period. This part of Abbey Street features terraced dwellings of many different styles, forms and architectural appearances on both sides of this important historic street.
- 1.2 This building retains many architectural features to the front elevation comprising of the former shopfront built of timber, a matching six panel entrance door, and timber sash windows to the first and second floors.
- 1.3 The rear elevations of numbers 11 and 12 have each been built with a two storey rear wing, typical of such properties – which creates an L shape to the footprint of each dwelling, leaving each house with a “middle room” window facing down the garden close to the common boundary. Number 12 also has a single storey extension with a gable end roof to the end of the original two storey rear wing. At ground floor level the rear wing and further extension currently house the kitchen and a small w.c.

2. PROPOSAL

- 2.1 Planning permission and listed building consent are now sought for the demolition of the existing single storey rear extension and the construction of a single storey rear and side extension with rooflights. New replacement windows are also proposed to the front and rear elevation of the property.
- 2.2 The new extension would enlarge the kitchen and be L shaped in form, wrapping around two sides of the existing two storey rear wing. The new extension would widen

the kitchen by 2.1m almost all the way to the side boundary with number 11, and extend around 2.2m to the rear of the current two storey wing (the same depth as the existing single storey rear extension). The external surfaces of the extension would be finished in brickwork, with a new pitched roof in matching roof tiles featuring three conservation style roof lights. All windows and doors will be made of timber frames with casement openings.

- 2.3 The extension will project along the common boundary by approximately 6.0m from the original rear elevation of the building, and thus 6.0m beyond the middle room window of number 11.
- 2.4 Elsewhere, new timber sash windows with slim light glazing are proposed to the rear elevation at first floor and second floor levels; and to the front elevation at second floor level. All replacement windows will match the existing window in style and colour.
- 2.5 The application is accompanied by a Heritage, planning, design and access statement, extracts from which is as follows:

“The proposals have been carefully designed to respect the existing listed building. Alterations to the fabric have been kept to a minimum where they impact on the original spacings and building structure whilst also improving usability, which ultimately will ensure the building is valued, appreciated and cared for by its owners, present and future.

The applicant submits that the proposals represent a sensitive and worthy improvement to the living accommodation and an enhancement to the building as a whole, continuing the process off incremental change that has occurred over time.”

3. PLANNING CONSTRAINTS

Potential Archaeological Importance

Conservation Area Faversham

Listed Buildings MBC and SBC Ref Number: 372/SW
Description: G II 13 ABBEY STREET, FAVERSHAM, ME13 7BE

Listed Buildings MBC and SBC Ref Number: 1162/SW
Description: G II 10, 11 AND 12, ABBEY STREET, FAVERSHAM, ME13 7BE

4. POLICY AND CONSIDERATIONS

- 4.1 The National Planning Policy Framework 2018 (NPPF) sets out the following:

Paragraph 194 – *Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification.*

Paragraph 196 – *Where a proposed development will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.*

- 4.2 Bearing Fruits 2031: The Swale Borough Local Plan 2017: Policies DM14, DM16, DM32 and DM33
- 4.3 Supplementary Planning Guidance (SPG) entitled '*Designing an Extension – A Guide for Householders*'. Of particular relevance here is the guidance on rear extensions. To avoid situations where a rear extension may adversely affect the outlook and amenity at the rear of attached or closely spaced houses, the guidance is that single storey rear extensions on the boundary should not extend along the common boundary further than 3m to the rear of the original rear wall.
- 4.4 Supplementary Planning Guidance (SPG) entitled 'Listed Buildings' and 'Conservation Areas'.

5. LOCAL REPRESENTATIONS

- 5.1 The Faversham Society recommends refusal of the applications, stating

"...the extension is full width and wraps around the existing rear extension. It would result in the loss of an existing light-well and these light-wells remain characteristic of the smaller houses in Abbey Street.

Whilst this scheme would result in less than substantial harm, this is not outweighed by the benefits which will result to one dwelling's additional space."

- 5.2 I have spoken with the Faversham Society to clarify their comment regarding light-wells and I understand that they oppose the extension running alongside the two storey rear wing, filling the gap between the two storey wing and the boundary with number 11 (behind the "middle room" window), and losing the distinctive "in and out" rhythm of the rear elevations here.

6. CONSULTATIONS

- 6.1 Faversham Town Council originally supported the application, simply stating:

"The Town Council is pleased to see timber windows being installed."

Further clarification was sought on the reasons why the Town Council supported the application and the following comments were submitted:

- 1. The character of the area is not affected by the proposal.*
- 2. The proposal covers up what is already there and improves the property.*
- 3. This is a sensible development of the house done in a sensitive way.*
- 4. The Town Council is pleased to see timber windows being installed."*

- 6.2 Historic England does not wish to offer any comments.

7. BACKGROUND PAPERS AND PLANS

- 7.1 Application papers and drawings referring to application reference's 18/505689/FULL and 18/505690/LBC.

8. APPRAISAL

- 8.1 The prime consideration in determining these applications is the Council's statutory duty to have special regard to preserving the special interest of the listed building. I also consider a key issue in this case is whether the proposal meets the aim and objectives of policy DM33 of Bearing Fruits 2031: SBLP 2017 in preventing development that fails to preserve or enhance the special character and appearance of the conservation area. Also of consideration is the impact of the proposal on the amenities of the neighbouring properties.

Impact on the character and appearance of the listed building and conservation area

- 8.2 The application property forms part of a Grade II listed group of buildings which form a continuous terrace. These all have rear wings which do not extend across the full width of the respective plots and are a characteristic architectural element of the terrace group. These spaces enable light to penetrate into the heart of each building and provide important amenity and circulation space at the rear of each property. While the rear of the building has been altered over the years, it is still possible to see the original plan form of the house; one it shares with its neighbours. I do not consider that the way the proposed wrap around extension attaches itself to the side of the two storey rear wing is acceptable as it fails to respect the historic form of the building. In this case, the plan form of the original building must be given significant weight to make sure that any alterations still provide an understanding of the original layout. This does not necessarily prevent the building being extended further but it does require any extension to be designed in a way that you can still appreciate its original form. The Faversham Society refer to just this issue in their objection to the applications.
- 8.3 I note the support from Town Council but, as the property is a heritage asset there is a statutory duty on the Council to ensure that changes are not harmful. Paragraph 194 of the NPPF requires that any harm or loss to heritage assets should require clear and convincing justification, and para 196 requires that less than substantial harm should be weighed against the public benefits of the proposal. In this case the agent makes no case for the rear extension providing any public benefit.
- 8.4 Whilst it is acknowledged that the proposal to replace the windows 'like for like' will preserve the special interest of the listed building and the appearance of the conservation area, I do not consider the proposed extension to be acceptable. I consider these applications should be refused because of the harmful precedence that would be created and could result in substantial harm if applied to the whole listed terrace group.

Residential Amenity

- 8.5 Notwithstanding my concern for conservation of the original layout of the house, the depth of the proposed rear extension would be 6.0m from the original "middle room" rear wall. Policies DM14 and DM16 of the adopted local plan seek for developments to protect/cause no demonstrable harm to residential amenity. The Council's SPG – "Designing and Extension" sets out local guidance for single storey rear extensions close to a neighbour's common boundary, advising that a maximum projection of 3 metres will normally be allowed. Where houses are not aligned at the rear, or one has previously been extended, or where a gap exists between houses, flexibility can be shown. In this case the houses are aligned at the rear and they both have vulnerable "middle room" windows which already suffer poor outlook.

- 8.6 The proposed side wall facing number 11 would be around 2.5 metres in height to the eaves. I consider the significant depth, mass and proximity of the extension to the side boundary and “middle room” rear window of number 11 would mean that the extension would have an unacceptably overbearing and enclosing effect on the occupants of number 11, in a manner harmful to the outlook and living conditions of this property. It would significantly exceed the recommended 3 metre projection in the Council’s guidelines.
- 8.7 Often I would seek to negotiate a reduction in the depth of the extension so that it complies with this guidance. However, given the above concerns over the position of the extension, I have not done so here.
- 8.8 Finally, I see no objection to the possible rebuilding of the existing single storey rear extension (that part beyond the two storey rear wing) which appears to be of a later date and of limited value to the overall heritage significance of the application property. Noting also that the dwelling to the north no 13 is a relatively new dwelling of no heritage significance and given its current relationship with the application building the proposals would have limited or no impact on the amenities of no 13.

9. CONCLUSION

- 9.1 I consider that the proposed rear extension is not acceptable and would be contrary to national and local plan policies and guidance within the SPG. I therefore recommend that both the planning permission and Listed Building Consent applications are refused.

RECOMMENDATION - REFUSE both applications for the following reasons:

18/505689/FULL

REASONS

- (1) The proposed rear extension would, by virtue of its depth, height, mass and siting close to the boundary with number 11 Abbey Street, have an unacceptably enclosing effect that would be harmful to the outlook and enjoyment of this property. As a result, the proposal would fail to protect residential amenity, and would be contrary to policies DM14 and DM16 of Bearing Fruits 2031: The Swale Borough Local Plan 2017 and to the Council’s Supplementary Planning Guidance entitled ‘Designing an Extension – A Guide for Householders’.
- (2) The proposed rear extension, by reason of its design, scale and position would fail to respect or adequately respond to the historic interest of the building and as such would represent less than substantial harm if applied to the whole listed terrace group for which there is no public benefit, contrary to the guidance set out in paragraph 196 of the NPPF 2018 and fails to comply with policies CP4, CP8, DM14, DM16, DM32 and DM33 of Bearing Fruits 2031: The Swale Borough Local Plan 2017 and to the Council’s Supplementary Planning Guidance entitled ‘Listed Buildings’ and ‘Conservation Areas’.

The Council’s approach to the application

In accordance with paragraph 38 of the National Planning Policy Framework (NPPF), July 2018 the Council takes a positive and proactive approach to development proposals focused on solutions. We work with applicants/agents in a positive and creative way by offering a pre-

application advice service, where possible, suggesting solutions to secure a successful outcome and as appropriate, updating applicants / agents of any issues that may arise in the processing of their application.

In this instance:

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

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

18/505690/LBC

REASON

- (1) The proposed rear extension, by reason of its design, scale and position would fail to respect or adequately respond to the historic interest of the building and as such would represent less than substantial harm if applied to the whole listed terrace group for which there is no public benefit, contrary to the guidance set out in paragraphs 196 of the NPPF 2018 and fails to comply with policies CP4, CP8, DM14, DM16, DM32 and DM33 of Bearing Fruits 2031: The Swale Borough Local Plan 2017 and to the Council's Supplementary Planning Guidance entitled 'Listed Buildings' and 'Conservation Areas'.

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.



18/505689/FULL & 18/505690/LBC - 12 Abbey Street, Faversham ME13 7BE
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PLANNING COMMITTEE – 10 JANUARY 2019

PART 5

Report of the Head of Planning

PART 5

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

- **Item 5.1 - Chalet No. 7 Hazeldene Chalet Park, Fourth Avenue, Eastchurch**

APPEAL DISMISSED

ENFORCEMENT APPEAL

Observations

Full support for the Council's enforcement action.

- **Item 5.2 – 2 Arthur Street, Sittingbourne**

APPEAL DISMISSED

DELEGATED REFUSAL

Observations

Members may recall resolving to grant permission for an improved alternative scheme at this site last year.

- **Item 5.3 – Vicarage Cottage, The Street , Hartlip**

APPEAL DISMISSED

DELEGATED REFUSAL

Observations

The Inspector agreed with the Council that the proposal would cause unacceptable harm to the designated heritage assets.

- **Item 5.4 – 141 Ufton Lane, Sittingbourne**

APPEAL ALLOWED

AGAINST OFFICER RECOMMENDATION

Observations

The Inspector concluded that the proposal would not cause material planning harm.

- **Item 5.5 – Bobbing Kennels, Quinton Road, Sittingbourne**

APPEAL DISMISSED

DELEGATED REFUSAL

Observations

Full support for the decision to refuse permission for this proposed housing scheme in the countryside, with the Inspector giving significant weight to the Policies in the Local Plan.

- **Item 5.6 – Pond, Perrywood Place (Grove Road), Selling**

APPEAL DISMISSED

DELEGATED REFUSAL

Observations

Full support for the Council's decision.

- **Item 5.7 – Jack Russell Place, Lower Halstow**

APPEAL DISMISSED

DELEGATED REFUSAL

Observations

The Inspector agreed with the Council that the wall causes harm to the visual amenities of the countryside.

- **Item 5.8 – 36 The Glen, Minster**

APPEAL ALLOWED

DELEGATED REFUSAL

Observations

Despite acknowledging that the proposal was contrary to the guidance in the Council's SPG, the Inspector concluded that the proposal would not harm the living conditions of the neighbours at No 34..

- **Item 5.9 – 26 Forbes Road, Favesham**

APPEAL DISMISSED

DELEGATED REFUSAL

Observations

Full support for the Council's decision.

- **Item 5.10 – 2 Little Kennaways, Ospringe**

APPEAL ALLOWED

DELEGATED REFUSAL

Observations

A decision which clarifies what has become a long running and locally contentious affair concerning the agricultural use of this land and the need for a building of this nature in this location. To my mind the decision pays insufficient attention to the seeming inappropriateness of the design to serve the limited needs of the land, and misplays the fall-back issue on the basis that the building is only slightly larger than a far simpler building the Council had already approved.

- **Item 5.11– Building at Keycol Farm, Bobbing**

APPEAL DISMISSED

DELEGATED REFUSAL

Observations

An expected decision for a very poor and wholly unacceptable proposal.

- **Item 5.12– Tranquillity, Otterham Quay Lane, Upchurch**

APPEAL DISMISSED

COMMITTEE REFUSAL

Observations

Full support for the refusal of this housing in the countryside.

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Appeal Decisions

Site visit made on 1 August 2018

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

an Inspector appointed by the Secretary of State

Decision date: 14 August 2018

Appeal Ref: APP/V2255/C/17/3184653 & 3184654

Chalet No.7, Hazeldene Chalet Park, Fourth Avenue, Eastchurch, Sheppey, Kent ME12 4EW

- 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 Mr A and Mrs G McSweeney against an enforcement notice issued by Swale Borough Council.
- The enforcement notice was issued on 8 August 2017.
- The breach of planning control alleged in the notice is failure to comply with condition No. (ii) of planning permission Ref SW/94/588 granted on 15 August 1994.
- The development to which the permission relates is described as "Variation of conditions of SW/87/1168 and SW/88/338 to extend occupancy of the chalets 23rd December – 2nd January inclusive". The condition in question states that: *The chalets shall be used solely as holiday accommodation and shall not be used for human habitation between 31st October and 1st March in the following year excepting only 11 days and nights at Christmas and New Year namely 23rd December to 2nd January inclusive.* The notice alleges that the condition has not been complied with in that the chalet is being occupied in contravention of this condition.
- The requirements of the notice are to cease the use of the chalet for human habitation other than between 1st March and 31st October inclusive and the 23rd December to 2nd January inclusive in any year.
- The period for compliance with the requirements is 31 days.
- The appeals are proceeding on the grounds set out in section 174(2) (e) and (f) of the Town and Country Planning Act 1990 as amended. Since the prescribed fees have not been paid within the specified period, the appeals on ground (a) and the application for planning permission deemed to have been made under section 177(5) of the Act as amended have lapsed.

Summary of decision: The appeals are dismissed and the enforcement notice is upheld.

Preliminary matters

1. An enforcement notice was initially issued on 27 February 2017. However, due to a discrepancy in service, the Council withdrew that notice and issued another, the subject of this appeal.
2. Correspondence between the Planning Inspectorate and the Appellants suggests that it was agreed that all paperwork from the appeals against the first enforcement notice could be transferred to the current appeals. The initial appeal form brought grounds (e) and (f). The current appeal form does not indicate which grounds are brought but the Appellants' case is set out in the space following ground (a) suggesting appeals brought on that ground. However, a fee needs to have been paid for ground (a) to proceed. It has not

Appeal Decisions APP/V2255/C/17/3184653 & 3184654

been. Therefore the appeals can only proceed on the remaining grounds (e) and (f).

The appeals on ground (e)

3. The ground of appeal is that copies of the notice were not served as required by s172 of the Act. Section 172(2) requires the notice to be served on the owner and occupier of the land to which the notice relates and on any other person having an interest in the land which would be materially affected by the notice.
4. "The land to which the notice relates" is the property known as 7 Hazeldene Chalet Park (or 7 Hazeldene Close or 7 Hazeldene Park as indicated on the forms submitted by the Appellants). It is clearly identified by a red outline on the plan accompanying the enforcement notice. It does not extend to any other part of the Park. The Council has provided evidence to show that copies of the notice were served on the owners and occupiers of No.7. There is no indication that there are any other persons who have an interest in the land (that is No.7) and thus no evidence whatsoever that the notice was not served as required by s172 of the Act. The appeals on ground (e) are thus bound to fail.
5. The Appellants' argument on this ground appears to be questioning why, in their view, some occupiers living on the Chalet Park in breach of the condition requiring vacation at certain times of the year have been subject to enforcement action whilst others have not. In other words they consider that the Council is being inconsistent in its approach. That is a matter best raised with the Council. It cannot influence the outcome of the appeal on ground (e) as it does not suggest that the enforcement notice, attacking the occupation of No.7 in breach of the condition, has been incorrectly served.

The appeals on ground (f)

6. The ground of appeal is that the steps required by the notice to be taken exceed what is necessary. The purpose of the notice is to remedy the breach of planning control that has occurred by requiring the property to be vacated at certain times of the year as required by condition (ii) of planning permission SW/94/588. No lesser steps than those specified would remedy the breach that has occurred and neither do the Appellants suggest any. The requirements of the notice are not, therefore, excessive and the appeals on ground (f) must fail.
7. The Appellants' argument under this ground is that they should be allowed to occupy the property as their permanent residence and, in support, they raise personal circumstances. However, in order to consider whether the condition should be discharged so as to enable them to continue to live in the property all year round, an appeal on ground (a) should have been brought and the necessary fee paid. There is no ground (a) and so the question of whether there are any good reasons why the condition should be discharged is not before me.
8. Other matters raised by the Appellants question how the Council can take enforcement action when they have accepted Council Tax paid on the property all year round and have paid housing benefit all year round. These are not matters that have any bearing on the grounds of appeal brought and are best

Appeal Decisions APP/V2255/C/17/3184653 & 3184654

been. Therefore the appeals can only proceed on the remaining grounds (e) and (f).

The appeals on ground (e)

3. The ground of appeal is that copies of the notice were not served as required by s172 of the Act. Section 172(2) requires the notice to be served on the owner and occupier of the land to which the notice relates and on any other person having an interest in the land which would be materially affected by the notice.
4. "The land to which the notice relates" is the property known as 7 Hazeldene Chalet Park (or 7 Hazeldene Close or 7 Hazeldene Park as indicated on the forms submitted by the Appellants). It is clearly identified by a red outline on the plan accompanying the enforcement notice. It does not extend to any other part of the Park. The Council has provided evidence to show that copies of the notice were served on the owners and occupiers of No.7. There is no indication that there are any other persons who have an interest in the land (that is No.7) and thus no evidence whatsoever that the notice was not served as required by s172 of the Act. The appeals on ground (e) are thus bound to fail.
5. The Appellants' argument on this ground appears to be questioning why, in their view, some occupiers living on the Chalet Park in breach of the condition requiring vacation at certain times of the year have been subject to enforcement action whilst others have not. In other words they consider that the Council is being inconsistent in its approach. That is a matter best raised with the Council. It cannot influence the outcome of the appeal on ground (e) as it does not suggest that the enforcement notice, attacking the occupation of No.7 in breach of the condition, has been incorrectly served.

The appeals on ground (f)

6. The ground of appeal is that the steps required by the notice to be taken exceed what is necessary. The purpose of the notice is to remedy the breach of planning control that has occurred by requiring the property to be vacated at certain times of the year as required by condition (ii) of planning permission SW/94/588. No lesser steps than those specified would remedy the breach that has occurred and neither do the Appellants suggest any. The requirements of the notice are not, therefore, excessive and the appeals on ground (f) must fail.
7. The Appellants' argument under this ground is that they should be allowed to occupy the property as their permanent residence and, in support, they raise personal circumstances. However, in order to consider whether the condition should be discharged so as to enable them to continue to live in the property all year round, an appeal on ground (a) should have been brought and the necessary fee paid. There is no ground (a) and so the question of whether there are any good reasons why the condition should be discharged is not before me.
8. Other matters raised by the Appellants question how the Council can take enforcement action when they have accepted Council Tax paid on the property all year round and have paid housing benefit all year round. These are not matters that have any bearing on the grounds of appeal brought and are best

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taken up with the Council. In addition, whilst the Appellants say they were unaware of the restriction on occupation; that is no argument that any lesser steps than those specified are apposite.

Formal Decision

9. The appeals are dismissed and the enforcement notice is upheld.

B M Campbell

Inspector



Appeal Decision

Site visit made on 22 August 2018

by H Miles BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10th October 2018

Appeal Ref: APP/V2255/W/18/3202615

2 Arthur Street, Sittingbourne ME10 1BA

- 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 John Whiteley against the decision of Swale Borough Council.
 - The application Ref 18/501182/FULL, dated 2 March 2018, was refused by notice dated 27 April 2018.
 - The development proposed is the conversion of existing dwelling to create 4 no. apartments and insertion of three dormer windows. Demolition of existing outbuilding an erection of a 1no. detached single storey apartment.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. During the course of the consideration of this appeal the revised National Planning Policy Framework (the revised Framework) has been published. I have invited both main parties to submit comments on the relevance of the revised Framework to this case. I have taken any comments received into consideration and I have assessed this appeal in light of the revised Framework.

Main Issues

3. The main issues are the quality of living conditions for future occupiers in terms of the internal space, and the effect of the proposed development on the character and appearance of the area.

Reasons

Living Conditions

4. There is a dispute between the main parties about whether all of the proposed units would comply with the minimum space standards listed in the 'The Conversion of Buildings into Flats and Houses in Multiple Occupation' supplementary planning guidance (the SPG). The total floor areas and bedroom sizes are annotated on the submitted drawings. Bedrooms are shown to comply, against a standard of 7sqm.
 5. However, the SPG sets a minimum standard of 24sqm for the habitable floor area (not the total floor area) and states that the "habitable floor area...does not include the floor area of any bathroom, staircase, passageway, landing or access lobby...". The size of the kitchen/ living rooms and bathrooms are not
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annotated nor is the habitable floor area specified. The Council officer's report appears to calculate the habitable floor area using the methodology set out in the SPG and finds that Units 1, 3 and 5 would be undersized (by 1.56sqm, 2.28sqm and 2.6sqm respectively). On the basis of the evidence before me, I therefore find that these units would not achieve the habitable floor area required by the SPG.

6. Furthermore, the layout of the rooms within these units and positioning of doors and windows would not appear to allow for any notable storage space, with Unit 3 being the only unit which would have built-in storage in the form of a small high level cupboard. The proposed layout of the shower rooms is also very constrained with what seems likely to be an impractical layout of the toilet, shower and sink. In Unit 4 the bedroom set within the converted loft space would, due to head height, also have a limitable usable width so would be severely restricted in terms of positioning of furniture and circulation space. Notwithstanding any dispute regarding the overall size, these aspects of the proposed units would result in poorly functioning and impractical spaces, which would not provide an appropriate quality of accommodation for future occupiers.
7. For the reasons given above, the proposed units would be cramped and have poor layouts which would not provide appropriate living conditions for future occupiers. Consequently, in that regard, the scheme would conflict with the policies I consider to be most relevant to this main issue: Policy DM14 (General development criteria) of the Swale Borough Local Plan – Bearing Fruits 2031(2017) (the Local Plan) and with the SPG.

Character and Appearance

8. The host property sits at the end of a residential terrace on the corner of Hawthorn Road and Arthur Street. Due to the location of windows and doors, the elevation fronting Hawthorn Road reads as the principal elevation, and this, amongst other things, results in its appearance being different from the other properties in this terrace. Its corner location contributes to the property being prominent within the streetscene.
9. Arthur Street is characterised by traditional terraced housing, with rear elevations visible from Gibson Street. No dormers are visible in the streetscene. Hawthorn Road has a more mixed character with further terraced dwellings, more generously spaced semi-detached and detached dwellings and larger flatted developments. There are a limited number of dormers visible along Hawthorn Road.
10. The three proposed dormer windows occupy a large part of the roofslope, and do not align with the windows below. This would result in a congested appearance to this prominent roofslope, and the fenestration on the roof would appear cluttered and awkward relative to the windows below. Consequently, this highly visible roof would become dominated by dormer windows, which are not a characteristic of the nearby streetscene. Moreover, notwithstanding that their small pane appearance would reflect the window styles below and that the cladding surrounding these windows would be limited, the proposed dormer windows would be out of keeping with their context. Therefore, the proposals would be harmful in this respect.

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11. Therefore, the proposed development would have a harmful effect on the character and appearance of the area. Consequently, in that regard, the scheme would conflict with the policies I consider to be most relevant to this main issue: Policies CP4 (Requiring good design) and DM16 (Alterations and extensions) of the Local Plan, as well as with paragraph 5.5 of the Designing and Extension A Guide for Householders Supplementary Planning Guidance which sets out design criteria for dormer windows.
12. I note the other policies drawn to my attention, including the Framework, however I find that the policies above are most relevant to the main issue here.

Other Matters

13. I note the LPA's position that due to the site's position within 6km of the Medway Estuary and Marshes Special Protection Areas and Swale Special Protection Area the proposal has potential to affect these sites' features of interest. However given my conclusions in respect of the main issues, it is not necessary to pursue this matter further in this case.
14. I have considered the fact the proposed dwellings would contribute to the local housing stock against the need for housing in Swale and more widely, and the appellant's submissions that the site is in a sustainable location and would be a small 'windfall' site. However due the limited scale of the development proposed these issues are not sufficient to outweigh the harm to the character and appearance of the area, nor the quality of living conditions for future occupiers identified above.
15. Matters including the principal of residential development in this location and the proposed parking arrangements are not in dispute between the main parties. There have been no objections from statutory consultees (noting that objections were received from local residents). However, the absence of harm and / or objections are neutral points that do not alter my overall decision.
16. Concerns have been raised about the way the application was dealt with by the Council, including advice given at pre-application stage. However, such issues are not matters for my consideration in a s78 appeal.

Conclusion

17. For the reasons above, this appeal is dismissed

H Miles

INSPECTOR

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The Planning Inspectorate

Appeal Decision

Site visit made on 24 September 2018

by **Tim Wood BA(Hons) BTP MRTPI**

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

Decision date: 12 October 2018

Appeal Ref: APP/V2255/W/18/3195906

Vicarage Cottage, The Street, Hartlip, Sittingbourne ME9 7TL

- 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 Michael Karaloucas against the decision of Swale Borough Council.
 - The application Ref 17/505258/FULL, dated 9 October 2017, was refused by notice dated 14 December 2017.
 - The development proposed is demolition of the existing building and development of a replacement detached house.
-

Decision

1. The appeal is dismissed.

Preliminary Matter

2. During the course of consideration of this appeal the revised National Planning Policy Framework has been published. I have invited the main parties to make any additional comments in relation to this but none have been submitted. Nevertheless, I have taken account of the revised Framework in determining this appeal.

Main Issue

3. The main issue in this appeal is the effects of the proposal on the setting of the adjacent listed building and on the character and appearance of the conservation area.

Reasons

4. The existing building is a modest 2 storey house, said to date from around 1890. It appears to sit within the larger grounds of The Old Vicarage, which is a larger, more imposing detached property. Vicarage Cottage does not have its own well-defined curtilage with only a low hedge to mark a semblance of separation with The Old Vicarage.
5. The grade I listed St Michael's Church sits adjacent to the site. This is an imposing and important historic building, at the heart of this village. The church and the appeal site sit within the Hartlip Conservation Area.
6. Vicarage Cottage is constructed of red brick with tile hanging at first floor, some timber cladding and with a clay tiled roof. It has the appearance of a worker's cottage and the same is suggested in the appeal documents, although

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- not supported by evidence. Its materials and some elements of its design are in sympathy with the more imposing Old Vicarage, although there are many differences which distinguish the two.
7. Vicarage Cottage is set well back from The Street and is not obvious from views here. However, it can be seen from within the churchyard where its upper parts are visible, and from the remainder of the land around The Old Vicarage. Notwithstanding the limited vantage points, I consider that its design, its age and appearance combine to make a positive contribution to the character and appearance of the conservation area. The appellant acknowledges in his statement that it was likely that it was built to house an employee of the vicar (who himself would have resided at what is now The Old Vicarage) and I see this as strengthening the building's contribution to the area. Notwithstanding that the Council makes no objection to the design of the proposed new house, I find that the loss of the existing building would have a negative effect on the character and appearance of the conservation area through the loss of an attractive building of some age and charm, which additionally is likely to have some link with the adjacent Vicarage and church.
 8. In relation to the grade I listed church, I consider that the proposal clearly falls within its setting. From the appeal site, the church has a considerable visual presence. In my judgement, The Old Vicarage has a clear historic association with the church, although this functional relationship is now lost, but the visual relationship remains. The appeal building contributes to this relationship. In this respect, I consider that the replacement of this building would bring about the loss of a feature which makes a positive contribution to the setting of the church. Thus the setting would not be preserved.
 9. The revised National Planning Policy Framework states that when considering the impact of development on the significance of a designated heritage asset (in this case the Conservation area and listed building), great weight should be given to the asset's conservation, the more important the asset, the greater weight that should be; this is irrespective of the level of harm arising. It adds that any harm to or loss of significance of a designated heritage asset (including development in its setting) should require clear and convincing justification. I consider that the harm that would arise in relation to the conservation area and to the setting of the listed church would be 'less than substantial harm' as set out in paragraph 196 of the revised Framework. The Framework requires that any such harm should be weighed against the public benefits. Having considered the appellant's case, I find that there are no public benefits which are sufficient to outweigh the harm or loss of significance.
 10. In addition to the above points, the Council states that they consider that the existing Vicarage Cottage should be considered as a non-designated heritage asset; this is disputed by the appellant. Taking account of my conclusions set out above, this is not a matter that would be determinative in this appeal. However, I consider that there is some weight to the Council's argument and so, taking account of the design, age, appearance and likely associations of the Vicarage Cottage, it can be considered as a non-designated heritage asset and its loss adds weight to my conclusions.
 11. Reference is made in the documents to a previous refusal of planning permission by the Council, for a larger house and also to the subsequent informal advice of officers, prior to the submission of the appeal scheme to the

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Council. The appellant points out that the informal advice offered did not suggest any resistance to the loss of the existing building, as a matter of principle. This is mentioned in the officer's report. However, I note that it did form the basis of a reason for refusal in the previous application which must be taken as a formal determination by the Council. Whilst the omission of this in the informal advice is unfortunate, it cannot be binding on the Council and it is a legitimate matter for scrutiny in this appeal.

Conclusion

12. I have taken account of all other matters raised in the submissions but find nothing which leads me to a different conclusion. The proposal would represent development which would harm the local historic environment, contrary to Policies CP 8, DM32 and DM 33 of the Swale Borough Local Plan and the advice in the National Planning Policy Framework. Therefore, the appeal is dismissed.

S T Wood

INSPECTOR

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Appeal Decision

Site visit made on 7 November 2018

by **Mr Kim Bennett DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 15 November 2018

Appeal Ref: APP/V2255/D/18/3207386

141 Ufton Lane, Sittingbourne ME10 1HJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr & Mrs Plumb against the decision of Swale Borough Council.
 - The application Ref 18/500656/FULL, dated 2 February 2018, was refused by notice dated 30 April 2018.
 - The development proposed is the demolition of existing garage and erection of proposed annexe
-

Decision

1. The appeal is allowed and planning permission is granted for the demolition of existing garage and erection of proposed annexe at 141 Ufton Lane, Sittingbourne ME10 1HJ, in accordance with the terms of the application, Ref 18/500656/FULL, dated 2 February 2018, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: SI/17/154.02Rev A; SI/17/154.03 Rev A and SI/17/154.04 Rev A.
 - 3) The materials to be used in the construction of the external surfaces of the annexe hereby permitted shall match those listed on the application form.
 - 4) The annexe hereby permitted shall not be occupied at any time other than for purposes ancillary and /or incidental to the residential use of the dwelling known as 141 Ufton Lane.

Main Issue

2. The main issue is the effect of the proposal on the character, appearance and visual amenities of the area.

Reasons

3. The appeal property comprises a detached house located on the western side of Ufton Lane. It has a long rear garden, at the end of which is a large garage which spans the full width of the garden. The garage has space for the parking of two cars in front of it which were in use at the time of my visit. Access to the garage is via a private access road from Homewood Avenue, which also

Appeal Decision APP/V2255/D/18/3207386.

- serves a large number of lock up garages. The adjoining properties on either side also have long rear gardens.
4. Although officers recommended that permission be granted for the proposed development, permission was refused following consideration at the Councils Planning Committee on 26 April 2018. The minutes of that meeting show that although a number of matters were discussed, the Council eventually refused permission for a single ground, namely that the development would damage the visual amenity of nearby properties.
 5. Part of the Council's concerns appear to relate to a previous proposal for a detached house on the current appeal site which was dismissed at appeal in 2015¹. The full details of that are not before me and I have reached my findings below based on the merits of this particular proposal. However, I note that one of the key concerns of the Inspector at that time, was that the use of the back garden as an independent dwelling and the physical sub division of the plot, would intensify the activity of the back garden and would be out of character with the area.
 6. With regard to the current proposal, it would be similar in width to the current garage but would be deeper in depth. It would have a shallow pitched roof to a ridge height of 3.9 metres with a rear gable fronting the garage court. In that respect it would appear similar to the adjoining rear outbuilding at No 143 Ufton Lane which also has a gable pitched roof. The adjacent building on the opposite side, No 139 Ufton lane, also has an outbuilding adjoining the existing garage on the appeal site, albeit smaller in size. Additionally, I noted a sizeable outbuilding at the rear of No 145 Ufton Lane and further outbuildings also backing on to the garage court and in similar locations at the end of rear gardens. The proposals include the provision of a 2 metre high close boarded fence and gates in front of the building, and in that respect would be similar in character to the boundary treatment to either side.
 7. Drawing the above together, in terms of impact upon visual amenity, the proposed annexe, although large, would not appear dissimilar or out of character visually with other outbuildings within the immediate locality. Given the long length of the rear gardens, there would also be no adverse impact arising in terms of overshadowing or overbearing effect.
 8. With regard to the use of the annexe, it is intended to be for ancillary residential accommodation, in this case for parents of one of the appellants, and given the restricted nature of accommodation and lack of any physical sub division within the garden, it would clearly be ancillary to the primary use of the appeal property. Such use could be controlled by a suitable planning condition. In these respects I draw a distinction between the previous proposal for a detached dwelling and consider that the concerns identified by the Inspector at the previous appeal would not be the case in this instance, given the low key nature of the use of the annexe.

Other Matters

9. Concerns have been raised by local residents regarding the increased use of the access to the garage court. However, the existing garage can and indeed already appears to be used by vehicles in that respect, and I do not consider

¹ Appeal Reference APP/V2255/W/15/3010736

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the use of the annexe would be significantly different. With regard to parking provision, there would be one space serving the annexe itself and I noted that the existing property has space for two vehicles on the front garden area adjoining Ufton Lane. I consider a combination of both would be adequate.

10. In relation to fire access in an emergency, it seems to me that would either be via the garage court access, as it would have to be for fires in other garages nearby, or via the front of the property itself. The Council did not consider that the use of the annexe would result in loss of privacy or undue noise or disturbance and given its function, I see no reason why it should cause any greater disturbance than adjoining ancillary outbuildings might. I also concur with the Council that outward opening gates would not cause any undue safety issues given the relatively quiet nature of the garage court and clear visibility to either side.

Conclusion

11. Although I can understand residents concerns regarding the future use of the site, given the history of a proposal for an independent dwelling, each proposal needs to be considered on its individual merits and there is no evidence before me to indicate that the use would be other than an ancillary annexe to the main property. A condition would ensure that continues to be the case. I also note that the previous application was submitted by a different owner. Accordingly, on the merits of this case, and for the reasons set out above, there would be no harm to the visual amenities of the area. The proposed development would therefore comply with Policy DM14 of the Council's Local Plan 2017, in that it would be sympathetic and appropriate to its location and there would be no harm to amenity.
12. In addition to a safeguarding condition relating to the use of the annexe, conditions requiring the development to be built in accordance with the approved plans, and for materials to be as specified, are necessary in the interest of certainty and for visual amenity.
13. Accordingly, subject to the above conditions, the appeal is allowed and planning permission granted.

Kim Bennett

INSPECTOR

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Appeal Decision

Site visit made on 3 December 2018

by Nicola Davies BA DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 December 2018

Appeal Ref: APP/V2255/W/18/3201155

Bobbing Kennels, Quinton Road, Sittingbourne ME9 8PH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr John Mackelden of E J Mackelden & Sons (Bobbing) Limited against the decision of Swale Borough Council.
 - The application Ref 17/504908/OUT, dated 21 September 2017, was refused by notice dated 17 November 2017.
 - The development proposed is demolition of existing kennels and outbuilding and erection of residential dwellings with associated garaging, landscaping and access.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application was made in outline with all matters reserved. I have dealt with the appeal on this basis, treating the proposed site plan as illustrative only.
3. A revised version of the National Planning Policy Framework ('the Framework') has been published since the planning application was determined by the Council. Both main parties have had the opportunity to comment on any relevant implications for the appeal. I have had regard to the Framework in reaching my decision.

Main Issues

4. The main issues in this case are whether the proposal is a suitable location for new residential development with regard to the spatial strategy of the development plan, the effect of the proposed development upon the character and appearance of the countryside and over-reliance on travel by private vehicle.

Reasons

5. The appeal site is surrounded on three sides by a field with Quinton Road running along its frontage. Toward the site frontage is a bungalow. There are various outbuildings and structures to its rear many of which appear to relate to the site's former dog kennel use. The proposal seeks to demolish the outbuildings and structures at the rear of the existing bungalow and to erect three dwellings.

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Location

6. Policy ST3 of the Bearing Fruits 2031: the Swale Borough Local Plan 2017 (the Local Plan) resists development outside of the built up area boundaries unless supported by national planning policy, amongst other matters. The appeal site falls beyond any built up area boundary and, as such, is located in the countryside. Any residential development beyond the boundary established by the Local Plan would therefore conflict with the aim of providing homes in accordance with the Borough's identified and agreed settlement hierarchy.
7. The appeal site would therefore not be a suitable location for additional housing given its location outside any established built-up boundary. The proposal would be contrary to Policies ST3 and CP3 of the Local Plan that seek to provide new homes in accordance with the settlement hierarchy.

Character and appearance

8. Policy ST3 of the Local Plan (subsection 5) allows for an exception to the above policy stance but only if a development is 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. The appeal site also falls within an important local countryside gap identified by Policy DM25 of the Local Plan. One of the purposes of such gaps is to safeguard the open and undeveloped character of the area. In addition, the Swale Landscape Character and Biodiversity Appraisal identifies the site as falling within the Iwade Arable Farmlands and its recommendations for this area are to restore its rural environment and improve its strength of character. Policy DM24 of the Local Plan seeks to conserve and enhance landscapes.
9. I saw that the existing outbuildings and structures behind the existing bungalow at the appeal site are of modest height. These outbuildings and structures are not overly prominent within the rural landscape when viewed from surrounding public vantage points at Quinton Road and Sheppey Way.
10. The proposal is to erect three dwellings and retain the existing bungalow. Even if these were to be single storey dwellings they would be extremely likely to be of greater height than any of those existing outbuildings and structures at the appeal site. The proposal would therefore represent a more substantial development. For this reason it would be more visually apparent and would, as a consequence of its larger size, be noticeably more conspicuous when observed within this rural landscape.
11. The increased height of development at this site brought about by urbanising residential development would result in the diminution of the rural character and appearance of this location and the countryside. The residential development would be visually prominent and intrusive within this rural landscape, despite not encroaching upon the adjacent field. Therefore, the visual harm of the proposed development to the character and appearance of the countryside would be substantial. This would not protect or enhance either the rural landscape setting or the tranquillity and beauty of the countryside. Although the appeal site forms a small part of the important local countryside gap, the development would impinge further upon the open and undeveloped

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- character of the gap. This would not restore the rural environment or strengthen its rural character.
12. I consider the proposed dwellings would be clearly visible when viewed from the surrounding rural landscape and in views from nearby public highways of Quinton Road and Sheppey Way where there are no field boundary trees or vegetation. The existing limited vegetation around the boundary of the appeal site would not conceal the development in wider views. Although additional or new planting could strengthen boundary vegetation this would take some time to establish so there would be initial to medium term harm. I accept that in some views the development would be seen in the context of a vegetated backdrop but this would not sufficiently obviate the harm arising from the development as the dwellings would be clearly visible in the foreground.
 13. Whilst the appellant contends that the landscape is rather bleak and an undistinguished area of countryside between two roads, this does not justify the setting aside of policies that seek to protect the countryside and rural landscapes.
 14. I accept that the existing dog kennel use is not characteristic of the wider landscape and its removal and redevelopment of the site, when taken on its own architectural merit, could be considered to be a more attractive form of development than that of the unkempt dog kennel use. I acknowledge that the existing bungalow would remain and the site could potentially be put to an alternative commercial use. However, these factors do not justify a development that would result in greater visual harm to the rural landscape and countryside.
 15. I have been referred to a planning appeal (appeal ref: APP/V2255/W/16/3153537) but that appeal was for the development of a much larger site that pre-dated the adoption of the 2017 Local Plan. I consider this proposal can and should be considered on its own merit and in accordance with the current development plan that is in place.
 16. For these reasons, I conclude that the proposed development would be harmful to the character and appearance of the countryside. The proposal would, therefore, conflict with Policies ST1, ST3, CP3, DM9, DM14, DM24 and DM25 of the Local Plan and the Appraisal that, amongst other matters, seek to conserve and enhance the countryside, rural landscapes and important local countryside gaps.
 17. I acknowledge that this is a previously developed site. The appellant suggests that the site should be considered as an exception to normal policy as the land would not constitute open countryside. However, even if this site were to be considered as an exception in this case planning policies require the development to protect and enhance the countryside. I have found that the proposal would not achieve this, therefore this brings the proposal into conflict with development plan policy. Whilst Policy CP3 of the Local Plan offers support for the use of previously development land, it also indicates that not all brownfield sites will be suitable. Similarly the Framework, although encouraging the use of brownfield land, also aims to protect and enhance landscapes and the intrinsic character and beauty of the countryside. This aligns with the aims of the policies cited in the above paragraph.

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Travel

18. The appeal site is separated from any neighbouring settlements, however it would be possible to walk or cycle to a small range of services and facilities within the area. There is a bus stop within a short walking distance of the site. I am mindful of the provisions of the Framework that resist development that would generate private travel and that promote walking, cycling and the use of public transport. In the context of its rural location where accessibility is not normally as good as that of urban areas, I consider that the proposed development would have reasonable access to facilities and services without being solely dependent on private car. Whilst occupiers may opt to use their cars for travel, the movements by the occupiers of three households would be relatively low.

Planning Balance and Conclusion

19. The Council advises that with the adoption of the 2017 Local Plan it has a five year supply of deliverable housing sites. The appellant expresses doubt as to whether this is the case and the weight that should be given to policies for the supply of housing. However, it is not the purpose of an appeal to revisit the Borough's housing need, particularly as the issue has been recently tested through the Local Plan adoption process. Nonetheless, even if there was a shortfall in the five year supply, the three homes proposed in the appeal scheme would make only a minor contribution to it. This matter is therefore not a factor that weighs substantially in favour of the scheme.
20. The proposal would widen the choice of homes within the Swale Borough Council area and new occupiers would contribute to the spend in the local economy and contribute to its vitality. Whilst I consider there would be a need to travel to access services and facilities beyond Bobbing there would be reasonable accessibility to facilities and services within walking or cycling distance relatively close by. These are moderate benefits of the proposed development.
21. Notwithstanding the above, I have found that the proposal would be harmful to the character and appearance of the countryside. I attach substantial weight to this environmental harm.
22. Weighing all the relevant considers in the planning balance, I conclude that the proposal is contrary to the existing settlement policy for the area. The adverse environmental impact of the scheme would significantly and demonstrably outweigh the benefits. Overall, therefore, due to the conflict with the development plan and the identified harm to the environment, I conclude that the appeal should be dismissed.

Nicola Davies

INSPECTOR



The Planning Inspectorate

Appeal Decision

Site visit made on 20 November 2018

by **Tom Gilbert-Wooldridge BA (Hons) MTP MRTPI IHBC**

an Inspector appointed by the Secretary of State

Decision date: 12th December 2018

Appeal Ref: APP/V2255/W/18/3200455

Pond 154m from Perrywood Place Grove Road, 153m from Unnamed Road, Grove Road, Selling ME13 9RN

- 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 B Macey against the decision of Swale Borough Council.
 - The application Ref 17/504527/FULL, dated 1 September 2017, was refused by notice dated 16 November 2017.
 - The development proposed is the storing on site of 15 storage containers.
-

Decision

1. The appeal is dismissed.

Procedural Matter

2. The development has already been carried out and so I have regarded this appeal as seeking retrospective planning permission.

Main Issue

3. The main issue is the effect of the development on the character and appearance of the Kent Downs Area of Outstanding Natural Beauty (AONB).

Reasons

4. The appeal site is located on the north side of Grove Road within the Kent Downs AONB. The area is predominantly rural, with woodland and gently undulating fields either side of the road and only a scattering of properties. Buildings are typically constructed from materials such as timber and brick and utilise pitched roof designs. This includes agricultural structures such as the barn in the field to the south of the appeal site. Public footpaths cross the road and provide access to the wider countryside. Thus, the character and appearance of the area makes a positive contribution to the AONB.
5. The appeal site contains an access track from Grove Road which leads to a number of enclosures used as paddocks. The 15 metal storage containers are sited along the site's eastern boundary against a well-established row of vegetation. The positioning of the containers ensures that they are tucked to one side of the site, which limits views from the public footpath to the east, even in late autumn. The route of the public footpath to the east was not clear at my site visit, but the containers are nevertheless obscured.
6. However, standing within the appeal site, the containers present a stark contrast to the green and rural surroundings. This is due to their number but

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- also their appearance in terms of the use of utilitarian materials and a flat roof design. This is particularly evident when viewed from the west, where the ground rises up to a public footpath. From Grove Road, views of the containers are limited to the site entrance but it is still possible to see some of them.
7. It is not clear what additional landscaping might entail and where it might be sited. Moreover, such landscaping would not screen the containers entirely and there would likely still be views from within the site and from the site entrance on Grove Road. The removal of existing open-air storage has helped to tidy up the site over the years. Further removal of such items could occur. However, the containers remain an incongruous feature within the AONB.
 8. The appellant states that the containers are used for the storage of machinery and materials associated with his business and the management of the site. The appellant has previously suffered a number of thefts. However, it has not been adequately demonstrated why the contents could not be housed in a structure or structures with an appearance and design more sympathetic to the area. Thus, this does not outweigh the identified harm. It is apparent that the paddocks and pallet business provides some assistance to the rural economy in line with paragraphs 83 and 84 of the National Planning Policy Framework (NPPF). However, the extent of support to the local economy is not clear and so I can only give modest weight to this benefit.
 9. There is uncertainty over the lawfulness of some of the containers, which have increased in number since 2007. However, in the absence of any clear evidence, I have regarded all 15 containers as requiring planning permission. Should the appellant wish to demonstrate the lawfulness of any containers and/or land, this would need to follow a separate planning process.
 10. In conclusion, the development has a harmful effect on the character and appearance of the area with regard to the Kent Downs AONB and there are no benefits or considerations that outweigh that harm. Therefore, it does not accord with Policies CP4, CP7, DM14 and DM24 of the Swale Borough Local Plan 2017. Amongst other things, these policies require good design, appearance and details that are sympathetic and appropriate to their surroundings, with development that conserves and enhances the landscape and the special qualities and distinctive character of the AONB.
 11. The development conflicts with NPPF section 12 which seeks to achieve well-designed places, including paragraph 130 which states that permission should be refused for poor design that fails to take the opportunities available for improving the character and quality of an area. It also conflicts with NPPF paragraph 172 which states that great weight should be given to conserving and enhancing landscape and scenic beauty in AONBs, and it fails to meet the environmental objective of sustainable development in NPPF paragraph 8.

Conclusion

12. For the above reasons, and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

Tom Gilbert-Wooldridge

INSPECTOR

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Appeal Decision

Site visit made on 11 December 2018

by Lynne Evans BA MA MRTPI MRICS

an Inspector appointed by the Secretary of State

Decision date: 12 December 2018

Appeal Ref: APP/V2255/D/18/3212571

Jack Russell Place, Lower Halstow, Sittingbourne, Kent ME9 7AB

- 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 Georgina Beaney against the decision of Swale Borough Council.
 - The application Ref 18/502771/FULL dated 11 May 2018, was refused by notice dated 23 July 2018.
 - The development proposed is brick walls and gates to front entrance.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Appellant and the Council have indicated that the works had commenced at the date the application was submitted but not completed. At my site visit I noted that brick walls and piers had been built but no gates installed. As the works have not been completed, I have considered this as a proposal on the basis of the submitted plans and information before me, as I am required to do.

Main Issue

3. The main issue in this appeal is the effect of the proposal on the character and appearance of the local area.

Reasons

4. The appeal site relates to a linear plot of land on the north side of Halstow Lane which I am advised is a permanent gypsy/traveller site. Most of the structures on the site are set deep into the site with a small shed near the frontage. The site lies in a very rural location, outside of any settlement. The land in the immediate vicinity is generally very open with hedgerows and/or low post and rail fences along boundaries.
5. The proposal relates to the installation of brick walls and piers along part of the frontage on either side of the entrance driveway and wooden gates across the driveway.
6. Given the very open and rural nature of the surrounding area, I consider that the height and solid form of the walls, piers and gates, together with their siting at the front of the driveway would appear as an urbanising and intrusive,

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alien feature along the lane. The proposed materials and their solid form would have a formal enclosing effect which would be incongruous and out of character with the open and rural landscape character of the local area, including the low scale post and rail fences and verdant boundary treatments which are characteristic of the local area.

7. I therefore conclude that the proposal would harm the character and appearance of the local area. It would conflict with Policies CP4, DM14 and DM26 of the Swale Borough Local Plan 2017 and the Swale Landscape Character and Biodiversity Appraisal as well as the National Planning Policy Framework, all of which seek a high standard of design which respects the local context and the intrinsic character and beauty of the countryside.
8. I have sympathy with the Appellant's reasons for the proposal, but they do not outweigh the harm from the particular solution proposed. I have also taken into account the proposal to accept a condition to introduce soft landscaping in front of the walls but I am not persuaded that this would satisfactorily address the harm I have found.
9. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be dismissed.

L J Evans

INSPECTOR



Appeal Decision

Site visit made on 11 December 2018

by **Lynne Evans BA MA MRTPI MRICS**

an Inspector appointed by the Secretary of State

Decision date: 13 December 2018

Appeal Ref: APP/V2255/D/18/3212217

36 The Glen, Minster on Sea, Sheerness Kent ME12 2SD

- 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 Brian Simpson against the decision of Swale Borough Council.
 - The application Ref: 18/501924/FULL dated 24 April 2018, was refused by notice dated 28 June 2018.
 - The development proposed is single storey side and rear extensions.
-

Decision

1. The appeal is allowed and planning permission is granted for single storey side and rear extensions at 36 The Glen, Minster on Sea, Sheerness Kent ME12 2SD in accordance with the terms of the application, Ref: 18/501924/FULL dated 24 April 2018, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: TC/0071/PP/01; TC/0071/PP/02; TC/0071/PP/04; TC/0071/PP/05; TC/0071/PP/06; TC/0071/PP/07; TC/0071/PP/08; TC/0071/PP/09.
 - 3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.

Main Issue

2. The Council's reason for refusal was specific to the effect of the proposed rear extension on the living conditions of the neighbours at No 34 The Glen. The Council raised no concerns regarding the effect of the side and rear proposal on the living conditions of the neighbours at No 38 The Glen or on the character and appearance of the local area. From all the material before me as well as my site visit, I have no reason to take a different view. Accordingly, the main issue in this appeal is the effect of the proposal on the living conditions of the neighbours at 34 The Glen, with particular regard to outlook.

Reasons

3. The appeal property is a semi-detached chalet bungalow on the north-eastern side of The Glen and within a predominantly residential area, with a mix of

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detached and semi-detached two storey houses, chalet bungalows and bungalows. The proposal would wrap a single storey extension along the side and rear of the property, with a depth, according to the submitted plans of 5.5 metres to the rear of the existing property and leaving a 1 metre gap to the attached property at No 34. The rear extension would have a flat roof with a lantern rooflight, whereas the side extension would have a shallow hipped roof with central crown section. The existing shed/garage to the rear would be reduced to 3m in length.

4. The proposal would not accord with all the detailed guidance in the Council's adopted Supplementary Planning Guidance 'Designing an Extension: A Guide for Householders' and in particular that rear extensions should not exceed 3m in length, although it indicates that a larger extension may be acceptable where an extension is to be built away from the boundary. The Council has suggested that for every 1m offset from the boundary an additional 1metre in length would be acceptable but the basis for this assertion is not clear.
5. Although the proposed rear addition would extend some 5.5m from the rear wall of the property with a 1 metre offset from the boundary, it would be of modest height with a flat roof. I have taken into account the windows at the rear of the adjoining property and their outlook to the rear as well as the existing solid boundary treatment between the properties. As a result of all these factors and considered together with the modest height of the proposal and the proposed gap to the boundary, I do not consider that the rear extension would materially affect the living conditions of the neighbours, with particular regard to being overbearing and visually intrusive, both from windows at the rear as well as their rear garden. It would not therefore result in an unacceptable loss of outlook for the neighbours at No 34.
6. I therefore conclude that the proposal would not harm the living conditions of the adjoining neighbours at No 34, with particular regard to loss of outlook. There would be no conflict with Policies CP4, DM14 and DM16 of Bearing Fruits 2031: The Swale Borough Local Plan 2017 as well as the National Planning Policy Framework all of which seek for proposals to be of a high quality design and respect the amenities of existing and future occupiers. The proposal would not fully accord with all the guidance in the SPG, but in the particular circumstances of this case, I am satisfied that there would be justification for an exception to be made to this guidance.
7. I have also been provided with a prior notification decision notice issued by the Council under its reference 18/503966/PNEXT dated 6 September 2018, which confirmed that prior approval is not required for a single storey rear extension extending 5.5 metres beyond the rear wall of the appeal dwelling, with a height of 2.6 metres at the eaves from the natural ground level, and offset from the common boundary with No 34. However, as I have concluded the proposal before me would not harm the living conditions of the neighbours at No 34, I do not need to address this 'fallback' position.

Conditions and Conclusion

8. In terms of conditions, I agree with the standard conditions proposed by the Council. Matching materials with the existing dwelling are required in the interests of protecting the character and appearance of the existing property and of the local area. I also agree that a condition to list the approved plans is necessary for the avoidance of doubt and in the interests of proper planning.

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9. For the reasons set out above and having regard to all other matters raised, I conclude that the appeal should be allowed.

L J Evans

INSPECTOR

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Appeal Decision

Site visit made on 11 December 2018

by **Lynne Evans BA MA MRTPI MRICS**

an Inspector appointed by the Secretary of State

Decision date: 13 December 2018

Appeal Ref: APP/V2255/D/18/3210976

26 Forbes Road, Faversham, Kent ME13 8QG

- 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 Teresa Pitham against the decision of Swale Borough Council.
 - The application Ref: 18/502670/FULL dated 5 June 2018, was refused by notice dated 26 July 2018.
 - The development proposed is to allow pavement to be dropped to allow one car to park on drive.
-

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue in this appeal is the effect of the proposal on highway safety along Forbes Road.

Reasons

3. The appeal property is a semi-detached property in a predominantly residential area. Forbes Road, a classified road, is a busy road which leads towards the town centre of Faversham. The site lies opposite the junction of Forbes Road with Athelstan Road and close to the junction of Forbes Road with Aldred Road, with a pedestrian crossing just beyond, to the north. Daytime on-street parking restrictions apply along the road. The front garden area is already hard paved, and the proposal is for a dropped kerb to allow a car to be parked in the front garden area.
4. I have no reason to question the ability of the Appellant to turn her vehicle within the front garden area to ensure that access and egress from the parking space would be in forward gear, although I understand the front garden area to be less than the dimensions considered necessary by the Highway Authority to enable such manoeuvres to be undertaken clear of the highway. However, the permission if granted, would endure for future occupiers and would therefore be capable of being used by a wide range of car sizes as well as by more than one car at the same time. It would not be possible and enforceable to restrict the parking to one car only and only of certain dimensions.
5. Given the busy nature of the road, and the proximity of junctions of side roads to the appeal property, as well as the pedestrian crossing, I am concerned that

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the accessing or egressing of a car from the appeal property, particularly if reversing in or out, would be a further factor that would contribute to the potential for conflicting movements at this point along Forbes Road. I have taken into account the visibility in both directions, but I agree with the Council that the proposal would lead to increased hazards for other highway users already driving along or seeking to join Forbes Road from one of the side roads, and pedestrians using the footway or pedestrian crossing. The increased hazards would be unacceptable in highway safety terms.

6. I therefore conclude that the proposal would be a hazard to highway safety along this part of Forbes Road. This would conflict with Policies DM6 and DM14 of the adopted Swale Borough Local Plan: Bearing Fruits 2031, as well as the National Planning Policy Framework, all of which, amongst other things, seek safe vehicular access to avoid unacceptable impacts on highway safety.
7. I have sympathy with the family related reasons for seeking the off-street parking space, but they do not outweigh the harm I have concluded to highway safety. I also understand the concern that the Highway Authority appear to have changed its views on the proposal, but my assessment is on the planning merits of the proposal on the basis of all the information before me as well as my site visit.
8. I have been made aware of and have taken into account other off-street parking in the vicinity, as well as an appeal decision refusing permission for a dropped kerb at No 28 Forbes Road (APP/V2255/A/08/2081067). Each proposal must be judged on its individual merits and the presence of a small number of other examples of dropped kerbs does not persuade me that permission should be granted, given the harm I have concluded from the proposal before me.
9. For the reasons given above and having regard to all other matters raised I conclude that the appeal should be dismissed.

L J Evans

INSPECTOR



Appeal Decision

Site visit made on 20 November 2018

by **Tom Gilbert-Wooldridge BA (Hons) MTP MRTPI IHBC**

an Inspector appointed by the Secretary of State

Decision date: 14th December 2018

Appeal Ref: APP/V2255/W/18/3207891

2 Little Kennaways, Stalisfield Road, Ospringe ME13 0AB

- 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 Patrick Murphy against the decision of Swale Borough Council.
 - The application Ref 17/506423/FULL, dated 11 December 2017, was refused by notice dated 31 January 2018.
 - The development proposed is construction of an agricultural barn.
-

Decision

1. The appeal is allowed and planning permission is granted for the construction of an agricultural barn at 2 Little Kennaways, Stalisfield Road, Ospringe ME13 0AB in accordance with the terms of the application, Ref 17/506423/FULL, dated 11 December 2017, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plan: MU/04/142.13 rev I.
 - 3) Details of the weatherboarding, facing brickwork, roofing materials, windows, louvred panels and doors shall be submitted to and approved in writing by the local planning authority prior to them being attached or inserted into the building. The development shall be implemented in accordance with the approved details.
 - 4) Prior to the occupation of the development hereby permitted, details of both hard and soft landscaping works shall be 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, plant sizes and numbers where appropriate, means of enclosure, hard surfacing materials, and an implementation programme.
 - 5) All hard and soft landscaping works, including tree planting, shall be carried out in accordance with the approved details. The works shall be implemented prior to the occupation of any part of the development or in accordance with the programme agreed in writing by the local planning authority. Any trees or shrubs removed, dying, being severely damaged or becoming seriously diseased within five years of planting shall be replaced with trees or shrubs of such size and species as may be agreed in writing with the local planning authority.

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Procedural Matter

2. Construction work has begun on the appeal site and the decision notice and appeal form describes the development proposal as part retrospective. However, I noted on site that the part-built structure has internal walls dividing the ground floor into three spaces, while the appeal scheme involves an open plan space. For the avoidance of doubt, I have assessed the development as shown on the appeal plans rather than what has been part-built on site.

Main Issue

3. The main issue is whether the development would have an acceptable effect on the character and appearance of the Kent Downs Area of Outstanding Natural Beauty (AONB), taking into account the agricultural needs of the land.

Reasons

4. The appeal site includes an access track off Box Lane leading to an area for the development itself. There is a line of vegetation to the south-east of the site. The site forms a small part of a much wider area of land belonging to the appellant. The land contains a number of fields and paddocks and a cluster of buildings around the main property at 2 Little Kennaways. At my site visit, it was evident that these buildings are used for animals and storage including hay. I observed a single cow in one of the fields, a number of horses and at least 6 sheep.
5. The appeal site and surrounding area are located within the Kent Downs AONB. The land rises up from Stalisfield Road, which provides long-distance views across the countryside from north-east to south-west. The area is predominantly rural with only a scattering of residential properties and other buildings including those for agricultural purposes. These buildings are low-key in terms of size, design and materials including the use of brick and timber cladding. As such, they do not detract from the green and open landscape that contributes positively to the character and appearance of the AONB.
6. The appellant has recently received a prior notification approval from the Council (ref 18/502874/AGRIC) for an open fronted single storey barn for the storage of hay, machinery and other equipment. The approved scheme has a similar width and footprint to the appeal development and would be located in a similar position. It would be divided into three rooms with the middle room open fronted on the north-west elevation. The approved scheme would have a pitched roof like the appeal development, but the eaves and ridge height would be around 600mm and 400mm lower respectively according to the evidence before me.
7. Although the prior approval process is separate to the planning application process, there is a reasonable prospect of the approved scheme being implemented should this appeal fail. This is because it would provide a barn for similar purposes in a similar location and footprint, albeit not as tall. Therefore, while it should not automatically guarantee planning permission for similar development, the fallback position is an important material consideration that carries significant weight for the purposes of my decision.
8. In terms of the agricultural justification for the development, it is apparent from the evidence before me that the wider land in the appellant's ownership is used for the grazing of animals including sheep. At the moment, the number of

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- animals compared to the size of the land is small, but the appellant seeks to increase the number of sheep and has stated the need for extra storage for hay and machinery. There are discrepancies in the reports by the appellant's planning and agricultural consultants in terms of the number of animals and the proposed land management, but the intention of a larger agricultural enterprise remains constant. In granting the prior notification approval, the Council evidently was satisfied that the approved scheme was reasonably necessary for the purposes of agriculture within that unit. Thus, given the similarities between the two schemes, there is no reason to doubt that there is an agricultural business.
9. I note that there are a number of existing storage buildings and the development would be distant from these buildings. However, it would allow for greater flexibility in storage options given the size of the appellant's land, while the structure could be made secure. The Council has queried the practicalities of a two storey storage barn and getting hay to and from the first floor. However, the development would not be overly tall and the openings appear to be sufficiently large to allow machinery to lift hay in and out. The two storey design also allows for a greater amount of hay to be stored. As such, the location and design does not affect the intended agricultural use of the development.
 10. Other parties have expressed concerns that the development could be used for office or residential. They refer to the long planning history and contend that previous development has been carried out without planning permission while approved schemes have not been properly implemented. They point to the cavity wall design as evidence of potential alternative uses. They refer to the appellant's business name as a non-agricultural company focused on the building trade, noting that the land immediately around the appeal site has been excavated and used for the storage of building materials and spoil. They also highlight that a Biodiversity Scoping Report prepared by the Kent Wildlife Trust refers to the appellant's land being used for horses, not agriculture.
 11. However, any planning permission would be for an agricultural barn and development would have to accord with the approved plans. In the event that an alternative design and/or use for the development were implemented, this would be a matter for the Council to investigate in the first instance. Therefore, I am satisfied from the evidence before me that the appeal development would serve an agricultural need.
 12. Turning to the effect on the character and appearance of the AONB, while the development would be two storeys, the difference in height with the approved scheme is not significant. The first floor openings would be dark stained doors to match the weatherboarding as well as louvred panels, which would be less obvious than glazing. There would be a greater amount of facing brickwork in the appeal development, but there are brick buildings in the vicinity and the colour and detail could be controlled by condition.
 13. The development would be more solid without an open frontage elevation, but this only applies to one elevation that faces away from Box Lane and Stalisfield Road and so would not be obvious. Moreover, the existing line of vegetation to the south-east would remain and would be enhanced, which could be secured by condition to provide mitigation through screening.

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14. Therefore, when compared to the appeal scheme, the development would not have a significantly greater impact on the character and appearance of the AONB. The small increase in height and differences in external appearance would not result in harm. Even without the fallback position, the development would be compatible with the size, siting, design and materials of existing buildings dotted across this part of the countryside and so would not be unacceptable for its location.
15. In conclusion, the development would have an acceptable effect on the character and appearance of the Kent Downs AONB, taking into account the agricultural needs of the land. Therefore, it would accord with Policies DM14 and DM24 of the Swale Borough Local Plan 2017. Amongst other things, Policy DM14 requires development to conserve and enhance the natural environment, be well sited, and of a scale, design, appearance and detail that is sympathetic and appropriate to the location. Policy DM24 seeks to conserve and enhance the special qualities and distinctive character of the AONB. The development would also accord with paragraph 172 of the National Planning Policy Framework, which places great weight on conserving and enhancing the landscape and scenic beauty of AONBs and states that the scale and extent of development should be limited.

Other Matters

16. Concerns have also been expressed regarding the impact of the development on wildlife, but I have limited evidence relating to any effects. The retention and improvement of the existing boundary vegetation would provide some benefit to wildlife. The use of the land around the appeal site may have altered in recent years, but I have not found that the development would be harmful to the character and appearance of the area. Box Lane is a narrow road, but there is an existing access and little evidence that the development would result in adverse effects to highway safety.

Conditions

17. As it is not clear whether the development has commenced, I have imposed the standard time limit condition for clarity and compliance. A condition requiring the development to be carried out in accordance with the approved plans is necessary for the same reasons. Conditions relating to materials and landscaping are necessary to ensure that the appearance of the development is acceptable.

Conclusion

18. For the above reasons, and having had regard to all other matters raised, I conclude that the appeal should be allowed.

Tom Gilbert-Wooldridge

INSPECTOR



Appeal Decision

Site visit made on 3 December 2018

by **Nicola Davies BA DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 14th December 2018

Appeal Ref: APP/V2255/W/18/3205056

Building at Keycol Farm, Keycol Hill, Keycol, Kent ME9 7LG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr J Smith against the decision of Swale Borough Council.
 - The application Ref 17/506345/FULL, dated 3 November 2017, was refused by notice dated 4 April 2018.
 - The development proposed is demolition of pole barn attached to northern elevation and conversion of a former agricultural building into two dwellings with associated access and parking.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have taken the site address from the planning application form although I note it is expressed differently on other documents.
3. A revised version of the National Planning Policy Framework ('the Framework') has been published since the planning application was determined by the Council. Both main parties have had the opportunity to comment on any relevant implications for the appeal. I have had regard to the Framework in reaching my decision.

Main Issues

4. The main issues raised in respect of the appeal are: -
 - (a) whether or not the site would be suitable for a residential development given its location outside the built-up area;
 - (b) the effects of the proposed development on the vitality of the rural economy;
 - (c) the effects of the proposed development on the character and appearance of the countryside; and
 - (d) accessibility in regard to services and facilities.

Reasons

Location

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5. The Local Plan has defined the built-up area. Policy ST3 of the Bearing Fruits 2031: the Swale Borough Local Plan 2017 (the Local Plan) resists development outside of the built-up area boundaries unless supported by national planning policy, amongst other matters. The appeal site, whilst not spatially isolated from other existing developments, falls beyond any built-up area boundary identified by the Local Plan. Any residential development beyond the boundary established by the Local Plan would therefore conflict with the aim of providing homes in accordance with the Borough's identified and agreed settlement hierarchy.
6. I conclude that the appeal site would not be a suitable location for new housing, given its location outside the built-up area boundary. The proposal would be contrary to Policies ST1, ST3, CP3 and DM3 of the Local Plan that seek to provide new homes in accordance with the settlement hierarchy. Whilst I accept that the proposal would contribute two dwellings to the Borough's supply of housing, the Council has adopted its Local Plan and in doing so has an adequate supply of future housing sites in place.

Rural economy

7. Policy DM3 of the Local Plan relates to the rural economy and resists residential development where it would reduce the potential for rural employment and/or community facilities unless the site/building(s) is demonstrated as having no demand for such purposes or its use would be undesirable or unsuitable. The aim of the policy is to promote a strong rural economy and community through the expansion of business and enterprise in the rural area. This policy therefore requires the suitability of the site/building for employment and/or community re-uses to be ruled out prior to considering its suitability for residential re-use.
8. The supporting text of Policy DM3 advises that *"Even if the site or building is currently vacant, evidence will need to show that it is neither viable nor likely to become viable and that alternative employment uses have been robustly tested. This will also include the applicant having marketed the enterprise or the property for its commercial/community use for a reasonable period in a manner and at a price that reflects that use"*.
9. The applicant argues that the site would not be practical for an economic or community use as these would have a negative impact on the occupiers of neighbouring residential properties. It is suggested that the multi-vehicle traffic generated by other uses would be unneighbourly and the single track access would be unsuitable for HGVs. It is promoted that residential use would create the least vehicle movements and disturbance to neighbouring occupiers.
10. No other potential uses for the site have been identified by the appellant despite the appellant indicating that the building is structurally capable of re-use. Although the building has been vacant for some time, based upon the evidence before me I have no clear indication that other potential commercial/community uses have been explored in order to determine whether the assertions relating to vehicular traffic and impact upon the living conditions of neighbouring occupiers can be substantiated. Furthermore, I have not been presented with any substantive evidence that the site/building has been marketed for employment or community uses. Therefore, I cannot conclude that the building would not be suitable for an economic or community use or that the viability of an alternative use of the site/building has been robustly

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tested. The fact that the building has been vacant for some time and not been put to an economic use does not justify its change to residential use.

11. Consequently, as no substantive evidence has been put forward that might discount alternative uses of the site/building or that would clearly demonstrate that the site/building is only suitable for residential purposes, I cannot be certain that the site/building would not be desirable or suitable for re-use for employment or community purposes.
12. The proposal would therefore conflict with the aims of Policies ST1, ST3 and DM3 of the Local Plan as it has not been sufficiently demonstrated that there would be no demand for rural employment and/or community facilities in this countryside location or that the site/building is unsuitable for such uses.

Character and appearance

13. The Council's Supplementary Planning Guidance (SPG) 'the Conservation of Traditional Farm Buildings' identifies that residential uses can have more impact upon the rural landscape than other uses due to the creation of domestic gardens, parking, garaging and other outdoor paraphernalia.
14. The appellant advocates that the proposal would tidy up the area and reduce the amount of hardstanding at the site. However, the creation of extensive new residential curtilages with the domestic paraphernalia that they could host would considerably urbanise the appearance of the appeal site. This would cause substantial visual harm to the rural character of this existing countryside location.
15. I accept that the removal of the pole barn would constitute a reduction in built form at the appeal site and could off-set the volume of any domestic outbuildings erected by future occupiers. Whilst the appellant considers this would be a visual improvement to the openness of the countryside I consider this would only make a minor contribution to it.
16. The appellant directs me to paragraph 79 of the Framework that offers support for the re-use of redundant or disused buildings in the countryside but paragraph 79 also imposes a requirement to enhance the immediate setting. For those reasons set out above I have found that the creation of residential curtilage would be harmful to the rural character of this location.
17. The appellant suggests the possibility of removing permitted development rights by planning condition to prevent the future occupiers erecting domestic outbuildings and sheds within their outdoor curtilages. Paragraph 55 of the Framework indicates that planning conditions should be reasonable. I refer to the advice in the Planning Practice Guidance which state that conditions restricting the future use of permitted development rights or changes of use will rarely pass the test of necessity and should only be used in exceptional circumstances. Furthermore, I do not consider that it would be reasonable to prevent occupiers from having such facilities to store household items. As such, I do not consider such a condition would be reasonable here.
18. For these reasons, I conclude that the proposed development would be harmful to the character and appearance of the countryside. The proposal would, therefore, conflict with Policies ST1, ST3, CP3 and DM3 that seek, amongst other matters, development not to harm the rural character of the area.

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Accessibility

19. The appeal site is approximately 1 kilometre from Newington where services can be accessed. I am mindful of the provisions of the Framework that resist development that would generate private travel and that promote walking, cycling and the use of public transport. Although the A2 is served by pavements, it is a busy road and this would not encourage walking or cycling to Newington or services and facilities further afield. However, I saw bus stops either side of the road in close proximity to the site access. The appellant indicates that buses would provide links to Gillingham, Rainham, amongst other urban areas.
20. In the context of its rural location where accessibility is not normally as good as that of urban areas, I consider that the proposal development would have reasonable access to facilities and services without being solely dependent on private car. Notwithstanding this, occupiers may opt to use their private vehicles for travel. However, the movements by the occupiers of two households would be relatively low.

Other Matters

21. The appellant suggests that the site constitutes previously developed land (PDL). There is some disagreement between parties as to the previous use of the site and whether or not it satisfies the definition of PDL. Nonetheless, even if this site were to be considered as PDL, development plan policies also require the development to protect and enhance the countryside. I have found that the proposal would not achieve this.

Planning Balance and Conclusion

22. Paragraph 78 of the Framework promotes sustainable development in rural areas and indicates that housing should be located where it will enhance or maintain the vitality of rural communities. The provision of housing in general has the potential to support rural services and community facilities but I have not been directed to services or facilities close by, other than a café, that could be supported by the proposal. In any event, the contribution of two new households would not make a significant contribution to rural vitality.
23. Weighing all the relevant considerations in the planning balance, I conclude that the proposal is contrary to the existing settlement policy for the area. I do not consider there is substantive evidence before me that would clearly demonstrate that the building would not be suitable for employment or community uses or that would indicate that the building is only suitable for residential purposes. I have also found that the residential use of the site would be harmful to the character and appearance of the countryside. The adverse impacts of the scheme would significantly and demonstrably outweigh the benefits. Therefore, due to the conflict with the development plan and the identified harm to the environment, I conclude that the appeal should be dismissed.

Nicola Davies

INSPECTOR

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Appeal Decision

Site visit made on 3 December 2018

by **Nicola Davies BA DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 14th December 2018

Appeal Ref: APP/V2255/W/18/3195461

Tranquillity, Otterham Quay Lane, Upchurch, Sittingbourne, Kent ME8 7UT

- 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 C Agley against the decision of Swale Borough Council.
 - The application Ref 16/508521/FULL, dated 8 December 2016, was refused by notice dated 17 November 2017.
 - The development proposed is conversion of existing redundant agricultural building to form one two bedroom & one three bedroom dwellings with associated amenities.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have taken the appellant's name from the planning application form, although I note that a Christian name has been provided on the planning appeal form. I have also taken the site address and the description of the proposed development from the planning application form but note these are expressed differently on other documents.
3. A revised version of the National Planning Policy Framework ('the Framework') has been published since the planning application was determined by the Council. Both main parties have had the opportunity to comment on any relevant implications for the appeal. I have had regard to the Framework in reaching my decision.

Main Issues

4. The main issues raised in respect of the appeal are: -
 - (a) the effects of the proposed development on the vitality of the rural economy; and
 - (b) whether or not the site would be suitable for a residential development given its location outside the built-up area.

Reasons

Rural economy

5. Policy DM3 of the Bearing Fruits 2031: the Swale Borough Local Plan 2017 (the Local Plan) relates to the rural economy and resists residential development

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- where it would reduce the potential for rural employment and/or community facilities unless the site/building(s) is demonstrated as having no demand for such purposes or its use would be undesirable or unsuitable.
6. The supporting text of Policy DM3 advises that to retain the availability of rural buildings for employment the Council will only grant planning permission for their residential use where evidence is provided that shows that there is no demand for them to be used for employment, or where they are wholly unsuitable for any employment use. It further advises that *“Even if the site or building is currently vacant, evidence will need to show that it is neither viable nor likely to become viable and that alternative employment uses have been robustly tested. This will also include the applicant having marketed the enterprise or the property for its commercial/community use for a reasonable period in a manner and at a price that reflects that use”*.
 7. The appellant has indicated that the building has been advertised by estate agents. The appellant has provided a letter from Buckey & Ward Estate Agents, dated 4 August 2015 that advises the agents will be withdrawing the premises from their register as the property has created no enquiries over the prior six months. I note the estate agent particulars offered a B1 light industrial use of the building. The estate agent said that the location has hindered its uptake. However, I have not been provided with details that would illustrate how widely the marketing was distributed and whether this estate agent specialises in residential or commercial lettings/sales. I also cannot be certain whether its marketed rate was realistic. Furthermore, advertising the building specifically for B1 purposes could potentially have discouraged expressions of interest by other possible occupiers for other uses/purposes.
 8. The appellant advises that an advisement had been posted on the website ‘Gumtree’ between July 2016 and November 2017. Whilst the day 12 screenshot provided by the appellant shows that it received 320 views only two replies had been received and these have not been provided. The appellant indicates that there have been few serious callers and no offers as a result of this post. Whilst Gumtree might facilitate access to a wide audience I cannot be certain that the advertisement has focused on or would have reached a potentially interested business clientele or that the advertised rental was competitive for its location. I note the appellants point that the Council utilise the internet to advertise social housing but that is a different matter to what is being considered here.
 9. I have also been provided with six letters from local businesses that have declined to operate their businesses at the building. Reasons range from access impracticalities for large lorries, poor access and drainage, low ceiling height, the building is either overly large or too small for requirements, close proximity of nearby residential occupiers and location. These letters date from early 2014 and appear to mainly relate to businesses that have relatively large scale delivery and/or storage requirements. Whilst this gives some indication that the building may not be suitable for some business types, I do not consider this evidence robustly demonstrates whether there is a more up to date potential interest by other businesses that could have different operational requirements.

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10. I have also been provided a list of existing community facilities in the area that are said to offer better facilities than the appeal site. It is contended that a community use would create unneighbourly noise and parking problems for neighbours and that such a use would not be viable. Nonetheless, I have not been presented with any substantive evidence that would persuade me that there is no demand for a community use or that the building or site is unsuitable or undesirable.
11. I note that consideration has also been given to the building's potential use as a holiday let but it is considered that this use would not be viable and the view is expressed that the location would be poor. Given the limited information provided I am unable to corroborate this opinion.
12. An Inspector's decision at Chesley Oast has been referred to but I have not been provided with the full details of that case. I have also been directed to the Old Crescent Shipping Offices at Gills Terrace that is not far from the appeal site. That building has been converted to residential flats having been vacant offices for many years. The appellant has also highlighted that other agricultural/industrial buildings and offices in the immediate area have been either not used or advertised with no takers and subsequently planning permission has been given to change to residential use. Again I have not been provided with the full details of the Old Crescent Shipping Offices site or that of the other agricultural/industrial buildings and offices referred to. I therefore am unable to determine what similarities, if any, the circumstances of those cases would have to that of the proposal before me. In any event, the appeal before me relates to a different site and can and should be considered in its own right.
13. The appellant's submission indicates that quotes received to convert the building into an office/workshop would cost between £93,600 and £231,000. It is also said that the rental required to bring the building back to a safe use is not achievable even for agricultural use. It is unclear whether the works costed are wholly necessary for the re-use of the building. I have not been provided with a full structural survey carried out by an appropriately qualified person that would clearly set out what works would be necessary. One quote includes new windows and openings, along with internal partitions. I have no substantive evidence that these would be required. Based upon the evidence before me I have no clear indication that the costs provided to convert the building are necessary and that the costs put forward can be substantiated. I have not been provided with details of potential rental income either that might enable me to establish whether this could cover the cost of works either in the short or long term.
14. Based upon the evidence before me I cannot be certain that the property has been advertised to an appropriate clientele base or at a competitive market rate. Furthermore, the evidence provided by the appellant is somewhat dated and I cannot be certain either that the evidence would reflect a more up to date potential uptake demand or desirable. I have not been presented with any substantive evidence that the building has been marketed for community uses. I therefore do not consider that a reasonable and sustained effort has been made to robustly market the building for employment or community purposes and this, therefore, does not satisfactorily demonstrate evidence of demand, or lack of it, for such uses. Furthermore, I have not been persuaded

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that the building would be unsuitable for alternative uses. I therefore cannot conclude that Policy DM3 has been satisfied.

Location

15. The Local Plan has defined the built-up area and the proposal falls within the countryside. Policy ST3 of the Local Plan resists development outside of the built-up area boundaries. Any residential development beyond the boundary established by the Local Plan would therefore conflict with the aim of providing homes in accordance with the Borough's identified and agreed settlement hierarchy.
16. I conclude that the appeal site would not be a suitable location for new housing, given its location outside the built-up area boundary. The proposal would be contrary to Policies ST1, ST3, CP3 and DM3 of the Local Plan that seek to provide new homes in accordance with the settlement hierarchy. The proposal would result in unjustified residential development in the countryside that would be harmful to its character and appearance by virtue of it being an urbanising development in the countryside which planning policy seeks to resist.

Other Matters

17. I note that the site has been subject to a previous refused planning application and the appeal has sought to overcome other matters that have been of concern to the Council. I also note that no objection has been raised to the proposal by neighbouring occupiers or the Parish Council. The site is located where there would be access to services and facilities. Although these are merits of the proposed scheme they do not overcome my concerns above or justify the proposed development.

Planning Balance and Conclusion

18. I do not consider there is substantive evidence before me that would clearly demonstrate that the building would not be suitable for employment or community uses or that would indicate that the building is only suitable for residential purposes. I conclude that the proposal is contrary to the existing settlement policy for the area. I have also found that the residential use of the site would be harmful to the character and appearance of the countryside. The adverse impact of the scheme would significantly and demonstrably outweigh the benefits.
19. Having regard to the above findings, the appeal should be dismissed.

Nicola Davies

INSPECTOR