

AGENDA

PLANNING COMMITTEE MEETING

Date: Thursday, 20 June 2019

Time: 7.00pm

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

Membership:

Councillors Cameron Beart, Monique Bonney, Roger Clark, Simon Clark, Tim Gibson (Chairman), James Hall, Nicholas Hampshire, James Hunt, Carole Jackson, Elliott Jayes, Peter Marchington, Ben A Martin (Vice-Chairman), David Simmons, Paul Stephen, Eddie Thomas, Tim Valentine and Tony Winckless.

Quorum = 6

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 records for training purposes.

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Pages

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 30 May 2019 (Minute Nos. 19 - 23) 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 11 June 2019 (Minute Nos. to-follow).

To consider application 19/500050/FULL & 19/500051/LBC Tunstall Church of England Primary School, Tunstall Road, Tunstall, ME9 8DX

6. Deferred Item

1 - 43

To consider the following application:

17/505711/HYBRID, Land at Wises Lane, Borden

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

Requests to speak on this item must be registered with Democratic Services (democraticservices@swale.gov.uk or call us on 01795 417328) by noon on Wednesday 19 June 2019.

7. Report of the Head of Planning Services

44 - 194

To consider the attached report (Parts 1, 2 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 19 June 2019.

Issued on Tuesday, 11 June 2019

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

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PLANNING COMMITTEE – 20 JUNE 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 - 17/505711/HYBRID		
APPLICATION PROPOSAL		
Hybrid planning application with outline planning permission (all matters reserved except for access) sought for up to 595 dwellings including affordable housing; a two-form entry primary school with associated outdoor space and vehicle parking; local facilities comprising a Class A1 retail store of up to 480 sq m GIA and up to 560sqm GIA of "flexible use" floorspace that can be used for one or more of the following uses - A1 (retail), A2 (financial and professional services), A3 (restaurants and cafes), D1 (non-residential institutions); a rugby clubhouse / community building of up to 375 sq m GIA, three standard RFU sports pitches and associated vehicle parking; a link road between Borden Lane and Chestnut Street / A249; allotments; and formal and informal open space incorporating SuDS, new planting / landscaping and ecological enhancement works.		
Full planning permission is sought for the erection of 80 dwellings including affordable housing, open space, associated access / roads, vehicle parking, associated services, infrastructure, landscaping and associated SuDS.		
For clarity - the total number of dwellings proposed across the site is up to 675.		
ADDRESS Land At Wises Lane Borden Kent ME10 1GD		
RECOMMENDATION		
That delegated authority is given to officers to proceed with agreeing a S.106 planning obligations agreement based on the contributions, triggers and details included in appendix A.		
SUMMARY OF REASONS FOR RECOMMENDATION		
The S.106 obligations sought would comply with the CIL regulations and reflect the requirements of key service and infrastructure providers		
REASON FOR REFERRAL TO COMMITTEE		
Following the resolution to grant planning permission at its extraordinary meeting on 30 January 2019, the Committee requested that the details of the S.106 agreement be presented to the Committee for approval		
WARD Borden And Grove Park	PARISH/TOWN Borden	COUNCIL APPLICANT Quinn Estates Ltd & Mulberry Estates (Sittingbourne) Ltd AGENT Montagu Evans
DECISION DUE DATE 07/03/18	PUBLICITY EXPIRY DATE 03/03/19	OFFICER SITE VISIT DATE

MAIN REPORT

1.0 Background

- 1.01 At its meeting on 30 January 2019 the Planning Committee resolved to grant planning permission for the above planning application subject to:
- conditions (1) to (58) in the report;
 - additional conditions as outlined in the tabled papers - conditions (59) to (70);
 - amendments to conditions (53) and (54);
 - the resolution of outstanding matters relating to existing public rights of way;
 - no objections being received from Historic England;
 - the wording in paragraph 38 [should be condition (38)] changed from 'indigenous' species, to 'native' species;
 - confirmation from KCC of projects or management/maintenance proposals for the Borden Nature Reserve that would be affected by the increase in use to justify a financial contribution to such works – and agreement with the developer to contribute to this;
 - the expiry of the consultation/publicity period relating to the ecology addendum and badger survey, and subject to no objections being raised by KCC Ecology or Natural England; and
 - the completion of a S106 Agreement for the terms as set out in the report, and the Agreement to come back to the Planning Committee for the final decision.
- 1.02 This report deals exclusively with the details of the S106 Agreement, being the one item that was not delegated to officers by the Planning Committee. A table is attached (Appendix A) with the S106 items and triggers set out.
- 1.03 This report will focus on the heads of terms for the S.106 obligations, and the section of the report to the 30th January 2019 Committee report that dealt with these is appended (Appendix B).
- 1.04 Members should note that the original committee report referred to a Kent Police contribution of £27,470. I have since determined that this request does not meet the CIL tests and have removed it from the S106 Agreement.
- 1.05 I have also appended the draft set of planning conditions for Members' information (Appendix C).

2.0 CONSULTATIONS

- 2.01 I have received the following list of proposed improvement works to the Borden nature reserve, which has been provided by Kent County Council (the landowner) in conjunction with Borden Parish Council (the leaseholder).
- A Land Management Plan to look at in detail the potential management opportunities of the site going forward
 - Improving the hardstanding inside the new entrance gate and fencing this area so that 4/5 cars could park off road,
 - Picnic benches were also discussed for the open area.
 - It was noted that the open area would need maintenance by the Parish Council if this was made into a 'picnic' type area.
 - Ideas for attracting or introducing more biodiversity and habitat management to promote new species development including a volunteer group could be formed to litter pick and look after the area.

- Boundary fencing and Styles need to be upgraded.
- 2.02 Officers have recently met with representatives from Borden Parish Council and the local ward members to discuss the obligations to be secured under the S106 Agreement. A number of requests for additions / amendments to the Agreement have been made, and I have assessed whether such requests would meet the relevant CIL tests (as set out in section 3 below). The terms of the S106 agreement are now being adjusted to take this into account. Those areas where amendments have been agreed with the applicant following the above discussions are as follows –
- 1) An obligation for the developer to fund an extension to public footpath ZR121, which would improve pedestrian access between the site and Borden Village.
 - 2) An amendment to the open space provisions which would enable Borden Parish Council to take on some of the space. Specifically Borden Parish Council has shown an interest in the land between the nature reserve and Borden Lane, and the proposed allotments.
 - 3) An increase in the financial contribution towards improvements to the nature reserve (as set out above) to £40,000.
 - 4) The ability to use the NHS contribution on other facilities within a catchment area of the site (including the potential to use this on-site if the NHS considered taking on the “flexible use” unit).
 - 5) The delivery of the rugby club facility at an earlier stage in the process. Currently this is proposed prior to occupation of 549 units. The applicant is willing to bring this forward and is presently assessing the construction timetable to establish when services / connections can be provided to enable this. I will update Members with a more precise trigger at Committee.
 - 6) That the requirement for a reserved matters application for the retail / commercial floorspace is brought forward to be submitted prior to occupation of the 80th dwelling on site (currently proposed at 100 dwellings).
 - 7) That any surplus from the footpath ZR118 contribution can be used to improve other footpaths immediately adjacent to the site.
 - 8) Use of KCC funding for community learning and social care services to be potentially invested in more local projects, although KCC have stated that the current mobile library service to Borden (2 stops) is not under threat.
- 2.03 Following a request by Borden Parish Council to request an earlier timescale for bringing forward the transfer of the primary school land, KCC Education have responded stating that an ‘over early delivery could destabilise other local schools and place an onerous obligation upon KCC for construction of the school and/or maintenance or management of the site prior to construction. In these circumstances, the original obligation trigger for the transfer to take place prior to occupation of no more than 150 dwellings or after a period of 36 months from the date of commencement of development of Phase 1A whichever is the sooner – should be retained as the trigger.’
- 2.04 Further matters were raised by the local Ward Members regarding highways and transportation:
- 1) To pay the contribution towards the southbound on slip road before the occupation of the 150th dwelling (in advance of phase 2) rather than the 300th dwelling;
 - 2) Request that two bus stops are provided on Wises Lane - Provision of this would be through the section 106 requiring a s.278 agreement with the Highway

Authority at a point soon after the Chestnut Street to the Wises Lane link is available.

- 3) Request that no more than 120 dwellings (rather than 199 dwellings) should be occupied until the entire length of the internal spine road between Wises Lane and Chestnut Street has been constructed to an adoptable standard and made available for public use (this would need amendment to corresponding conditions 21 and 22 of the item agreed by Planning Committee) – to ensure delivery prior to the completion of Phase 2 of the development and reduce the predicted impact on the A2/Wises Lane junction.
 - 4) To assist with the ability to deliver the above Spine Road/On slip requests Members are offering a relaxation of the need for a condition requiring that the section 278 agreement need not be required until 100 occupations and that the Highway Authority would not serve notice for delivery prior to the 150th occupation and not later than the 500th dwelling occupation - This is felt to assist the housebuilder in commencing and occupying at an earlier stage and allows the Highway Authority to ascertain whether traffic lights at the A2/Wises Lane junction are indeed necessary at all once the spine road is completed to Borden Lane allowing additional time before having to finance what is likely to be a significant outlay for junction improvements at Wises Lane and the A2 London Road;
 - 5) Request that commuter parking is provided on the Spine Road at close proximity to the Chestnut Street roundabout. This would be instead of the parking currently shown on Chestnut Street North of the proposed Chestnut Street roundabout. A 6" 6"HGV restriction would be required for the Spine Road to prevent HGV parking however this could be picked up by Section 38 agreements. The Section 106 would be amended to state that it will be provided on the spine road in close proximity to the Tudor Rose PH instead of that on Chestnut Street.
 - 6) Concerned that the retention of the link between Wises Lane and Cryalls Lane is retained through the delivery of the development. This is to ensure that existing residents of Wises Lane and Maylam Gardens have the ability to head towards Borden and Sittingbourne without having to use the Wises Lane/A2 junction. It is suggested that the Cryalls Lane South and North section of the road remain open until the point that the Spine Road is in place.
 - 7) Request that the currently agreed 160m distance between the proposed spine road bus stop layby and the school be reduced to a comparable distance to the current A2 bus stops and the Westland School buildings Bus Drop offs.
- 2.05 The outcome of negotiations with the applicant on these particular requests had not been finalised by the time of drafting this report. The outcome of those negotiations will be reported to the Committee through a tabled update.
- 2.06 Some matters have been raised by the Parish Council representatives and ward members that I consider cannot be pursued. These are as follows:
- 1) Gifting of land off Cryalls Lane to Borden Parish Council – this relates to an open area of grassland / scrubland of approximately 4 Hectares in size, located between the application site and Westlands school. This land is designated as Local Green Space under policy DM18 of the Local Plan. The land is owned by Ward Homes (which in turn is owned by the same group as BDW Homes – the housing developer involved with this application). They do not intend to transfer this land to the parish council, and I cannot require this as it does not meet the necessary tests in paragraph 3.01 below.

- 2) Provision of a pond feature within the main area of open space to the south of the proposed spine road. I am advised by the developer that this land is on a “high point” within the development and as such this is not feasible. I would also advise that a series of open drainage features have been secured around the junction of the spine road and Wises Lane, which I consider would create a feature point.
- 3) Allocation of some of the affordable housing for local persons within Borden Parish. I have discussed this with the Council's Strategic Housing and Health Manager. Such allocation would require the housing to be defined as rural exceptions housing, and would remove it from the general needs affordable housing stock, for which there is considerable demand. The two forms of housing operate under entirely different needs criteria, and the last Borden village needs survey (2012) is now out of date. There is no basis under Policy MU3 to require this type of housing to be secured for this strategic housing development, and the evidence base for local need is out of date. Whilst the applicant has not objected in principle to further consideration of this as part of the S106 negotiations, I do not consider the provision of local needs housing to be necessary to make this development acceptable in planning terms, and I share the Housing Officer's concerns that this would not be based on any up-to-date local needs. As such, I do not consider it passes the relevant CIL tests.
- 4) That the obligation should include air quality monitoring at various phases in the development. I cannot include this as the air quality impacts have been assessed as part of the application, and determined to be acceptable. Members may seek for the Council's Environmental Protection Team to carry out such monitoring (as the responsible authority for this), but this cannot be an obligation placed on the developer under the S106 agreement.
- 5) That a community hall should be provided / that the rugby facility should instead provide a multi-use facility – A new community hall was not identified as part of the development criteria under policy MU3 of the Local Plan, nor has a deficiency in such provision been identified. The inclusion of a rugby facility has been considered acceptable on its planning merits. The rugby facility will be subject to a community use agreement (to form part of the Section 106 Agreement) which will enable use by other groups outside of use for rugby purposes – and it is part of the “business plan” that this forms a means for income generation. The design of the rugby facility will be subject to reserved matters, and officers / Members will be able to review the extent to which the building has been designed to accommodate other groups / uses at that stage.

3.0 S.106 OBLIGATIONS

- 3.01 Section 106 Agreements are legal agreements between Local Authorities and the planning applicant or landowners. These are linked to planning permissions and also known as planning obligations. Planning obligations assist in mitigating the impact of unacceptable development to make it acceptable in planning terms. Planning obligations may only constitute a reason for granting planning permission if they meet the CIL Regulation tests, namely that they are:

- necessary to make the development acceptable in planning terms;
- directly related to the development; and
- fairly and reasonably related in scale and kind.

- 3.02 Section 106 agreements can provide a flexible tool for delivering a broad range of site-specific infrastructure and community facilities necessary to get schemes off the ground. Given this important role in unlocking development, it is vital that the process of finalising S106 agreements is as swift and efficient as possible. The obligations

have been drafted taking into account the representations from the key service and infrastructure providers. The obligations have also been amended following discussions with Borden Parish Council, Local ward members and the applicant, where they meet the tests as set out above.

- 3.03 Table 1 sets out the planning obligation items, the contributions involved (including specific contributions for phase 1, where applicable) and a detailed commentary on the triggers and mechanisms for the payment of contributions or the carrying out of actions as necessary.

4.0 CONCLUSION

- 4.01 The contributions and items included within the table have been agreed with the infrastructure and service providers involved. The contributions have been agreed in accordance with demographic based formulae and /or the needs generated by the development proposed. Accordingly, the draft list of items is considered to accord with the CIL regulations set by the Government. Members will be updated at the meeting on any further comments from KCC or arising from discussions with ward members re highways obligations.

5.0 OTHER MATTERS

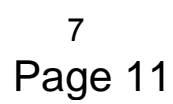
- 5.01 Members should note that I propose a minor change to condition 20, to more accurately reflect requirements from KCC Highways and Transportation. The condition requires widening works on the existing part of Wises Lane to take place prior to commencement of any other development – to facilitate construction traffic. I would propose a change in the wording to be as follows –

20) No development shall be commenced in any phase until the highway works north of No 35 Wises Lane, as shown on the Wises Lane – Site Access drawing 13-042-038C (or as otherwise agreed) have been completed.

Reason: In the interests of Highways safety

- 5.02 This limits the extent of work required under this condition to within the boundaries of the existing highway and enables such work to be carried out without the need for the developer to discharge other pre-commencement conditions to be attached to the permission. I also propose to amend the wording of these pre-commencement conditions (originally numbered 7, 9, 12, 13, 18, 38, 42, 43, 47, 52, and 57 in the January report and numbered 53, 54, 62, 64 in the tabled updates) to provide clarity that they do not apply to the works required under condition 20. (Members should note that the attached list does not follow precisely the same numbering)
- 5.03 Minor alterations have also been made to the wording of conditions 7, 8 and 13, and condition 50 has been removed as it repeats requirements already set out under condition 48 (now condition 55 on the attached updated list).

- 6.0 RECOMMENDATION** – That delegated authority is given to officers to proceed with finalising a S.106 planning obligations agreement based on the contributions, triggers and details included within Appendix A.



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APPENDIX A**Wises Lane - SW Sittingbourne (17/505711/HYBRID)****S.106 Items and Triggers**

Obligation item	Cost for phase 1A	Cost per dwelling /flats for future phases	Total Contribution (based on 675 dwellings/ flats)	Triggers	Other commentary
Bin contributions	£9,048	£101 per dwelling £945 per 5 applicable flats	Circa £71,871 although the ultimate amount will depend on the mix of houses and flats which is not yet known.	Prior to occupation of each phase	Provision of bins. Contributions to be used within 10 years of practical completion of development
Community learning contribution	£4,834.40	£60.43 per dwelling	£40,790.25	Prior to occupation of each phase	Contribution to be spent on either – (i) Shell and core construction of the adult learning section of the new Sittingbourne Hub. Or (ii) Direct provision of community learning facilities within the local area. To be paid to SBC and forwarded to KCC once SBC satisfied that KCC will spend on the above project. SBC will repay if not satisfied.

Obligation item	Cost for phase 1A	Cost per dwelling /flats for future phases	Total Contribution (based on 675 dwellings/ flats)	Triggers	Other commentary
Ecology contribution	£40,000		£40,000	Prior to occupation of Phase 1A	Management and maintenance of Borden Nature Reserve 10 year expenditure period
Library contribution	£18,160	£227 per dwelling	£153,225	Prior to occupation of each phase	Shell and core construction of the new Sittingbourne Hub Library To be paid to SBC and forwarded to KCC once SBC satisfied that KCC will spend on the above project. SBC will repay if not satisfied. It should be noted that a mobile library provision is already provided in the Borden area and KCC do not believe this needs any additional support.
NHS CCG contribution	£86,292	£360 per person based on the average number of persons per 1bed/2bed/ 3bed/4 bed / 5	Circa £583,200, although this will be dependant on the overall housing mix.	Prior to occupation of each phase	(i) The Meads Medical Practice and London Road Medical centre. Or (ii) other new or existing facilities within a 3km radius of the site, (including the potential to use this on-site if the NHS considers taking on the “flexible use”

Obligation item	Cost for phase 1A	Cost per dwelling /flats for future phases	Total Contribution (based on 675 dwellings/ flats)	Triggers	Other commentary
		bed open market dwellings			unit). To be paid to SBC and forwarded to NHS Swale CCG once SBC satisfied that NHS Swale CCG will spend on the above project. SBC will repay if not satisfied.
Off site sports provision at Old Bordonians Hockey Club and Gore Court Cricket Club	£55,807	£50,807 off site hockey facilities £5,000 cricket nets	£55,807	Before occupation of any dwelling	Artificial grass pitches and cricket nets. 10 year expenditure period
Gore Court Cricket Club Car Park Works	£20,000 (if applicable)			Either complete the Gore Court Club Car Park Works prior to occupation of any dwelling or pay the contribution to the Borough Council prior to occupation of any dwelling.	In the event a contribution is paid SBC to hold contribution until request for payment made by a party who will undertake the works
2FE Primary School contribution	£325,389	£4,535 per house £1,134 per flat	£3,061,125*	50% of each phase payment to be made at 40% occupation of	Construction of new 2FE primary school within development site

Obligation item	Cost for phase 1A	Cost per dwelling /flats for future phases	Total Contribution (based on 675 dwellings/ flats)	Triggers	Other commentary
			*assumes 675 units are all Applicable Houses	each phase with the remaining balance for each phase to be paid on the 60% occupation of each phase	To be paid to SBC and forwarded to KCC once SBC satisfied that KCC will spend on the above project. SBC will repay if not satisfied.
Primary School Land transfer (2.05 hectares)				<p>Transfer of primary school land prior to occupation of 150 dwellings or after a period of 36 months from date of commencement of development of Phase 1A (whichever is the sooner)</p> <p>Option to be brought forward to 18 months following commencement – subject to KCC approval.</p>	Whilst the Parish Council questioned why the primary school should not be provided in advance of 150 dwelling completions, KCC Education would be concerned that the <i>“over early delivery could de-stabilise other local schools and place an onerous obligation upon KCC for construction of the school and/or maintenance / management of the site prior to construction”</i> .

Obligation item	Cost for phase 1A	Cost per dwelling /flats for future phases	Total Contribution (based on 675 dwellings/ flats)	Triggers	Other commentary
PROW contribution	£27,410		£27,410	Prior to occupation of any dwelling	Footpath ZR118 improvements, or any other public footpath immediately adjacent to the site. To be paid to SBC and forwarded to KCC once SBC satisfied that KCC will spend on the above project. SBC will repay if not satisfied.
Secondary Education (build cost contribution) – phase 2 off Quinton Road site	£336,295	£4,687 per house £1,172 per flat	Circa £3,016,095 subject to mix of houses and flats.	50% of each phase payment to be made at 40% occupation of each phase with the remaining balance for each phase to be paid on the 60% occupation of each phase	Construction of phase 2 of the new secondary school of Quinton Road, Sittingbourne. To be paid to SBC and forwarded to KCC once SBC satisfied that KCC will spend on the above project. SBC will repay if not satisfied.
Secondary Education – (acquisition of secondary school land contribution)		£1,932.16 per house £483.04 per flat	£1,243,345 subject to a reduction in the event that KCC acquire the secondary school land at a lower cost than the contribution	Prior to occupation of 400 th dwelling unless KCC has acquired secondary school land separately at nil cost	Acquisition of serviced land on land at Quinton Road pursuant to policy MU1 To be paid to SBC and forwarded to KCC once SBC satisfied that KCC will spend on the above project. SBC will repay if not satisfied.

Obligation item	Cost for phase 1A	Cost per dwelling /flats for future phases	Total Contribution (based on 675 dwellings/ flats)	Triggers	Other commentary
					<p>To be repaid in full if KCC secure secondary school at nil cost.</p> <p>Part to be repaid if KCC secure secondary school land at lower cost than the contribution</p>
Social Care	£4,268.80	£53.36 per dwelling	£36,018	Prior to occupation of each phase	<p>Shell and core construction of the social care element of the new Sittingbourne Hub</p> <p>Or</p> <p>Towards the social care facilities or for such other purposes for the benefit of the development, including supporting independent living and social care services locally (including third party commissioned providers) for the different social care groups as the Borough and County Council determine to meet the priorities of the local community at the time of payment.</p> <p>To be paid to SBC and forwarded to KCC once SBC satisfied that KCC will spend on the above project. SBC will repay if not satisfied.</p>

Obligation item	Cost for phase 1A	Cost per dwelling /flats for future phases	Total Contribution (based on 675 dwellings/ flats)	Triggers	Other commentary
Youth services contribution – New House Youth Centre	£3,006.40	£37.58 per dwelling	£25,366.50	Prior to occupation of each phase	Improved facilities at the New House Youth Centre to include – Expansion of coffee bar room and extension to kitchen; re-flooring theatre stage, wheelchair access improvements; reconfiguration of space to provide meeting / project rooms. To be paid to SBC and forwarded to KCC once SBC satisfied that KCC will spend on the above project. SBC will repay if not satisfied.
Affordable Housing		12% AH dwellings – 90% affordable rented / 10% shared ownership Subject to independent ‘viability review’ by 400 th dwelling occupation		Prior to commencement of each phase submit an affordable housing scheme Prior to Occupation of any open market dwelling in each phase to exchange contracts with a registered provider; and Prior to occupation of	Total of 81 affordable housing units There is also a requirement to undertake a further viability review for up to a further maximum 11 affordable units.

Obligation item	Cost for phase 1A	Cost per dwelling /flats for future phases	Total Contribution (based on 675 dwellings/ flats)	Triggers	Other commentary
				<p>not more than 75% of open market dwellings to construct and transfer the affordable dwellings to the registered provider</p> <p>In the event the viability review shows additional affordable housing can be provided, such provision is linked to the subsequent phase</p>	
Open Space specification (including on- going management and maintenance)	16.7 hectares			<p>Prior to commencement of each phase the developer shall submit an Open Space specification / implementation plan and have that approved by the Borough Council</p> <p>Delivery will be in accordance with the</p>	<p>Maintenance and management contributions set through agreed formula to be paid to SBC over initial 10 year period if Open Space transferred to SBC.</p> <p>To enable the land between the Nature Reserve and Borden Lane, including the proposed allotments, to be offered to Borden Parish Council.</p> <p>Maintenance funded by annual service charges payable by owners of dwellings</p>

Obligation item	Cost for phase 1A	Cost per dwelling /flats for future phases	Total Contribution (based on 675 dwellings/ flats)	Triggers	Other commentary
				Open Space specification to be submitted. Management and maintenance until transfer of Open Space	if Open Space transferred to Management Company
Retail and commercial floorspace – a marketing strategy and timescale for provision				<p>No more than 80 dwellings occupied until reserved matters application for commercial floorspace has been submitted to the Local Planning Authority.</p> <p>No more than 200 dwellings occupied until owner has put in place all services up to boundary of commercial units including provision of broadband</p> <p>No occupation of</p>	

Obligation item	Cost for phase 1A	Cost per dwelling /flats for future phases	Total Contribution (based on 675 dwellings/ flats)	Triggers	Other commentary
				more than 200 dwellings shall take place until the owner has submitted to and received approval from the Borough Council of a marketing strategy	
Air Quality				Prior to Occupation of the first dwelling in Phase 1A and subsequent phases to provide an on plot car parking space with passive provision of electric vehicle charging to the parking space. Reserved matters to include details for provision of up to 10% of residential parking areas and 10% of parking spaces allocated to non-residential uses within	

Obligation item	Cost for phase 1A	Cost per dwelling /flats for future phases	Total Contribution (based on 675 dwellings/ flats)	Triggers	Other commentary
				each phase for such charging provision Gas boilers to be low emission.	
Sports Club / Community facility and sports pitches	3.65 hectares	Capped at £1,510,000		Prior to commencement of development to enter into a sports club user agreement The trigger to deliver the sports club car park and sports pitches was originally proposed to be prior to development of phase 5 (at 549 units), but the developer has agreed to bring this forward – details to be confirmed.	Restriction on use of sports club for sports and community uses in accordance with community use agreement
Local Apprenticeship and use of local labour for construction works				During construction employ Local Labour and offer apprenticeships.	

Obligation item	Cost for phase 1A	Cost per dwelling /flats for future phases	Total Contribution (based on 675 dwellings/ flats)	Triggers	Other commentary
SPA contribution	£19,168.80	£239.61 per dwelling	£161,736.75	Prior to occupation of each phase	Mitigation measures to avoid adverse effects on SPA
Key Street / A249 junction	£200,000		£1,345,140.00	<p>£200,000 prior to occupation of development</p> <p>£572,570 prior to occupation of 150th dwelling</p> <p>£572,570 prior to occupation of 300th dwelling</p>	Improvements to the capacity of the Key Street/A249 junction
Signalisation Works (s278 Agreement)				To enter into a s278 Agreement unless it is agreed with KCC prior to occupation of 150 th dwelling that KCC shall deliver the signalisation works	Works to Key Street Roundabout

Obligation item	Cost for phase 1A	Cost per dwelling /flats for future phases	Total Contribution (based on 675 dwellings/ flats)	Triggers	Other commentary
Maylam Gardens cycle contribution			£8,000	Prior to commencement of Phase 2	To provide a connection between the new cycle route within Phase 1A of the development and the existing cycle path at Maylam Gardens (to the north of the existing roundabout). 10 year expenditure period
Provision of walking and cycling links on Cryalls Land and Riddles Road pursuant to policy MU3			£30,000	Prior to occupation of 350 th Dwelling	10 year expenditure period
South bound on-slip contribution and Chestnut Street Connection Works			£885,158 if HIF bid unsuccessful	Either: No more than 300 dwellings to be occupied where KCC have secured funding for full implementation of the capacity improvement scheme for Key St/A249 junction	Southbound On Slip Works Contribution - to fund delivery of 4 th arm of roundabout (part of Chestnut Street Connection Works) in event no funding secured Repayment in the event the contribution is paid to KCC but KCC then acquire funding

Obligation item	Cost for phase 1A	Cost per dwelling /flats for future phases	Total Contribution (based on 675 dwellings/ flats)	Triggers	Other commentary
				<p>OR</p> <p>No more than 200 dwellings to be occupied until payment of South bound on-slip contribution received</p> <p>Chestnut Street Connection Works to be completed prior to occupation of 200th dwelling</p> <p>KCC and owner to use reasonable endeavours to coordinate delivery of Southbound On Slip Works (by KCC) and Chestnut Street Works (by owner)</p>	Chestnut Street Connections Works – delivery of 3 arm roundabout (4 th arm to be provided by KCC pursuant to Southbound On Slip Works contribution/Funding)
Stockbury Roundabout Contribution			Equivalent to £275,000 worth of works	Required works agreed with Highways England (HE) and Kent County	This contribution will be used towards the funding of the M2 J5 works, or an alternative scheme (such as that shown as the “interim scheme”).

Obligation item	Cost for phase 1A	Cost per dwelling /flats for future phases	Total Contribution (based on 675 dwellings/ flats)	Triggers	Other commentary
				<p>Council(KCC) (Approve drawing – 13-042-016_RevB – M2 Junction 5 proposed improvements)</p> <p>To enter into a S.278 agreement before occupation of any dwellings, to be agreed with KCC and HE. To pay the contribution upon 150th occupancy of the development.</p>	
Travel Plan contribution – independent monitoring			£5,000	<p>Prior to occupation of 400th dwelling or completion of the Spine Road whichever is the sooner</p> <p>TP will include a choice of three travel incentives that will be offered to new</p>	<p>Towards costs of monitoring the implementation and performance of the Framework Travel Plan</p> <p>10 year expenditure period</p>

Obligation item	Cost for phase 1A	Cost per dwelling /flats for future phases	Total Contribution (based on 675 dwellings/ flats)	Triggers	Other commentary
				<p>residents. These include an Arriva travel ticket for the South East ticket zone, to cover a minimum of three months with an alternative 5 month "Swale" zone ticket also being offered or a £100 cycle voucher to be used towards a new bike or safety equipment.</p> <p>It is estimated that the cost to the developer of the TP is approximately £150,000.</p>	
Footpath ZR121 contribution	£20,000		£20,000	The contribution to be used to enable the footpath to be extended southwards, adjacent to Wises Lane, to provide a pedestrian link	This will enable a safe pedestrian link between the application site and Borden village.

Obligation item	Cost for phase 1A	Cost per dwelling /flats for future phases	Total Contribution (based on 675 dwellings/ flats)	Triggers	Other commentary
				<p>between the site and Borden village. The owner of the land to complete a S25 Agreement (Highways Act) with KCC PROW prior to occupation of 50 dwellings, and to agree to dedication of the footpath without seeking compensation / payment.</p> <p>The contribution to be payable prior to occupation of 100 dwellings.</p>	

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APPENDIX B**Extract from 30th January Committee report****Heads of Terms**

- 9.14 Taking the above into account the following Heads of Terms are proposed for inclusion in a Section 106 Agreement between the applicant and the Council. Officers have reviewed each proposed contribution and are satisfied that these meet the tests under Regulation 122 of the Community Infrastructure Levy Regulations 2010 in that they are:
- a) necessary to make the development acceptable in planning terms;
 - (b) directly related to the development; and
 - (c) fairly and reasonably related in scale and kind to the development;
- 9.15 In addition since 6th April 2015, section 123 of the CIL Regulations places a restriction on the number of different obligations (calculated back to April 2010) that relate to the funding or provision of an infrastructure project or type of infrastructure, ("the pooling restriction"). As such, the scope of contributions that can be requested in respect of new development is restricted. Affordable housing is excluded from this restriction.
- 9.16 The CIL 123 tests have been applied in the context of this planning application and officers are content that the proposed planning obligations are compliant with the Community Infrastructure Levy Regulations 2010 (Regulation 122).
- ☐ To secure up to 81 units as affordable housing
 - ☐ To provide a viability review mechanism to re-assess the level of affordable housing at an appropriate time in the development.
 - ☐ A bin contribution of £101 per dwelling and £945 per 5 flats
 - ☐ An NHS contribution of £583,200
 - ☐ To secure an area of at least 16.7 Hectares as Public Open Space (including management requirements)
 - ☐ To secure delivery of the rugby club sports facility (amounting to a total of 20.4 Ha when taken together with the public open space).
 - ☐ An SPA Mitigation contribution of £239.61 per dwelling
 - ☐ An off site sports contribution of £50,807 (hockey) and £5,000 (cricket)
 - ☐ A community learning contribution of £60.43 per dwelling
 - ☐ A Maylam Gardens Cycle path contribution of £8,000
 - ☐ A Key Street / A249 contribution of £1,345,140
 - ☐ Should the HIF be unsuccessful, a sum of £885,158 (eight hundred and eight five thousand one hundred and fifty eight pounds) towards the Southbound On-Slip Works
 - ☐ A Kent Police contribution of £27,470
 - ☐ A libraries contribution of £227 per dwelling
 - ☐ Provision of an area of land of at least 2.05 Hectares within the site for a primary school.
 - ☐ A primary school building contribution of £4,535 per dwelling and £1,134 per applicable flat

APPENDIX B

- ☐ A public rights of way contribution of £27,410
- ☐ A secondary school building contribution of £4,687 per dwelling and £1,172 per applicable flat
- ☐ A secondary school land acquisition contribution of £1,932.16 per dwelling and £483.04 per applicable flat
- ☐ A social Care contribution of £53.36 per dwelling
- ☐ A Travel Plan monitoring contribution of £5000
- ☐ A Youth services contribution of £37.58 per dwelling
- ☐ A marketing strategy and timescale for provision of the retail and flexible use facilities
- ☐ To secure advance landscape planting as shown on the landscape plans
- ☐ A contribution of £30,000 towards creation of walking and cycling links on Cryalls Road and Riddles Road, subject to the grant of a TRO.
- ☐ Air Quality mitigation measures (to be agreed)
- ☐ Transfer of an area of 2.05Ha to KCC for use as a primary school
- ☐ Provision and maintenance of land (off-site) for skylark mitigation
- ☐ Availability of sports club for wider community use.
- ☐ Measures to provide apprenticeship places and use of local labour for construction works.

APPENDIX CUpdated list of conditions for application 17/505711/HYBRIDCommencement

- 1) The detailed element (phase 1A) of 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) Details relating to the layout, scale and appearance of the proposed building(s) within a relevant phase (other than the detailed element for Phase 1A), and the landscaping of the site within 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.

- 3) Application for approval of reserved matters referred to in Condition (2) above must be made not later than the expiration of five 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.

- 4) 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.

General

- 5) The detailed element (phase 1A) of the development shall be carried out in accordance with the following approved plans:
2574-313 Rev G, 1733 P230.01.B, 1733.P231.01 A, 1733.P341.02.A, 1733.P341.03, 1733.P341.01.C, 1733.K3.01, 1733.K2.01 A, 1733.H485.01 Rev C, 1733.H470.01A, 1733.H469.01 Rev B, 1733.H455.01, 1733.H455-5E, 1733.H433.01 Rev B, 1733.H431.01 Rev B, 1733.H421.01 Rev B, 1733.H417.01D, 1733.H406.01, 1733.H385.01, 1733.G.02 Rev A, 1733.G.01 Rev A, 1733.BS.01, 1733.B.03, 1733.B.01 Rev A, 1733.9B.01 Rev B, 1733.10 A4, 1733.09 Rev D, 1733.03A, 1733.01 Rev A, 14657C Landscape Proposals sheets 1 of 4, 2 of 4, 3 of 4 and 4 of 4.

Reason: To accord with the terms of the application and in the interests of proper planning.

- 6) The reserved matters details submitted pursuant to condition 2 shall accord with the Masterplan Parameter Plans, which for the avoidance of doubt are as listed below–
Building Heights Parameter Plan 2574-304 Rev P
Land Use Parameter Plan 2574-300 Rev N

APPENDIX C

Density Parameter Plan 2574-303 Rev P

Route Infrastructure Parameter Plan 2574-302 Rev S

David Williams Landscape Consultancy Indicative Landscape Strategy Plan (Addendum LVIA Figure 10.8, Drawing No L8 Revision E (For the avoidance of doubt this replaced the Landscape and Ecology Masterplan previously submitted)).

- 7) Notwithstanding the submitted plans, no development (other than as required under condition 20) shall commence until a phasing plan for delivery of the development, including the associated highways infrastructure, open space, landscaped buffers and sports facilities, has been submitted to and approved in writing by the Local Planning Authority. The development shall then be implemented strictly in accordance with the approved phasing scheme, unless otherwise agreed in writing by the Local Planning Authority.

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

- 8) No dwelling within any phase of the development (including phase 1A) shall be occupied until a housing and wastewater infrastructure phasing plan has been submitted to and approved in writing by the Local Planning Authority for that phase. Development shall take place in accordance with the approved housing and wastewater infrastructure phasing plan unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that phasing is aligned to improvements to off site wastewater infrastructure.

- 9) For each phase of the development hereby approved (including phase 1A), no development (other than as required under condition 20) 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

- 10) The proposed residential development hereby permitted shall be designed to achieve a water consumption rate of no more than 110 litres per person per day, and the residential units shall not be occupied unless the notice for that dwelling/flat 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

- 11) The non-residential buildings shall be constructed to a minimum of BREEAM 'Very Good' Standard or an equivalent standard and prior to the use of the building the relevant certification shall be submitted to the Local Planning Authority confirming that the required standard has been achieved.

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

APPENDIX C

- 12) No development (other than as required under condition 20) shall take place in any phase (including Phase 1A) until details of the existing site levels, proposed site levels (including any levels changes to areas to be used as open space, landscaped buffer areas and highways), and proposed finished floor levels for buildings in that phase have been submitted to and approved in writing by the local planning authority and the development shall be completed strictly in accordance with the approved levels;

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

- 13) No development beyond the construction of foundations shall take place within a relevant phase until details have been submitted to and approved in writing by the Local Planning Authority 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.

- 14) The development hereby permitted shall incorporate measures to minimise the risk of crime. No development in any phase (including the detailed element under phase 1A) beyond the construction of foundations shall take place until details of such measures, according to the principles and physical security requirements of Crime Prevention through Environmental Design (CPTED) have been submitted to and approved in writing by the Local Planning Authority. The approved measures shall be implemented before the development is occupied and thereafter retained.

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

- 15) No development beyond the construction of foundations shall take place on the detailed (Phase 1A) and outline phases until written details and samples of the materials to be used in the construction of the external surfaces of the building(s) hereby permitted have been submitted to and approved in writing by the local planning authority for that phase. This shall include a sample panel to demonstrate the appearance of the feature brickwork proposed on buildings within the detailed (Phase 1A) element of the development.

Reason: To ensure a satisfactory appearance to the development.

- 16) 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 specifically shown on the approved plans.

Reason: In the interests of visual amenity.

APPENDIX C

- 17) The reserved matters details submitted pursuant to condition (2) shall include measures to demonstrate how the detailed design and layout of the residential development would meet the needs of specific housing groups, including older and disabled persons.

Reason: To ensure that the development of this large strategic site makes provision for different housing needs.

Construction

- 18) No development (other than as required under condition 20) in any phase (including Phase 1A) shall take place, including any works of demolition, until a Construction Management Plan (CMP) has been submitted to and approved in writing by the Local Planning Authority. The approved CMP shall be implemented and adhered to throughout the entire construction period. The CMP shall provide details of:
- Measures to manage HGV movements to deter use of the Strategic Road Network during peak hours (0800-0900 and 1700-1800 hours);
 - Measures to ensure that loose loads arriving / departing from the site are sheeted;
 - The means of access for vehicles during construction and the routing of construction and delivery vehicles to and from the site, including temporary traffic management and signage
 - parking and turning areas for construction and delivery vehicles and site personnel
 - loading and unloading of plant, materials and waste
 - storage of plant and materials used in constructing the development
 - the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
 - wheel washing facilities and measures to deal with mud or spills on the highway
 - measures to control the emission of dust and dirt during construction
 - a scheme for recycling/disposing of waste resulting from demolition and construction works

Reason: To ensure that the impact of construction works on the strategic and local road network are managed, and in the interests of the amenities of the area and highways safety and convenience.

- 19) No construction work (for the avoidance of doubt to include piling) 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.

Highways

- 20) No development shall be commenced in any phase until the highway works north of No 35 Wises Lane, as shown on the Wises Lane – Site Access drawing 13-042-038C (or as otherwise agreed) have been completed.

Reason: In the interests of Highways safety

APPENDIX C

- 21) No more than 199 dwellings shall be occupied until the entire length of the internal spine road between Wises Lane and Chestnut Street has been constructed to an adoptable standard and made available for public use.

Reason: In the interests of highways safety and to ensure early delivery of part of the spine road.

- 22) Full details of the design of the roundabout to be installed on Chestnut Street, as currently indicatively shown on drawing 13-042-045C, shall be submitted to and approved in writing by the Local Planning Authority. No more that 199 dwellings shall be occupied until the roundabout as approved is constructed to an adoptable standard and open for public use.

Reason: to ensure a satisfactory appearance and in the interests of highways safety.

- 23) No dwellings shall be constructed on the land shown as phase 2a on the Development Phasing Plan (in the Design and Access Statement submitted with the application) until the internal spine road between Chestnut Street and Wises Lane and the roundabout connection to Chestnut Street has been completed.

Reason: To ensure that highways improvements, which justify the provision of housing on land within phase 2a, are delivered.

- 24) No more than 421 dwellings shall be occupied within the development until the internal spine road between Wises Lane and Borden Lane has been constructed to an adoptable standard and made available for public use.

Reason: In the interests of highways safety and to ensure delivery of the spine road in full.

- 25) Full details of the design of the access (including associated infrastructure, signage and landscaping) to be installed on Borden Lane, shall be submitted to and approved in writing by the Local Planning Authority. No more that 421 dwellings shall be occupied until the roundabout as approved is constructed to an adoptable standard and open for public use.

Reason: In the interests of highways safety and to control impacts upon the setting of a Grade II listed building.

- 26) No more than 39 dwellings shall be occupied until a Section 278 Agreement has been entered into with the Highway Authority for delivery of a detailed scheme for signalisation at the junction of Wises Lane and the A2 London Road. All associated works shall be completed within 12 months of being served notice to commence by the Highway Authority provided always that such notice is not served prior to the occupation of the 61st dwelling and not later than the occupation of the 200th dwelling.

Reason: In the interests of highways safety, and to ensure that impacts upon protected trees are minimised.

- 27) The details submitted in pursuance to condition 2 shall include the provision of a bus layby on the spine road to be sited a maximum distance of 160 metres from the

APPENDIX C

boundary with Westlands School. The layby shall be completed in accordance with the approved details prior to the occupation of any dwelling within the same phase.

Reason: To provide a facility for school buses to utilise, as an alternative to London Road.

28) No more than 80 dwellings shall be occupied within the development until the following off site highways works have been completed.

- Works to Borden Lane, as shown on drawing 13-042-071 Rev A.
- Works to Wises Lane (south) as shown on drawing 13-042—044 REV
- Improvements for pedestrian crossing at the A2 / Adelaide Drive junction as shown on drawing 13-042-073

Reason: In the interests of highways safety

29) No more than 421 units shall be occupied until the off site highways works to Homewood Avenue / Borden Lane / Adelaide Drive, as shown on drawing 13-042-80 REV A have been completed.

Reason: In the interests of highways safety

30) No more than 150 dwellings shall be occupied until off site highway improvements to the A249 Junction with the A2 Keycol Hill / Key Street (known locally as the Key Street Roundabout) have been completed and opened to public traffic in accordance with C&A Drawing No. 13-042-081 Rev A (Proposed Key Street Roundabout Interim Scheme) or such other scheme of works substantially to the same effect, as may be approved in writing by the local planning authority (who shall consult with Highways England).

Reason: To ensure that the A249 continues to be an effective part of the national system of routes for through traffic in accordance with section 10 of the Highways Act 1980, to satisfy the reasonable requirements of road safety and to prevent environmental damage

31) No development within any phase shall be occupied or first used until detailed travel plans, to be based upon the principles as set out in the Framework Travel Plan, have been submitted to and approved in writing by the Local Planning Authority.

Reason: To promote sustainable transport measures

32) The details submitted pursuant to condition (2) above shall show adequate land, reserved for the parking of cars (in accordance with the currently adopted Kent County Council Vehicle Parking Standards where appropriate) and for the loading and unloading of commercial vehicles where necessary. 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) (England) Order 2015 (as amended) (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 buildings / land hereby permitted.

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

APPENDIX C

- 33) For the purposes of the detailed (Phase 1A) scheme, the area shown on the approved plans as car parking space shall be kept available for such use at all times and no permanent development, whether permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking or re-enacting that Order) or not, shall be carried out on the land so shown (other than the erection of a private garage or garages) or in such a position as to preclude vehicular access thereto; such land and access thereto shall be provided prior to the occupation of the dwelling(s) hereby permitted.

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

- 34) The details submitted pursuant to condition (2) above shall include details of covered secure cycle parking facilities for each dwelling and non-residential use. The approved cycle parking shall thereafter be provided prior to the occupation of any dwellings or building hereby approved, and retained in perpetuity.

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

- 35) The proposed estate road, footways, footpaths, verges, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, vehicle overhang margins, embankments, visibility splays, accesses, carriageway gradients, driveway gradients, car parking and street furniture, as appropriate, shall be constructed and laid out in accordance with details to be submitted and approved by the Local Planning Authority in writing before their construction begins and in accordance with a schedule of house completion and an implementation programme for the agreed works, also to be submitted to the Local Planning Authority for approval in writing.

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

- 36) Prior to the occupation of any dwelling or other building, the following works between the dwelling or building and the adopted highway shall be provided;
- i) Footways and/or footpaths, with the exception of the wearing course;
 - ii) Carriageways, with the exception of the wearing course but including a turning facility, highway drainage, visibility splays, street lighting, street nameplates and highway structures (if any).

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

- 37) No development beyond the construction of foundations shall take place in any phase (including Phase 1A) until detailed drawings of the internal spine road within that phase, to include details of tree planting and verge details, surface materials, and details of chicanes, crossing points (including controlled crossing points) and build out margins 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: To ensure that the spine road is laid out in an appropriate manner and with suitable crossing facilities.

APPENDIX CLandscaping

- 38) No development (other than as required under condition 20) shall take place until a detailed scheme of advance soft landscaping has been submitted to and approved in writing by the Local Planning Authority, and such planting has been completed on the site in accordance with the approved details. This shall incorporate the areas proposed for advance planting, as shown on the Indicative Landscape Strategy Plan by David Williams Landscape Consultancy and referred to as Figure 10.8, drawing L8 Revision E. The soft landscaping scheme shall include proposed trees, shrubs and other features, planting schedules of plants (which shall include native species and of a type that will encourage wildlife and biodiversity), noting species, plant sizes and numbers where appropriate, measures to prevent tree vandalism, and measures to protect the advance planting from construction on the remainder of the site for the duration of such works. Details of the advance planting for the access road and proposed junction with Chestnut Street, shown as AA-BB on the Indicative Landscape Strategy Plan, shall take into account and indicate relevant working and operational constraints, changes in landform and engineering requirements associated with the proposed road and roundabout.

Reason: To accord with the terms of the application and the requirements of Policy MU3 of the Swale Borough Local Plan – Bearing Fruits 2031. To ensure the early delivery of part of the strategic landscaping to the site, in the interests of visual amenity and wider landscape objectives.

- 39) Upon completion of the advance landscaping works, any trees or shrubs that are removed, dying, being severely damaged or becoming seriously diseased within ten years of planting shall be replaced with trees or shrubs of such size and species as may be agreed in writing with the Local Planning Authority, and within the next planting season, unless otherwise agreed.

Reason: To ensure the retention and maintenance of strategic landscaping, in the interests of visual amenity.

- 40) The areas shown on the approved drawings for the detailed scheme (Phase 1A) as open space, and play areas shall be reserved for the general amenity of the area. Play spaces shall be surfaced and equipped with play equipment, in accordance with a schedule agreed by the Local Planning Authority before the first dwelling is occupied. The open space and play area within Phase 1A shall be provided prior to the occupation of no more than 40 dwellings. No permanent development whether permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) or not shall be carried out in the areas so shown without the prior written approval of the Local Planning Authority.

Reason: To ensure that these areas are made available in the interests of the residential amenities of the area.

- 41) The sports pitches hereby permitted shall not be floodlit, nor shall they be constructed with an artificial surface.

Reason: To protect the visual amenities of the area and the functioning of the site as part of a strategic green buffer area, and to protect the amenities of the occupants of surrounding residential dwellings.

APPENDIX C

42) No development (other than as required under condition 20) in any phase shall take place until full details of all existing trees and/or hedges in that phase, details of any trees or hedges proposed for removal, and measures to protect any trees or hedges shown to be retained, have been submitted to and approved in writing by the Local Planning Authority. Such details shall include

- (a) a plan showing the location of, and allocating a reference number to each existing tree and hedge on the site to be retained and indicating the crown spread of each tree, and extent of any hedge, and identifying those trees and hedges to be removed.
- (b) details of the size, species, diameter, approximate height and an assessment of the general state of health and stability of each retained tree and hedge.
- (c) details of any proposed arboricultural works required to any retained tree or hedge
- (d) details of any alterations in ground levels and of the position of any excavation or other engineering works within the crown spread of any retained tree.
- (e) details of the specification and position of fencing and of any other measures to be taken for the protection of any retained tree or hedge from damage before or during the course of development .

The development shall be carried out in accordance with the approved details and the approved protection measures shall be installed in full prior to the commencement of any development, and retained for the duration of construction works. No works, access, or storage within the protected areas shall take place, unless specifically approved in writing by the Local Planning Authority

In this condition “retained tree or hedge” means any existing tree or hedge which is to be retained in accordance with the drawing referred to in (a) above.

Reason: In the interests of protecting existing trees and hedges which are worthy of retention in the interests of the amenities of the area.

43) Notwithstanding the submitted plans, no development beyond the construction of foundations shall take place within phase 1A until full details of both hard and soft landscape works proposed within the curtilage of any dwelling or flat 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.

44) All hard and soft landscape works shall be carried out in accordance with the approved details under condition 43). 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.

APPENDIX C

- 45) 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.

- 46) No development beyond the construction of foundations within Phase 1A shall take place until a detailed hard and soft landscaping scheme, for all public areas beyond the curtilage(s) of any dwelling or flat has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include –

- Details of the type and quantum of open space to be provided (based upon the information contained within the Design and Access Statement / Development Brief submitted with the application)
- Soft landscaping proposals, to 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.
- Hard landscaping details for the public areas, to include details of footpaths and cycleways (including surface finishes), any means of enclosure, litter bins, dog bins, and benches.

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

- 47) The development shall be carried out in accordance with the details approved under condition 46) prior to the occupation of no more than 40 dwellings within Phase 1A. Any trees or shrubs removed, dying, being severely damaged or becoming seriously diseased within ten years of planting shall be replaced with trees or shrubs of such size and species as may be agreed in writing with the Local Planning Authority.

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

- 48) The details submitted pursuant to condition (2) shall include a detailed hard and soft landscaping scheme for all areas within each phase of development. The scheme shall include –

- Details of the type and quantum of open space to be provided within each phase (based upon the information contained within the Design and Access Statement / Development Brief submitted with the application), and this shall secure at least 2 further equipped play areas within the scheme.
- Soft landscaping proposals, for public and private areas to 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.
- Hard landscaping details for the private and public areas, to include details of hardsurfaces, footpaths and cycleways (including surface finishes), any means of enclosure, litter bins, dog bins, and benches.

APPENDIX C

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

Drainage

- 49) No development (other than as required under condition 20) in any phase shall commence until details of measures to protect/divert public sewers on the site have been submitted to and approved in writing by the Local Planning Authority.

Reason: To protect existing sewers on the site.

- 50) No development (other than as required under condition 20) shall commence in any phase until a detailed sustainable surface water drainage scheme for each phase (including Phase 1A), compliant with the complete drainage strategy as approved (Flood Risk Assessment and Addendum to Flood Risk Assessment dated May 2018), 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. The drainage scheme shall be implemented in accordance with the approved details prior to first occupation of each phase of the development (or within an agreed implementation schedule).

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.

- 51) No building hereby permitted in any phase (including Phase 1A) 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

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

Reason: To ensure that any measures to mitigate flood risk and protect water quality on/off the site are fully implemented and maintained (both during and after construction).

APPENDIX C

- 52) No building in any phase (including Phase 1A) of the development hereby permitted shall be occupied until a Verification Report pertaining to the surface water drainage system, carried out by a suitably qualified professional, which demonstrates the suitable modelled operation of the drainage system such that flood risk is appropriately managed, has been submitted to and approved in writing by the Local Planning 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.

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

Reason: To protect vulnerable groundwater resources

Contamination

- 54) No development (other than as required under condition 20) approved by this permission shall be commenced prior to a contaminated land assessment (and associated remediation strategy if relevant), being submitted to and approved in writing by the Local Planning Authority, comprising:

- a) A desk study and conceptual model, based on the historical uses of the site and proposed end-uses, and professional opinion as to whether further investigative works are required. A site investigation strategy, based on the results of the desk study, shall be approved by the District Planning Authority prior to any intrusive investigations commencing on site.
- b) An investigation, including relevant soil, soil gas, surface and groundwater sampling, carried out by a suitably qualified and accredited consultant/contractor in accordance with a Quality Assured sampling and analysis methodology.
- c) A site investigation report detailing all investigative works and sampling on site, together with the results of analyses, risk assessment to any receptors and a proposed remediation strategy which shall be of such a nature as to render harmless the identified contamination given the proposed end-use of the site and surrounding environment, including any controlled waters.
- d) 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 (c) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action. Any changes to these components require the written consent of the local planning authority. The scheme shall be implemented as approved.

Reason: to ensure land contamination is adequately dealt with, and 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

APPENDIX C

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

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

Reason To ensure that the site does not pose any further risk to human health or the water environment by demonstrating that the requirements of the approved verification plan have been met and that remediation of the site is complete.

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

Reason: To ensure that the development does not contribute to, or is not put at unacceptable risk from, or adversely affected by, unacceptable levels of water pollution caused by mobilised contaminants

- 58) No development (other than as required under condition 20) shall be commenced until a scheme of gas protection measures, to protect the development from gas concentrations arising from the adjacent former landfill site (now Borden Nature Reserve), has been submitted to and approved in writing by the Local Planning Authority. Such measures shall be based upon further monitoring and assessment of gas concentrations, the details of which shall be submitted with the scheme. The development shall be carried out in accordance with the approved details.

Reason: To ensure that the development mitigates against risk from gas concentrations.

Ecology

APPENDIX C

- 59) No development (other than as required under condition 20) shall take place (including any ground works, site or vegetation clearance) until a site-wide ecological mitigation and enhancement strategy has been submitted to and approved in writing by the local planning authority. The strategy shall include the following –
- Details of baseline ecological appraisals to inform the strategy
 - Measures to review/update existing survey data during the course of the development
 - Overview of ecological mitigation requirements
 - An overview of ecological enhancements to be secured across the site within the built and open space
 - Maps clearly showing the ecological mitigation and ecological enhancement areas
 - Details of which phases the habitat creation will be carried out/implemented
 - Overview of what management will be carried out

Reason: In the interests of biodiversity

- 60) Prior to the commencement (including vegetation clearance) of development (other than as required under condition 20) in any phase, a detailed ecological mitigation and enhancement strategy for that phase shall be submitted to and approved in writing by the Local Planning Authority. This shall be carried out by experienced ecologists, and shall be based on the site-wide ecological mitigation and enhancement strategy submitted as part of condition 53 and shall contain the following:
- Submission of an updated Phase 1 survey
 - A review of existing specific species surveys or where required submission of updated specific species surveys
 - Overview of the proposed mitigation
 - The purpose and objectives for the proposed works:
 - Detailed design(s) and/or working method(s) necessary to achieve stated objectives;
 - The extent and location of proposed works, including the identification of a suitable mitigation area shown on appropriate scale maps and plans;
 - A timetable for implementation, demonstrating that works are aligned with the proposed phasing of construction;
 - Persons responsible for implementing the works, including times during construction when specialist ecologists need to be present on site to undertake / oversee works;
 - Use of protective fences, exclusion barriers and warning signs;
 - Production of an Interim management plan for the first phase
 - A review / update of the Interim Management plan for all other phases
 - A detailed scheme of ecological enhancement measures for that phase.

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

Reason: In the interests of biodiversity

- 61) No dwelling shall be occupied until a Landscape and Ecological Management Plan (LEMP) has been submitted to and approved in writing by the local planning authority. The content of the LEMP shall include the following.
- a) Description and evaluation of features to be managed;
 - b) Ecological trends and constraints on site that might influence management;
 - c) Aims and objectives of management;

APPENDIX C

- d) Appropriate management options for achieving aims and objectives;
- e) Prescriptions for management actions, together with a plan of management compartments;
- f) Map showing the management compartments
- g) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period);
- h) Details of the body or organisation responsible for implementation of the plan;
- i) Ongoing monitoring and remedial measures.

The LEMP shall set out (where the results from monitoring show that conservation aims and objectives of the LEMP 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 development shall be implemented in accordance with the approved details.

Reason: In the interests of visual amenity and biodiversity.

Public Rights of Way

- 62) No development shall take place over Public Footpaths ZR117, ZR119 and ZR120 until an Order under the Town and Country Planning Act 1990 has been confirmed for the diversion or extinguishment of these footpaths, including the approval of construction details for the diverted or extinguished right of way.

Reason: To ensure that the legal status of a right of way is properly considered

- 63) Public Footpath ZR119 within the development shall be upgraded to an appropriate standard with a width no less than 3 metres. No development within any phase containing the public footpath shall take place until the length of Public Footpath ZR119 within the application site has been dedicated as a Public Bridleway, through the provision of the Highways Act 1980 (s25 or s26) and details of the footpath surfacing have been submitted and approved in writing by the Local Planning Authority.

Reason: To provide an off-road multi user route across the site and enhance opportunities for cycling.

- 64) Prior to commencement of development (other than as required under condition 20) in any phase, details of the surfacing of all Public Rights of Way (PROWs) within that phase shall be submitted to and approved in writing by the Local Planning Authority. All PROWs must be of a width of no less than 2.5m metres.

Reason: To cater for the expected increase in use of paths by residents seeking outdoor recreation and active travel.

Conservation and Archaeology

- 65) The reserved matters submitted pursuant to condition 2 shall incorporate a landscaped and green space buffer area to the south and west of Cryalls Farmhouse, such area to be no less in size than as shown on the illustrative masterplan drawing 2574-401 Rev J.

APPENDIX C

Reason: To protect the setting of the listed building.

Archaeology

- 66) Prior to the submission of a detailed application for any part of the development other than Phase 1A, the applicant or their agents or successors in title shall secure and have reported a programme of archaeological field evaluation works in accordance with a specification and written 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.

- 67) Following completion of archaeological evaluation works for the site (or parts of the site that have been agreed with the Local Planning Authority), no development shall take place until the applicant or their agents or successors in title, has secured the implementation of 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.

- 68) Within 6 months of the completion of archaeological works on any part of the site, for that part of the site a Post-Excavation Assessment Report shall be submitted to and approved in writing by the Local Planning Authority. The Post-Excavation Assessment Report shall be in accordance with Kent County Council's requirements and include:
- i) A description and assessment of the results of all archaeological investigations that have been undertaken in that part (or parts) of the development;
 - ii) An Updated Project Design outlining measures to analyse and publish the findings of the archaeological investigations, together with an implementation strategy and timetable for the same;
 - iii) A scheme detailing the arrangements for providing and maintaining an archaeological site archive and its deposition following completion.

The measures outlined in the Post-Excavation Assessment Report shall be implemented in full and in accordance with the agreed timings.

Reason: To ensure that the results of all archaeological works are properly assessed, analysed, reported and published and that the archive is prepared for archive deposition and properly managed and maintained.

- 69) Before development commences (other than as required under condition 20), a soil management strategy for the site shall be submitted to and approved in writing by the Local Planning Authority. The Strategy shall be undertaken by an appropriately experienced soil specialist and shall provide details for soil handling (including when

APPENDIX C

soils are dry enough to be handled), soil storage, measures to retain and safeguard soil resources on the site. The strategy shall be designed to accord with in the Defra advice – “*Construction Code of Practice for the Sustainable Use of Soils on Construction Sites (including accompanying Toolbox Talks)*”. The development shall be carried out in accordance with the approved details.

Reason: To safeguard soil resources.

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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SWALE BOROUGH COUNCIL

PLANNING SERVICES

Planning Items to be submitted to the Planning Committee

20 June 2019

Standard Index to Contents

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

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

PART 2 Applications for which permission is recommended

PART 3 Applications for which refusal is recommended

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

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

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

ABBREVIATIONS: commonly used in this Agenda

CDA Crime and Disorder Act 1998

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

HRA Human Rights Act 1998

SBLP Swale Borough Local Plan 2017

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INDEX OF ITEMS FOR PLANNING COMMITTEE – 20 JUNE 2019

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

DEFERRED ITEMS

Def Item 1 17/505711/HYBRID BORDEN Land at Wises Lane
Pg 1 – 43

PART 1

1.1 Section 106 Year End Review 2018/2019
Pg 44-49

1.2 GRAVENEY Land at Cleve Hill
Pg 50-94

1.3 Review and Re-designation of Conservation Areas - Boughton
Pg 95-114

PART 2

2.1 19/501555/FULL & OSPRINGE Scotts Farm House
Pg 115-120 19/5015556/LBC

2.2 19/501881/FULL HARTLIP Old Moss, Mill Lane
Pg 121-125

2.3 19/502141/FULL EASTCHURCH 20 Hustlings Drive
Pg 126-131

2.4 19/500768/FULL SELLING Owens Court Farm
Pg 132-138

2.5 19/501731/FULL BOUGHTON UNDER BLEAN 1 Brenley Bridge
Pg 139- 146

2.6 19/500577/REM SITTINGBOURNE Land to the north of Vicarage Road
Pg 147-166

2.7 19/501378/FULL EASTCHURCH Annexe, James House, Kent View Drive
Pg 167-176

PART 5 - INDEX

Pg 177-178

5.1 18/504232/FULL EASTCHURCH Shurland Farm, High Street
Pg 179 – 183

5.2 18/501742/FULL LOWER HALSTOW 64 School Lane
Pg 184 – 187

5.3 18/505773/FULL MILSTEAD Broadoak Farm, Broadoak Road
Pg 188 – 191

5.4 18/501353/FULL OARE Uplees Fruit Farm, Uplees Road
Pg 192 – 194

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PLANNING COMMITTEE – 30 May 2019**PART 1**

Report of the Head of Planning

PART 1

Any other reports to be considered in the public session

Section 106 Year End Review 2018/2019**1. Highlights of the Year: April 2018 to March 2019**

2018/2019 Highlights	
Total Value of Agreements Signed 2018/2019	£ 6.4m
Payments Received 2018/2019	£ 631,213.04
S106 Money Spent	£4,620,000.00
Balance at Year End	£4,944,000.00

There were 16 Section 106 agreements signed in 2018/2019 with a total value of £6,482,351.39 in financial contributions from developers.

Table 1 below shows the breakdown of all 83 planning obligations secured during 2018/2019 by obligation type and financial value.

Table 1: Number and Value of Obligations by Obligation Type

Obligation Type	No of Obligations	Obligation Value (potential)
Air Quality Mitigation / Monitoring	4	£ 190,592.00
Affordable Housing - On Site	4	NIL
Community Learning	3	£ 28,854.22
Cycle Shelters	1	£ 5,077.16
Primary Education	5	£ 1,451,977.32
Secondary Education	3	£ 1,279,193.57
Healthcare	7	£ 514,484.67
Highways	1	£ 106,476.01
Junction Improvements	1	£ 89,000.00
Keycol Junction Improvements	1	£ 343,956.04
Libraries	8	£ 120,412.87
Milton Creek	2	£ 200,000.00
Monitoring Fee	3	£ 90,978.00
Off Site Play Equipment	2	£ 4,000.00
Off Site Ports & Community Facility	4	£ 67,677.47
Policy A9 Land	2	£ 1,605,000.00
Rights of Way Contribution	2	£ 152,188.00
Social Care Contribution	3	£ 28,815.99

Obligation Type	No of Obligations	Obligation Value (potential)
SPA / SAMMS Contribution	16	£ 160,800.05
Wheeled Bins	8	£ 24,924.26
Youth Services	3	£ 17,943.76
TOTAL	83	£ 6,482,351.39

2. Notable Agreements

Two agreements in 2018/2019 had planning obligations with financial contributions worth more than £100,000. These agreements are in relation to the following schemes:

Table 2: Schemes with More Than £100k in Financial Value

Planning Ref	Scheme Address	No of obligations	Obligation Value
16/501266/FULL	99 High Street and Land to The North of High Street, Newington	17	£1,432,382.56
16/507877/FULL	Land to The West of Crown Quay Lane, Sittingbourne	25	£4,730,858.68
TOTAL		42	£6,163,241.24

There were 4 agreements in 2018/2019 aiming to deliver at least 114 new units of affordable housing. Table 3 lists the schemes with on-site affordable housing in 2018/2019.

Table 3: Schemes with Affordable Housing On-Site

Ref	Address	Date Signed	Ward	No. of A.H Units	No.of Market Units	Total No. of Units	Affordable Housing Units %
16/501266/FULL	99 High Street and Land to The North of High Street, Newington	30.04.18	Newington	49	75	124	40%
16/507877/FULL	Land to The West of Crown Quay Lane, Sittingbourne,	04.05.18	Chalkwell	38	345	383	10%
18/500973/FULL	Doubleday Lodge, Glebe Lane, Sittingbourne	11.12.18	Roman	21	-	21	100%
17/506151/FULL	Land at Leaveland Corner, Leaveland, Faversham	24.09.18	East Downs	6	2	8	75
			TOTAL	114	422	536	21.3%

There were four agreements during 2018/2019 that provided for education contributions.

Table 4: Schemes with Education Contributions

Planning Ref	Scheme Address	Education Contributions
16/501266/FULL	99 High Street and Land to the North Of High Street, Newington,	£ 1,114,859.39
18/505440/FULL	Land at Kingsborough Manor, Eastchurch Road, Eastchurch,	£ 118,984.00
16/507877/FULL	Land to The West of Crown Quay Lane, Sittingbourne	£ 1,577,254.50
16/506181/FULL	Sheppey Court, Halfway Road, Minster	£ 39,057.00
TOTAL		£ 2,731,170.89

3. Payments Received From April 2018

Total payments received from April 2018 – March 2019 were £ 3.4m. Table 5 below breaks down the value of receipts by obligation type.

Table 5: Receipts by Obligation Type

Obligation Type	Receipt
Adult Education	£ 6,399.19
Adult Social Care	£ 24,443.56
Affordable Housing Commuted Sum	£ 136,942.85
Air Quality Mitigation / Monitoring	£ 12,750.00
Brenley Corner Highways Contribution	£ 81,071.69
CCTV	£ 21,011.09
Community Infrastructure Provision	£ 135,175.32
Community Learning	£ 2,965.14
Education Primary Contribution	£ 985,409.64
Education Secondary Contribution	£ 469,510.63
Environmental Contribution	£ 10,061.10
Footpath	£ 68,734.06
Healthcare	£ 10,433.00
Highways	£ 560,982.31
Keycol Junction Improvements	£ 343,956.04
Laburnham Place CCTV Contributions	£ 10,434.52
LEAP	£ 56,754.63
Libraries	£ 30,490.89
Monitoring Fee	£ 01,426.24
Open Space	£ 30,396.78
Play Equipment	£ 12,020.01
Policy A9 Preliminary Land Assembly Costs	£ 75,000.00
Public Open Space & Recreation Contribution	£ 17,813.69
Public Open Space Commuted sum	£ 74,160.80
Recreation Contribution	£ 26,825.48

Obligation Type	Receipt
Wheeled Contribution	£ 62,977.34
Rights of Way Contribution	£ 12,175.34
SPA Mitigation Contribution	£ 68,159.51
Travel Plan Monitoring	£ 5,818.11
Youth Service Contribution	£ 8,512.84
TOTAL	£ 3,462,811.80

Notable payments received were:

- **£ 262,865.77** – towards the provision of extra secondary school places within a two mile radius of the site (application 15/506681/FULL - Sittingbourne Mill & Wharf Sites Land adj Milton Road, Mill Way and Charlotte Street Sittingbourne)
- **£ 262,994.99** – provision of extra primary school places within a three mile radius of the site (application 15/506681/FULL - Sittingbourne Mill & Wharf Sites Land adj Milton Road, Mill Way and Charlotte Street Sittingbourne)
- **£ 89,812.95** – secondary education contribution towards the Phase 2 extension of Sittingbourne Academy (application 15/508661/FULL - Ceres Court Sittingbourne)
- **£ 89,857.10** – primary education contribution towards Phase 1 expansion of Murston Primary School (application 15/508661/FULL - Ceres Court Sittingbourne)
- **£70,315.20** - secondary education contribution towards the expansion of secondary education in the Faversham locality (application Land Opposite Greenways (application SW/13/1567 Land Opposite Greenways (and to the South of Brogdale Place), Brogdale Road, Faversham)
- **£ 143,571.60** – primary education contribution towards the provision of primary education (application Land Opposite Greenways (application SW/13/1567 Land Opposite Greenways (and to the South of Brogdale Place), Brogdale Road, Faversham)
- **£404,705.36** – primary education contribution towards the build of the new Q & R primary school (application 16/507298/FULL Land on the West Side of Rushenden Road Queensborough)
- **£343,956.04** – highways contributions towards improvement scheme to increase capacity at the Keycol Junction (between the A2 and A249) (application 16/507877/FULL Land to the West of Crown Quay Lane, Sittingbourne)
- **£106,476.01** – highways contribution towards improvements to the Key Street roundabout (application 16/501266/FULL 99 High Street and Land to the North of High Street, Newington)
- **£342,417.46** – Community Infrastructure Provision – being = £160,545.28 primary education provision at Sunnybank Primary School expansion; £160,466.40 Sittingbourne College and Westlands Sec school expansions; £ 13,372.76 – library contribution; £ 1,983.74 – community learning; £ 6,049.28 – adult

- social care contribution; (application SW/12/0260 Heron Fields) Parcel H East Hall Farm, (Former School Site) Sittingbourne
- **£454,506.30** - the Highways Contribution to be used towards the improvement of the junction between Lower Road and Barton Hill (application SW/13/1455 Land at Harps Farm, Parcels D, E, F & G, Thistle Hill, Minster)
- **£92,032.20** – secondary education contribution towards second phase of expansion of Abbey Secondary School (application 16/508643/FULL Land North of Graveney Road, Faversham)
- **£234,000** – primary education contribution towards the provision of first phase of a new 1 form entry primary school in Faversham (application 16/508643/FULL Land North of Graveney Road, Faversham)

4. **S106 Money Contributions forwarded to appropriate agencies**

Secondary Education Contributions received towards expansion / improvements of facilities at:

- expansion of Phase 1 of Sittingbourne Community College (£197,530.11)
- Phase 2 extension of Sittingbourne Academy (£89,812.95)
- Secondary education sites in Faversham Area (£70,315.20)

Primary Education Contributions received towards expansion / improvements of facilities at:

- towards the building of a new Queenborough and Rushenden Primary School (£404,705.36)
- towards Phase 1 expansion of the Murston Junior School (£136,396.67)
- facilities and equipment at Regis Manor Primary School (£188,828.66)
- works for the expansion of the Halfway Houses Primary School (£34,377.88)
- Primary education at Faversham primary schools (£143,571.60)

Adult Education Contributions received towards expansion / improvements of facilities at:

- Expansion of adult education centre at Oasis Academy (£6,397.19)

Adult Social Care Contributions received towards expansion / improvements of facilities at:

- Sheppey Healthy Living Centre (£6,458.46)
- new and/or expanded facilities and services both on site and in Faversham (£17,985.10)
- Social care facilities in Sittingbourne (£13,327.17)

Libraries Contributions received towards expansion / improvements of facilities at:

- Sittingbourne library (£13,234.70)

- Sheerness & Minster-in-Sheppey library (£5,084.58)
- Faversham Library (£15,738.16)

Youth Services expansion / improvements of facilities at:

- Ladybird Children's Centre (£3,979.70)
- New House Youth Hub, Sittingbourne (£733.52)
- expansion of existing Faversham centres and outreach locally, and outreach youth buses (£3,799.62)

Community Learning expansion / improvements of facilities at:

- provision of new and/or expanded facilities and classes in Faversham through outreach delivery facilities near to the Development (£2,965.14)

At the request of **NHS/CCG**, SBC is currently holding contributions received (total = £18,384.81) for the following projects:

Planning application ref: 16/504266/FULL

Land at Lavender Avenue Minster-on-sea Kent ME12 3RB

Healthcare contribution towards Shiva Medical Centre and Minster Medical Centre = £7,951.81

Planning application ref: 17/501162/FULL

Preston Skreens, 402 Minster Road, Minster-on-sea, Kent ME12 3NZ

Healthcare contribution towards the expansion of the extension refurbishment and/or upgrade of existing at facilities Sheppey Community Hospital. Plover Road, Minster on Sea, Sheerness, Kent ME12 3LT = £10,433.00

5. Organisation Update

Due to Development Management restructure in October 2017 the role of Section 106 Monitoring Officer is now carried out on a part time basis. If you require any information on any specific project, please contact the S106 Monitoring Officer who will be able to provide you with full details.

In November a detailed resumé of expenditure of agreed S106 contributions will be reported.

1.2 APPLICATION PROPOSAL

A solar photovoltaic array, and electrical storage and connection infrastructure, each with a gross electrical output capacity of over 50 megawatts.

ADDRESS Land At Cleve Hill Graveney Kent ME13 9EE – Approximate National Grid reference of site centre TR 037 639.

RECOMMENDATION – That Members review and endorse the attached draft Written Representation and authorise its submission to the Examining Authority who will be recommending whether or not the scheme is approved by the Secretary of State for Business, Energy and Industrial Strategy.

WARD Boughton And Courtenay	PARISH/TOWN Graveney With Goodnestone	COUNCIL	APPLICANT Cleve Hill Solar Park Ltd
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REPRESENTATION DUE to EXAMINING AUTHORITY BY 26 JUNE 2019

1. INTRODUCTION

- 1.1 This report relates to a Nationally Significant Infrastructure Project (NSIP) which seeks direct Government approval to construct and maintain a very large solar power and battery storage facility, both of which have an electrical capacity of over 50MW. As such, each on their own is classified as an NSIP and, rather than being dealt with under normal Town and Country Planning regulations, possible approval is dealt with under powers conferred by The Planning Act 2008. This ultimately means that any approval will be by way of a Development Consent Order (DCO) issued by the Secretary of State for Business, Energy and Industrial Strategy; and this DCO may also authorise compulsory purchase of the site by the applicant. The Borough Council cannot therefore decide if approval is or is not granted, but the Council is a so-called Host Authority by virtue of the site falling mainly within this Borough, and we can submit our views on the matter to the Planning Inspectorate who are the Examining Authority making a recommendation on the project to the Secretary of State.
- 1.2 As a Host Authority we are involved in various stages of the process. These began with pre-application consultation by the applicant, attendance at exhibitions and information meetings, producing a review of Preliminary Environmental Information (PEIR), and submitting a report on the adequacy of the applicant's pre-application consultation (AOC). We have also been invited to submit a relevant Representation (RR) and a Local Impact Report (LIR). The main purposes of an RR is to make the Examining Authority (ExA) [The Planning Inspectorate] aware of a wish to comment on the application in order to be able take part in the actual examination process, and to let them know what matters one might wish to raise. The Council did not submit an RR for two reasons. Firstly, as a Host Authority we are known to the ExA and are automatically entitled to take part in the examination process and; Secondly, at that time (end of January 2019) the Council had made no resolution as to its possible view on the project or what issues we might wish to comment upon. We have now submitted an LIR (the deadline for this was 12th June) and this is appended to this report for Members' information.
- 1.3 The LIR sets out the likely impacts of the project in a largely factual manner with reference to compliance to Local Plan policies. It contains a description of the site and of the project, so those are not repeated here. However, the project is on a huge scale, many times larger than any other previous solar power project in the UK, and is in fact

the first solar park in England to be of the necessary scale to be submitted as an NSIP. It is intended to be a subsidy-free producer of renewable carbon free energy which will contribute towards UK targets for reducing carbon di-oxide emissions, whilst producing enough electricity to power over 90,000 homes. The majority of the area will be covered by solar panels facing east and west rather than the traditional south facing orientation (this is almost unique in terms of solar parks so far built around the world), and there will be a large substation and battery storage facility surrounded by a high earth bank. This earth bank responds to the fact that the site is low lying land on the coast that is at risk to tidal flooding, despite existing sea defences. This flood risk also means that the solar panels themselves will be set at least 1.2m off the ground, with the tops up to 3.9m above ground level. This is higher than in most solar farms. The construction programme is expected to last over two years alone, and the project is intended to have a 40 year life span.

- 1.4 The development site is on the coast between Faversham and Whitstable, adjoining The Swale SSSI, SPA and Ramsar site of international importance for migratory wading birds; although none of the solar panels or the substation/battery storage facility itself will be built within these areas. The area to be built on is flat, mostly poor quality agricultural land crossed by drainage ditches. Much of its significance derives from its unique landscape, its close proximity to The Swale, and use of the area and its ditches by species that use The Swale or live or hunt in the ditches, some of which is birdlife, but other protected species are present. The area is not covered by any planning designations related to wildlife apart from where the site boundaries incorporate the sea wall and an area of grazing marsh (not to be built on). However, the whole site is part of a Local Plan defined Area of High Landscape Value (Kent Level) in recognition of its locally valuable landscape quality, where views can extend much further than normal due to the flatness and lack of tall vegetation.

2. PROPOSAL

- 2.1 Full details of the application can be found on the Planning Inspectorate's dedicated project website at;

<https://infrastructure.planninginspectorate.gov.uk/projects/south-east/cleve-hill-solar-park/>

where all the application plans and papers can be viewed. Details of the application can also be seen on the applicant's own website at;

<https://www.clevehillsolar.com/>

although some of the documents are very large.

- 2.2 The location is adjacent to the relatively new London Array off-shore windfarm substation, which has its own dedicated connection to the National Grid. It is intended to connect the solar power production/battery storage facility to the Grid via the existing switch house there, which is underutilised as the London Array project was never fully completed.
- 2.3 In recognition of the proximity of the site to The Swale one major part of the project is to manage 72ha of current farmland adjacent to existing grazing marsh to provide habitat suitable for geese that currently resort to the development site as part of their use of

The Swale. This is an approach which the applicant has negotiated with Natural England to mitigate impacts on birds using The Swale.

3. SUMMARY INFORMATION

	Proposed
Site Area (ha)	491.2
Area to be covered by solar panels (ha)	177.3399
Possible number of solar panels	884,388
Possible number of energy storage units	7,440
Maximum height of panels above ground level	3.9m
Maximum height of substation components	12.8m

4. PLANNING CONSTRAINTS

Potential Archaeological Importance

Environment Agency Flood Zone 3

The Swale Site of Special Scientific Interest, Special Protection Area and Ramsar site

5. APPLICATION PROCESS

- 5.1 Instead of a typical planning application process, the decision making on this NSIP project is made by an examination which is mainly a written process with a very limited number of one day public hearings related mainly to particular topics. The examination is spread over a six month (maximum) period after which the ExA have three months to submit a report to the Secretary of State who then has three months to approve or refuse development consent. If approved, the Council will be responsible for overseeing and approving details reserved by "Requirements" (essentially planning conditions) of the authorising DCO, and for enforcing any non-compliance. The draft "Requirements" submitted by the applicant with the application in the draft DCO are attached as an appendix to this report, and the Council can comment on these (and on any part of the draft DCO) should it so wish.
- 5.2 The formal and finite six month examination period began on 30th May 2019 with a procedural meeting and the Council (and everyone else) is now required to submit its Written Representation by 26th June. Others can then comment upon it, and the hearings are currently set to take place in late July (including an accompanied site visit) with the examination period closing at the end of November at the latest. The Council may wish to participate in the hearings, although one simply relates to compulsory purchase matters which we are not involved in.
- 5.3 One important difference between this application and a normal planning application is that the critical test is conformity with National Planning Statements (NPSs) rather than with the Council's Local Plan. However, there is no NPS for solar power or battery storage technology, which leaves the question of which policies to rely on open to question.

LOCAL REPRESENTATIONS

- 5.4 The Council is not involved in arranging local consultations about such a project. The onus here is on the applicant to make the project known and to invite representations to the Examination. In January 2019 the ExA published 867 Relevant Representations

(RRs) about the project from a variety of statutory bodies, other organisations and individuals. These included RRs from Graveney and Oare Parish Councils and Faversham Town Council, the CPRE, the RSPB, the Faversham Society, local action group GREAT, Public Health England*, Natural England*, National Grid, the Environment Agency* and Historic England.

NOTE *These three bodies have agreed Statements of Common Ground (SOCG) with the applicant, and it is likely that the Council will be asked to do so too. Such SOCGs are routine in planning appeal procedures and are intended to reduce the need for discussion over matters which are not contentious, but to make clear where differences lie.

5.5 All RRs will now be for the ExA to consider, along with any further Written Representations submitted now. Subjects raised in these RRs include;

- Need for the project
- The efficiency of solar power
- Habitat loss in an area of international importance
- Loss of agricultural land
- Flood risk across the site
- Landscape impact in an area locally designated for its high landscape value
- Effects on public rights of way and on walkers
- Construction traffic volume and routing through the village for two years
- Effect on heritage assets and archaeology
- The sheer scale of the project
- Loss of rural character and tranquility
- Loss of valuable views and natural beauty
- The fact that east/west solar panels has not been tried before on this scale, and it will almost entirely cover the site with few gaps
- Contrary to the aims of tariffs on new housing which is to protect this area
- Concerns over battery storage technology and eventual disposal
- The height of the solar panels themselves
- The impact on plans for the site to be used for Managed Retreat of the coastline which will not be possible whilst the solar park is operating
- Noise and pollution
- It is necessary reduce carbon dioxide emissions and tackle climate change
- Preference for alternative locations for solar power including use of rooftops

6. DISCUSSION

7.1 The Council now has the opportunity to make comments on the merits of the application

much as a Parish Council might comment on a normal planning application. I have attached as an appendix to this report a suggested representation covering what appear to be the most likely issues of concern from the Council's perspective. It is now for Members to consider whether they agree with the points being suggested, or whether they would wish to add or subtract from them. Whatever the result, the final version of the Council's comments is due with the ExA by Wednesday 26th June 2019.

7. RECOMMENDATION

- 7.1 Members are requested to resolve that the attached draft Written Representation be submitted to the ExA with or without amendments, on the basis that this may be debated at the forthcoming hearings (which some Members might wish to attend to clarify their views direct to the ExA), and may be the subject of written questions from the ExA.

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APPENDIX 1

National Infrastructure Planning
Temple Quay House
2 The Square
Bristol, BS1 6PN

Our Ref: CHSP/WR/06/2019
Your Ref: EN010085
Date: 26 June 2019
Contact: Mr G Thomas

DRAFT FOR COMMITTEE CONSIDERATION

BY EMAIL TO: CleveHillSolarPark@planninginspectorate.gov.uk

Dear Sir/Madam

Planning Act 2008–Section 88 and The Infrastructure Planning (Examination Procedure) Rules 2010–Rule 6

Application by Cleve Hill Solar Park Limited for an Order Granting Development Consent for the Cleve Hill Solar Park Project

Further to your letter of 18 April and the Preliminary Meeting held on 30 May providing the timetable for the examination of this Nationally Significant Infrastructure Project (NSIP) as set out in Annex C to your letter, the Borough Council's Planning Committee met on Thursday 20 June to consider its substantive response to this application for a Development Consent Order. This letter comprises that response including the express views of the Planning Committee, based on the report explaining the role of that representation (copy attached) and the Local Impact Report (LIR) already submitted to you.

Members have been informed not just by the report, but also by asking the CPRE and GREAT who oppose the application, as well as the applicant, to make individual presentations to them ahead of their meeting. Those presentations took place on the 4th June (CPRE and GREAT) and 6th June (the applicant) before the Planning Committee considered the application, and Members were given the opportunity to ask questions at both presentations to better understand the various issues and points of view over this controversial project.

SUMMARY OF THE COUNCIL'S REPRESENTATION *(required for a document with over 1,500 words*) *This note is for Members' benefit and will not form part of the final submission.*

Swale Borough is a largely rural Borough on the north Kent coast. It has the longest coastline of any District in Kent and a high quality natural environment. It is an integral part of the "Garden of England" and played host to the first cherry orchards in England at Teynham. The area's economy is founded on agriculture but its high quality natural resources and good access to the Thames Estuary has made it well known for brick manufacture and the building of London. The Borough has a particularly varied character ranging from internationally important estuarine habitats (an SSSI, SPA and Ramsar site) to the nationally important Kent Downs Area of Outstanding Natural Beauty (AONB) with much grade 1 agricultural land and ancient woodland in between. The Borough is also rich in built heritage with 50 conservation areas and over 1800 listed buildings.

The Council has an up to date Borough wide Local Plan adopted in July 2017 with policies designed to ensure consistency in decision making and protection for the very special environment that it has. This solar park and battery storage project is not included in that Local Plan and its scale, nature and location cut across many of the policies in that Plan. The area that the project is intended to occupy has been identified as being of locally high landscape value, and it is without doubt important for internationally important bird populations. What might at first sight appear to be poor quality and intensive monoculture land is in fact a resource that both supports the importance of the adjacent estuary for migrating birds, and is in itself home to an extensive array of wildlife due to its position and the fact that it is dissected by numerous species rich drainage ditches.

The very low lying, flat open nature of the area offers long coastal views and means that the area is subject to potential tidal flooding. This means that this project, which is not intended to foster management or flood risk across the site, is especially vulnerable to flooding and has been designed to defend against flood risk by means including artificially raising the height of the solar panels and creating a substantial earth wall around the substation and battery storage compound; features that would not be necessary if it were not for the flood risk. This is especially damaging in the context of such a flat site where long distance views at ground level are such a feature; views that will in places be entirely obscured not just by the solar panels themselves, but also by the substation bund and by planting designed to screen and obscure views of the raised solar panels. Both the solar panels and the screening intended to hide them will affect the amenities of nearby residents and the settings of nearby listed buildings and the Graveney Church conservation area.

Intensive construction traffic over a long construction period will use unsuitable narrow country lanes, and this will be repeated, perhaps at even more intensive level, during decommissioning. These lanes have already suffered long term effects from the construction of the adjacent London Array substation despite promises to survey these roads and reinstate any damage caused during that construction.

The Council understands that as an NSIP the primacy of the Development Plan is normally set aside in favour of National Policy Statements (NPSs) but that there is no such NPS for solar power or battery storage projects. As such, a decision to approve a solar power and battery storage project of this scale would be taken in a National policy vacuum which may prejudice the formulation of that policy and result in a development that is ultimately incompatible with whatever National policy guidance might yet emerge.

Whilst the Council acknowledges the major contribution of the project to “carbon free” energy generation, the development is contrary to many adopted Local Plan policies aimed at protecting the wider special landscape, ecology and heritage of the local area; and the need for such a large solar park or battery storage facility has not been established at a National level. Accordingly, the Council considers that it would be dangerous and perverse to approve such a development at this time.

WRITTEN REPRESENTATION ON BEHALF OF SWALE BOROUGH COUNCIL

- 1 This is a project of national significance with big implications for issues of international, national and local importance. The potential impacts on national energy production and carbon reduction targets are acknowledged and the Council is keen to support the production of renewable energy both in new developments, and where that is the focus of a new development. The Council has granted planning permission for a number of solar energy projects and is familiar with their nature and impacts. By way of contrast, the battery storage element of the project is new and largely untested at this scale.
- 2 The Council is the guardian of a very special and diverse area. This area includes an internationally important area for wildlife including a European Special Protection Area (SPA),

a Ramsar site, Sites of Special Scientific Interest (SSSIs), National Nature Reserves (NNRs), Local Nature Reserves (LNRs), an Area of Outstanding Natural Beauty (AONB) and other areas of high landscape value (AHLVs). It is also rich in built heritage with many ancient monuments, 50 conservation area and over 1,800 listed buildings. The area has a rich agricultural tradition as part of the "Garden of England" and played host to the first cherry orchards in England at Teynham in the year 1533 under the reign of King Henry VIII who, incidentally, ordered the destruction of Faversham Abbey in 1538.

- 3 The Borough's coastal location (it has the longest coastline of any District in Kent) means that Faversham has an important sea going tradition being a confederate member of the Cinque Ports and a place with strong trading links and a rich history. The low lying position of Faversham means that it is at risk from flooding and from rising sea levels. Part of the long term plan for the coast here is managed realignment, including long term release of the current application site's sea defences, with the area being returned to habitats which increase biodiversity and ease flood risk elsewhere.
- 4 The development proposed is not an ordinary solar energy project. Its scale is far in excess of any such project previously tried in the UK. The east west orientation of the solar panels themselves means that the traditional shade gaps between south-facing rows of panels will be absent. The flood risk across the site means that both the panels and the substation/battery storage area need to be designed to withstand a possible beach of the sea defences.
- 5 Nor is the development site a typical area of arable land. It adjoins The Swale SPA/Ramsar site/SSSI, is crossed by species rich ditches, and is recognised as of local landscape significance due to its lack of contours and resultant extensive unbroken views. It is also not an area blessed by good road access, but it is crossed and bounded by footpaths which allow access to the sorts of views and solitude that are rare and unique in this busy part of south-east England. All of these factors bring challenges often absent on a typical solar energy site developed on agricultural land.
- 6 The development as proposed will cover a vast area of land in solar panels, broken up only where existing ditches and a line of National Grid pylons force these breaks. The effect on the undeveloped and remote character of the area will be dramatic, and will significantly alter the landscape and functioning of the area. The development area will be saturated with solar panels, and no opportunity has been taken to leave occasional substantial open areas within the solar park to allow views from footpaths or meaningful wildlife corridors to exist. There will in fact be almost no benefits to the local area save for the possible increased biodiversity arising from less intensive agricultural practices on an area to be managed for wildlife, and where ditch edges are not intensively farmed.
- 7 Local residents and heritage assets in the form of the Graveney Church conservation area and grade 1 and II listed buildings will have their aspects, settings and amenities compromised. Users of footpaths will have their views changed beyond recognition, and in an effort to reduce views of solar panels, new tree planting will wipe out long range views across the site both from private properties and public footpaths, dramatically adversely impacting upon the public's perception and enjoyment of the character of the place.
- 8 The Council understands that as an NSIP, the views of the Council and local residents and other groups will be taken into account. However, locally derived policy is normally overridden by National Policy Statements (NPSs). There is no such NPS for solar power or battery storage projects. Accordingly, local policy must be given greater weight than might otherwise be the case in an NSIP examination, and the Council has a Local Plan adopted within the last

two years which contains many policies that the project is at odds with. To override such policies for a project of such exceptional scale without any current higher status guidance is likely to lead to unforeseen consequences and a free for all in solar energy or battery storage projects, as few sites will have the same range of environmental constraints that are found here. This is not the intention of the NSIP process, which is founded on following NPS guidance, not on leading and potentially prejudicing formulation of such guidance. The Council considers this to a fundamental objection to this proposal.

- 9 Smaller solar power installations have been developed locally and these sit within the wider landscape in a way which allows their more limited impacts to be mitigated without destroying the very character of their surroundings. Here, the exceptionally open nature of the landscape leaves no alternative than to try to hide the development by means which cut across its long distance uninterrupted views. The percentage ground cover of the total site area is artificially lowered by the inclusion of sea walls and a habitat creation area, but within the area to be developed the east-west orientated panels will be set very close together, they will be installed higher up than normal, and they will have more of the appearance of vast buildings than rows of solar panels. The battery storage element of the project may have many unknown impacts, and to experiment with such a sensitive location on such a scale is unacceptable to the Council.
- 10 The flood risk across the site makes it fundamentally unsuitable for a minimal impact development. Both the defences around the substation and the artificially high positioning of the solar panels are direct responses to the flood risk, yet they exaggerate the landscape impact of the development. The erection of a high rectilinear earth bund around the substation/battery storage area set forward of Cleve Hill will appear totally alien to the current distinctive transition between undulating farmland and the flat former marshland landscape. The unbroken sweeping view now possible across the northern side of Cleve Hill from Nagden to Seasalter will be broken into with a high bund and structures up to 12.8m tall and, even where the substation is not in the view, the solar panels from at least 3.3m and up to 3.9m high will remove any views unless one is already on the sea wall or higher land.
- 11 The Council's concerns include the following main areas which are discussed below:
 - Landscape impact
 - Biodiversity impact
 - Heritage impact
 - Amenity impact
 - Traffic impact, and
 - Issues arising from the draft Development Consent Order

Landscape impact

- 12 The development covers an extensive area of land with a repetitive pattern of solar panels tilted west and east, boundary fencing, and CCTV cameras and lighting on poles. New hedgerows and woodland to the south of the development, woodland on the bund around the electrical compound, shrubs to the landside of the seawall, sheep grazing below the solar panels, retention of the biodiverse ditches, and retention of the Public Rights of Way are also parts of the proposal. The development site falls within the National Character Area 81: Greater Thames Estuary yet it does not fully meet the definition of the landscape type as "tidal salt marsh and reclaimed grazing marsh". As highlighted by the Swale Landscape Character and Biodiversity Appraisal SPD the land is currently under cereal production and is therefore

not currently technically marshland, and could be described as poor condition with regards its lack of representation of the landscape type. In addition, existing pylons across the development site are a feature of all of the Swale Marshlands Character Area.

- 13 However, the landscape of Graveney Marshes retains the features of a marshland described as flat, open, remote and expansive character in keeping with the rest of the marshlands along the Swale. With regards the development itself, the solar panels are to be set at a height below the seawall and so, apart from along the Public Right of Way internal to the development, the sense of openness and expansiveness is retained although this is broken by the electrical storage facility bund and tree planting. The new industrial style landscape over such an extensive area will diminish the sense of remoteness and isolation. The introduction of the bund and tree planting around the battery storage area, as well as scrub planting behind the seawall at the junction with the Public Right of Way and new footpath is also contrary to the vegetation typologies in the Marshland Landscape Character Area as it will break up the open expansive character.
- 14 Existing trees and hedgerows of the adjacent Fruit Belts Landscape Areas create a more intimate and introspective landscape. The new tree belts in the south of the site assist with localised screening and are in keeping with the spirit of the Fruit Belts Character Area featuring shelter tree planting. However, hedgerows are not a feature of Marshland Landscape Character Areas and proposed hedgerows would be incongruous, so they should only be located close to the Fruit Belts Character Area and not within the Marshland Character Area.
- 15 In terms of visual impact, the key receptors are identified as residents of the immediate locality, users of the Public Rights of Way including the Saxon Shore Way, and users of mid-distant roads. The Saxon Shore Way is also due to become part of the English Coast Path. It is observable that some residents will have views of the development from their property, some more than others. Screen planting is proposed in relevant locations and as the dwellings are located on the border of the Fruit Belts Character Area such planting is in keeping. However, residents, particularly at Nagden and Warm House, who enjoy the distant open views of the Marshland Character Area could lose the view of the 'open sky' expansive character which is blocked not only by the solar panels but also by tree planting aimed to screen the Development. The users of the Public Right of Way passing through the site will be below the panels and will have distant views replaced by views through the panel stilts and structure. Users of the Public Rights of Way beyond the development will have various views of the development as illustrated in the applicant's photomontages.
- 17 The predominant medium distant views of the development are from the Isle of Sheppey and specifically the elevated Isle of Harty, as well as from Victory Wood to the south east and from Oare in the west. The Development will be visible from these locations, albeit in the distance. The number of receptors is limited with the highest number of receptors likely at Church Road, Oare.
- 18 Apart from tree belt and some hedgerow planting to the immediate south of the development, any such planting within the site or to the north is not something that the Council would wish to see, as it is contrary to the open flat landscape character. One possible mitigation measure would be raising the Rights of Way which pass through the site to match the height of the seawall elevating pedestrians above the solar panels, but this solution will add to the extent of the development.
- 19 The Council is particularly concerned that the project does not adequately recognise the sensitivity of the landscape here, or seek to minimise its impact in two particular respects, both

of which were drawn to the applicant's attention as long ago as July 2018, without resulting in any changes to the scheme.

- (i) Firstly, the Council is concerned about the siting and shape of the substation and battery storage compound. This facility is sited on flat low lying land vulnerable to flooding, which requires a very substantial earth bund to be constructed around it. This bund is intrusive in its own right, but its position and configuration pay no attention to the site's existing features. The site is adjacent to higher ground used by the London Array substation, which avoided intruding into the long uninterrupted views across the flat landscape. To have adopted the same strategy now would have avoided the need for the bund in the first place, and the Council questions why the same approach is not being proposed now. Furthermore, the layout of the substation's earth bund follows no existing features and does not reinforce existing boundaries or ditch alignments. It simply imposes its functional requirements without regards to its situation.
- (ii) This is particularly disappointing given the fact that the battery storage facility which makes up most of this area is to be comprised of small individual units. Unlike a large single building which may have fixed proportions and a minimum footprint, these battery storage units do not appear to need to be positioned in solid regularly shaped groups but could be disaggregated and re-aligned to fit almost any shape of compound. The compound could then be re-planned to have greater regard to the natural features, contours and views available across the site. The Council requested consideration of re-positioning the substation compound to reduce its effect on the views across the landscape, with particular reference to it being sited behind Cleve Hill where it would not intrude into the long views across the landscape to the north.
- (iii) The applicant's limited response to this suggestion (essentially that at paragraph 4.4.2.3 of the Environmental Statement) is confined to suggesting that they wish to avoid the substation being seen from All Saints Church and the Graveney Church conservation area; and wishing it to be seen alongside the London Array substation, not separately. This response does not explain why the unchanged substation layout ignores the natural features of the landscape. Nor does it explain why it is not set on Cleve Hill itself alongside the London Array substation where it would not intrude into views across the flat landscape, but where it will blur the distinction between Cleve Hill and its marshland surroundings, and in a location where a flood defence bund would not be required.
- (iv) Secondly, the London Array substation is served by a very high standard new road from Seasalter Road, which loops right around the southern edge of that substation and leads directly to the location of the proposed new substation and battery storage compound. However, initial solar park plans showed the creation of a new spur route to the new substation starting part way along the London Array access road and running around the northern side of the London Array substation before joining back up with the London Array road before the new substation. This route does not go anywhere that the London Array road does not, and is mainly on the northern side of the ditch marking the southern edge of the flat land north of Cleve Hill. The Council therefore asked why it was felt at all necessary to propose the so-called "Northern Access Option" (NAO), which involves replacing the gravelled surface of an informal farm track with a new tarmac surface. This involves apparently unnecessary permanent work within the open landscape, when the London Array substation managed to avoid any incursions into that area.

- (v) This work still remains part of the proposal, and the applicant's only response to the Council's concern is merely to add in the option of also using the existing London Array road for access to the site. This does come with any preference or priority for its use, or any restriction on development of the NAO in addition to use of the existing London Array road. The NAO is still shown as works for which the draft DCO provides for at Schedule 2 (item 3). The Environmental Statement is clear that only one of these routes is necessary, but both are still included in the proposals (see Figure 5.10). The Council sees no justification whatsoever for the works to the NAO and seeks that this be removed from any DCO that might be granted.

Biodiversity Impact

- 20 The site's position adjoining the SPA makes it special. It may be a different habitat from that found in the SPA but it is linked to it. This beneficial linkage is not guaranteed as there are no legal restrictions on what form of agriculture can be practised on the site. Potentially, any change in the nature of agriculture across the development site could upset or drive away species that rely on the current regime but, in practice, the sorts of agriculture possible here have not yet done so. Natural England has been involved in negotiations with the applicant to mitigate direct impacts on species that use the site as hinterland to the SPA, and this has resulted in the application including an area of habitat reversion by way of management of currently arable land in a manner favourable to species resorting to the SPA. This may lead to some guarantee of a refuge for such species, which will be a benefit of the scheme. However, that measure will not mitigate loss of the vast area of open fields to other wildlife, such as ground nesting birds which shelter amongst growing crops. These birds are not likely to nest on bare ground under continuous solar panels.
- 21 The solar panels will not straddle the ditches crossing the site in which various species live. However, it is not clear to the Council what the likely impact will be on the activities of birds of prey which hunt along the ditches. Currently, it appears that these birds traverse the entire site and they may then search out the wildlife rich ditches. These ditches will not be as visible when tall solar panels cover much of the area in between, and their surroundings will change, becoming narrow corridors between alien glass and metal structures, potentially disorientating and driving away such species. The effect of almost continuous solar panels is likely to be far less attractive as a wildlife corridor than the current intervening seasonally changing cropping on open agricultural land, and it is not clear how this will affect the biodiversity of the site. Whilst it does seem likely that the actual ditch edges will be less disturbed than they might be now, the areas between the ditches will be far less valuable, and the overall habitat will be extremely fragmented and less cohesive. This is of concern to the Council, and contrary to Local Plan policy DM 28 which is aimed at preserving and, where possible, enhancing such biodiversity.
- 22 The solar panels will be sited east-west with almost no gaps between them within their blocks. This will remove the potential for sheep to graze between panels, as might be seen in a traditional south facing solar array. It will also mean that there are far fewer opportunities for birds to nest across the site other than on the perimeters of blocks. No opportunity has been taken to leave significant gaps between blocks of panels to create opportunities for sheep grazing or wildlife corridors, and the only gaps are those forced on the applicant by ditches, pylons or public rights of way (including the proposed permissive path). Another way to develop the site might have been to set panels out in a less intensive manner allowing for breathing space, grazing and wildlife to occupy occasional open areas of significant size. This would also lessen the monotony and landscape impact, as the solar panels might then more be seen to sit within the landscape rather than consume it. This current layout is an

arrangement that the Council considers to have been poorly considered and should not be permitted.

Heritage Impact

- 23 There are three conservation areas, one grade 1 and 10 grade II listed buildings within 1km of the development site. None of these will be directly affected by the works proposed, but from some there are clear views across the site which forms part of their setting. The flat open landscape presents a particular setting to these heritage assets which links them to the coastal location and speaks of their reason for being. The proposed solar panels, and the proposed planting intended to screen them from these assets will change these settings. Local Plan policies CP 8, DM 32 and DM 33 seek to preserve or enhance these settings, in line with the aims of national policy. Whether this harm is substantial or less than substantial is a matter that can be discussed, but in either case it is best avoided. If harm cannot be avoided, development that will lead to substantial harm should not be permitted other than in exceptional circumstances. Development giving rise to less than substantial harm should be weighed against the public benefits of the proposals. Thus, the question of the benefits of the scheme arise, and the Council is not in a position to assess that. That is a national question, but there is no NPS regarding solar power or battery storage technology which provides guidance on how to balance the questions of need and harm, or in what circumstances should a solar power installation be permitted when it potentially harms the setting of heritage assets.
- 24 Accordingly, the Council considers that it is justified in raising concern about the acceptability of this project in terms of the effect on heritage assets that the development will give rise to.

Amenity Impact

- 25 The placing of solar panels up to 3.9m tall across such a vast area will change perceptions of the area and affect its attractiveness as a place to live, work and spend time. Residents of the few houses with direct views across the site are few in number, but the impact of the development on them will be dramatic. Views from these properties current stretch for several miles in some directions, and these views are a key part of their amenity. The sense of isolation is also important here, and this too will be adversely affected by the almost endless rows of solar panels that will dominate views. Although the closest solar panels will be 3.0m tall (rather than the 3.9m elsewhere within the development), setting back the boundaries of rows of solar panels as suggested by the applicant will do little to reduce the sense of enclosure that these properties will experience; a change that is perhaps so significant that it is a matter of public interest, not simply the loss of a private view. The additional planting proposed to screen the panels will effectively completely remove many views across the site, and the Council's concern is that the quality of a landscape, or of views across it, is not conserved by introducing incompatible development and then attempting to screen it from view by planting. Local Plan policy DM 14 aims to ensure that new developments do not give rise to harm to amenity, and that they reflect the positive characteristics and features of the site. This development does not do this, nor does it offer any amenity benefits other than those related to trying to minimise its impact; each of which has its own impacts.
- 26 The site is crossed and bounded by public footpaths used by those seeking out the isolation and access to wildlife that these paths offer. These footpaths will not be permanently obstructed or diverted, but they may be made so unwelcoming that users decide to avoid them. Users of the Saxon Shore Way footpath will be walking directly adjacent to the development for some distance and will observe unfolding views of the electrical storage facility and the solar panels as they progress along the trail. The trail is located on top of the

elevated seawall so views of the sea and the birds on the mudflats are not obscured. Car parks serving the Saxon Shore Way are at some distance from the development so 'dedicated' users are mostly impacted. The development could have significant adverse effects on the attractiveness of the area for visitors and on the local economy which the Council is seeking to promote, based on the rich natural and built heritage of the area. The effects of the development may reach far beyond its boundaries as the footpaths link to extensive coastal access paths, and the impact of the development will be to significantly reduce the amount of finite undeveloped coast left to enjoy. Moreover, as part of a continuous coastal access path, the reduction in attractiveness of the paths across and around the development site may dissuade those seeking access to the currently long unbroken stretch of undeveloped coast along The Swale, and they may choose to go elsewhere. The Council is particularly concerned with the effect on footpath ZR485 which crosses the site at ground level, and which will be entirely lined by solar panels above head height, completely removing any view other than that of the solar panels themselves. The proposal to position solar panels along the full length of this path at close range makes no attempt to minimise the effect upon this path. It ought to have been possible to leave all or most of one or other side of the path open by omitting certain blocks of solar panels, but this opportunity has not been taken and the development shows no commitment to minimise its effects on users of the path. There will be almost no views through the development from this path, just views of the development. The Council does not consider that the impact on users of footpath ZR485 has been treated with as much consideration as it could have been, and considers that this is an objection to the project.

Traffic impact

- 27 The proposed construction access route comprises country lanes through villages, past the village church and village primary school. It is a route designated in the Council's Local Plan as a rural lane protected by policy DM 26. This route was used by the traffic involved in constructing the London Array substation, and it was argued then that it was not suitable for the nature and amount of traffic involved. Despite local opposition, that project was approved. The LIR indicates the degree of additional traffic now predicted compared to that experienced when the London Array substation was constructed. The amount of traffic now predicted over a similar period is now far higher than then, and this will be repeated on decommissioning. The Council believes that arguments against use of the same construction access route now apply with greater weight now.
- 28 The Council also believes that this amount of traffic running for at least 12 hours every week day (and every Saturday morning) for two years, plus traffic associated with and running before and after the extended start up and close down periods (at least one hour each end of each working day) will have a very significant adverse effect on residents living along the route, and on users of the road. These users include walkers, children crossing the road between Graveney Primary School and its playing field on the opposite side of the road, cyclists in increasing numbers and drivers, all of whom are likely at the very least to be inconvenienced by such a high volume of HGV and other commercial traffic over such extended hours, over such a long period. The suggested Construction Traffic Management Plan lacks detail and talks generally about the possibility of lorries waiting in lay-bys on the A299, but not specifically about measures to prevent lorries meeting on the route. It is highly likely that this amount and nature of expected construction traffic on such a poor road will lead to safety being compromised.
- 29 The construction route has very few pavements or streetlights, and in many places two HGVs or even an HGV and a car find difficulty passing. The road surface is very poor in places and

the extent of repairs the applicant will be prepared to fund prior to the start of construction is unclear. Whatever the extent of these works, it is likely that the road will deteriorate throughout the construction period even if an undertaking is given to re-instate damage after construction ends. The London Array project sought to secure mitigation and reinstatement by means of a legal agreement with KCC covering the following requirements;

- To provide a Traffic Marshall, pedestrian barrier and a school crossing facility at Graveney Primary School
- To enhance road signage and improve the footway near to Graveney Bridge
- To reimburse KCC for any highway damage, and
- To provide a car park for Graveney School

These measures showed a clear commitment by the developer to address highway safety concerns and to recognise the impact of traffic on the village roads. The Council considers that similar or further highway safety and repair arrangements should be put in place now, and it asks for safeguards to be secured to avoid the currently poor road surfaces being further broken up during construction, and to ensure that repairs are done afterwards.

The Development Consent Order itself

30 The Council's concerns here fall into two parts;

- The obligations being placed upon the Council
- The lack of clarity in the Requirements

31 The draft DCO states at paragraph 6.7 of the Explanatory Memorandum that (as a departure from the model provisions) the DCO Requirements oblige the Council to consult various bodies on submissions requiring the Council's approval, rather than it being the applicant's responsibility. It is not clear why this burden should fall on the Council as this often results in the Council going back and forth between applicants and specialist consultees in a time consuming way. Nor is it clear why the DCO should prescribe who the Council is required to consult. The Council would prefer that the obligation to consult any named relevant body should fall on the applicant. It is the Council's preference that the applicant should be required to carry out consultation before submitting a request for approval to the Council, and only after reaching agreement with the relevant consultee, a copy of which shall be included with the submission. The consultee should be asked to confirm their position independently to the Council.

32 Additionally, the Requirements appear to bury some of the potential controls on the development in secondary documents. In the approval of the London Array substation scheme it was felt appropriate to make it clear by straightforward planning conditions, matters such as permitted hours of construction, hours of piling, no waste burning on site and the position regarding lighting across the site. In the draft DCO these matters are potentially dealt with by further submission under Requirements, and this will not only make such matters less transparent, but it may lead to the Council coming under pressure to agree longer hours or greater impact from the development than was intended at decision stage. Notwithstanding the Council's overall concerns about the project as set out above, the Council would be grateful if a clearer approach were to be taken to these important matters at decision stage.

33 On behalf of the Council I ask the Examining Authority take note of the Council's objection to this over large and poorly conceived development that will have a dramatic effect

**Swale House, East Street,
Sittingbourne, Kent ME10 3HT**
DX59900 Sittingbourne 2
Phone: 01795 424341
Fax: 01795 417141
www.swale.gov.uk



on local landscape, ecology, amenity and recommend that a Development Consent Order is not granted.

Yours Sincerely

A handwritten signature in black ink, appearing to read 'J Freeman', with a long horizontal line extending from the end of the signature.

James Freeman
Head of Planning

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CLEVE HILL SOLAR PARK

GRAVENEY, FAVERSHAM, KENT

LOCAL IMPACT REPORT

A REPORT PREPARED BY SWALE BOROUGH COUNCIL

JUNE 2019

1.0 INTRODUCTION

- 1.1 This Local Impact Report (LIR) has been prepared by Swale Borough Council to highlight the many ways in which the proposed development of a solar park and battery storage facility on flat, low lying agricultural land alongside The Swale will affect the locality and local community. It is not intended as a precise technical document – the application is accompanied by a great deal of technical information – but as a broad overview of the likely issues that might arise from the proposed development. This LIR is intended as a factual document and does not attempt to come to a conclusion on the acceptability of the proposals. It does, however, seek to identify where the proposals are at odds with local policy, and to distinguish between matters that are of most potential impact and those that are either temporary or less significant in the longer term based on a local perception of the impact of those matters.
- 1.2 This LIR has been prepared in the light of guidance set out in The Planning Inspectorate's Advice Note One: Local Impact Reports. KCC are preparing their own LIR using their own expertise to cover matters relating to ecology, flood risk, archaeology, highway safety, and minerals and waste planning which the Borough Council does not have expertise in. This LIR is not intended to repeat or contradict KCC's views.

2.0 LOCATION AND SITE CHARACTERISTICS

- 2.1 The 491.2ha site of the proposed solar park and battery storage facility comprises an area (387.6ha) of low quality almost completely flat agricultural land, along with smaller areas of grazing marsh (35.1ha), flood defences (58.5ha) and an existing electricity substation (10ha) set alongside the Thames Estuary which, at this point, flows to the north of The Isle of Sheppey. A narrow channel open at both ends and known as The Swale runs between the mainland and The Isle of Sheppey. On either

side of The Swale the landscape is mostly low lying, flat and open, with very long views available without the need for artificial elevation. The land the subject of the proposed development is at such a low level that it is entirely surrounded on the seaward side by artificial seawalls to prevent a repeat of past flooding, which arises when high tides and strong winds conspire to create a surge up the estuary potentially affecting thousands of acres of land.

- 2.2 The Swale is entirely tidal and at certain times of year the extensive mudflats revealed at low tide play host to migratory wading birds in huge numbers to such an internationally important extent that the area is designated as a Site of Special Scientific Interest (SSSI), Ramsar site and European Special Protection Area (SPA). These designations (which share common boundaries here) also apply to parts of adjoining non-tidal areas; but not to the vast majority of the application site which has long been in intensive agricultural use. No solar panels or other equipment related to the proposed solar park are intended to be positioned within these designated areas.
- 2.3 This remote coastal area is served only by narrow roads and is generally tranquil with limited passing traffic. The main land use activity is agriculture, but tourism based on footpath access to the coast and to good birdwatching opportunities is an important part of the local economy. The local community of Graveney is scattered over a wide area and at a very low density of population. Farms are generally large and the landscape is heavily managed to make the best out of it, with extensive windbreaks and polytunnels, most of which are sited on flatter areas which limits their long distance impact on local views. From higher land to the south and south-east of The Swale the visual impact of modern agriculture is very evident with significant areas of glasshouses and polytunnels clearly seen as stark regular shapes in an undulating landscape. These appear from high points as large reflective areas which draw the eye and detract from the rural character of the area.
- 2.4 The former marshland of the solar park site, now drained and intensively farmed, is largely hidden to view from local populations by windbreaks, whilst the flat expanse of the site with its long distance unbroken views from the sea wall is a stark contrast to the rolling countryside that sits inland from it. The fact that a public footpath entirely surrounds the coastal edges of the site (and others cross the site) means that very clear public views across the entire site can be found; those views amply showing the very emptiness and unusual distance from any settlement that can be achieved here even in the south-east of England. The main detraction from the sense of isolation here is the highly prominent row of tall electricity pylons running in a completely undisguised manner parallel to the shore along the centre of the site. These pylons carry the main National Grid supply around most of the coastal perimeter of Kent. A smaller local overhead electricity supply line runs on timber poles across the southern part of the site; connecting isolated properties.

3.0 PLANNING HISTORY

- 3.1 As agricultural land, the application site has had very limited formal planning history and, in Town and Country Planning terms, the most significant event has been the development of the London Array off-shore windfarm substation at Cleve Hill; right next to the currently proposed substation and solar park. The London Array windfarm

was originally intended to comprise of up to 341 wind turbines and is so far off-shore that it cannot be seen from the site of the substation. However, the undersea cables reach land in The Swale and were cut through the seawall and buried beneath the current application site to reach the closest point to the north Kent coast along the line of the electricity pylons with flood free high ground; Cleve Hill itself. Approved on appeal in 2007, the substation itself is vast (measuring 10ha and featuring 2ha of hardstanding alone), and was originally intended to house five transformers alongside a new National Grid switch house. Due to off shore licensing issues the windfarm progressed in two phases, only the first phase having been built and connected via three of the five potential transformers to the Grid switch house. The remainder of the substation was built out minus the two remaining transformers, before the off shore issues lead to abandonment of the second phase of the windfarm, leaving only just over half the new substation utilised, and leaving spare capacity in the National Grid switch house. It is this spare capacity in the switch house that the current solar park hopes to utilise, although it is not proposed to use the spare capacity in the London Array substation itself, and the current proposal includes creating a completely separate new substation on flat land nearby.

4.0 DESCRIPTION OF PROPOSED DEVELOPMENT

4.1 The proposed solar park lies immediately adjacent to the London Array substation and spreads itself out across the flat low lying land that the existing substation stands back from and above. The development comprises an artificially bunded substation and energy storage complex, with the bunding designed to deal with flood risk, along with solar panels spread out across the land at a height designed to minimise risk from flooding were the seawalls ever to be breached. Due to this flooding constraint the solar panels are set to be erected at a higher than normal height of up to 3.9m above ground level. The application site has been enlarged during the pre-application consultation period to include the seawalls, enabling the applicant to take on their maintenance requirements from the Environment Agency. The site has also been extended to the east to include a significant area of habitat management to off-set possible impacts on wildlife currently using the application site as hinterland from the mudflats.

4.2 The development envisaged includes;

- Solar panels set at least 1.2m off the ground and rising from a minimum height of 3.0m to a maximum height of 3.9m above ground level across an area of up to 232.27ha, enclosed by 2m high fencing
- Solar panel surfaces of up to 177.3399ha arranged on an east-west facing basis – with possibly 884,388 solar panels
- 80 transformers of up to 3m in height set amongst the solar panels
- A substation bund rising to 5.316m above sea level (or 3 to 4 metres above surrounding land levels) enclosing an area not exceeding 10ha, and requiring importation of over 11,000 cubic metres of materials
- 7,440 energy storage units to a height not exceeding the height of the bunding
- An electricity substation with components not exceeding 12.8m in height
- Underground connection to the existing National Grid London Array switch house

- Undergrounding of the existing pole mounted overhead electricity line running across the southern part of the site
- A new 2km long permanent road along the centre of the site requiring over 6,700 cubic metres of stone to be imported to the site
- A new permissive footpath across the site
- New planting to screen the landward sides of the site
- Reversion of at least 50.1ha of arable land to a habitat management area

5.0 PLANNING POLICY

5.1 National Planning Policy

- 5.1.1 Section 105 of The Planning Act 2008 promotes National Policy Statements (NPSs) above the Development Plan for Nationally Significant Infrastructure Projects (NSIPs). However, there is no NPS for solar energy or battery storage projects and all that there is to refer to is more general NPSs including the Overarching National Policy Statement for Energy (EN-1), the National Policy Statement on Renewable Energy (EN-3), and the National Policy Statement for Electricity Networks (EN-5). Having said that, even EN-3 does not provide any guidance on solar energy or battery storage installations and can effectively be discounted; whilst EN-5 principally relates to new overhead electricity lines and associated infrastructure, which are not proposed here.
- 5.1.2 NPS EN-1 is a very general document delegating most advice to five technology-specific NPSs (none including solar power or battery storage) but setting the stage for promotion of low carbon energy production facilities and a reduction in greenhouse gas emissions. To that extent EN-1 is relevant and supportive of the principle behind this application, but the NPS also supports reducing energy demand, greater interconnection of systems and decentralised and community energy systems. The NPS sees most scope for new renewable energy to be from wind, wave, waste and biomass systems and does not highlight solar power or battery storage as having a role in a new energy mix.
- 5.1.3 EN-1 highlights the need for Infrastructure Planning Commission (IPC) decisions to have regard to habitats and to consider whether the project may have a significant effect on a European site, consider alternatives, seek good design and minimise flood risk by not consenting development in flood zones 2 or 3 unless the sequential (and exception) test is applied. In terms of flood risk the advice is to locate more vulnerable parts of the development in areas of least flood risk. In terms of landscape issues the advice of EN-1 is that;

Coastal areas are particularly vulnerable to visual intrusion because of the potential high visibility of development on the foreshore, on the skyline and affecting views along stretches of undeveloped coast.

and

It may be helpful for applicants to draw attention, in the supporting evidence to their applications, to any examples of existing permitted infrastructure they are aware of with a similar magnitude of impact on sensitive receptors. This

may assist the IPC in judging the weight it should give to the assessed visual impacts of the proposed development

EN-1 also refers to the impact on tourism and on rights of way, saying that;

Rights of way, National Trails and other rights of access to land are important recreational facilities for example for walkers, cyclists and horse riders. The IPC should expect applicants to take appropriate mitigation measures to address adverse effects on coastal access, National Trails and other rights of way. Where this is not the case the IPC should consider what appropriate mitigation requirements might be attached to any grant of development consent.

- 5.1.3 In the absence of a specific NPS relating to solar power or battery storage, and given the inevitable tensions between the efficiency of the technology, use of greenfield sites, areas of wildlife conservation and heritage significance and use of agricultural land versus deployment of solar technology on rooftops or use of previously developed sites, there is clearly a big question about whether any NSIP project for solar power, let alone one of this scale in such a sensitive location, should be approved on an ad hoc basis without regard being had to comprehensive and strategic policy in the form of an NPS. The battery storage technology proposed is also new and largely untested, meaning that its possible impacts are not yet fully understood
- 5.1.4 The National Planning Policy Framework (NPPF) contains no specific policies for NSIP development, meaning that the NPSs, which do not refer to solar energy or battery storage projects, are the main source of national policy in relation to this application. Accordingly, as required by Section 105 of The Planning Act 2008, in the absence of a specific NPS for solar power, the Secretary of State must have regard to this LIR and is not bound to decide the application in accordance with any particular NPS.

5.2 Kent County Council Planning Policies

- 5.2.1 The site is covered by policy DM7 (Safeguarding Mineral Resources) of the Kent Minerals & Waste Local Plan in relation to Sub-Alluvial River Terrace Deposits.

5.3 Swale Borough Council Planning Policies

- 5.3.1 The Borough Council adopted Bearing Fruits 2031; The Swale Borough Local Plan on 26 July 2017. This is an NPPF compliant Local Plan of recent origin, and it contains a number of relevant planning policies, including;
- Policy ST 1 Delivering Sustainable Development in Swale
 - Policy ST 7 The Faversham Area and Kent Downs Strategy
 - Policy CP 1 Building a strong, competitive economy
 - Policy CP 4 Requiring Good Design
 - Policy CP 5 Health and wellbeing
 - Policy CP 7 Conserving and enhancing the natural environment – providing for green infrastructure

- Policy CP 8 Conserving and enhancing the historic environment
- Policy DM 3 Rural Economy
- Policy DM 6 Managing transport demand and impact
- Policy DM 14 General Development Criteria
- Policy DM 19 Sustainable Design and Construction
- Policy DM 20 Renewable and Low Carbon Energy
- Policy DM 21 Water, Flooding and Drainage
- Policy DM 22 The Coast
- Policy DM 23 Coastal Change Management
- Policy DM 24 Conserving and Enhancing Valued Landscapes
- Policy DM 26 Rural Lanes
- Policy DM 28 Biodiversity and Geological Conservation
- Policy DM 29 Woodland, Trees and Hedges
- Policy DM 30 Enabling development for landscape and biodiversity enhancement
- Policy DM 31 Agricultural Land
- Policy DM 32 Development involving listed buildings
- Policy DM 33 Development affecting a conservation area
- Policy DM 34 Scheduled Monuments and archaeological sites

These policies should be referred to in assessing the proposals. It is noted that policies DM 32, DM 33 and DM 34 are not referred to by the applicant in Table 6.1 of the Environmental Statement; although they do refer to a policy “DM 18 Flooding and drainage” which does not exist in the Plan.

- 5.3.2 The application site is specifically included in an Area of High Landscape Value (Kent Level) under policy DM 24 and it sits within a Coastal Change Management Area (policy DM 23).
- 5.3.3 The application site lies immediately adjacent to areas covered by policies DM 28 International & National Designated Site of Biodiversity &/or Geological Value, and parts of the site including sea walls are within this designation.
- 5.3.4 In addition to the adopted Local Plan, the Borough Council has published the Swale Landscape Character and Biodiversity appraisal (2011) which highlights the different landscape types across the Borough. The application site falls within the Graveney Marshes landscape character area which includes a significant area of tidal mudflats beyond the sea wall. In fact, the application site occupies the vast majority of the non-tidal land surface of this entire character area. The area is defined by the following key characteristics;
- Large open area of alluvial marshland
 - Large-scale arable fields divided by long straight drainage ditches
 - Typical features ditches, sea wall, estuarine saltmarsh, sand and mudflats
 - Atmospheric and tranquil landscape with large open and often dramatic skies

The assessment notes that the area contains little semi-natural vegetation and that during the twentieth century the landscape has been transformed from an area of traditional grazing to one of monoculture with limited value in terms of biodiversity,

this mainly being confined to the ditches and some bird species which inhabit the arable areas. Both the condition and sensitivity of this area are described as moderate although the arable areas are said to be in poorer condition, and the overall priority for the area is to conserve and create.

- 5.3.5 The existing electricity pylons and the newly built London Array substation are said to be detracting features which are highly visible, and the cultural integrity of that area is said to have been entirely removed by modern farming practices. Ultimately, this leaves great potential to restore and extend the inter-tidal/grazing marsh wetland network which would help to buffer and extend the interest of the internationally important Swale SSSI/SPA.

6.0 LOCAL IMPACTS

6.1 Landscape

- 6.1.1 Landscape Character Assessment and Impact Assessment and Visual Impact Assessment are subject to national guidelines and policies as listed in the applicant's submission. In addition, Swale Borough Council has local guidelines and policies which are also listed in the applicant's submission. Key points related to guidelines and policies relevant to the Development include the following:

1. Landscape Institute and the Institute of Environmental Management Guidelines, 2013

- 6.1.2 The third edition of Guidelines for Landscape and Visual Impact Assessment (GLVIA3), by the Landscape Institute and the Institute of Environmental Management and Assessment (IEMA) clarifies Landscape and Visual Impact Assessment as "a tool used to identify and assess the significance of and the effects of change resulting from development on both the landscape as an environmental resource in its own right and on people's views and visual amenity".
- 6.1.3 GLVIA3 places greater emphasis (than GLVIA2) on professional judgement, combines the assessment of landscape and visual impact, elaborates on 'significance' and expands on 'cumulative' effects. Value of landscape is assessed on its condition, scenic quality, rarity, how representative it is, wildlife conservation value, recreation value, perception and local association.

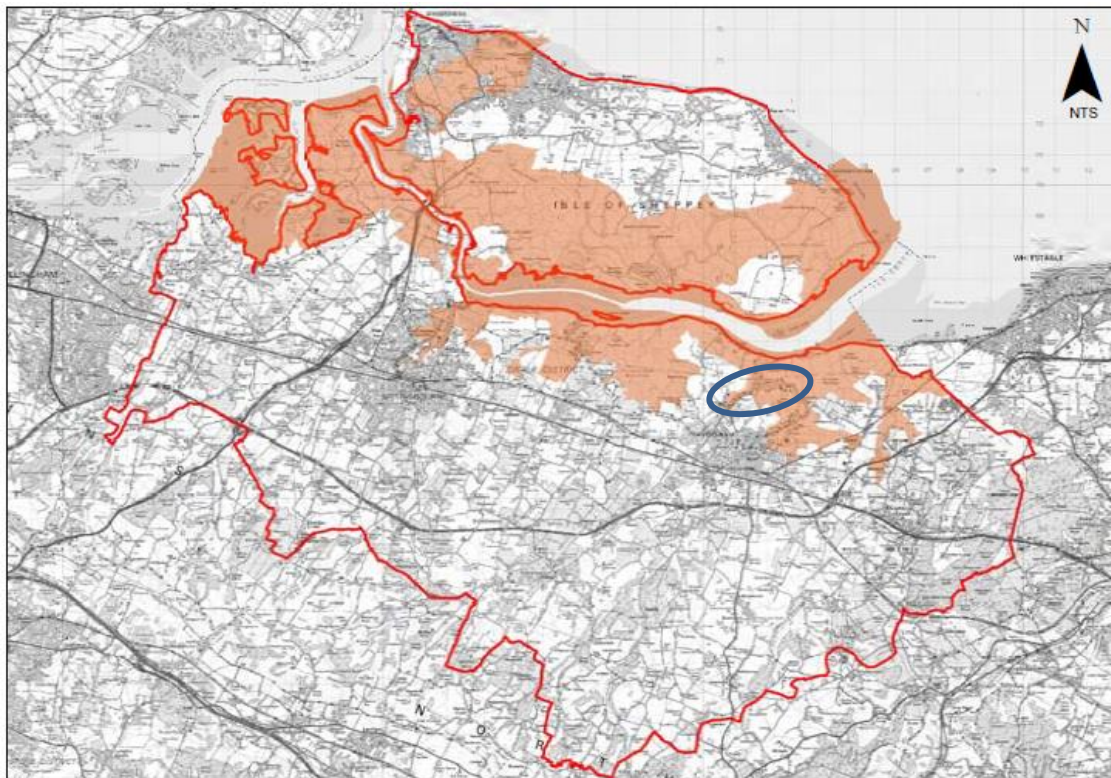
2. National Character Area 81: Greater Thames Estuary

- 6.1.4 National Character Areas are areas of "similar landscape characteristics, and which follow natural lines in the landscape rather than administrative boundaries".
- 6.1.5 The landscape characteristics of the Greater Thames Estuary National Character Area are summarised by Natural England as "predominantly a remote and tranquil landscape of shallow creeks, drowned estuaries, low-lying islands, mudflats and broad tracts of tidal salt marsh and reclaimed grazing marsh" and Statement of Environmental Opportunity (SEO) 1 sets out to maintain and enhance this expansive, remote coastal landscape. SEO 2 aims to work with landowners and managers to incorporate measures to improve biodiversity, geodiversity, pollination, water quality, soil quality and climate adaptation and to prevent soil erosion, whilst SEO 3 aims to

ensure that the tranquil and remote character of the estuary is maintained. Lastly, it states that arable farmland surrounding the estuaries supports internationally important populations of breeding and overwintering birds, notably Brent geese.

3. Swale Borough Council Landscape Character and Biodiversity Appraisal 2011

- 6.1.6 Swale Landscape Character and Biodiversity Appraisal, Supplementary Planning Document (SPD), classifies the area, within which the Development falls, as 'Marshland Landscape Type' covering areas named Nagden Marshes, Graveney Marshes and Cleve Marshes.



Approximate location of the Development within the 'Marshland Landscape Type'

- 6.1.7 The Development site is predominantly within the Graveney Marshes character area and a small part is within the Graveney Arable Farmlands character area. The SPD notes that the Graveney Marshes area is a "landscape (that) has been divided via long straight drainage ditches, into vast fields that now accommodate large-scale cereal production" and has undergone "significant engineering" to prevent flooding with an "enormous seawall". It is also worth noting that trees are rarities here and the small clumps that do exist help to mark the location of isolated churches and farmsteads on the pockets of higher land. The SPD also assesses biodiversity and as the "terrestrial landscape is so intensively farmed it now has limited value in terms of biodiversity. Within the arable landscape itself, ditches are the principal features of interest". Guidelines for the character area include conserving "the undeveloped and distinctive character of the marshland" and the restoration of "coastal grazing (of) intensive arable production".

- 6.1.8 Immediately to the south of the site the SPD classifies the area as part of the Graveney Fruit Farms and the Graveney Arable Farmlands within the Fruit Belt Landscape Types characterised as an “enclosed and intimate landscape”. The key features listed in the SPD include poplar or alder dominated shelter belts and small isolated woodlands (which) are also scattered across the area and add to the sense of enclosure, however, polytunnels have become a characteristic feature throughout the fruit belt, which is a sort of industrialised agriculture.

4. Bearing Fruits, Swale Borough Local Plan, adopted 2017

- 6.1.9 Adopted Local Plan policy DM 24, Conserving and Enhancing Valued Landscape refers to locally defined Areas of High Landscape Value (Kent Level) and the policy requires “the conservation and enhancement of the landscape” and “avoidance, minimisation and mitigation of adverse landscape impacts” unless social and or economic benefits...outweigh the harm”. The Local Landscape Designation for this area (North Kent Marshes - South Swale) was confirmed through the Swale Local Landscape Designation Review, 2018 (LUC). The recommendations from this review were agreed at a Swale Local Plan Panel in November 2018. One requirement set out in the Local Landscape Designation is to conserve and enhance identified qualities including the sense of remoteness and wildness. The preamble to the policy also refers to tranquillity, which are areas defined as being “undisturbed by noise” and as being associated with “dark skies”. The Local Plan “requires demonstration of how development will affect tranquillity and aim to at least maintain or improve it”. Intermittent loss of dark skies is likely to be associated with operation of security lighting on this development.
- 6.1.10 The development will have a very significant effect on this landscape character which is not in accordance with the aims of policy DM 24.

6.2 Ecology, including ornithology

- 6.2.1 The proposed solar park development site itself adjoins a number of ecological designations, and the fringes of the application site include sea walls and an area of freshwater grazing marsh overlap with these designations. The designations include;
- The Swale Special Protection Area (SPA)
 - The Swale Ramsar site
 - The Swale Site of Special Scientific Interest (SSSI)
 - South Bank of Swale Local Nature Reserve (LNR)

Together, these overlying designations (the SPA area) recognise the very considerable ecological importance of the mudflats, saltmarsh and grazing marsh habitats found at this point. All the above designations have a common boundary along the northern side (and at the western tip) of the site, and therefore the development site overlaps them to the same extent along this boundary. However, the LNR is far smaller than the other areas (and fully contained within their

boundaries) such that elsewhere the development site overlaps these other designated areas but not the LNR. Mostly, the overlap just relates to the areas necessary to maintain the sea walls, but to the eastern end of the site there is an area of freshwater grazing marsh within the site boundary which forms part of the SPA, Ramsar site and SSSI (but not the LNR). It is important to note that no part of the solar park itself is proposed to be constructed within any of these designated areas, and there should therefore be no direct impact on these designated areas.

- 6.2.2 Other nearby sites of nature conservation value including the Outer Thames Estuary SPA, The Swale National Nature Reserve (NNR) and further NNRs and LNRs, form a chain of wildlife sites along the Thames Estuary that the designations affected by the development site form part of. The vast majority of the development site comprises flat arable land crossed by irregular ditches; the ditches being of significantly greater ecological interest than the arable land itself, which has been subject to intensive agricultural methods for many years. However, it is clear that the land beyond the designations' boundaries is considered to be functionally linked to the SPA area by reason of birds foraging amongst appropriate crops at certain times of year, and that loss of such areas would harm the significance of the SPA area. The development seeks to mitigate this loss by a so-called Arable Reversion Habitat Management Area (ARHMA) where part of the existing arable land adjoining the freshwater grazing marsh area within the SPA area is left undeveloped but managed to benefit wildlife. Ditches within the development site are also valuable habitats which ought to be maintained and/or enhanced.
- 6.2.2 The applicant has liaised extensively with Natural England (NE), the Kent Wildlife Trust (KWT) and the RSPB. The applicant has agreed a Statement of Common Ground (SOCG) with NE, which details methodology for studying the likely impacts of the development on the importance of the SPA area, including acceptance of the ARHMA proposal as a means of mitigating loss of access to the development site for some forms of wildlife. The Council does not have superior expertise in these areas to NE and in terms of impacts on the SPA area we defer to the advice of NE. The Council does not seek to detract from the SOCG agreed with NE. However, Natural England's focus on the SPA area does not mean that they have paid the same level of attention to the ecological effect of the development on the undesignated parts of the site except insofar as they affect the SPA area. There remain potential impacts here which NE may not have commented specifically on, which others might be better qualified to comment on, and the Council would not wish NE's position to be misunderstood.
- 6.2.3 Noise and activity arising from construction activity is potential disturbing to birds using the SPA area, and needs to be well managed, but the applicant has proposed an Outline Construction Environmental Management Plan (CEMP) and an Outline SPA Construction Noise Management Plan (SPA CNMP) to minimise such impacts.
- 6.2.4 Relevant Local Plan policies for nature conservation are;
- Policy ST 1 Delivering Sustainable Development in Swale
 - Policy CP 7 Conserving and enhancing the natural environment – providing for green infrastructure

- Policy DM 22 The Coast
- Policy DM 28 Biodiversity and Geological Conservation
- Policy DM 29 Woodland, Trees and Hedges
- Policy DM 30 Enabling development for landscape and biodiversity enhancement

These policies read together seek to safeguard, and where possible enhance, the area's unique biodiversity when considering development proposals. It is not clear to the Council that the development will have a direct impact on any area designated for its ecological significance, and it is recognised that mitigation measures are planned to offset the expected impact of the development on functionally linked land outside the designated areas. Nor is it clear that the development will have a direct impact on any protected species. However, such species are recorded within the site and it is therefore important to note that any development adversely impacting on their habitats will be at odds with adopted Local Plan policy.

6.2.5 What is far less clear is what the impact will be on wildlife that is not using the area as hinterland to the SPA. It appears that with its proximity to the SPA, its historic marshland nature and the fact that it still crossed by habitat rich ditches, the development site may well be far richer in biodiversity than much agricultural land elsewhere. Studies have shown a wide variety of species using the area including ground nesting birds and birds of prey. It is apparent from the applicant's own flight activity surveys and other surveys that no bird species confine their use of the area to the ditches, and it is not clear that simply by drawing the solar panels back from the ditch edges will avoid any effects on their use of the area. The highest number of bird flights over the area recorded in table 9.7 of the applicant's Environmental Statement was by marsh harriers, which use the arable land especially along ditch margins for foraging. The suggested solution of siting solar panels back from the ditch edges by a minimum of 15m (this is presented as a substantial increase in the amount of suitable habitat available compared to the originally proposed 5m setback, but of course it is not an improvement over the existing situation) is proposed as a possible way of minimising the effects on marsh harriers' use of the area, with "potential" positive effects. This does not avoid effects on the areas between ditches by way of fragmentation of the habitats, loss of capacity for ground nesting birds, nor does it demonstrate that marsh harriers are likely to be content to continue foraging when solar panels are in place. The extent of the continuous array of solar panels will create large areas where foraging and ground nesting cannot take place, creating only narrow corridors with access to the ground, without the variety or continuity of habitat currently available.

6.2.5 The extent to which solar panels cover the area of the solar park is very high. The traditional solar park with south facing panels and sheep grazing between them implies gaps between the panels and a mosaic of habitats. In the proposed development the gaps between panels will be minimal and any sheep or ground nesting birds will have to confine themselves to the perimeters of the solar panel blocks. In other words the amount of potential grazing or nesting land left over in this scheme is far less than might be expected in a south facing array, which will mean that impacts on biodiversity will be very different and likely more severe than in another scenario.

- 6.2.6 Overall, there is no certainty that effect on wildlife will be neutral or positive, or that the aims of relevant Development Plan policies will be met.

6.3 Residential Amenity

- 6.3.1 There are very few residential properties close to, or with views across, the development site. However, for those that there are, the defining characteristic is their sense of remoteness and the extraordinarily long views across the flat open landscape of the development site (and, for some, in other directions). Interior views from cottages at Nagden extend to well beyond the 1km or so that the site stretches to its western point, whilst to the east views as far as the beach huts at Seasalter (3km away) can be had. These represent a significant portion of views for the properties at Nagden. However, from Warm House the situation is even more significant. From here the vista to the north is entirely across the development site. Views from here can be had to and beyond Hollowshore (2km to the west) to Shellness (5km north east) and even as far as caravan parks at Leysdown-on-Sea at approximately 7km away. Within these views the landscape is flat and empty, with even small objects at ground level being visible; the only significant visual intrusion is power lines.
- 6.3.2 The solar panels will reach 3.0m tall closest to these properties (taller further away) and the applicant has proposed that the siting of solar panels is drawn back from the overall development site boundaries near these properties, and that new screen planting is carried out to remove views of solar panels in due course. The effect of this will not simply be to soften, filter or remove views of the panels, but to completely remove the uninterrupted long distance views that are currently available across the site. No attempt has been made to retain any views through the site, which could have been achieved by omitting certain blocks of solar panels, and the impact on the amenities of the nearest residents will be unrelenting. Similar interruptions to these views from new planting will affect All Saints Church, Graveney and Graveney Court, but here the proportion of available views will be far less due to the distance they sit from the site and the amount of their views that the site will affect.
- 6.3.3 The applicant has assessed the impact of the changes to views from the nearest residential properties as ranging from Moderate/Major to Minor Beneficial and they do not consider that residents would experience unattractive or unpleasant impacts. This does not reflect the scale of the change that these properties will experience. The setting back of solar panels by 60 to 100m is almost insignificant in the sheer scale of the views that are currently available, and the very flat and featureless nature of the landscape means that such even very great distances appear shorter than they are, and such small set backs are essentially immaterial to the effect of the tall solar panels.

6.4 Cultural heritage

- 6.4.1 The development site does not contain any designated heritage assets in the form of listed buildings, scheduled monuments or designated conservation areas. However, both the Graveney Church conservation area and parts of the Graveney Bridge and Faversham conservation areas lie within one kilometre of the development site, with

clear views of the site being available from the Graveney Church area. Also, within one kilometre of the development site are 10 grade II listed buildings and one grade I listed building, from some of which there are direct views to the site, especially those at All Saints Church at Graveney and Graveney Court. Having said that, the long distance views available across this flat land open landscape mean that far more such listed buildings will have views across the site from further afield, including those at Harty on the Isle of Sheppey.

6.4.2 Whilst there are thus no direct impacts on any such heritage asset the setting of these assets is a recognised and important planning consideration. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that when considering whether to grant planning permission for development which affects a listed building or its setting, regard shall be had to the desirability of preserving the building or its setting, or any features of special architectural or historic interest which it possesses. Section 72 contains similar requirements with respect to buildings or land in a conservation area. In this context relevant case law has clarified that 'preserving' means doing no harm.

6.4.3 The National Planning Policy Framework (NPPF) of February 2019 at paragraph 190 states that;

Local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise. They should take this into account when considering the impact of a proposal on a heritage asset, to avoid or minimise any conflict between the heritage asset's conservation and any aspect of the proposal.

At paragraph 192 the NPPF states that;

In determining applications, local planning authorities should take account of:

a) the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;

b) the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and

c) the desirability of new development making a positive contribution to local character and distinctiveness.

Paragraph 193 says 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.

At paragraph 194 the advice is;

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. Substantial harm to or loss of:

a) grade II listed buildings, or grade II registered parks or gardens, should be exceptional;

b) assets of the highest significance, notably scheduled monuments, protected wreck sites, registered battlefields, grade I and II listed buildings, grade I and II* registered parks and gardens, and World Heritage Sites, should be wholly exceptional;*

Paragraph 195 goes on to say;

Where a proposed development will lead to substantial harm to (or total loss of significance of) a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or total loss is necessary to achieve substantial public benefits that outweigh that harm or loss, or all of the following apply:

a) the nature of the heritage asset prevents all reasonable uses of the site; and

b) no viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation; and

c) conservation by grant-funding or some form of not for profit, charitable or public ownership is demonstrably not possible; and

d) the harm or loss is outweighed by the benefit of bringing the site back into use.

Finally, paragraph 196 states that;

Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

- 6.4.4 In the now well known Barnwell Manor case, an Inspector held that a proposal for four wind turbines would have a less than substantial effect on the setting of designated heritage assets, some of which were Grade I listed. He then proceeded to carry out a straightforward balancing exercise in accordance with (old) paragraph 134 of the NPPF. He concluded that the benefits of the proposal outweighed the less than substantial harm to the setting of the heritage assets, and granted planning permission. That case ended up in the Court of Appeal in February 2014, which upheld the High Court's decision to quash the grant of planning permission. The Court of Appeal held that in enacting section 66(1) Parliament intended that the desirability of preserving the settings of listed buildings should not simply be given careful consideration but "considerable importance and weight" when carrying out the balancing exercise. This gives rise to a strong statutory presumption against granting

planning permission for development which would cause harm to the settings of listed buildings. Even where the harm would be “less than substantial” (as the applicant suggests in relation to All Saints Church) the balancing exercise cannot ignore the overarching statutory duty imposed by section 66(1).

- 6.4.5 Nevertheless, later decisions have fallen into the same trap of carrying out a balancing exercise after concluding the relevant proposal will lead to less than substantial harm to designated heritage assets, without demonstrably giving “considerable importance and weight” to the desirability of preserving those heritage assets. In such cases, the High Court has quashed the grants of planning permission.
- 6.4.6 It is therefore clear that the setting of such heritage assets must be dealt with directly, and not lost amongst a balancing exercise. In this development the undeveloped and rare open landscape setting of a number of heritage assets, including the grade 1 listed All Saints Church at Graveney will be affected. If this harm is substantial, and it is arguable that it is, a decision to grant planning permission should be “wholly exceptional”. Even in relation to heritage assets of lower status a decision should be “exceptional” and at present there is no national NPS guidance on the weight to be given to solar power or battery storage installations in relation to protection of heritage assets.
- 6.4.7 Development Plan policies related to heritage assets include DM 32 and DM 33 which seek to protect the setting of and important views of, from and within historic buildings and area. Policy DM 32 (Development involving listed buildings) states inter-alia that development proposals, including any change of use, affecting a listed building, and/or its setting, will be permitted, providing that a range of criteria are met, including appropriate design, scale, materials, situation and detailing. Policy DM 33 (Development affecting a conservation area) states inter-alia that development within, affecting the setting of, or views into and out of a conservation area, will preserve or enhance all features that contribute positively to the area’s special character or appearance. The Borough Council expects development proposals to meet a range of criteria, including responding positively to its conservation area appraisals where these have been prepared.
- 6.4.8 Conservation Area character appraisals exist for all three of the conservation areas which would be impacted indirectly by the solar park proposal, and which are referenced above. These are now a little dated (the two Graveney Conservation Area appraisals dating from 1999 - a joint appraisal also including the settlement of Goodnestone - whilst that for Faversham dates from 2004), but are nevertheless a material consideration, particularly given the requirement of Policy DM 33 to take such appraisals into account where they exist. It is notable in this respect that the ‘Landscape’ section of both the Graveney Conservation Area appraisal documents refers to the flat, expansive nature of the Graveney marshes continuing to exert an influence on the character of development at Graveney, despite the land having been converted almost entirely to arable use, and that whilst the marshes no longer have a truly wild appearance, the presence of these wide and open spaces extending up to the very edge of the church graveyard is a strong reminder of just how remote the place has been. The setting context for the conservation areas is, however,

recognised as being already somewhat compromised by the replacement of many traditional orchards with arable crop based landscapes, together with intensive horticulture and fruit growing which at certain times of the year, results in large areas of polythene (i.e. in the form of polytunnels) being prominent in the landscape.

- 6.4.9 The applicant's assessment of the scale of harm to heritage assets from the operational phase of the development, including the grade 1 listed All Saints Church, is universally minor or below. There is no assessment of the different effects at different times of year in terms of screening from deciduous tree species, and the assessment plays down the strong relationship between the church (and other listed buildings and the conservation area at the church) with the open marshland landscape. Furthermore, the submitted assessment fails to take into account the matter of cumulative change to setting, as referenced in Historic England's Historic Environment Good Practice Advice in Planning Note 3 (2nd. edition, December 2017) titled 'The Setting of Heritage Assets'. This document and its predecessor version was introduced by the Government's national advisory body on heritage management in the wake of the Barnwell Manor case (referred to above) to help local planning authorities (and other interested/relevant parties) more fully understand how the matter of setting to heritage assets should be taken into account in relation to development proposals with the potential to impact on a heritage asset's setting.
- 6.4.10 The grade I listed Church of All Saints, the adjacent grade II listed Graveney Court and the associated Graveney Church conservation area have already been visually impacted by modern farm development immediately to the north, and whilst the church in particular is largely screened from these modern, bulky insertions into the open landscape by a grouping of deciduous trees, the screening value of these trees is limited (particularly in the winter when the trees are not in leaf) and as a result, the remote rural character previously associated with the church and adjacent Graveney Court building has already been noticeably eroded. A similar scenario applies to the setting of grade II listed Sparrow Court and grade II listed Sandbanks Farmhouse, the settings to both of which are now heavily compromised by intensive polytunnel based farming, and associated development including stationary caravans for temporary farm workers. The Historic England advice on cumulative change advises that where the significance of a heritage asset has been compromised in the past by unsympathetic development affecting its setting, to accord with NPPF policies, consideration still needs to be given to whether additional change will further detract from, or can enhance, the significance of the asset. Negative change could include severing the last link between an asset and its original setting; positive change could include the restoration of a building's original designed landscape or the removal of structures impairing key views of it.
- 6.4.11 It is perfectly possible to see the harm to the setting of these assets as substantial, especially as according to the applicant's Table 11.4 even a medium effect on an asset of medium sensitivity of above will result in at least a moderate effect, and is accepted that All Saints Church is an asset of high sensitivity and, arguably the effect on its setting could be assessed as "high" leading to a "major" impact on its setting. If such a "major" impact were to be found, given the NPPF and directly relevant Historic England advice above, and the Section 66 considerations, this might indicate a strong reason not to grant planning permission for the development.

6.5 Transport

- 6.5.1 In contrast with many forms of built development, the operation of a solar park and battery storage facility, even on the scale proposed, is unlikely to result in much on-going traffic once construction is completed. Nor will the impact of new access roads be a long term feature of the landscape (unless the additional “Northern Access Option” road to the north of the London Array substation shown on some submitted plans is constructed). If the existing newly built London Array access road is relied on to its maximum extent it is essentially the effect of construction traffic on roads leading to that access road that will be noticed locally. Graveney residents already have experience of a major infrastructure project being constructed here with all materials being transported through the village and past the village school and church from the time that the London Array substation was constructed. They will be the best position to describe the disruption and long term effects of that project.
- 6.5.2 The construction phase of this project is indicated as 24 months, with traffic to and from the site via the village throughout that entire period. For most (if not all) of that period there will be over 100 two way trips per day, rising to over 200 such trips in the final months of the construction period. An average of over 60 HGV movements per day are anticipated, along with larger numbers of smaller vehicle movements year round, with no quiet or break periods, just an ever increasing intensity until the project is completed. It should also be noted that the site’s working hours are intended to be 7am to 7pm, Monday to Friday and 7am to 1pm on Saturdays. Furthermore, paragraph 2.6.8 of the CEMP explains how Abnormal Indivisible Loads will be transported to the site at off-peak periods, typically at night; and there is also a suggestion of an additional hour’s of work (start up and clean down) at either end of each working day, meaning that working hours are in fact planned to be 6am to 8pm on weekdays and 6am to 2pm on Saturdays. Clearly traffic to and from the site will begin before these times and finish after them to enable work within these times to be maximised, resulting in traffic for all but a very few hours of each weekday, and for a large part of each weekend. By way of contrast, the Environmental Statement for the construction of the London Array substation predicted an overall average of 5 HGVs (10 movements) per day (peaking at 30 HGVs per day for a short period, but only if various phases of work overlapped) and a peak of 80 staff on site at any one time (compared to the 400 envisaged now) throughout the two year construction period. That project involved the use of a vehicle holding area on Thanet Way and two way radio communications to prevent vehicles clashing on the route through Graveney, which do not appear to be included in the applicant’s plans. A similar traffic impact will be experienced at the decommissioning phase of the project which the applicant expects to take between 6 and 12 months.
- 6.5.3 The proposed route of construction traffic through Graveney from Thanet Way is essentially a narrow country lane with very few pavements or pedestrian refuge points, passing through three conservation areas, past numerous houses set close to the road, past a primary school and village church, over a narrow railway bridge, and lacking in places white lines or the ability for two HGVs to pass, or indeed for HGVs to pass smaller vehicles in some places. Some of these points are highlighted in Appendix D to the applicant’s proposed Outline Construction Traffic Management

Plan (CTMP) although the southern end of Head Hill Road where larger vehicles cannot easily pass smaller vehicles between the high banks is not so shown.

- 6.5.4 The fact that the route is relatively flat, and that it acts as a safe route between Faversham and Whitstable and is connected with the National Cycle Route means that it is very, very popular with cyclists. It does not appear that this issue has been recognised by the applicant in the CTMP, and there is a real danger that the additional traffic will affect either the attractiveness of the route to, or the safety of, the increasing number of cyclists using this route. There can be no doubt that use of this route by such a volume of construction traffic over an extended period on the proposed access route will be nothing but harmful to road traffic, road safety and amenity considerations.
- 6.5.5 Relevant Development Plan policies in this regard include DM 14 (General development criteria) DM 26 (Rural lanes). Policy DM 14 seeks to ensure that ALL development projects adhere to a certain basic level of acceptability including, in this regard, achieving safe vehicular access. The proposed construction access route for its entire distance along Head Hill Road and Seasalter Road is a defined rural lane (as shown on the Local Plan Proposals Map) to which policy DM26 applies. The policy seeks to ensure that planning permission is not be granted for development that would either physically, or as a result of traffic levels, significantly harm the character of rural lanes shown on the Proposals Map, and requires that development proposals should have particular regard to their landscape, amenity, biodiversity, and historic or archaeological importance. It is unlikely that this development project is compatible with this policy.

6.6 Public Rights of Way

- 6.6.1 Adopted Local Plan policy DM 6 (Managing transport demand and impact) seeks to give priority to the needs of pedestrians and cyclists, and to retain existing rights of way, with the creation of new routes in appropriate locations. The development site is surrounded and crossed by various public footpaths from which extensive uninterrupted views can be had. The project does not seek to obstruct any existing rights of way, but the impact of solar panels at up to 3.9m high will radically alter the experience of using long stretches of these paths. The project also proposes a new permissive footpath running through the eastern part of the proposed solar panel layout, close the proposed substation.
- 6.6.2 Footpath ZR484 affords access to an extensive length of the undeveloped coast of Kent (undeveloped apart from sea defences) and provides rare access to miles of solitude, and allows wide views of the Thames estuary with its abundant activity and wildlife. These are very valuable locally distinctive views which are characteristic of views along The Swale. Views out to sea will not be significantly affected by the development; but the sense of solitude will be, with the sense of being as far from civilisation as one can be in the south-east of England replaced by that of being adjacent to a vast man made expanse of glass and metal, the far end of which will be not be visible.

- 6.6.3 Views inland from the coastal path will enjoy the benefit of an elevated position on the sea wall providing clear views of the entire development, with the horizon formed by higher land in the distance. The development will replace uninterrupted views of almost featureless agricultural land dissected by ditches, with relentless rows of solar panels where the ditches will be less prominent, and evident more from the breaks in the panels than for their own sake. These views will no longer include the ditches that break up the vast emptiness, unless one is directly aligned with a ditch. The effect will be overwhelming and it will radically alter the perception and variety of inland views, as well as affecting patterns of bird flight which one can enjoy today. From the sea wall the solar panels will not be screened by new planting and will at all times present a raw alien appearance; albeit they will not obstruct the horizon formed from wooded hills in the distance.
- 6.6.4 From footpath ZR485 which crosses the western part of the site, the effect of solar panels up to 3.9m tall will be to entirely obstruct any views from the path other than those of the panels themselves. This will become a largely redundant walk through an industrialised landscape with only views of the sky and pylons available, except when passing under the existing pylons when narrow constrained views along the new access road running along the route of the pylons will be available. The same can also be said of the new permissive footpath which, albeit running on a slightly raised embankment, will still be flanked on both sides by solar panels for the vast majority of its length. This permissive path will pass close to the proposed substation which will be surrounded by a high bund. For a short section it will be this bund that is the main factor in preventing views from the path towards the sea wall and across the flat land to the east. This new route will add an alternative legal option for walkers, but it unlikely to be an attractive route and this, combined with the effect of the panels of the views for ZR485 may deter many from using these shorter routes, leaving only the longest outermost perimeter route a desirable option. It would be possible to leave more space alongside the footpaths to allow wider views through the site towards the sea or inland, by having open areas left within the solar park other than those forced on the scheme by ditches and pylons, but no such options have been proposed.
- 6.6.5 Another public footpath ZR488 cuts across the far eastern end of the development site. It does not run between solar panels and proposed planted screening will (in time) largely hide the panels even from very close range when users are level with the flat ground supporting the panels. However, the path then rises across Cleve Hill which rises to over 15m high, at least 10m above the level of the majority of the development site. From the higher parts of this path there will be clear views of the vast majority of the solar panels (but not of the substation itself) stretching away into the distance. This will significantly affect the understanding of the landscape from the path, and provide the clearest view of the sheer scale of the development. The panels will run as far as the nearer of the two taller pylons crossing Faversham Creek, and the vast scale of that extent of panels will completely alter the perception of the character of the area from that position.
- 6.6.6 The effect on users of the footpaths of this arrangement will be significant and it will undoubtedly make the paths far less attractive to users. One particular reason for the severity of the impact is that the inherent flood risk of the site that creates most of

these issues, and if it were not for the flood risk panels could be set lower to the ground on a more human scale, views for the new permissive footpath would be better, and the substation bund would not be required.

6.7 Tourism and Economy

- 6.7.1 The development site itself comprises privately owned farmland with no public rights of use or access other than on designated public rights of way. It does not adjoin any public open space other than the shingle beach along its coastal edges. The main impact of the development on the recreational or tourism value of the site arises from the impact of a vast swathe of solar panels, higher than any person's head, adjacent to the public rights of way. This has been touched on above in terms of the future attractiveness to users of footpath ZR485, the proposed new permissive path, and the perimeter footpath. These effects can only be surmised, but in the context of paths that do not form direct or shortest routes between users and amenities, it must be assumed that the main reason for users to take these paths is for the sheer pleasure of the views, isolation and closeness to wildlife that the paths afford. Without these attractions it is likely that use of the paths will drop significantly, reducing the potential recreational and tourism value of the area.
- 6.7.2 In terms of significance, the perimeter path forms part of the Saxon Shore Way round Kent coastal path, and is line to be part of the England Coast Path. Moreover, it is part of a rare continuous sea level path that borders areas of international significance for wildlife; and from Seasalter Road it represents one of the closest undeveloped points to a vehicular public highway that the north Kent coastal path has to offer. It is therefore particularly accessible to the less adventurous or committed user. Natural England currently perceives a threat to the adjoining wildlife area from new house building and resultant increased recreational use (dog walking) of this coastal path. Accordingly, they are requiring the Council to charge a tariff on all new homes granted planning permission within 6km of any entry point to the path. This is to allow mechanisms and controls to be put in place to safeguard the importance of the area, which is of course the reason why many choose to visit it. With this proposal, it could be argued that at the same time that funds are being extorted from development several miles away to safeguard the importance of the area, permitting a development of this scale and nature could by all accounts deter users more effectively than all the control measures the tariff is seeking to fund.
- 6.7.3 The Borough of Swale is very varied in terms of landscape and biodiversity, rising as it does from the geologically important cliffs on Sheppey, through The Swale and on almost to the top of the Kent Downs Area of Outstanding Natural Beauty. Its tourism sector relies heavily on heritage (at Faversham) and ecology (along The Swale). A significant part of this is the access to the undeveloped coastline, and this development threatens that asset despite the fact that the applicant assesses these changes as negligible, minor or moderate based on the possibility that some will see the panels as more attractive than the current long uninterrupted vistas. What cannot be denied is that glimpses of ground nesting birds or low level foraging along ditches will be obscured by solar panels up to 3.9m tall, and that opportunities for observing ground based or low flying wildlife on the development site over vast distances will all but cease apart from in the area at the eastern end of the site closest to most human

activity. Again, the effect here could have been lessened by leaving open areas within the solar park where ground nesting birds could still nest and be observed from footpaths.

- 6.7.4 It is worth remembering that all these impacts will be greater than might otherwise be so due to the need to position the solar panels well above ground level, and to enclose the substation in a high earth bund due to the site's inherent risk of flooding. Moreover, once again we do not have the benefit of any NPS policy on stationing solar panels in areas of high flood risk, as opposed to using other potential locations where the impacts might be proportionately less.
- 6.7.5 Development Plan policies relevant to this issue include ST1 (Delivering sustainable development in Swale) which seeks development to support a prosperous rural economy, including for tourism, ST7 (The Faversham area and Kent Downs strategy) which aims to support local economies, especially those which maintain or enhance the countryside and CP1 (Building a strong, competitive economy) which seeks to safeguard or enhance Swale's tourism assets and potential (including coast, countryside, built heritage and rural tourism) and consolidate or widen the Borough's tourism potential. It is clear that the development is not intended to further the beneficial management or visitor enjoyment of the area, and as such the development can only be seen as contrary to the aims of such policies in a manner which is more likely than not to deter visitors from seeking out the solitude, long distance views and appreciation of wildlife that the area currently enjoys, to the detriment of recreational and tourist objectives..

6.8 Land Use and Agriculture

- 6.8.1 Policy DM 31 (Agricultural Land) of Bearing Fruits 2031; The Swale Borough Local Plan seeks to prevent development on agricultural land unless there is an overriding need that cannot be met on land within built-up area boundaries, with special restrictions on better quality land, including grade 3a land. The majority of the land to be developed in this project is grade 3b land (over 90 per cent) with less than 10ha being in higher grades. The impact on high quality agricultural land of the project is therefore limited.
- 6.8.2 Nevertheless, the strategic question of whether large areas of productive agricultural land should be used for solar power generation, as opposed to focussing solar generation on rooftops and previously developed land has not been addressed by any NPS. As such, the appropriateness of developing such a large area of agricultural land in this national policy vacuum remains open to debate. From a local point of view it does seem that this question should be answered before a potentially policy making decision to approve a solar farm of this scale of productive agricultural land is made.

6.9 Climate Change

- 6.9.1 Adopted Local Plan policies DM 19 (Sustainable Design and Construction) and DM 20 (Renewable and Low Carbon Energy) fall within section 7.6 of the Local Plan entitled "Meeting the challenges of climate change, flooding and coastal change" and

set out the Borough Council's approach to creating a more sustainable built environment, requiring new developments to achieve better environmental standards, and promoting renewable and low carbon energy generation. Policy DM 20 in particular sets out tests for new renewable or low carbon energy developments, including a preference for previously developed land, use of only poorer quality agricultural land with continued agricultural use and enhancement of biodiversity, with minimisation of adverse landscape and amenity impacts.

6.9.2 The Council has prepared specific advice on large scale solar arrays dated July 2014. This indicates the main factors that the Council will need to consider when considering applications for large scale solar farms as:

- *encouraging the effective use of land by focussing large scale solar farms on previously developed and non-agricultural land, provided that it is not of high environmental value;*
- *where a proposal involves greenfield land, whether (i) the proposed use of any agricultural land has been shown to be necessary and poorer quality land has been used in preference to higher quality land; and (ii) the proposal allows for continued agricultural use where applicable and/or encourages biodiversity improvements around arrays.*
- *that solar farms are normally temporary structures and planning conditions can be used to ensure that the installations are removed when no longer in use and the land is restored to its previous use;*
- *the proposal's visual impact, the effect on landscape of glint and glare and on neighbouring uses and aircraft safety;*
- *the extent to which there may be additional impacts if solar arrays follow the daily movement of the sun;*
- *the need for, and impact of, security measures such as lights and fencing;*
- *the care that should be taken to ensure heritage assets are conserved in a manner appropriate to their significance, including the impact of proposals on views important to their setting. As the significance of a heritage asset derives not only from its physical presence, but also from its setting, careful consideration should be given to the impact of large scale solar farms on such assets. Depending on their scale, design and prominence, a large scale solar farm within the setting of a heritage asset may cause substantial harm to the significance of the asset;*
- *the potential to mitigate landscape and visual impacts through, for example, screening with native hedges;*
- *the energy generating potential, which can vary for a number of reasons including, latitude and aspect.*

6.9.3 It is self evident that this proposal has potentially significant climate change benefits and accords with the general thrust of policies to encourage renewable energy production and reduce carbon emissions. The question that needs to be answered though is whether this proposed development, or its extent, is consistent with these objectives, and whether or not such a large scale solar farm is truly a sustainable form of development. Or will its local impacts be so considerable that they in fact outweigh the benefits; benefits which might better be achieved by a series of smaller installations with less impact on a particular location by being more easily accommodated within their surroundings?

- 6.9.4 One obvious possible disadvantage of the proposal from a climate change point of view is the obstacle it provides to suggested managed realignment of the Kent coast as promoted in the Medway Estuary and Swale Strategy (MEASS), and the need for it to respond to rising sea levels by mounting solar panels higher than would otherwise be needed; and surrounding the proposed substation/battery storage area with a high bund – although this largely arises from the decision to propose the erection of the substation on low lying land rather than on nearby rising ground.

6.10 Noise and Vibration

- 6.10.1 Adopted Local Plan policy DM 14 (General Development Criteria) includes a requirement (8) to cause no significant harm to amenity or to other sensitive uses or areas. The operation of solar panels is not likely to be noisy, so the potential noise impacts of the development are likely to be limited to construction activity including construction traffic movements (in an area of very low background noise levels), and to the operational noise arising from 80 transformers and from the substation and battery storage elements of the development as well as noise related to the decommissioning phase of the project. However, these will be sited some distance from the nearest sensitive properties and it would be possible to control construction and decommissioning working hours.
- 6.10.2 Predicted noise levels from equipment intended to be used (much of which would be installed within an earth bunded substation compound) is not considered likely to raise background noise levels significantly enough to result in any complaint. Noise mitigation measures can be included in the final design to ensure that noise does not exceed background levels, and this would be assisted if transformers are sited as far from likely affected properties as possible within the area of solar panels they serve, rather than at the nearest end. Construction will be a temporary feature of the project and may involve piling foundations (an operation which will give rise to noise above background levels if close to properties) and conventional means of transportation, essentially road vehicles. Provided hours of construction are limited to reasonable hours the effect of noise should only affect certain properties for short periods and construction noise should not be a major factor in the assessment of the project. However, with 12 hour days planned plus an hour each end for start up and clear down, the average day's work extends from 6am to 8pm. This seems excessive and it would be preferable if all activity is contained within not more than the 7am to 7pm period.

6.11 Air quality

- 6.11.1 There are no Air Quality Management Areas (AQMAs) close to the development site. The greatest impact on air quality relating to the development is likely to be that arising from construction traffic. Whilst this will be disadvantageous to air quality the Council has no evidence that local air quality is currently poor or will be reduced to dangerous levels by the project.

6.12 Glint and Glare

- 6.12.1 Such a large area of solar panels clearly has potential for glint (a momentary flash) and glare (a more sustained reflection) both during construction and operation of the solar farm. These effects are likely to be short lived and, apart for very close

neighbours to the site, at some distance from anyone affected. Any effects are not thought likely to create any danger o road users due to the considerable distance that the solar panels are set away from the highway. This is not likely to be a significant adverse impact of the development.

Time limits

1. The authorised project must commence no later than the expiration of five years beginning with the date this Order comes into force.

Detailed design approval

2.—(1) No phase of the authorised development may commence until details of—

- (a) the layout;
 - (b) scale;
 - (c) proposed finished ground levels;
 - (d) external appearance;
 - (e) hard surfacing materials;
 - (f) vehicular and pedestrian access, parking and circulation areas;
 - (g) refuse or other storage units, signs and lighting;
 - (h) drainage, water, power and communications cables and pipelines; and
 - (i) programme for landscaping works;
- relating to that phase have been submitted to and approved in writing by the relevant planning authority.

(2) The details submitted must accord with—

- (a) the Location, Order limits and Grid coordinates plan;
 - (b) the works plan; and
 - (c) the outline design principles, or such variation thereof as may be approved by the relevant planning authority pursuant to requirement 17.
- (3) The authorised development must be carried out in accordance with the approved details.

Phases of authorised development

3.—(1) The authorised development may not be commenced until a written scheme setting out the phases of construction of the authorised project has been submitted to and approved by the relevant planning authority.

(2) The scheme must be implemented as approved.

Landscape and biodiversity management plan

4.—(1) No phase of the authorised development may commence until a written landscape and biodiversity management plan (which accords with the outline landscape and biodiversity management plan) has been submitted to and approved by the relevant planning authority in consultation with Natural England.

(2) The landscape and biodiversity management plan must be carried out as approved.

Implementation and maintenance of landscaping

5.—(1) All landscaping works must be carried out in accordance with the landscape and biodiversity management plan approved under requirement 4 (provision of landscaping), and in accordance with the relevant recommendations of appropriate British Standards.

(2) Any tree or shrub planted as part of an approved landscaping management scheme that, within a period of five years after planting, is removed, dies or becomes, in the opinion of the relevant planning authority, seriously damaged or diseased must be replaced in the first available planting season with a specimen of the same species and size as that originally planted.

Public rights of way diversions

6.—(1) No phase of the authorised development may commence until a public rights of way management plan for any sections of public rights of way shown to be temporarily closed on the access and rights of way plans for that phase has been submitted to and, after consultation with the highway authority, approved by the relevant planning authority.

- (2) The plan must include details of—
- (a) measures to minimise the length of any sections of public rights of way to be temporarily closed; and
 - (b) advance publicity and signage in respect of any sections of public rights of way to be temporarily closed.
- (3) The plan must be implemented as approved unless otherwise agreed with the relevant planning authority in consultation with the highway authority.

Fencing and other means of enclosure

- 7.—**(1) No phase of the authorised development may commence until written details of all proposed permanent and temporary fences, walls or other means of enclosure of the connection works for that phase have been submitted to and approved by the relevant planning authority.
- (2) Any construction site must remain securely fenced in accordance with the approved details at all times during construction of the authorised development.
 - (3) Any temporary fencing must be removed on completion of the phase of construction of the authorised development for which it was used.
 - (4) Any approved permanent fencing must be completed before completion of the authorised development.

Surface and foul water drainage

- 8.—**(1) No phase of the authorised development may commence until details of the surface and (if any) foul water drainage system (including means of pollution control) for that phase have, after consultation with the relevant sewerage and drainage authorities and the Environment Agency, been submitted to and approved by the relevant planning authority.
- (2) The surface and foul water drainage system must be constructed in accordance with the approved details.

Archaeology

- 9.—**(1) No phase of the authorised development may commence until a written scheme of archaeological investigation (which must accord with the outline written scheme of investigation) for that phase has been submitted to and approved by the relevant planning authority.
- (2) In the event that site investigation is required, the scheme must include details of the following—
- (a) an assessment of significance and research questions;
 - (b) the programme and methodology of site investigation and recording;
 - (c) the programme for post investigation assessment;
 - (d) provision to be made for analysis of the site investigation and recording;
 - (e) provision to be made for publication and dissemination of the analysis and records of the site investigation;
 - (f) provision to be made for archive deposition of the analysis and records of the site investigation; and
 - (g) nomination of a competent person or persons/organisation to undertake the works set out within the written scheme of investigation.
- (3) Any archaeological works or watching brief must be carried out in accordance with the approved scheme.
- (4) In the event that site investigation is required, the site investigation and post investigation assessment must be completed in accordance with the programme set out in the written scheme of archaeological investigation and provision made for analysis, publication and dissemination of results and archive deposition.

Construction environmental management plan

10.—(1) No phase of the authorised development may commence until a construction environmental management plan (which must accord with the outline construction environmental management plan) for that phase has been submitted to and approved by the relevant planning authority, in consultation with the relevant highway authority and the Environment Agency.
(2) The construction environmental management plan must be implemented as approved.

Construction traffic management plan

11.—(1) No phase of the authorised development may commence until written details of a construction traffic management plan (which must accord with the outline construction traffic management plan) for that phase has been submitted to and approved by the relevant local planning authority in consultation with the relevant highway authority.
(2) The construction traffic management plan must be implemented as approved.

Special protection area construction noise management plan

12.—(1) No phase of the authorised development may commence until written details of a special protection area construction noise management plan (which must accord with the outline special protection area construction noise plan) for that phase has been submitted to and approved by the relevant local planning authority.
(2) The special protection area construction noise management plan must be implemented as approved.

European protected species

13.—(1) No phase of the authorised development may commence until final pre-construction survey work has been carried out for that phase to establish whether a European protected species is present on any of the land affected, or likely to be affected, by the authorised development or in any of the trees to be lopped or felled as part of that stage of the connection works.
(2) Where a European protected species is shown to be present, the phase of authorised development must not begin until, after consultation with Natural England and the relevant planning authority, a scheme of protection and mitigation measures has been submitted to and approved by the relevant planning authority.
(3) The authorised development must be carried out in accordance with the approved scheme.
(4) In this Requirement, “European Protected Species” has the same meaning as in regulations 40 and 44 of the Conservation of Habitats and Species Regulations 2010(a).

Operational noise

14.—(1) No phase of the authorised development may commence until an operational noise assessment containing details of how the design of the authorised development has incorporated mitigation to ensure the operational noise rating levels as set out in the environmental statement shall be complied with for that phase has been submitted to and approved by the relevant local planning authority.
(2) The design as described in the operational noise assessment must be implemented as approved.

Decommissioning

15.—(1) Within three months of the cessation of commercial operation of the authorised development a decommissioning and restoration plan (which must accord with the outline decommissioning and restoration plan) must be submitted to and approved by the relevant planning authority.
(2) The decommissioning plan must be implemented as approved.

Requirement for written approval

16. Where the approval, agreement or confirmation of the Secretary of State, local planning authority or another person is required under a requirement, that approval, agreement or confirmation must be given in writing.

Amendments to approved details

17.—(1) With respect to any requirement which requires the authorised project to be carried out in accordance with the details approved by the relevant planning authority or another person, the approved details must be carried out as approved unless an amendment or variation is previously agreed in writing by the relevant planning authority or that other person in accordance with paragraph (2).

(2) Any amendments to or variations from the approved details must be in accordance with the principles and assessments set out in the environmental statement. Such agreement may only be given in relation to immaterial changes where it has been demonstrated to the satisfaction of the relevant planning authority or that other person that the subject matter of the agreement sought is unlikely to give rise to any materially new or materially different environmental effects from those assessed in the environmental statement.

(3) The approved details must be taken to include any amendments that may subsequently be approved in writing by the relevant planning authority or that other person.

1.2 Review and Re-designation of Conservation Areas at: Boughton Street, Boughton Church and South Street

Summary

This report outlines proposals for boundary changes and re-designation of the existing conservation areas at Boughton Street, Boughton Church and South Street. It recommends that some revised boundaries be approved and that the conservation areas be formally re-designated under section 69 of the Planning (Listed Buildings and Conservation Areas) Act, 1990. The proposals involve changes to the existing conservation area boundaries for all three conservation areas and include character appraisals and management strategies in line with current good practice for the management of conservation areas.

Decisions required

Members are recommended:

- (1) To consider the 4 formal responses received from the public consultation exercise (reproduced at Appendix 1).
- (2) To note the content of the conservation area character appraisal and associated management strategies.
- (3) To resolve that Boughton Street, Boughton Church and South Street are areas of special architectural or historic interest, the character or appearance of which it is desirable to preserve or enhance, and that as such, they should be re-designated as conservation areas in accordance with section 69 of the Planning (Listed Buildings and Conservation Areas) Act, 1990.
- (4) To resolve that the boundaries to the conservation areas be as proposed on Map No. BSCA05 (Boughton Street), Map No. BCCA03 Rev. A (Boughton Church) and Map No. SSCA03 (South Street), set out at Appendices 3, 4A and 5 respectively.

1.0 Background

The Implications of Conservation Area Designation

- 1.1 The Planning (Listed Buildings and Conservation Areas) Act 1990 places a duty on every local planning authority to “*determine which parts of their area are areas of special architectural or historic interest the character or appearance of which it is desirable to preserve or enhance*” and, from time to time, to review the functioning existing conservation areas.
- 1.2 In considering the extension of, and re-designation of conservation areas Members need to have full regard to the statutory requirements for, and implications of designation. The National Planning Policy Framework – first introduced in 2012, and now onto its second edition (from February this year) has not materially altered the requirements for, or implications of conservation area designation (or re-designation) from the previous national planning guidance systems set out with firstly a suite of Planning Policy Guidance notes (from 1990) and then a suite of Planning Policy Statements (from 2004). The principles of this are that when considering the designation (or in this case, re-designation) of conservation areas, local planning authorities should ensure that an area justifies such status because of its special architectural or historic interest, and that the concept of conservation is not devalued through the designation of areas that lack special interest. In terms of implications, it

is critical to recognise that conservation area designation introduces controls over the way owners can alter and/or develop their properties, the likes of which do not apply elsewhere. The principal consequences of conservation area designation include:

- local planning authorities being under a general duty to ensure the preservation and enhancement of conservation areas, and having a particular duty to prepare proposals to that end;
- Local planning authorities having policies which pay special attention to the desirability of preserving or enhancing the character or appearance of the area when considering development proposals (see paragraph 1.3 below);
- Control over demolition of unlisted buildings;
- Control over works to trees (subject to certain exemptions);
- Restriction of the types of development which can be carried out without the need for planning permission, such as the construction of a dormer window (i.e. the removal of permitted development rights); and
- Extra publicity required to be given to planning applications affecting conservation area

Other consequences, less significant in practice are as follows:

- Greater ease in the making of Article 4 Directions to limit permitted development rights;
- Limited financial assistance sometimes being available for the upkeep of a building within a conservation area (although it should be noted that the Council has not run a conservation grant scheme programme since approximately 2005, due to repeated net cuts in local government funding since the late 1990s and the need for Council's to introduce efficiencies as a result);
- Fewer types of advertisements which can be displayed with deemed consent (i.e. without the need for an advertisement consent application approval); and
- The local planning authority or Secretary of State being able to take steps to ensure that buildings in conservation areas are kept in good repair (primarily through the use of a Section 215 (Untidy Land/Building) Notice¹, but also with the possible option of a Section 54 (Urgent Works) Notice²).

(¹ Section 215 of the Town and Country Planning Act, 1990)

(² Section 54 of the Planning (Listed Buildings and Conservation Areas) Act, 1990)

1.3 The Council's Local Plan Policy on conservation areas is Policy DM33 – *Development Affecting a Conservation Area*. This re-states the national requirement to meet the preserve or enhance test and sets out four specific criteria to confirm how it will apply this test at the local level, by expecting development proposals to:

- (i) Respond positively to its conservation area appraisals where these have been prepared;

- (ii) Retain the layout, form of street, spaces, means of enclosure and buildings, and pay special attention to the use of detail and materials, surfaces, landform, vegetation and land use;
 - (iii) Remove features that detract from the character of the area and reinstate those that would enhance it; and
 - (iv) Retain unlisted buildings or other structures that make, or could make, a positive contribution to the character or appearance of the area.
- 1.4 Half of the Borough's conservation areas were reviewed and re-designated between 1999 and 2006. Three of the urban conservation areas at Sittingbourne, Queenborough and Sheerness Dockyard were subsequently reviewed in 2010/11, having been originally designated in 1969, 1978 and 1972 respectively.

Boughton-under-Blean Parish Conservation Areas

- 1.5 Boughton Street, South Street and Boughton Church conservation areas were designated in 1970, 1975 and 1976, respectively. Up until now, they have lacked detailed appraisals or management strategies and as such, case law concerning conservation area designation indicates that it is possible (albeit highly unlikely) that they could fail (resulting in the designations being quashed) if legally challenged on the basis for their original designation. It is also the case that the boundaries designated at the time for each separate conservation area would now fail to include some areas that contribute to the special character of each respective conservation area. As such the Council has sought to ensure that the boundaries are changed to reflect the current situation on the ground and thereby be brought up to date as required in line with the national guidance put in place to support the aforementioned legislation.
- 1.6 The three conservation areas in question all lie within the parish of Boughton-under-Blean, and, apart from the need to update these old designations, the review of these conservation areas was given priority over the review of other Swale Borough conservation areas as part of the evidence base to support the development of a neighbourhood plan for Boughton-under-Blean and its neighbouring parish of Dunkirk.
- 1.7 Government funding for the neighbourhood plan process also helped facilitate partnership working with the Council to fund completion of the appraisal work by a consultant. This essentially entailed the preparation of proposals, character appraisals and management strategies, all in line with current guidance on conservation area designation and management.
- 1.8 For the avoidance of doubt, Dunkirk Parish itself contains no conservation areas, nor are there any areas within the parish that were, or are presently considered worthy of potential designation. Otherwise, their appraisal and potential designation would have formed a part of the review work, and would be referred to in this report.
- 1.9 Hard copies of the public consultation draft versions of the character appraisal and management strategy documents are available in the Members' room or can be viewed online at www.swale.gov.uk/conservation-areas. Under the Council's Standing Orders, the decision to designate (or re-designate) conservation areas rests with Planning Committee.

2.0 Proposed Changes to the Conservation Area

- 2.1 The proposed changes consist entirely of proposed boundary alterations to each of the 3 conservation areas, consisting of:
- 5 boundary extension areas for the Boughton Street Conservation Area;
 - 2 boundary extension areas and 1 boundary reduction for the Boughton Church Conservation Area; and
 - 2 boundary extension areas for the South Street Conservation Area.
- 2.2 For clarity and ease of reference, all the proposed boundary alterations to each of the 3 conservation areas are described in summary form within a table at Appendix 2 to this report. The table also sets out any representation made in relation to each change, your officer's comment on these (where applicable), and finally the recommendation going forward (i.e. confirmation of the proposed boundary change or otherwise, as considered appropriate).
- 2.3 The boundary alterations as proposed at the public consultation stage are shown on maps BSCA05, BCCA03 and BSCA03 at appendices 3, 4 and 5 respectively, whilst the boundary alterations as amended in response to public consultation are shown on maps BSCA05, BCCA03 Rev. A and BSCA03 at appendices 3, 4A and 5. Full descriptions of the proposed boundary changes can be found in Appendix 2 of each of the public consultation character appraisal documents, as referenced in the list of background documents to this report.

3.0 Public Consultation on the Boughton Conservation Areas

- 3.1 Public consultation took place between the 27th February 2017 and the 9th April 2017, comprising public consultation posters at key locations in Boughton under Blean parish, a notification letter sent out to all those residents and businesses affected, and notification letters to Historic England, Kent County Council, Boughton-under-Blean Parish Council and Dunkirk Parish Council. Full details were also posted on the Council's web site and hard copies of the appraisal documents made available at Boughton Street Library and Council's main office in Sittingbourne. Finally, the Council's Conservation & Design Manager made a presentation to the Parish Council of the conservation areas review work on the 8th February, 2017.
- 3.2 The reason for the long delay between going out to public consultation on this conservation area review work, and presenting the outcome of that exercise to the Planning Committee with associated recommendations essentially relates to resourcing issues within the Planning Service, which have only been addressed with an additional resource from May 2019.

Results of Consultation

- 3.3 Four letters/emails of representation were received in response to the public consultation exercise. These are reproduced at Appendix 1 in as full a form as possible, subject to necessary redactions to protect the anonymity of correspondees in accordance with the requirements of the General Data Protection Regulations, 2018.
- 3.4 Two of the representations made (from residents of the Boughton Church Conservation Area) were supportive of the conservation areas review work and simply stated support for the proposed extended boundaries. However, it should be

noted that the two representations made in this respect were tempered by clear concerns expressed about a current planning application at that time for use of part of the Lime Kiln site for the erection of a polytunnel structure for production of food, wood storage, plant production, propagation and rearing animals. This application (ref. 17/500664/FULL) was subsequently approved in June 2017 on a temporary 3 year basis subject to landscaping requirements and other limitations. To date, it has however not been implemented.

- 3.5 Objections were received from Boughton-under-Blean Parish Council and a local farming business in relation to the conservation area review work, but these only specifically related to two of the three proposed boundary alterations at Boughton Church Conservation Area. Appendix 2 refers.
- 3.6 It would be possible to exclude both of the two proposed boundary extensions from the Boughton Church Conservation Area (Boughton Church CA) in response to the Parish Council and local landowner objections, and this matter has been given very careful consideration including a site meeting with the parties in question to seek to gain a clearer understanding of their individual concerns.
- 3.7 The table at Appendix 2 sets out the extent of the consultation response to the proposed boundary alterations. It can be seen from this that there was just general support from the Parish Council in relation to the Boughton Street and South Street Conservation Areas. In relation to the Boughton Church, 2 of the 3 proposed boundary alterations have been challenged, and as a result, 1 of the proposed boundary extensions is now proposed to be omitted. The commentary in table 2 sets out the reasoning for this.

4.0 Proposal

- 4.1 The proposal is to re-designate and amend the boundaries of the three conservation areas (as slightly amended following public consultation) and equip them with character appraisals and management strategies which will assist with development management and heritage protection purposes over the next decade or so.
- 4.2 Proposed changes to the boundaries of the conservation areas as originally considered by the Boughton & Dunkirk Neighbourhood Plan Committee in liaison with the former Conservation & Design Manager are highlighted in the character appraisal and management plan documents and on maps BSCA05 (Boughton Street CA), BCCA03 (Boughton Church CA) and SSCA03 (South Street CA) at appendices 2, 3 and 4. It is only the boundary alignment of the Boughton Church Conservation Area which has been challenged and questioned through the public consultation exercise. The considerations relating to this have been clearly set out in Appendix 2, and the resultant recommended change to the alignment of the conservation area boundary in response to this, is set out at Appendix 3A.

5.0 Conclusion

- 5.1 The review of the three conservation areas has highlighted that they remain areas of special architectural or historic interest which merit protection through conservation area status. Appreciation, particularly of traditional agricultural scenes (formed in large part from surviving groupings of agricultural buildings) has grown in the 40 plus years since the latest of the three conservation areas was originally designated in 1976, and for that reason, some changes to the boundaries might be considered almost inevitable.

- 5.2 Formal written response to the public consultation has been minimal but informal feedback from interested parties either face-to-face and/or by telephone has been more numerous and also overwhelmingly positive.
- 5.3 In the light of the review work, the subsequent character appraisals production and associated consultation exercise, I consider that all three areas very clearly possess special architectural or historic interest, the character or appearance of which it is, and would be desirable to continue to preserve or enhance. I therefore recommend that the conservation areas be re-designated in accordance with the boundaries which are shown on Map No. BSCA05 (Boughton Street), Map No. BCCA03 Rev. A (Boughton Church) and Map No. SSCA03 (South Street), set out at Appendices 2, 3A and 4 respectively.
- 5.4 I also recommend that the character appraisal and management strategies be noted and formally adopted as material considerations for development management purposes, once the necessary notifications have been made in the local newspaper and the London Gazette and with Historic England and the Secretary of State for the Department for Digital, Culture, Media & Sport, as required by legislation.

Appendices

Appendix 1: Copies of the Public Consultation Representations received in relation to the Conservation Area Review work (redacted where appropriate to comply with the General Data Protection Regulations, 2018).

Appendix 2: Table of proposed alterations to the Boughton parish conservation areas.

Appendix 3: Map No. BSCA05 (Boughton Street Conservation Area) – proposed changes to conservation area boundary.

Appendix 4: Map No. BCCA03 (Boughton Church Conservation Area) – ORIGINAL proposed changes to conservation area boundary.

Appendix 4A: Map No. BCCA03 Rev. A (Boughton Church Conservation Area) – REVISED/CURRENT proposed changes to conservation area boundary.

Appendix 5: Map No. SSCA03 (South Street Conservation Area) – proposed changes to conservation area boundary.

Responsible Officer: Simon Algar, Conservation & Design Manager

List of Background Documents

The following documents are available for inspection in the Members' Room:

□□ Copies of the Feb 2017 public consultation version Character Appraisal & Management Strategy documents – also showing proposed Conservation Area boundary changes (also available to view on-line at www.swale.gov.uk/conservation-areas)

□□ Conservation Area Designation, Appraisal and Management - Historic England Advice Note 1, 2nd Ed, Feb. 2019 (also available to view on-line at: <https://historicengland.org.uk/images-books/publications/conservation-area-appraisal-designation-management-advice-note-1/>)

APPENDIX 1**Copies of Public Consultation Representations received in relation to Conservation Area Review work.**

Note: Each of these has been subject to some redactions in order to comply with the requirements of the General Data Protection Regulations, 2018

Representation No. 1

Dear Mr Algar,

Boughton Church Conservation Area (Boughton-Under-Blean) – Proposed Area Extension

■ stumbled upon an online document today entitled 'Boughton Church Conservation Area Appraisal'.

■ farm in the parishes of Boughton and Selling. ■ been farming in the area for over 400 years. ■ know from experience that the job becomes more and more difficult with increased red tape and regulation year on year.

■ land surrounding Boughton Church ■ is currently free of any environmental designation such as AONB/ Conservation Area. Since the mid 70's, a number of properties around Boughton Church that are several hundred years old or more have been enveloped by a designated conservation area to protect their heritage and rightly so.

With a recent move by local government for each parish to submit a 'Parish Plan', the Conservation area has clearly been brought back into focus.

By revisiting the Boughton Church Conservation Area, it appears that 'Area 3' could be included in this plan going forward. 'Area 3' includes a part row of our harvest workers huts that are in a state of disrepair and a field of approximately 3 acres. ■ do not really understand why this particular parcel has been selected and by whom. The field ■ will continue to be 'farmed'. There are no trees on this parcel of Land whatsoever. The workers huts are in a state of disrepair but still used for agricultural purposes. Their age reflects their condition.

■ always feel disheartened by people that move to the village, work away from the village but feel they must change/stop agricultural advancement so they can have their tranquil weekend. The fact is the area is for us all to enjoy but we need to be sensible about restricting activities of rural businesses which create rural employment and sustain/ maintain the countryside as we know it today. On the basis of the above, ■ feel very strongly that 'Area 3' is excluded from the planned extension of the existing conservation area as it is part of a working farm. ■ note that the Boughton Golf Course (a rural business) has been excluded from the conservation area and backs onto ■ land at Boughton Church.

Yours sincerely,

■
■
■

Representation No. 2

Hi Simon

Just to let you know that Boughton under Blean Parish Council discussed the amendments to the 3 conservation areas within the Parish at our recent Parish Council meeting. Councillors present had no objection to the proposals for Boughton Street and Boughton South Street.

However, the Parish Council did decide that they would NOT support the proposal for including the civic cemetery in the proposed extension of the conservation area at Boughton Church. The Parish Council own the civic cemetery and purchased the land when it was not in a conservation area. To now change the type of area would impose additional constraints on the running and maintenance of the cemetery that were not forecast and would be of no additional benefit to the Parish Council.

I would be grateful if you could confirm receipt of this email and how things may or may not proceed from this stage (in particular with the objection to the extension of Boughton Church).

Regards

[REDACTED]

Clerk to Boughton under Blean Parish Council

Representation No. 3

Hi,

I live at [REDACTED], which is part of the Boughton Church Conservation Area. I note with interest the planned expansion of the conservation area. I have read the consultation documents and would like to express my strong support for the extension of the conservation area as proposed. The encroaching development towards the hop pickers huts has been of concern for some time.

I would also support the burying of the many cables in the area which are unsightly.

I would draw [your attention] to planning application 17/500664/FULL which affects this area of land. There is also other ongoing work by a new farmer on this area which is currently removing some of the existing trees.

Kind regards,

[REDACTED]

Representation No. 4

Dear Mr Algar,

I refer to your recent letter regarding the review of the conservation areas in this parish. I am in full favour of the current conservation areas being maintained and, where planned, expanded.

I wanted however to bring your attention to a matter which has arisen in the Boughton Church Conservation Area which directly and negatively impacts both the residents of Boughton Church Cottages and the proposed extension to the conservation area.

This land known as Lime Kiln on which the hop pickers' huts stand has recently been leased by the farmer, [REDACTED] to another small scale farmer, [REDACTED]. Work has already started to clear the land of trees and fence posts have been erected to ultimately enclose the land.

I live [REDACTED] [within the Boughton Church Conservation Area]. Like everyone in this small enclave, I have enjoyed an uninterrupted view across the fallow field [REDACTED] over to the hop pickers huts. The field attracts a lot of wildlife including, but not limited to, rabbits, foxes, stoats/weasels and pheasants. We also enjoy the sight of birds of prey soaring over the field in search of their quarry and the dusk sorties of a barn owl. All of this is currently in jeopardy as the fallow field is turned into something akin to a large scale allotment.

This project is already detracting from the visual appearance of its surroundings and once the fence is fully installed, there will be visual loss of the hop pickers huts both from Boughton Church Cottages and the road in general. Moreover the new tenant, [REDACTED] has lodged an application with Swale Borough Council to erect a polytunnel [REDACTED] which would not be in keeping with the proposed plan to extend the conservation area. [REDACTED] is also in discussions with a Kent-based Wireless Internet Service Provider, Vfast Limited, to instal a mast/repeater which [REDACTED] is currently lobbying the [REDACTED] [local people] to support. This would also not be in keeping.

To his credit, [REDACTED] did arrange a meeting with the local residents to outline his plans for the land but having listened to them, I fear that the working of the land will impact our privacy and peace and quiet and thus our enjoyment of what is currently a piece of open countryside and a view of the hop pickers huts. Furthermore [REDACTED] advised us that [REDACTED] has an annual open day in the summer which [REDACTED] invites [REDACTED] customers and anyone else associated with [REDACTED] business. This would be held on the land at Lime Kiln. Again, this would negatively impact not only on the residents right to enjoy the tranquillity of their surroundings but just as importantly impact on parking when there is already insufficient parking for our visitors.

Yours sincerely,

[REDACTED]

APPENDIX 2:**TABLE OF PROPOSED REVISIONS TO THE BOUNDARIES OF THE BOUGHTON PARISH CONSERVATION AREAS****BOUGHTON STREET CONSERVATION AREA**

Ref. No.	Proposed Boundary Change Summary Information	Representations Made	Officer Response	Recommendation
1	This essentially consists of the approach to the village from the west, and land either side of Stockers Hill at the western end of Character Area 1. The gradient, the curve in the road and the houses at this point give the distinct feeling of having arrived at the periphery of the village. Mature trees and green hedges are important features on this approach to the village and combine with the buildings to provide an attractive composition worthy of protection and inclusion within the C.A.	Parish Council – general support	Noted, and agreed that the proposed boundary changes are appropriate.	Proposed changes as set out at public consultation stage to remain as indicated on proposed extensions map (see appendix 3 of this report).
2	This represents an insignificant alteration to the boundary of the Conservation Area at 207 The Street, simply in order to respond to apparent changes in plot boundaries that have occurred since the Conservation Area was originally designated.	Parish Council – general support	Noted, and agreed that the proposed boundary changes are appropriate.	Proposed changes as set out at public consultation stage to remain as indicated on proposed extensions map (see appendix 3 of this report).

BOUGHTON STREET CONSERVATION AREA (Continued)

Ref. No.	Proposed Boundary Change Summary Information	Representations Made	Officer Response	Recommendation
3	This area includes part of a garden, recently used as a beer garden, and the car park to the White Horse Inn. It forms the setting to several listed buildings on The Street and is bounded, in part, by traditional brick boundary walls.	Parish Council – general support	Noted, and agreed that the proposed boundary changes are appropriate.	Proposed changes as set out at public consultation stage to remain as indicated on proposed extensions map (see appendix 3 of this report).
4	This proposed extension concerns an area of land and buildings to the north of Character Area 1 (of two identified character areas within the conservation area) at the head of School Lane and to the north of nos.184 to 220 (evens) The Street. At this point, School Lane turns into a footpath leading through to the village hall car park. The east of the footpath is bounded by characteristic school railings which are raised on a brick plinth and terminated by brick and stone gate piers. The village school was built c.1905 in a forceful gothic style consisting of tall windows, gables and decorative brick banding. Contrasting red and yellow stock brickwork sits under steeply pitched plain tiled roofs. Its multiple gables, finials, roof vents and chimneys create an interesting silhouette and a pleasing stop to the view up School Lane. To the west of the foot path is a pleasant row of two-storey cottages	Parish Council – general support	Noted, and agreed that the proposed boundary changes are appropriate.	Proposed changes as set out at public consultation stage to remain as indicated on proposed extensions map (see appendix 3 of this report).

Ref. No.	Proposed Boundary Change Summary Information	Representations Made	Officer Response	Recommendation
	which, despite some changes to fenestration and the odd extension, make their own contribution to the character of the place. The area also includes the Mill House and the site of a former windmill set on the rise of the hill.			
5	This area consists of a house and garden called Sandy Ridge. It sits to the east of Bounds Lane which is one of the small roads at right angles to The Street. From The Street looking up Bounds Lane, the view is terminated by the pleasant painted brick elevation of the cottage with a characteristic peg tile roof. Bounds Lane is one of several tracks which head off to the north through orchards and arable fields in the direction of Staple Street.	Parish Council – general support	Noted, and agreed that the proposed boundary changes are appropriate.	Proposed changes as set out at public consultation stage to remain as indicated on proposed extensions map (see appendix 3 of this report).

BOUGHTON CHURCH CONSERVATION AREA

Ref. No.	Proposed Boundary Change Summary Information	Representations Made	Officer Response	Recommendation
1	This proposed extension was put forward by members of the Neighbourhood Plan Committee, which considered that although the graveyard extension appears to have been created in the 1990s (the date on the gate to this area reads 1994), the tree and hedge planting of this area has achieved a maturity in the intervening period and the area is clearly significant and special to those of the local community that use it or have used it in the past.	<p>General support (two local residents).</p> <p>Parish Council objection: The PC owns the civic cemetery and purchased the land when it was not in a conservation area. To now change the type of area would impose additional constraints on the running and maintenance of the cemetery that were not forecast and would be of no additional benefit to the Parish Council.</p>	The area of the churchyard extension is physically different in appearance and associated character from the parish churchyard. It provides little if anything in the way of benefit to the positive management of, or a contribution to the understanding of the heritage significance of the Boughton Church Conservation Area. The arguments about imposing additional burdens on the Parish Council are not convincing, but the area in question nevertheless clearly already forms part of the setting to the conservation area and is located in the countryside for development plan purposes (i.e. has no	Omit the proposed boundary change from the conservation area re-designation proposal, as the positive management of the Boughton Church Conservation Area would not be compromised or hindered by the omission of this proposed extension to its boundary. Note: This is not to say that the area in question should never form part of the Boughton Church C.A., but that as things stand at present, there is inadequate justification for changing the status quo position in relation to the conservation area boundary alignment at this location.

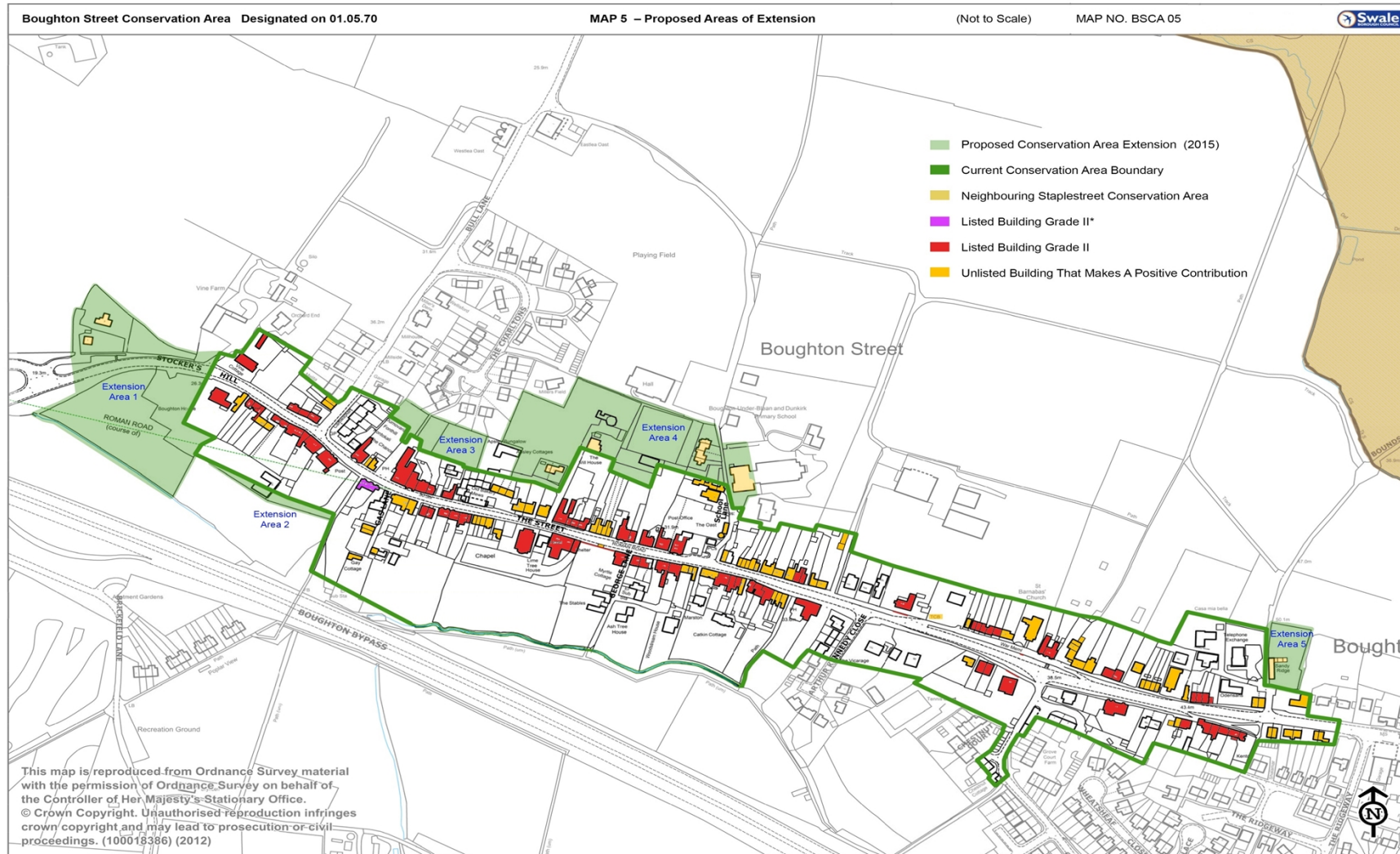
Ref. No.	Proposed Boundary Change Summary Information	Representations Made	Officer Response	Recommendation
			development potential). The PC remains committed to the ongoing management of the area for burial/remembrance purposes.	
2	This proposed change involves a rationalisation of the existing boundary to reflect changes on the ground since designation in 1976. It would remove a small rectangle of farmland at the rear of Boughton Church Conservation Area.	General support (two local residents). Parish Council – general support	Support noted and agreed that this effective tidying up of the Conservation Area boundary at this location is needed.	Proposed changes as set out at public consultation stage to remain as indicated on proposed extensions map (see appendix 4A of report).
3	This proposed extension was put forward by members of the Neighbourhood Plan Committee. The rationale for this is that the hoppers huts at the northern end of the parcel of land in question (known as lime kiln) still have a visual relationship with Boughton Church Farmhouse and its associated cottages directly across the open field in question, to the southwest. In the context of there being fewer and fewer surviving hoppers huts across the county and the traditional agricultural setting on the lower ground around the hill on which the parish church is perched, being eroded to some degree by the golf course, the reservoir	General support (two local residents). Objection from local landowner: The area includes a part row of harvest workers huts that are in a state of disrepair and a field of approx. 3 acres. It's not really understood why this particular parcel has been selected and by whom. There are no trees on this parcel of land and the workers huts are in a state	Things have moved on since the objection was made. The hoppers huts have deteriorated further, are now largely disused and the subject of a current application to convert and extend them into holiday accommodation. The proposed scheme would alter their overall form, but it would critically preserve the simple quintessential	Proposed changes as set out at public consultation stage to remain as indicated on proposed extensions map (see appendix 4A of this report). Retention of the proposed extension would help to ensure that the historic operational use connection and ongoing visual connection between the huts and the adjacent farmhouse and farm

Ref. No.	Proposed Boundary Change Summary Information	Representations Made	Officer Response	Recommendation
	and modern large and bulky agricultural buildings which relate poorly to their natural surroundings, the retention and conservation of a once much larger grouping of hoppers huts at this location is seen as one of the key strands in any boundary change and associated management strategy to preserve, and where possibly enhance the special character and appearance of the Boughton Church Conservation Area.	of disrepair but still used for agricultural purposes. The area is for all to enjoy but we need to be sensible about restricting activities of rural businesses which create rural employment and sustain/ maintain the countryside as we know it today. It is part of a working farm.	appearance of them as seen from the road. The scheme also appears to offer the only realistic option for the long term conservation of these traditional agricultural buildings.	cottages could be maintained in a meaningful manner which would benefit the special character of the Boughton Church C.A.

SOUTH STREET CONSERVATION AREA

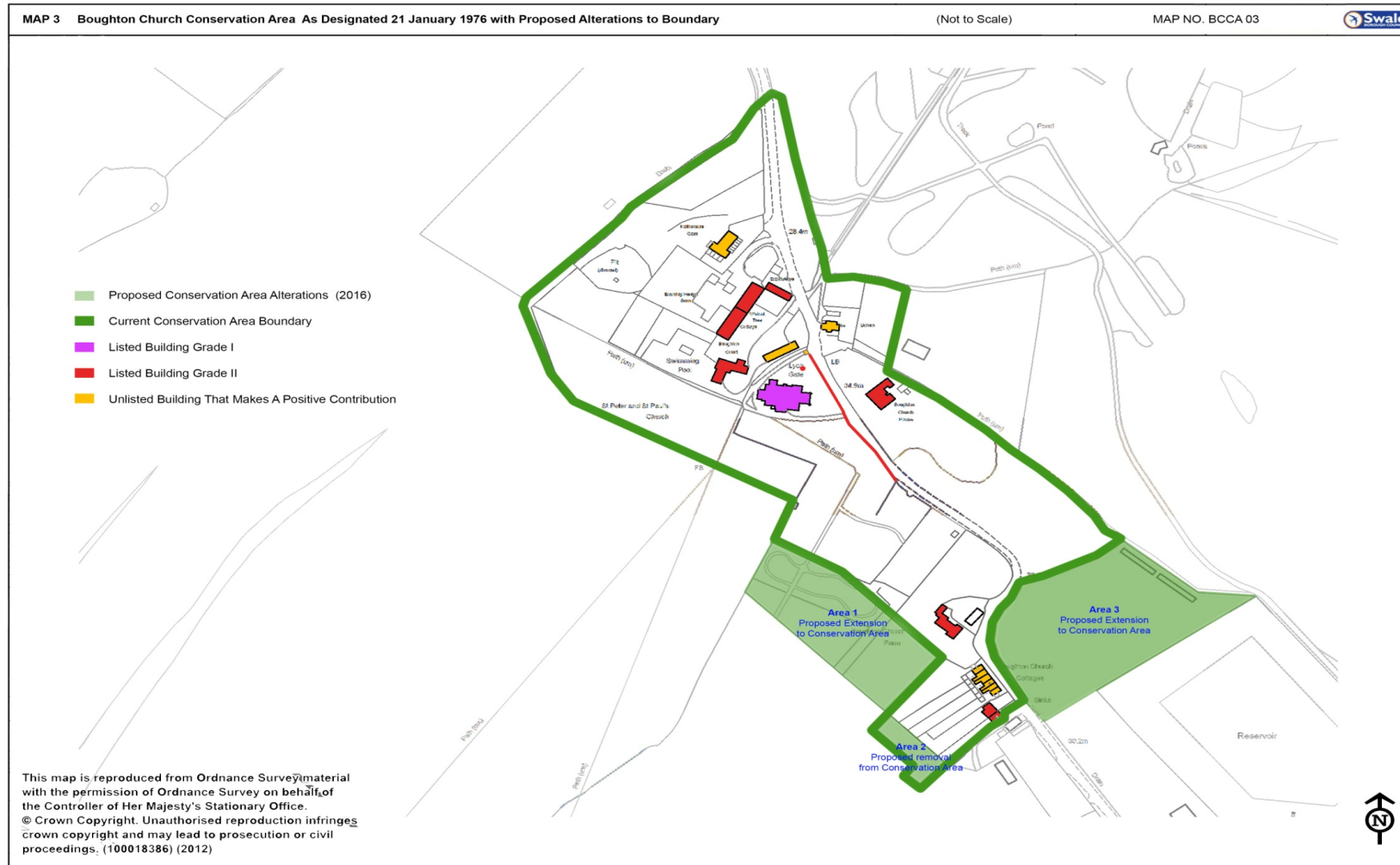
Ref. No.	Proposed Boundary Change Summary Information	Representations Made	Officer Response	Recommendation
1	PROPOSED EXTENSION 1 seeks to extend the boundary of the Conservation Area to the northwest to include the field on the north of the road which is farmed as a Cobnut Platt. Cobnut Platts were once a common sight in Kent but have declined in post war years. It has special interest as a well-managed and once common but now unusual feature of the Kent	Parish Council – general support	Noted, and agreed that the proposed boundary changes are appropriate.	Proposed changes as set out at public consultation stage to remain as indicated on proposed extensions map (see appendix 3 of this report).

Ref. No.	Proposed Boundary Change Summary Information	Representations Made	Officer Response	Recommendation
	landscape.			
2	<p>PROPOSED EXTENSION 2 consists of the area of North Lane to the north-east of the existing Conservation Area. The character of this area has some similarities to the existing Conservation Area in that it consists of a loose-knit group of houses and farm workers' cottages which date from over several centuries and are generally well preserved. The area also includes one listed building at Orchard Cottages and one former farm building, now a house, at The Barn and Oast.</p> <p>The incline as one ascends North Lane is noticeable and affords glimpsed views across parts of South Street and the wider landscape. Traffic is extremely limited and the rural tranquillity is seldom disturbed.</p>	Parish Council – general support	Noted, and agreed that the proposed boundary changes are appropriate.	Proposed changes as set out at public consultation stage to remain as indicated on proposed extensions map (see appendix 3 of this report).

APPENDIX 3**Map BSCA05 showing proposed alterations to boundary of Boughton Street Conservation Area**

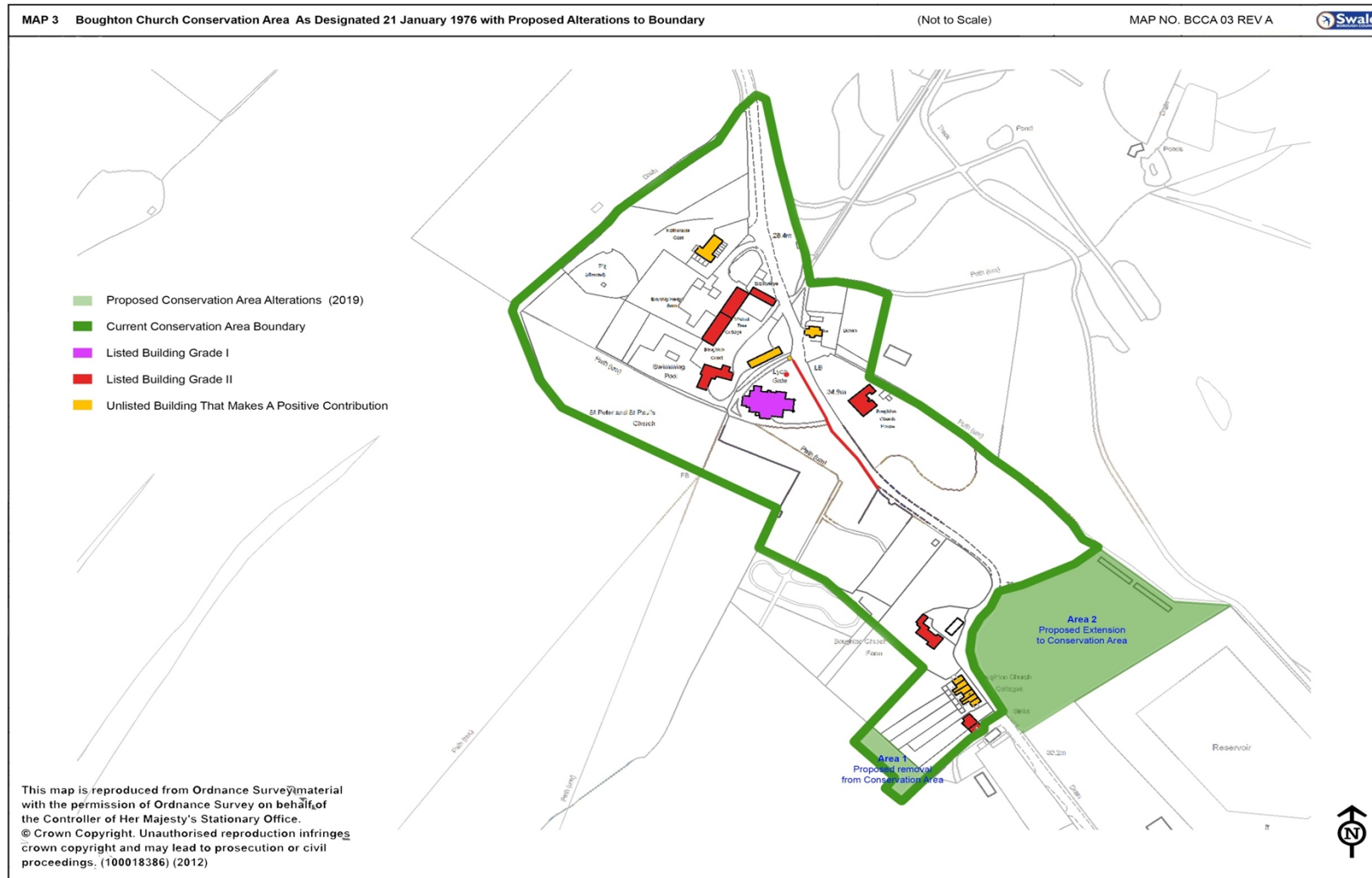
APPENDIX 4

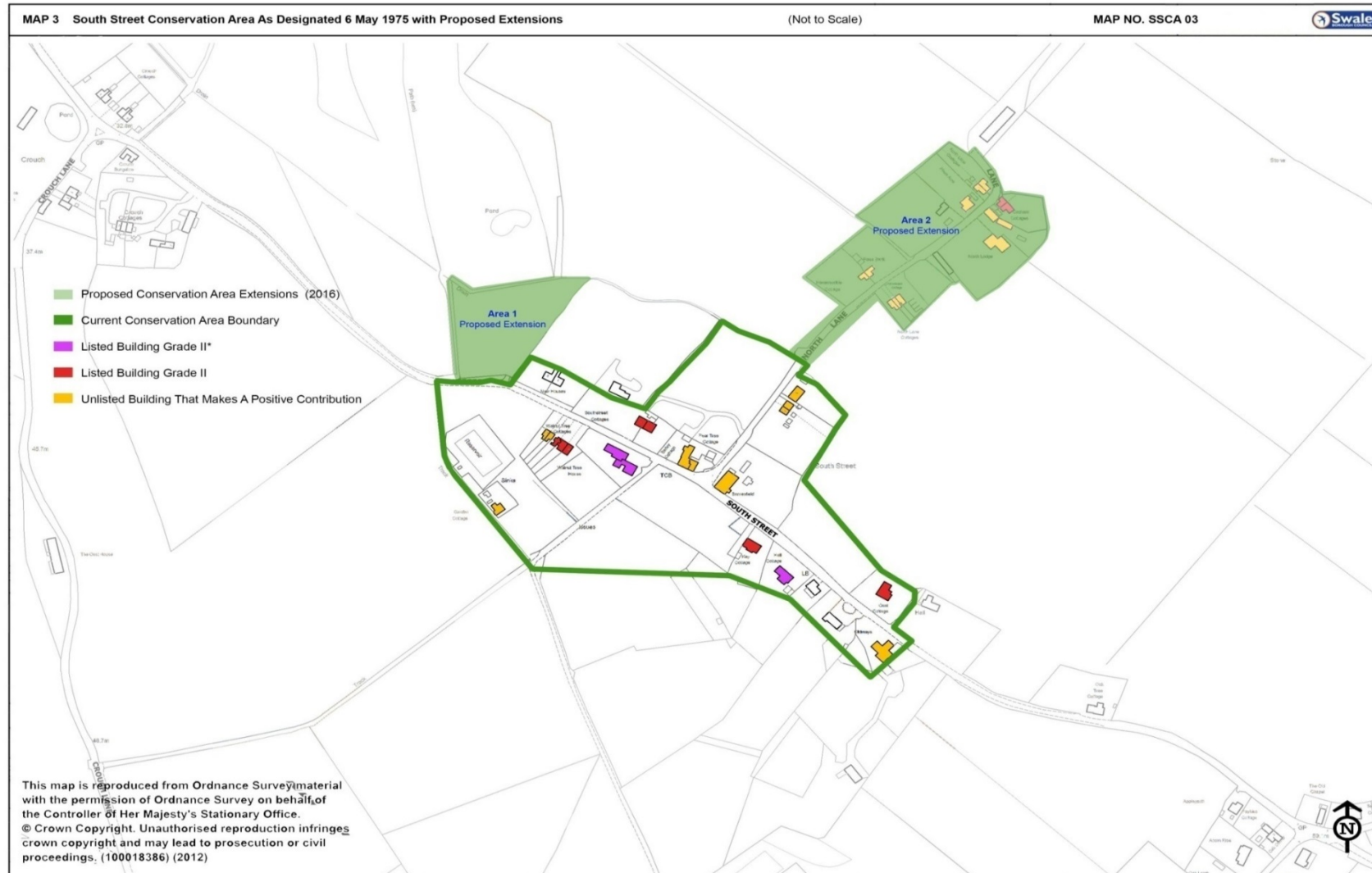
Map BCCA03 showing originally proposed alterations to boundary of Boughton Church Conservation Area



APPENDIX 4A

Map BCCA03 Rev. A showing revised/current proposed alterations to boundary of Boughton Church Conservation Area



APPENDIX 5**Map SS CA03 showing proposed alterations to boundary of South Street Conservation Area**

PLANNING COMMITTEE – 20 June 2019**PART 2**

Report of the Head of Planning

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

2.1 REFERENCE NO - 19/501555/FULL & 19/501556/LBC		
APPLICATION PROPOSAL Refurbishment and improvement of existing granary to provide ancillary accommodation.		
ADDRESS Scotts Farm House Hansletts Lane Ospringe Faversham Kent ME13 0RW		
RECOMMENDATION – Approve SUBJECT TO referral of the listed building consent application to the National Planning Casework service.		
REASON FOR REFERRAL TO COMMITTEE SPAB Objection		
WARD East Downs	PARISH/TOWN COUNCIL Ospringe	APPLICANT Mr Tim Stiles AGENT Alan Foster Architects
DECISION DUE DATE 07/06/19	PUBLICITY EXPIRY DATE 17/05/19	

Planning History

SW/00/0972

Listed Building Consent for erection of a garage and demolition of a boundary wall
Approved 27.09.2000

SW/00/0971

Erection of Garage. (See also Listed Building Consent SW/00/0972)
Approved 27.09.2000

SW/94/0483

Listed building consent for renovation and alterations
Approved 09/06.2004**1. DESCRIPTION OF SITE**

- 1.1 The granary is set in the southern corner of the rear garden at Scotts Farm House, which is a Grade II listed building set in a small remote cluster of buildings within the Kent Downs Area of Outstanding Natural Beauty.
- 1.2 The granary involved in this application is a single storey detached square shaped building set up off the ground, with a light-weight modern lean-to log store on one side. It is in poor condition and overgrown, and it has a roof clad in corrugated iron over a replacement low pitched softwood roof structure.

2. PROPOSAL

- 2.1 These applications seek planning permission and listed building consent for refurbishment and improvement of the existing granary to provide ancillary living accommodation; namely a bed sitting room and shower room. The works would involve replacement of existing weatherboarding with unstained oak weatherboarding,

replacement of the existing steep ramp with steps and handrail, replacement of the exterior door, the installation of four new narrow windows, an internal shower room, removal of the existing exterior log store, and the creation of a wholly new steeply pitched roof structure, which restores the likely former traditional pyramidal form of the roof of the granary.

- 2.2 The applications are supported by a significance statement that explains the proposal in terms of the history of the building.

3. PLANNING CONSTRAINTS

Kent Downs Area of Outstanding Natural Beauty (AONB)

Listed Buildings MBC and SBC Ref Number: 166/SW

Description: G II SCOTTS FARM HOUSE, HANSLETTS LANE, OSPRINGE, FAVERSHAM,

4. POLICY AND CONSIDERATIONS

- 4.1 The National Planning Policy Framework (NPPF) and National Planning Practice Guidance (NPPG)
- 4.2 Bearing Fruits 2031: The Swale Borough Local Plan 2017 policies CP4, DM14, DM16, DM24 and DM32.
- 4.3 Supplementary Planning Guidance (SPG): 'Listed Buildings'

5. LOCAL REPRESENTATIONS

- 5.1 The Faversham Society objects to the application on the grounds that the addition of modern steps to the exterior, the installation of an interior bathroom and fittings, and a new false ceiling would result in less than substantial harm. The harm is not justified in order to create an annex to an existing dwelling.
- 5.2 I imagine that the Society's objection to the new false ceiling is a mistaken reference to the existing roof profile shown for information purposes on the proposed drawings. The drawing actually says that the new roof will be lined with plasterboard except where purlins and collars are exposed, meaning that the plasterboard will be attached to the underside of the rafters.

6. CONSULTATIONS

- 6.1 Ospringe Parish Council raises no objection to the applications, considering the proposed design to be a sympathetic use of a historic building.
- 6.2 Historic England make no comments on the applications.
- 6.3 The Society for the Protection of Ancient Buildings (SPAB) has objected to this application in the following terms:

"The Society support the repair work proposed and the replacement of the corrugated iron roof, as these improvements will assist in the preservation of the Granary for the future. However, we feel that the proposals suggest too many alterations that would fundamentally ruin the character of this unique structure. As mentioned in the 'Significance statement', the Granary is the 'last un-modernised building within the hamlet', and thus the applicants should desire to keep this so. The addition of several new windows and the shower room will significantly change the appearance, use and character of the structure, causing substantial harm to its significance. As

demonstrated in the other examples given of free stand grain stores, there are no additional windows, which more honestly reflect the structures agricultural history. We would suggest that as the structure is only to be used occasionally as guest accommodation, that the shower room be removed, as this addition will require substantial changes to the historic fabric of the building.”

As a statutory consultee on a listed building consent application involving any demolition, SPAB's objection means that the application must be referred to the National Planning Casework service for possible call-in by the Secretary of State if the Council were minded to approve it. I can arrange this once the Committee has considered the application and are so minded.

7. BACKGROUND PAPERS AND PLANS

- 7.1 All papers submitted with applications 19/501555/FULL & 19/501556/LBC

8. APPRAISAL

- 8.1 The main considerations in the determination of these applications are the effect the proposal could have on the designated countryside, the natural beauty of the AONB, the setting of the listed building and the visual appearance on the character and appearance of the property.
- 8.2 In accordance with the Planning (Listed Buildings and Conservation Areas) Act 1990, policy DM32 of the Local Plan seeks to ensure that development proposals preserve the importance and setting of listed buildings. The application site lies within an Area of Outstanding Natural Beauty and here policy DM24 is also especially relevant.
- 8.3 Currently, due to its semi-derelict and altered form the granary fails to make a positive contribution to the character and appearance of the host listed building, Scotts Farm House. The proposed development would have no adverse effects on the setting of the nearby grade II listed buildings and the wider streetscene as the development is to the rear of the property and not visible from the highway.
- 8.4 The application is supported by a significance statement which has been fully considered by officers and no objection is made to the layout, scale, design and external appearance of the scheme in relation to the listed building. In my view, the proposal appears to be very well considered and represents a sensible relatively non intrusive re-use of the disused granary building. The degree of necessary repair and alteration to the building has appropriately been kept to a minimum and brings the building back into use. The proposed alteration to the roof would serve to help restore some of the lost character.
- 8.5 The footprint of the granary will not change, and I consider the proposed pitched roof will have no significant impact upon residential amenity as the distance between the granary and the nearest neighbouring building is approximately 5m. With regards to any overlooking impact from new the windows, I note that they are located in the northwest and southeast elevation and I am of the opinion due to the distance to the boundary and the neighbouring building there would be no overlooking issues.
- 8.6 Taking the above into account, I consider that refurbishment and improvement of the granary is acceptable.
- 8.7 I have carefully considered the concerns raised by SPAB and Faversham Society about the effect of the proposed alterations on the character of this unique structure. However, I consider that the proposals have been very well considered and represent a sensible relatively non intrusive re-use of the disused granary building.

9. CONCLUSION

- 9.1 The proposals will not give rise to any unacceptable impacts on residential or visual amenity. They will enhance rather than detract from the setting of the main listed building, and will ensure a future use for the building, I conclude that the refurbishment and improvements to the granary would be acceptable and I recommend planning permission and listed building consent be granted.

10. RECOMMENDATION - GRANT Subject to the following conditions

CONDITIONS

19/501555/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) The extent of repairs to the timber frame to be limited to those shown on drawing 462/05A unless otherwise previously agreed in writing by the Local Planning Authority.

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

- (3) The annex accommodation shall not be occupied at any time other than for purposes ancillary to the residential use of the dwelling known as Scotts Farm House.

Reason: As its use as a separate unit of accommodation would be contrary to the provisions of the development plan for the area.

The Council's approach to the application

In accordance with paragraph 38 of the National Planning Policy Framework (NPPF), February 2019 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 acceptable as submitted and no further assistance was required.

19/501556/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) Details of cast iron rainwater goods to be used shall be submitted and agreed in writing by the Local Planning Authority before their installation.

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

- (3) The works to which this consent relates to must not be started before the following construction details have been submitted to and approved in writing by the Local Planning Authority.

- (a) 1:10 elevation of new entrance steps
- (b) 1:1 or 1:2 vertical section of handrail and treads
- (c) Details of any flues to be provided

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

- (4) Samples of facing and roofing materials (clay roof tiles and weatherboarding) to be used in alterations of the granary building shall be submitted to and approved in writing by the Local Planning Authority before their installation.

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

- (5) Before works commences, a 1:10 elevation detail and a 1:1 or 1:2 plan and vertical section for each new window type to be used shall first be submitted and subsequently approved in writing by the Local Planning Authority.

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

- (6) Before works commences a 1:10 elevation detail and a 1:1 or 1:2 plan and vertical section for each new external door type to be used shall first have been submitted and subsequently approved in writing by the Local Planning Authority.

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

INFORMATIVE (for both applications)

- (1) The sectional drawings to be provided shall include part of the surrounding masonry or joinery bordering the window or door opening and shall be set out clearly (annotated as necessary) to show the following details:

- Depth of reveal
- Window head and cill/sub-cill detailing
- Glazing section (thickness of glass and in case of double glazing, dimension of spacing between the panes of glass)
- Glazing bar profiles
- Door frame / window frame
- Weatherboard and threshold detail (for doors only)

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

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



2.2 REFERENCE NO - 19/501881/FULL		
APPLICATION PROPOSAL Proposed first floor rear extension.		
ADDRESS Old Moss Mill Lane Hartlip Sittingbourne Kent ME9 7TB		
RECOMMENDATION Approve		
SUMMARY OF REASONS FOR RECOMMENDATION The development will not cause unacceptable impacts to either residential or visual amenities and will not impact the parking provision at the property.		
REASON FOR REFERRAL TO COMMITTEE Parish Council objection		
WARD Hartlip, Newington And Upchurch	PARISH/TOWN COUNCIL Hartlip	APPLICANT Mr Ryan Bendelow AGENT Resi
DECISION DUE DATE 25/06/19	PUBLICITY EXPIRY DATE 28/05/19	

Planning History

SW/13/0992

Single storey front extension, single storey rear extension, roof extension to dwelling, dormer windows front and rear and other alterations.

Approved Decision Date: 22.10.2013

SW/13/0333

Proposed single storey front and rear extensions including enlargement of garage, first floor side extension, new roof with increased ridge height for loft accommodation with two front and two rear dormer windows.

Refused Decision Date: 05.06.2013

1. DESCRIPTION OF SITE

- 1.1 Old Moss is a two and a half storey detached property located in a ribbon of development outside the built up area boundary of Hartlip, and is therefore considered to lie in open countryside. The property has a paved driveway to the front and private amenity space to the rear. The property is surrounded by open fields to the east and west, with a mixture of housing styles and types present in the streetscene to the north and south of the site. Immediately to the north is a two storey detached dwelling of a similar scale, and to the south lies a row of four terrace houses (Millfeld Cottages), which are set considerably further forward than Old Moss.
- 1.2 The property was extended significantly under application SW/13/0992, when the roof of the original house was raised to form a two and a half storey dwelling with dormers lighting rooms in the new roof space, along with the erection of flat roofed single storey front and rear extensions.

2. PROPOSAL

- 2.1 The current application seeks planning permission for the erection of a first floor extension at the rear of the property, which will be situated approximately above the central part of the recently built single storey rear extension. It will measure 4.1m x 5.5m. It will have an assymmetric partly pitched and partly flat roof to prevent obscuring

views from rear dormer windows. The extension will provide a larger bedroom on the first floor, with associated rear balcony set between side walls/roofslope of the extension.

3. PLANNING CONSTRAINTS

3.1 None

4. POLICY AND CONSIDERATIONS

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

4.2 Development Plan: Bearing Fruits 2031: The Swale Borough Local Plan 2017 policies CP4, DM11, DM14 and DM16.

4.3 Supplementary Planning Guidance (SPG): 'Designing an Extension: A Guide for Householders'

5. LOCAL REPRESENTATIONS

5.1 One objection was received from a neighbouring property. Its content is summarised below:

- Old Moss has been extensively re-modelled and extended over the last few years, however this latest planning proposal crosses the line in terms of acceptability from our point of view as the immediate neighbour to the left of Old Moss
- The proposed first floor extension with bi-fold doors and balcony will overlook our garden impacting our privacy
- The proposed extension itself - on top of the already extended ground floor is to the south of us and will restrict our light, overshadow our garden and patio area and be generally obtrusive to our property
- The attraction of the immediate semi-rural neighbourhood is that we are not overlooked – an important consideration when we purchased the property, but also in terms of future saleability, value and general amenity - this proposal would be detrimental to that attraction

6. CONSULTATIONS

6.1 Hartlip Parish Council originally commented on the application as follows;

"HPC does have concerns about this application as the proposed development could affect the amenity of neighbours such as loss of light and privacy."

I queried whether the Parish Council objected to the application and received the following response:

"In view of the fact that the neighbour has the same concerns as the Parish Council, the Parish Council objects to this application."

7. BACKGROUND PAPERS AND PLANS

7.1 Plans and documents relating to 19/501881/FULL.

8. APPRAISAL

Principle of Development

8.1 The site lies outside any built up area boundary and is therefore considered to be located in the countryside. Policy DM11 permits extensions to dwellings in the

countryside (taking into account any previous enlargements) where they are of an appropriate scale, appearance and mass in relation to the location. The Council's SPG entitled 'Designing an Extension: A Guide for Householders' states that extensions to properties in the countryside will not normally be permitted if they result in an increase of more than 60% of the properties original floorspace. This guidance aims to prevent small, rural properties from becoming extended into large dwellings, altering their character and appearance and harming the appearance of the wider countryside. In this case, when taking into account the floorspace of the original property (which was a moderately sized, detached three bedroom house) and the potential floorspace that could of been created in the original property's loft space via permitted development, the additional floorspace added under SW/13/0992 equates to a roughly 60% increase. I consider the extension proposed now will be small in scale and I note it will not extend the footprint of the property, being situated above the existing flat roofed rear extension. Taking all of the above into account, I believe the principle of development is acceptable and the proposal will not have a significantly harmful impact on the surrounding countryside.

Visual Impact

- 8.2 Regarding impact upon visual amenities, I note the proposal will be located entirely at the rear of the dwelling and as such, will not be visible from public vantage points. It is of an unusual design, which reflects an attempt to lessen the impact it will have on neighbouring dwellings. Although it does not mirror the existing character of the building (which was changed significantly following approved application SW/13/0992), I believe its design would not constitute a reason for refusal. The use of modern design on traditionally designed buildings enables a clear distinction between, and appreciation of, the original and newer parts of the structure. I contacted the agent requesting specific details of the materials to be used on the extension. They suggested a condition be included requesting these details be submitted at a later date. Therefore I recommend such a condition below.

Residential Amenity

- 8.3 The Council's SPG states that first floor rear extensions sited on a common boundary should not project more that 1.8m from the rear wall of the dwelling, although if an extension is set away from the boundary a longer extension may be permitted. In this case the proposed extension would be set away from the common boundaries with both neighbouring properties Omega (to the north) and 1 Millfield Cottages (to the south), by roughly 4.2m and 1.5m respectively. Due to the separation distance between the extension and Omega I believe it would not give rise to any unacceptable overbearing or overshadowing impacts at this property. The proposed extension lies only 1.5m from the boundary with 1 Millfield Cottages, although the property itself lies a further 1.8m from the common boundary. I note that Old Moss is set considerably rearwards of Millfield Cottages and that there is an existing negative impact on the residential amenity at 1 Millfield Cottages. However, as the extension follows the same roof line as the existing sloped roof at Old Moss, the extension will project no closer than the existing roof line. Taking this into account, and the fact the extension is set away from the common boundary, I believe the impact on this neighbouring property will not be significantly worse than the existing circumstances. As such, I believe the extension will have an acceptable impact on residential amenity.
- 8.4 I take into account the objection received from Omega and the Parish Council, however as set out above, the extension will be set away from the common boundary by 4.2m. Taking into account this distance, any overshadowing impact will be minimal in my opinion. With regards to overlooking from the proposed bi-fold doors, I do not consider any overlooking impact will be considerably worse than the existing views of the neighbouring garden from the rear windows of Old Moss. It is also important to note that

the balcony is contained between solid walls/roofslope and should give rise to any direct view across the private areas of adjoining rear gardens.

Parking

- 8.5 The extension will not increase the number of bedrooms at the property and therefore the parking requirement will not be altered. I do note however that the driveway to the front of the property is capable of providing off-street parking for three vehicles, which is in excess of the parking provision recommended by Kent Highways for a four bedroom dwelling in this location (parking standards require a minimum of two spaces). As such I have no concerns from this regard.

Other Matters

- 8.6 The objector has raised concerns about the impact the proposal could have on the value of their property but any potential loss of value is not a planning matter and therefore cannot be taken into consideration here.

9. CONCLUSION

- 9.1 The proposed extension, due to the separation distances from the neighbouring properties, will not lead to unacceptable impacts on residential amenity, nor will it cause harm to the character and appearance of the dwelling or wider countryside. As such I recommend this application be approved.

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

Reason: In the interest of visual amenity.

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.



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2.3 REFERENCE NO - 19/502141/FULL		
APPLICATION PROPOSAL Erection of garage with self contained annexe above and associated drive to facilitate the care of elderly parent. (Resubmission to 19/500219/FULL)		
ADDRESS 20 Hustlings Drive Eastchurch Sheerness Kent ME12 4JX		
RECOMMENDATION Approve		
SUMMARY OF REASONS FOR RECOMMENDATION Proposed development would not give rise to unacceptable harm to residential or visual amenities, and constitutes an annexe reliant on the main dwelling.		
REASON FOR REFERRAL TO COMMITTEE Parish Council objection		
WARD Sheppey East	PARISH/TOWN COUNCIL Eastchurch	APPLICANT Mr Dennis Kavanagh AGENT Cb Planning
DECISION DUE DATE 25/06/19		PUBLICITY EXPIRY DATE 24/05/19

Planning History

19/500219/FULL

Erection of detached workshop garage with self contained annexe above and associated drive to facilitate the care of elderly parent. (Revision of 18/505632/FULL)

Refused Decision Date: 11.04.2019 Appeal in progress

18/505632/FULL

Erection of a detached workshop garage with self-contained annexe above for disabled and elderly parent and associated drive.

Refused Decision Date: 21.12.2018

1. DESCRIPTION OF SITE

- 1.1 20 Hustlings Drive is a large modern traditionally designed two storey detached property located on a prominent corner plot. There is an attached double garage to the north east of the property accessed from Carey Close, with hardstanding to the front of the garage for the parking of two cars, and private amenity space to the rear of the dwelling.
- 1.2 The application site is situated within the built up area boundary of Eastchurch and is situated on a housing development characterised by detached properties of a similar scale but with varying designs.

2. PROPOSAL

- 2.1 This application seeks planning permission for the erection of a two storey side extension which will provide a double garage at ground floor, with a single open plan living space, small kitchenette and shower room in the roof space accessed via an internal staircase leading up from the rear of the property. The structure will be attached to the western side of the main dwelling, with a door provided between the ground floor bedroom in the main dwelling and the stairwell to the annexe. The extension will have a width of 7m and a length of 7m. The eaves height will be 3.9m high and the ridge height will be 6.2m. Materials would match those used on the main house, brick and tiles. The

building will have a pitched roof with three rooflights in the rear roof slope, a large garage door and a Juliet balcony on the front elevation, and two doors on the rear elevation – one providing access to the garage and the other providing access to the stairwell. A block paved drive will be provided to the front of the garage which will provide parking for two vehicles.

- 2.2 The application form indicates the upstairs accommodation is required for a disabled relative, and the drawings indicate installation of a stairlift to provide access.
- 2.3 This is the third application that has been submitted at the site relating to a garage with annexe accommodation above. The first application (ref. 18/505632/FULL) was refused under delegated powers due to its design, unacceptable overlooking impact and the fact it was capable of being occupied as a separate dwelling.
- 2.4 Some members may recall the most recent application for a detached garage at the property, with annexe accommodation in the roof space (ref. 19/500219/FULL) was refused at planning committee on 4th April 2019. The application was similar to what is proposed here, however the structure was not attached to the main dwelling at the site. Officers believed the proposal was acceptable with regards to its impact to residential and visual amenity, and constituted an annexe dependent on the main dwelling, and therefore recommended the application was approved. However it was reported to planning committee as a result of Eastchurch Parish Council objecting to the application. At the 7th March 2019 planning committee, Members deferred the application to a site visit, and at the next committee, the application was refused by Members for the following reasons:

(1) The proposed development by virtue of its scale, design and location would result in a poorly designed building which would reduce the visual gap between No. 20 and No. 22 Hustlings Drive, causing harm to the character of the existing dwelling and the visual amenities of the surrounding streetscene. As such the proposal is contrary to policies DM14 and DM16 of Bearing Fruits 2031: The Swale Borough Local Plan 2017 and to the Council's SPG Designing an Extension - A Guide for Householders.

(2) The proposed annexe by virtue of its scale and the self-contained nature will amount to the creation of a separate dwelling, capable of independent occupation from the main dwelling. The development would therefore be harmful to the amenities of the area and be contrary to policies, DM14 and DM16 of the Bearing Fruits 2031: The Swale Borough Local Plan 2017.

- 2.5 The applicants have appealed this decision and the appeal is currently in progress. This application attempts to overcome the reasons for refusal on the previous application by attaching the structure to the main dwelling so that it is an extension to the existing property rather than a detached building.

3. PLANNING CONSTRAINTS

- 3.1 Potential Archaeological Importance

4. POLICY AND CONSIDERATIONS

- 4.1 The National Planning Policy Framework (NPPF) and National Planning Practice Guidance (NPPG)
- 4.2 Bearing Fruits 2031: The Swale Borough Local Plan 2017 policies CP4, DM14 and DM16.
- 4.3 Supplementary Planning Guidance (SPG): 'Designing an Extension: A Guide for Householders'

5. LOCAL REPRESENTATIONS

5.1 Two objections have been received from neighbouring properties. Their contents are summarised below:

- The proposal still results in a new footprint even though the garage will be attached to the main property
- Proposed extension is overwhelming in size in relation to the plot
- It is not in keeping with the streetscene, out of character and unsightly, in particular the rear elevation.
- Having two double garages and two double driveways with access to different streets either side of the property would give the appearance of a pair of semi-detached houses, therefore, not in keeping with other properties of this style on the development
- In breach of the covenant states no separate dwellings can be created
- It would be more in keeping to build above the existing double garage to provide an annexe
- This proposal will set a precedent for this executive development to become a free for all

6. CONSULTATIONS

6.1 Eastchurch Parish Council objects to the application and makes the following points:

- There is concern that some of the details on the application form were incorrect - Q16 - The applicant has said there is no gain of residential dwelling units. This application is for a self contained annexe - Q17 - The applicant has said there is no gain for non-residential floor space. The application contains a ground floor garage.
- Members were concerned that this would be a significant extension to the frontage of the property with an additional separate driveway to a different road. This would be an over-intensification of the frontage and would cause demonstrable harm to the street scene and residential amenity.

6.2 Natural England raises the issue of new residential development resulting in additional recreational disturbance on the Swale SPA, but as this application is for an attached annexe I do not believe that this question arises.

6.3 Kent Highways and Transportation say that the proposal does not meet the criteria to warrant involvement from the Highways Authority.

6.4 County Archaeological Officer; No archaeological measures are required in connection with the proposal.

7. BACKGROUND PAPERS AND PLANS

7.1 Application papers and drawings referring to application 19/502141/FULL, 19/500219/FULL and 18/505632/FULL.

8. APPRAISAL

Principle of Development

8.1 The application site is within the built up area boundary of Eastchurch where the principle of development is accepted. The main considerations in this case concern the impact to visual and residential amenity and the use of the roof space of the proposed garage as an annexe.

Visual Impact

- 8.2 One of the reasons for refusal on the previous application was the poor design of the development. This application proposes an extension to the property, rather than a separate building as was proposed under the two previous applications at the site. The extension will be set back slightly from the front elevation of the dwelling, and the ridge height will be lower than the main roof on the property to ensure the extension appears subservient. Due to the large scale of the existing property and the large plot, I consider the extension would not appear out of place or harm the character or appearance of the area.
- 8.3 Hanging tiles and matching brickwork will be used on the extension and I also note the new driveway will be laid with block paving, which is an appropriate material to use given the presence of block paving at all surrounding driveways. The Parish Council raises concern about the impact this new driveway will have upon the streetscene. The existing driveway at the property is accessed via Carey Close and the proposed driveway will be accessed from Hustlings Drive. The properties opposite the site on Hustlings Drive have driveways similar to the one proposed here and as such, I believe the driveway will not appear out of place.

Residential Amenity

- 8.4 The proposed building will be located between 4.2m – 7m from the common boundary with No. 22 Hustlings Drive. The main dwelling at No. 22 is located a further 4m from the common boundary. Taking into account this separation distance, there will be no significantly harmful impact on the adjacent dwelling or its garden in terms of an overshadowing or an overbearing effect in my view. The only windows in the rear elevation will be roof lights in the rear roof slope, and I do not consider these windows will give rise to any unacceptable overlooking impact.
- 8.5 Taking into account the location of the extension, I do not consider any other properties will be significantly impacted by the proposal.

Use as an Annexe

- 8.6 The annexe provides an open plan living and sleeping area with a kitchenette and bathroom on the first floor. Under the previous application, the second reason for refusal related to the structure being capable of being used as a separate residence. The floor space of the annexe proposed here is similar to the previous application, but the relationship between the annexe and the main dwelling is much more dependant due to the fact the structure is now an extension to the property, and internal access is provided between the extension and the main dwelling. Taking the above into account, and due to the scale of the annexe, I consider the development would constitute an annexe dependant or ancillary to the main house, but I recommend imposing condition (4) below which restricts the use of the building to purposes ancillary and/or incidental to the use of the dwelling, ensuring it can't be used as a separate dwelling.

Parking

- 8.7 The proposed garage measures 6.7m in width x 6.3m in length and it is to be used to store the applicant's private vehicles. I recommend imposing condition (4) below to ensure the garage remains in use for ancillary uses. I note the Parish Council's concern about the use of the garage for commercial uses; however this would require planning permission and the agent has also confirmed that the garage will not be used for commercial purposes.

Other Matters

- 8.8 I consider the above addresses some of the objectors' concerns, and I will comment on the remaining points raised here. The covenants placed on the property are not considered planning matters and therefore cannot be taken into account. I also note the

Parish Council has raised concerns about the application form being incorrect, however, this development does not propose a new residential unit or any commercial space; all the development will be ancillary to the main dwelling, and therefore the application form is correct.

9. CONCLUSION

- 9.1 On the basis of the above, I consider this application will not cause significant harm to the character and appearance of the area and will not give rise to harmful impacts to residential amenity. I consider the level of accommodation proposed in the extension will represent an annexe dependant on the main dwelling at the site. As such, I recommend that this application is approved.

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

Reason: In the interests of visual amenity.

- (3) The development hereby approved shall be carried out in accordance with the following approved drawings: CB-007, CB-008, CB-009, CB-010, CB-0011, CB-0012 and CB-0013.

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

- (4) The building hereby permitted shall not be used at any time other than for purposes ancillary and/or incidental to the residential use of the dwelling known as 20 Hustlings Drive.

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

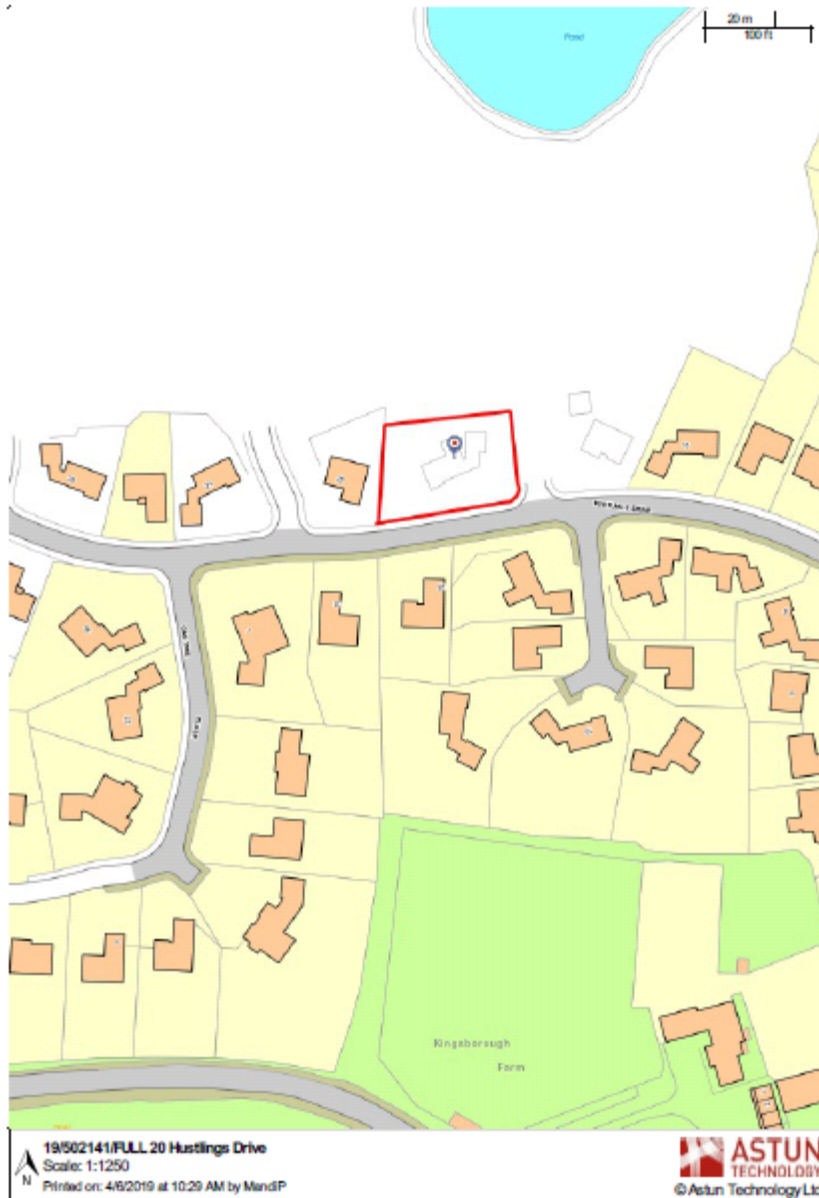
The Council's approach to the application

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 - 19/500768/FULL			
APPLICATION PROPOSAL Winter storage of seasonal workers caravans and welfare unit.			
ADDRESS Owens Court Farm Owens Court Road Selling Faversham Kent ME13 9QN			
RECOMMENDATION - Approve			
REASON FOR REFERRAL TO COMMITTEE Parish Council objection; local objections			
WARD Boughton And Courtenay		PARISH/TOWN COUNCIL Selling	APPLICANT F W Mansfield & Son AGENT Hobbs Parker Property Consultants
DECISION DUE DATE 18/04/19		PUBLICITY EXPIRY DATE 08/04/19	
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):			
App No	Proposal	Decision	Date
16/504494/FULL	Planning permission for erection of cold store	Refused, but allowed at appeal 29/03/2017	21/09/2016
15/506585/FULL	Planning permission for erection of cold store	Withdrawn	08/12/2015
15/505166/AGRREQ	Prior approval for erection of cold store	Planning permission required	27/07/2015
15/503788/AGRIC	Prior notification for erection of cold store	Prior approval required	27/05/2015
SW/13/0381	Change of use of Unit 2 for the servicing, repair and sale of farm equipment	Approved	15/052013

1.0 DESCRIPTION OF SITE

- 1.01 The site is an established fruit farm of 26.5 ha, situated in a rural area some distance outside any built-up area boundaries and adjacent to but not within the Kent Downs Area of Outstanding Natural Beauty (AONB). The site is reached by a fairly narrow lane (with passing places). There is a line of semi-mature poplar trees to the front and the side of the proposal site, and a pair of privately occupied cottages fronting the lane.
- 1.02 The farm at present consists of a number of agricultural buildings of varying ages and styles. One such building is no longer used in conjunction with the farm and was approved as an agricultural machinery repairs business, sales and servicing business under planning reference SW/13/0381.

- 1.03 Of some relevance is that a full planning application for a fairly small new cold store building on the site was refused by the Planning Committee, contrary to Officer recommendation, and a refusal notice issued on 21st September 2016. At the subsequent appeal planning permission was granted and costs were awarded against the Council. The conditions applied by the Inspector have been complied with, but the building is yet to be constructed.

2.0 PROPOSAL

- 2.01 The original description of the current proposal given was that of 'Provision of seasonal workers caravans, welfare unit and winter storage', and this is what local consultations were based on. However, it should be noted that the stationing of the caravans and welfare unit for use by seasonal workers engaged on the farm during the agricultural season would constitute permitted development. As such, the proposal for Members to decide upon refers solely to storing these caravans in situ over winter, rather than taking them off site and storing them elsewhere. Accordingly, the description has now been amended to 'Winter storage of seasonal workers caravans and welfare unit'. The welfare unit is essentially another caravan.
- 2.02 The proposed layout shows fifteen caravans, situated approximately fifty metres from the boundary with the four properties forming Owens Court Cottages and seventy five metres from Owens Court Road.
- 2.03 The caravans would be placed in five rows of three, going from northeast to southwest. The welfare unit would be placed behind this block, furthest away from the road.
- 2.04 The southern two rows of caravans would be obscured from the road by the cold store noted above when built. It is proposed to plant a screen hedge between the caravans and Owens Court Cottages, to mitigate any further visual impact.
- 2.05 A Planning Statement is submitted with the application, which includes the following information:

'The farm needs to accommodate 40 seasonal cherry workers to work in the cherry production and harvest at this site. Due to controls governing accommodation for seasonal workers, the farm must provide suitable accommodation and is restricted on the number of workers per caravan. This therefore results in requirement for the provision of 15 caravans, which the farm intend to provide as three rows of 5 caravans to group them in the best arrangement. The farm currently buses in workers, on a daily basis, during the cherry season from other locations. This results in a financial cost to the business from the provision of transport and a cost to the environment, from a large number of daily trips to and from the farm to a variety of off-site accommodations. With the seasonal workers accommodated on site, a high level of traffic movements to and from the site can be removed, reducing traffic movements within the area. Accommodation on site also has the additional benefit of ensuring staff are available on site to address any issues that may arise with the crop. The communal building is to be located close to the proposed caravans, for use as a communal area to serve the seasonal workers. Whilst there is excellent local screening to the road network, the site is currently visible from the rear of properties at Owen's Court Cottages. In view of this, it is proposed to plant a screen hedge between the caravans and Owens Court Cottages, to mitigate any visual impact.'

3.0 PLANNING CONSTRAINTS

3.01 Outside established built up area boundaries

3.02 Adjacent to (but not within) AONB

4.0 POLICY AND OTHER CONSIDERATIONS

4.01 Bearing Fruits 2031: The Swale Borough Local Plan 2017: Policies CP1 (Strong competitive economy), DM3 (Rural economy), DM6 (Transport), DM7 (Vehicle parking), DM12 (Dwellings for rural workers), DM14 (General development criteria), DM19 (Sustainable design), DM24 (Landscape), ST3 (Swale settlement strategy)

5.0 LOCAL REPRESENTATIONS

5.01 Fourteen emails and letters of objection have been received from local residents. The comments contained therein may be summarised as follows:

- *‘Storage of caravans is in itself not agricultural and therefore shouldn't be allowed. This is the countryside and storage is only related to farming and agriculture when seasonal agricultural workers are being housed on the land. When the workers go home at the end of the season it then becomes storage of caravans in the countryside and this is unacceptable.’*
- Many workers will have their own cars, so traffic will increase
- No parking facilities
- Poor/non-existent public transport links
- No proven agricultural need
- Noise and pollution during occupation
- Harm to visual amenity and the AONB
- Owens Court farm is a small farm consisting of only 65 acres of cherries and 15 caravans to house farm workers on this site seems excessive
- Existing deciduous hedging would not screen the site during the winter months
- *‘Mr Mansfield has a reputation of providing substandard accommodation for workers on his farms, and for subletting caravans to other farms to supplement income.’*
- Vehicular access will directly effect us
- *‘Why is the site to be operational from March to September when the picking season only extends from June through July? It is my understanding that poly-tunnel erection and maintenance work, pruning etc. on Owens Court Farm undertaken by a number of UK based companies and is not performed by the European workforce described Section 6.3 in the application. Why do the caravans need to be permanent if only 6 week occupancy is required?’*
- This area of the site is prone to flooding
- No mention of the type of hardstanding for the site is given
- Owens Court Road is very narrow
- There are other sites better suited to serving the workers
- Employees can be shipped in as last year which worked quite well
- *‘Arranging the caravans in 5 rows of 3 instead of 3 rows of 5 would reduce the lateral spread of the site when viewed from Owens Court Road and the neighbouring houses, and help reduce its visual impact, and increase the number of caravans shielded from those views once the cold store approved is built.’*
- No details of sewage disposal

- *‘The application as currently presented conflates and muddles the separate planning considerations by suggesting a permanent change of use for stationing/storage of caravans can be granted on the back of Permitted Development Rights and that the two can somehow operate simultaneously. This cannot be correct as land can normally only have one approved planning use at any time.’*
- Approval will result in a loss of privacy and visual appearance. There would also be excess of noise, smells and disturbance from this site

6.0 CONSULTATIONS

- 6.01 No response has been received from Selling Parish Council.
- 6.02 No response has been received from Kent Highways and Transportation.
- 6.03 No response has been received from the Council’s Environmental Health Manager.
- 6.04 The Council’s Rural Planning Consultant has raised no objection to the proposal. His comments are as follows:

‘As you are aware F W Mansfield & Son are long-established fruit growers and who now farm about 1200 ha of orchards and soft fruit in the county, their main operational base being Nickle Farm, Chartham, where centralised fruit storage and packing takes place. Owens Court is a 26.5 ha fruit holding comprised of relatively newly planted cherry orchards, in respect of which planning consent has previously been granted for protective frameworks for seasonal covering with polytunnels. The farm also obtained consent on appeal under planning reference 16/504494 for the erection of a cherry store. As you are aware, temporary workers’ caravan accommodation can be utilised as “permitted” development on a seasonal basis in any event, but planning consent is required if the units concerned are left on site throughout the year, and thus effectively stored there out of season when vacant, or if the accommodation is sought for a worker year-round. It is common now for fruit and vegetable farms in Kent, who rely heavily upon casual workers (usually from abroad) to seek, and obtain, consent to leave “seasonal” caravans for workers on site all year round, subject to suitable conditions including agreed periods of occupancy/vacancy in any one year, without continuous year-to-year occupation. This avoids the costs and upheaval (and traffic impact) of having to move such units back and forth off the site. In this case the proposal appears to be designed to secure a sufficient number of caravans of a suitable standard to attract, and properly accommodate, the required workforce (40 in this case), recognising that following the Brexit vote it has become more difficult to engage such staff. Notwithstanding the agricultural merits of the proposal, the detailed siting of seasonal workers’ mobiles needs to be weighed against the suitability of the particular location in each case, having regard to other Planning considerations; the overall Planning balance in this regard is a matter for the Borough Council to judge, but please let me know if you require any further advice.’

8.0 APPRAISAL

- 8.01 When assessing this proposal, it is important to remember that the stationing of the caravans over the winter period is the only factor to consider in this case. Agricultural permitted development rights already allow for the provision of caravans for worker accommodation over the farming season, and all that this entails.

- 8.02 As such, it is perhaps a pity that the vast majority of comments received from local residents refer to amenity issues arising from the occupation of the caravans within the season, rather than the stationing of unoccupied caravans outside of the season. Consequently, issues such as parking and travel details, sustainability issues, noise and disturbance during occupation, length of harvesting season, etc., cannot be material to consideration of this proposal. The only issues which can be judged are those referring to the winter storage of these caravans, which would consist of potential harm to visual amenity and the effect on the nearby AONB.
- 8.03 With regard to this issue, I note that the site for the proposed caravans is approximately one hundred metres outside the AONB, which begins on the opposite side of Owens Court Road. As such, it could be argued that any effect upon the AONB itself is fairly limited, as the site is situated outside and not immediately adjacent to the AONB.
- 8.04 With reference to visual amenity, I have suggested to the Agent that some of the caravans could be moved further behind the proposed cold store site, so that fewer caravans could be seen. However, due to non-planning regulations which regulate the distances necessary between workers' caravans, this does not appear to be an option, which is unfortunate. However, I do note that there is a tall, albeit deciduous hedge adjacent to Owens Court Road; and that the proposed drawings show the planting of a new hedge between the caravans and Owens Court Cottages, and that the number of proposed caravans is relatively small. As such, and on balance, I consider that the proposal would not have a significantly detrimental effect on visual amenity.
- 8.05 Although the Council is only in a position to control the stationing of the caravans on site out of season, the situation may be, to some extent, controlled by condition to alleviate some of the concerns raised by local residents, with whom I have some sympathy. As such, I recommend the inclusion to ensure that if a caravan is not used as worker accommodation during the preceding season, it must be removed from site during the winter; that the caravans remain unoccupied over the winter; that the site should be laid out precisely as shown on the submitted drawing, and that the new hedge should be planted.

9.0 CONCLUSION

- 9.01 On balance, I therefore recommend that the proposal be approved, subject to strict conformity with the condition included below.

10.0 RECOMMENDATION – GRANT Subject to the following conditions:

CONDITIONS

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

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

- (2) No static caravan shall be stored on the site at any time unless it has been occupied by agricultural worker(s) working at Owens Court Farm in the preceding agricultural season.

Reason: In the interests of the amenities of the area and to ensure that the storage use hereby approved shall cease as soon as it is no longer contributing to the productivity of Owens Court Farm.

- (3) No static caravans being stored on the site shall be used for human habitation.

Reason: As the site lies outside any area in which permanent residential use of the caravans would be permitted.

- (4) A new hedge using native hedging species shall be planted in the position and to the full extent of the green line shown on drawing no. 2259/56/200219v2 prior to the first winter storage of any caravan. This hedge shall be maintained for the entire duration of all winter storage and no caravan may be stored on the site unless this hedge is in place.

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

- (5) The caravans shall only be stored in the positions shown on drawing no. 2259/56/200219v2, and shall remain in those positions thereafter.

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

Council's approach to the application

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

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

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



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2.5 REFERENCE NO - 19/501731/FULL			
APPLICATION PROPOSAL Alteration to domestic garage to provide annexe to main dwelling house.			
ADDRESS 1 Brenley Bridge Cottages Brenley Lane Boughton Under Blean Faversham Kent ME13 9LZ			
RECOMMENDATION - Approve			
SUMMARY OF REASONS FOR RECOMMENDATION Proposal is broadly in accordance with policy, particularly in light of a recent appeal decision in similar circumstances			
REASON FOR REFERRAL TO COMMITTEE Objection from Parish Council			
WARD Boughton And Courtenay		PARISH/TOWN COUNCIL Boughton Under Blean	APPLICANT C Riches Properties Limited AGENT Wyndham Jordan Architects
DECISION DUE DATE 03/06/19		PUBLICITY EXPIRY DATE 01/05/19	
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):			
App No	Proposal	Decision	Date
At the current application site			
17/502723/FULL	Conversion of garage into two bedroom separate dwelling	Refused	17.07.2017
SW/11/1322	Removal of existing garage and replacement with four car garage	Approved	08.12.2011
Recent appeal decision relating to a similar development – see Appendix to this report			
18/505431/FULL (at Ashfield Court Farm, Newington)	Conversion of existing triple garage to annexe	Refused, but allowed at appeal	24.04.2019

1.0 DESCRIPTION OF SITE

- 1.01 The building in question is a large detached garage designed to accommodate four cars, which was granted permission under planning reference SW/11/1322. This in turn replaced a smaller, timber construction garage. The garage is situated within the curtilage of one of a pair of semi-detached former farm workers' cottages, in a fairly remote rural location, approximately a mile away from Brenley Corner. Both the cottage and the garage are served by the same access and area of block hardstanding.
- 1.02 In 2017, an application to convert the garage to a two bedroom self contained dwelling was refused under planning reference 17/502723/FULL.
- 1.03 The site is located outside any established built up area boundary, within the countryside.

2.0 PROPOSAL

- 2.01 The proposal is to convert the building into an annexe ancillary to the use of the house. The annexe would have two bedrooms upstairs and a living area and shower room/WC and a storage area downstairs. No kitchen is shown on the submitted drawings. Internal changes will be necessary, and the external changes amount to the removal of the two roller shutter garage doors (one at each end) and their replacement with glazed French doors, a new side door, and the insertion of four rooflights to light the roofspace bedroom accommodation.
- 2.02 The applicant has confirmed in writing that the proposed use would be ancillary to the main house.

3.0 PLANNING CONSTRAINTS

- 3.01 Outside established built-up area boundary.

4.0 POLICY AND OTHER CONSIDERATIONS

- 4.01 National Planning Policy Framework 2018 (NPPF): Paragraphs 11 (promoting sustainable development), 79 (against isolated homes in the countryside)
- 4.02 Bearing Fruits 2031 – The Swale Borough Local Plan 2017 policies ST1 (sustainable development), ST3 (settlement strategy), DM14 (general development criteria)

5.0 LOCAL REPRESENTATIONS

- 5.01 The Faversham Society notes that if approved any decision should have a condition appended which restricts the use as an ancillary annexe only.
- 5.02 One objection has been received from the neighbouring property, on the grounds that the proposal represents over occupation of the site and that insufficient attention has been given to the disposal of foul water drainage from the site. The latter is a matter that would be dealt with under building regulations rather than a planning permission.

6.0 CONSULTATIONS

- 6.01 Boughton under Blean Parish Council raises objection to the proposal. Their concerns are given in full as follows:

‘The Parish Council recorded an objection to the application, noting that the proposed development site is outside the village envelope. The site is also noted as being within a remote area with clear views of adjacent open countryside and would, by virtue of its unsustainable position within a rural area outside of any built-up area boundary, cause demonstrable harm to the character and appearance of the countryside, contrary to Policy E6 of the Swale Borough Local Plan 2008; Policy ST3 of Bearing Fruits 2031: The Swale Borough Local Plan Main Modifications June 2016; and Paragraph 55 of the National Planning Policy Framework (NPPF).’

7.0 APPRAISAL

7.01 Annexe accommodation for relatives within gardens is becoming increasingly popular, and in an existing building this should not represent a material change of use, or be especially problematical. However, physical works to an outbuilding aimed at creating living accommodation as an annexe do require planning permission. In a rural area where new residential development is not sustainable there are often concerns about whether the intention is in fact to create a separate dwelling contrary to adopted Local Plan policy. This site lies within the countryside, and as can be clearly seen from the submitted drawings, the proposal is not a small building, providing a large room downstairs and two good-sized bedrooms upstairs, albeit with limited headroom. As such, I can appreciate concerns with this proposal, particularly noting that a proposal for a conversion of the building to a separate dwelling was refused under planning reference 17/502723/FULL less than two years ago.

7.02 However, the use as an annexe itself does not in itself represent a material change of use, and the application is essentially for the external alterations required. A recent appeal decision against the Council's refusal of application 18/505431/FULL at Ashfield Court Farm, Newington has shed clear light on the matter. This decision was reported to Members on last month's agenda, and was an application for the conversion and extension of an existing triple garage to a very large annexe, consisting of a living room, a dining room, a utility room, two bedrooms and two bathrooms. The application was refused for the following reason:

'The proposed annexe accommodation by virtue of its scale would not be subordinate to the dwelling at the site, and would amount to unnecessary development, harmful to the character and appearance of the area and those of the countryside. Furthermore, the scale, form and facilities provided are likely to give rise to the creation of a separate residential dwelling, capable of independent occupation from the main dwelling. It would be contrary to policies ST3, CP2, CP3 and DM14 of the adopted Swale Borough Local Plan (Bearing Fruits 2031: The Swale Borough Local Plan 2017) and government guidance in para 79 of the NPPF.'

7.03 That decision was appealed and the Inspector allowed the appeal and granted planning permission. He noted that the key question was how the annexe accommodation would be used, not its physical configuration; noting (in paragraph 5) that even if the annexe contained all the facilities for day-to-day living (such as kitchen facilities) its use as an annexe would not necessarily result in a material change of use. In his report, he concluded;

'I am satisfied that the proposal would not result in material harm to the character and appearance of the area and that it would be an annexe for a dependent elderly relative and not the creation of a new dwelling and I have determined the appeal on that basis. The proposal therefore is in accordance with the development plan and there are no material considerations that indicate a decision otherwise would be appropriate.'

The Decision is attached to this report as Appendix A to this report.

7.04 Whilst I would note that any planning application should be decided on its own merits, the appeal decision noted above has created a somewhat unfortunate precedent for this case, being for a building of similar size and in a similar countryside location. As such, it is difficult to form a reason for refusal when such a similar precedent exists.

- 7.05 Members will note that the Inspector refused even to impose a restrictive planning condition, to ensure that the annexe is indeed used as an ancillary annexe and not as a separate dwelling. I, however, see no need to be bound that that decision now and I think such a condition is reasonable and necessary as an alternative to his preferred approach.
- 7.06 Finally, I note the comments of the objector. Sewerage issues do not fall under planning consideration; the plot is of a decent size and the building already in existence, with no extensions to same being proposed. As such, and on balance, I believe the proposal to be acceptable.

8.0 CONCLUSION

- 8.01 On balance, I therefore recommend that the proposal be approved, subject to strict accordance with the conditions appended below.

9.0 RECOMMENDATION – GRANT Subject to the following conditions:

CONDITIONS

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

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

- (2) All new external joinery used in the development hereby permitted shall be of timber construction.

Reason: In the interests of visual amenity.

- (3) The annexe hereby permitted shall not be occupied at any time other than for purposes ancillary to the residential use of the dwelling known as 1 Brenley Bridge Cottages.

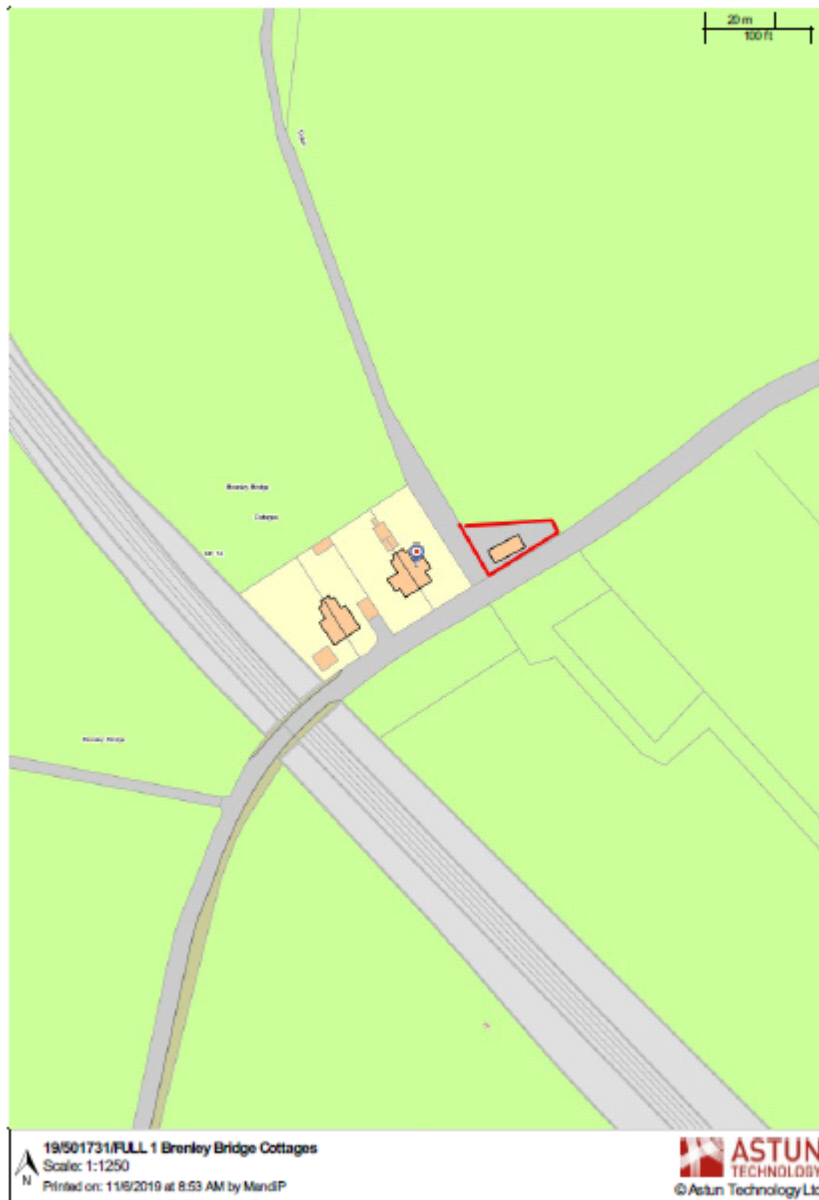
Reason: As its use as a separate unit of accommodation would be contrary to the provisions of the development plan for the area.

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 case, 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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Appeal Decision

Site visit made on 2 April 2019

by Kenneth Stone BSC Hons DipTP MRTPI

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

Decision date: 24 April 2019

Appeal Ref: APP/V2255/D/19/3223271

Ashfield Court Farm, School Lane, Newington ME9 7LB

- 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 Maureen Green against the decision of Swale Borough Council.
- The application Ref 18/505431/FULL, dated 16 October 2018, was refused by notice dated 14 December 2018.
- The development proposed is the conversion and extension of the existing triple garage at Ashfield Farm into an annex for a dependent elderly relative.

Decision

1. The appeal is allowed and planning permission is granted for the conversion and extension of the existing triple garage at Ashfield Farm into an annex for a dependent elderly relative at Ashfield Court Farm, School Lane, Newington ME9 7LB in accordance with the terms of the application, Ref 18/505431/FULL, dated 16 October 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: site location plan, 18.33.01; proposed block plan, 18.33.03; Proposed plans and elevations, 18.33.05.
 - 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 garage.

Preliminary matters

2. The Council are concerned that the scale, form and facilities provided in the extended garage building are likely to give rise to the creation of a separate residential dwelling, capable of independent occupation from the main dwelling. The first question I turn to is whether the proposal would constitute a separate dwelling or would it be capable of such.
3. The description of development proposes the conversion and extension of the existing triple garage into an annexe for a dependent elderly relative. The plans indicate that the accommodation to be provided would be two bedrooms, a separate WC, a bathroom with a WC, a living dining area and a separate utility room. No kitchen facilities are shown on the submitted plans. Beyond the building the 'annexe' would not be provided with a separate garden area

and would be accessed along the same access lane. There is no subdivision of the plot proposed on the plans and there would be no segregation of the front parking/ hardstanding/ turning area or the rear private garden.

4. Taking these matters together the existing planning unit incorporates the bungalow and adjacent detached garage the front parking/ hardstanding/ turning area and the rear amenity space. The proposals would not result in the subdivision of that planning unit and it is the intention of the applicant that the 'annexe' accommodation to be created would be occupied by an elderly relative who would share living activities with the occupants of the main dwelling. Indeed on the basis of the submitted plans there are no cooking facilities for the new 'annexe' facility. Together with the access, parking and garden area this would to my mind demonstrate a functional relationship between the main house and the 'annexe'.
5. I accept that the proposed 'annexe' could be altered to introduce cooking facilities, or a small kitchen which may reduce that functional relationship but as was established in *Uttlesford DC v SSE & White* [1992] even if the accommodation provided facilities for independent day-to-day living, it would not necessarily become a separate planning unit from the main dwelling. The use of the building as ancillary accommodation to the main dwelling would therefore not result in a material change of use.
6. The case may arise in the future that there were subsequent alterations to the building or plot or occupation such that would mean that development had occurred, and this would then be a matter for the local planning authority dependant on the facts of the case at that time. As the appeal is presented there is sufficient evidence to demonstrate a functional link and a degree of inter dependence on the future occupiers of the development such that it is appropriate to consider the proposal as an annexe.
7. That being said the question then arises as to whether the occupation should be secured to ensure its future occupation as an annexe by way of a suitably worded condition. The Council considered and set aside such a condition as they considered the functional link could not be adequately secured by the imposition of such a condition. The appellant on the other hand has contended that the lack of kitchen facilities associated with the other functional links clearly establish the functional nature of the relationship of the future occupiers and therefore the condition is unnecessary. Also pointing out that the Council on previous decisions have relied on the functional associations to determine whether a proposal is an annexe or not.
8. I have concluded that the proposal before me is an annexe and does not result in a material change of use. That being the case and on the basis of the information before me I am satisfied that a condition would not therefore be necessary in this case as the establishment of a separate dwelling would create a new planning unit, result in a material change of use and would therefore require planning permission of its own right, should it occur in the future, and this would give the Council control.
9. As the proposal would not be an independent unit of accommodation policy ST3 regarding settlement hierarchy and Policy CP2 on transport in the *Bearing Fruits 2031 – The Swale Borough Local Plan*, adopted July 2017 (LP) are not material, in the manner argued by the Council, to the determination of this appeal.

Main Issue

10. Having dealt with the issue of the use of the 'annexe' the main issue in this case is then the effect of the proposed development on the character and appearance of the area.

Reasons

11. The proposal would extend and alter an existing triple garage. The garage sits adjacent to the main bungalow and has a hipped and pitched roof. The proposed extension would be to the rear and replace existing floorspace that would be demolished. There would be little alteration to the overall floor space of the extended building however it would have its bulk and mass increased due to the additional roofing. The additional roof would be to the rear of the building, would not result in an increase in the height of the building and would not be readily visible from the closest main highway, School Lane.
12. School Lane is some 60 or so metres to the front of the properties and there are glimpsed views through to the existing bungalow and garage but the rear or side elevations would not be readily visible. The buildings sit close to another agricultural work shop building and together the proposed extension would not significantly add to the scale of built development either the garage building or the buildings immediately surrounding. If glimpsed views of the extension were available these would be seen in the context of the existing garage, bungalow and adjacent building and would not be seen as out of keeping in terms of scale.
13. For the reasons given above I conclude that the proposals would not result in material harm to the character and appearance of the surrounding area. Consequently, it would not conflict with policies CP3 and DM14 of the LP which together seek to delivery good quality development and homes.

Overall conclusions and conditions

14. I am satisfied that the proposal would not result in material harm to the character and appearance of the area and that it would be an annexe for a dependent elderly relative and not the creation of a new dwelling and I have determined the appeal on that basis. The proposal therefore is in accordance with the development plan and there are no material considerations that indicate a decision otherwise would be appropriate.
15. In terms of conditions I have addressed the necessity, or not as the case may be, for a condition restricting occupation to ancillary accommodation, however a condition on the approved plans will ensure the development is implemented as applied for. Otherwise a materials condition is required in the interests of the character and appearance of the development.
16. For the reasons given above I conclude that the appeal should be allowed.

Kenneth Stone

INSPECTOR

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2.6 REFERENCE NO - 19/500577/REM			
APPLICATION PROPOSAL Reserved Matters of access, appearance, landscaping, layout and scale following outline application 18/501409/OUT for erection of 2 No four bedroom houses and 1 No disabled sheltered bungalow.			
ADDRESS Land To The North Of Vicarage Road Sittingbourne Kent ME10 2BL			
RECOMMENDATION Approval			
SUMMARY OF REASONS FOR RECOMMENDATION Proposed dwellings are of an acceptable scale and design, and would not give rise to any serious amenity concerns. Principle of development established by outline permission 18/501409/OUT.			
REASON FOR REFERRAL TO COMMITTEE Called in by Ward Councillor Winckless.			
WARD Milton Regis	PARISH/TOWN COUNCIL	APPLICANT Prestige Developments AGENT MRW Design	
DECISION DUE DATE 10/04/19	PUBLICITY EXPIRY DATE 17/04/19		
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):			
App No	Proposal	Decision	Date
18/501409/OUT	Outline Application with all matters reserved for erection of 2 No four bedroom houses and 1 No disabled sheltered bungalow.	Granted	21.5.18
The development was considered to represent good use of this derelict site, subject to matters of detail as set out in the current application.			
SW/90/1444	Outline planning permission for erection of three bungalows.	Granted	17.11.92
This development was not proceeded with for reasons unknown.			

MAIN REPORT

1.0 DESCRIPTION OF SITE

- 1.01 The application site is a parcel of waste ground situated to the rear of properties on Vicarage Road and Middletune Avenue, within the defined built up area of Sittingbourne.
- 1.02 It is roughly rectangular, with a long vehicle access leading southwards to Vicarage Road, and a Public Right of Way running roughly N/S across the site from Middletune Avenue to Vicarage Road. The land is generally flat and level, and is mostly overgrown other than along the PRow. It used to contain a block of detached garages but these were demolished in the mid-'90s and the site has since been left

Planning Committee Report – 20 June 2019

unattended. In recent years this has led to it being used for fly tipping, bonfires, drug use, and other anti-social behaviour (it is known to Council officers and the police as a problem site).

- 1.03 The site is surrounded by existing residential dwellings: Middletune Avenue to the north, Vicarage Road to the south, Dyngley Court to the east, and Roberts Close to the west. These surrounding properties all have their rear elevations facing onto the site, and there is some separation afforded by the depth of the gardens to those properties.

2.0 PROPOSAL

- 2.01 This application seeks reserved matters approval for matters of access, appearance, landscaping, layout, and scale further to the outline grant of permission under application reference 18/501409/OUT (copy of delegated report attached). That application granted consent for the erection of two houses and a bungalow on the site, with vehicle access from Vicarage Road. The houses are to the west of the site and the chalet bungalow is to the eastern end.
- 2.02 Amended drawings have been received further to discussions between officers and the agent. The amendments largely relate to the scale, position, and orientation of the chalet bungalow unit to overcome concerns in respect of design and impact on neighbouring residents. This is discussed in more detail below.
- 2.03 The houses will be of a relatively simple design, with pitched roofs, brickwork at ground floor, and cladding at first floor. They will stand approximately 7.3m tall x 5.5m wide x 14.5m deep, and will contain four bedrooms each at first floor with open plan lounge/kitchen and separate study at ground floor. No windows are proposed on the northern elevations to minimise potential for overlooking of the existing neighbours. The units would be a minimum of 12m from dwellings to the north; 27m from dwellings to the south; and 11.5m from dwellings to the west.
- 2.04 The proposed chalet bungalow is also of a relatively simple design, featuring a pitched roof, porch at ground floor, two front dormer windows, and a single rear dormer window. It will stand approximately 6.3m tall x 8m wide x 6.5m deep (inc. porch). Internally it will provide two bedrooms and a bathroom in the roof space (with an obscure-glazed window in the dormer serving the bathroom) and separate lounge and kitchen/diner at ground floor.
- 2.05 External materials will be brick and roof tiles throughout (precise details required by condition imposed on the outline permission).
- 2.06 Vehicle access – as approved under the outline permission – is via the existing paved access which formerly served the garage blocks. Two parking spaces are provided for each dwelling as well as two visitor spaces. Turning space for both cars and service vehicles is shown, and the access is wide enough (min. 2.7m wide at a pinch point, generally 3m wide along length, 5m wide at junction with Vicarage Road) to accommodate a fire engine (which require 2.5m width).

3.0 SUMMARY INFORMATION

	Proposed
Site Area (ha)	0.1 (0.3acres)
Parking Spaces	8

No. of Residential Units	3
No. of Affordable Units	0

4.0 PLANNING CONSTRAINTS

- 4.01 The site lies within an area of potential archaeological importance and Flood Zone 3, but Members should be aware that no objections were received from statutory consultees on these grounds under the outline application.

5.0 POLICY AND OTHER CONSIDERATIONS

- 5.01 The National Planning Policy Framework (NPPF) and National Planning Practice Guidance (NPPG) encourage the provision of housing in sustainable urban locations, but with regard to amenity, design, flood risk, and highways, amongst others.
- 5.02 Policies ST1, ST2, ST3, ST4, CP3, CP4, DM7, DM14, DM19, DM21, and DM28 of the adopted SBLP2017 are relevant.

6.0 LOCAL REPRESENTATIONS

- 6.01 Seven letters of objection from three neighbouring residents have been received, raising the following summarised issues:
- The outline permission granted consent for a “disabled persons bungalow” but a two-storey chalet bungalow is shown;
 - The scale of the proposed chalet bungalow will affect light into the rear of 7 Dyngley Close;
 - A chalet bungalow isn’t suitable for disabled people;
 - Overlooking of existing properties;
 - Overshadowing of existing properties and gardens;
 - Plans “*have been steamrollered through without consultation*”;
 - Planning officers support the scheme because they don’t live in the area, are unaffected by the development, and the views of Council Tax payers should take more weight;
 - Three dwellings are not needed in light of the large allocated sites being considered elsewhere in Sittingbourne;
 - Ward Councillors should be given more time to call in the application;
 - The application should be refused because residents object;
 - Loss of property value;
 - 14 days to comment on amended drawings is insufficient;
 - Residents previously tried to purchase the land from the owner to extend their gardens, and should have been asked if they still wanted to do so before this application was considered;
 - Will local services (GPs, dentists, schools, etc.) be increased to cope with the additional housing in Sittingbourne;
 - The land should have been kept as green space; and
 - Comments made to the Council are just ignored.
- 6.02 The Swale Footpaths Group notes that PRoW ZU56 runs through the site and states that it is “*important that the safety of walkers should be taken into account both during the building work and afterwards.*”

7.0 CONSULTATIONS

- 7.01 KCC Highways have no comments other than to note the scheme falls below their protocol response threshold.
- 7.02 KCC Flood Risk officer has no comments as the scale of development falls below their statutory remit.
- 7.03 The KCC Public Rights of Way officer has no objection, and confirms that an application to divert the public footpath has been received by his department. He does, however, request conditions to prevent occupation of the bungalow until the diversion order has been confirmed, and to secure installation of a chicane barrier where the footpath emerges into the site from the alleyway running southwards from Middletune Avenue. These conditions are set out below.
- 7.04 The Environment Agency have no objection, but comment that additional details are required before surface water drainage can be agreed. Condition 8 of the outline planning permission deals with this matter and it can be resolved outside of this application (as is common with outline / reserved matters consents).
- 7.05 Members may care to note that no objections were received from statutory consultees in respect of the original outline application. A particular consideration under that scheme was long-term anti-social behaviour on the site (which had been in disrepair for many years) and the Council's Community Safety officer commented:

"ASB on this particular piece of land is historically a huge issue on the Middletune Avenue estate, particularly through the Summer months (April-September). There is evidence of significant drug use and dealing on the land identified, largely due to the area being confined and severely overgrown, offering limited chance of offenders being caught. The site is unsafe due to the number of used needles located in the far corners, as well as being a health hazard due to the amount of rubbish dumped on the land. There is a PRow that runs through the middle, but through engagement with communities, I do not think this is used due to the poor state. This has been an area that as an authority we have been attempting to clear for a number of years, and whilst we have removed large bulky items, it is privately owned and there has been difficulty before now engaging with the land owners. A multi-agency project has been taking place on this estate and the land discussed is a key priority for a number of agencies, all of which will support the benefits of it being cleared (Police, Fire, Optivo and Environmental Response.)"

8.0 BACKGROUND PAPERS AND PLANS

- 8.01 The application is accompanied by relevant plans and elevations.
- 8.02 The outline planning permission for the site, ref. 18/501409/OUT, is also relevant and a significant material consideration as set out below.

9.0 APPRAISAL

Principle of development

- 9.01 This application seeks approval of reserved matters for details in respect of access, appearance, landscaping, layout, and scale of the development only.

Planning Committee Report – 20 June 2019

- 9.02 Outline planning permission has been granted for the erection of three dwellings on the site under ref. 18/501409/OUT. In that regard the principle of developing the land for residential uses, and for the number of dwellings shown on the submitted drawings, has been firmly established. Therefore, whilst I appreciate and understand local objections in regards other potential uses of the site or to the need for dwellings here at all, unfortunately those issues have already been determined and are not open for re-consideration under this application.
- 9.03 Nonetheless it should be noted that the site lies within the built up area where the principle of residential use is generally acceptable; the development would make a modest contribution towards the Council's five-year supply of housing; and redevelopment of the site would be a planning gain in terms of removing a "bad neighbour" use (drug dealing and fly-tipping, as noted above).

Scale

- 9.04 The outline permission granted consent for two houses and a bungalow. The current application proposes two houses and a chalet bungalow, which falls within the scope of the agreed outline consent.
- 9.05 The application originally showed the bungalow to be significantly taller and in that regard I appreciate neighbour's concerns about its scale and potential impacts on their amenity. However amended drawings have been received and the scale and overall height of the chalet bungalow has been reduced to a level that I now consider would have limited impact upon the existing neighbours – particularly the residents of 7 Dyngley Close, which is the closest property.
- 9.06 I also recognise the concerns raised by neighbours in respect of overshadowing, particularly to the properties to the north, on Middletune Avenue. The proposed houses will be set a minimum of 12m from the rear of those properties (as noted at 2.03 above) which is in excess of the Council's minimum 11m flank-to-rear separation distance requirements. Whilst some overshadowing will occur when the sun is low and to the south (so particularly during the winter months) overall this will be for a short period of the day and not so serious as to justify a refusal of planning permission in its own right. During the summer months when the sun is higher there should be little overshadowing of the gardens to the north.
- 9.07 Overall the dwellings are of an acceptable scale which, when taken in conjunction with the items below, would be unlikely to give rise to any serious amenity concerns for neighbouring residents.

Layout

- 9.08 The proposed layout largely accords with the indicative drawings approved under the outline permission (and it is important to note that outline permission drawings are only indicative, and are not a concrete representation of what *will* be developed but rather an illustration of what is *likely* to be developed and acceptable in principle).
- 9.09 The two houses would be set away from existing dwellings by more than the Council's minimum standards (21m rear-to-rear, and 11m flank-to-rear) as set out above, which will minimise the potential for overlooking, loss of light, or overshadowing of existing properties.

Planning Committee Report – 20 June 2019

- 9.10 The proposed bungalow would sit 11.5m from the rear of 7 Dyngley Close, which is also in excess of the Council's minimum 11m flank-to-rear requirement (as above). Its position and orientation have been amended (as shown on the amended drawings) to take it away from the common boundary with no.7, present itself at an angle to minimise overlooking and overshadowing of that property, and to provide a private area to the north of the property where future residents would not be significantly overlooked. I am therefore satisfied that the chalet bungalow is also in such a position as to minimise the potential for overlooking, loss of light, and overshadowing for existing properties.
- 9.11 Whilst local objections are understood and appreciated I do not consider there is justification to refuse permission on this matter.

Appearance

- 9.12 The proposed dwellings are of a relatively simple but acceptable design in my opinion, and I consider that they would sit comfortably with the character and appearance of the existing neighbouring properties and the wider area. The position of the site to the rear of the existing houses will naturally minimise visual impacts on the street scene.
- 9.13 The proposed houses have been designed with no windows on the northern elevations, which will prevent overlooking of the existing properties to the north (which are closest). There are windows serving bedrooms on the south-facing first floors but due to the distances between existing and proposed dwellings it is considered that any overlooking will not be so intrusive as to be unacceptable in planning terms. I would reiterate that separation distances exceed the Council's minimum requirements (as set out above), and I therefore do not consider there is justification for a refusal on these grounds.
- 9.14 The proposed chalet bungalow is also of an acceptable design in my opinion. The dormer windows are in proportion with the dwelling and sit comfortably within the roof slope. The dormer window on the rear (northern) roof slope, serving the bathroom, is shown as obscure-glazed to prevent overlooking of existing properties, and this is secured in perpetuity by the condition below.
- 9.15 External materials are proposed as brick and roof tiles, details of which are required by the conditions on the original outline consent which allow officers to consider their suitability and give the developer some flexibility (bricks are often on long order times and developers often therefore provide a selection for officers to consider). The wider area is characterised by stock bricks, render, and cement roof tiles, and similar materials will ensure the development sits comfortably within the context of the area.

Access

- 9.16 Although a reserved matter, access to the site was considered in particular detail at the outline consent stage due to the unusual nature of the site. Further to discussions with KCC Highways it was apparent that the access is of a sufficient width to accommodate private cars and service vehicles without any serious concerns. Furthermore the relatively short length would allow for inter-visibility between vehicles and/or pedestrians entering or leaving the site so that they could wait and allow the route to clear before proceeding. The width of the access is also sufficient to allow two vehicles to comfortably pass, or to wait off the road to allow a vehicle to exit the site before proceeding.

Planning Committee Report – 20 June 2019

- 9.17 The amended drawings show that there is sufficient space within the site for a service vehicle to turn or manoeuvre while resident's vehicles are parked. I would also reiterate that the access is wide enough to allow a fire engine to access the dwellings.
- 9.18 I would draw to Member's attention the fact that the access formerly served a block of garages, as well as the existing Public Right of Way. In that regard shared use of the access by pedestrians and vehicles is not unusual and would not in itself be a product of this development. The KCC PRow officer does not raise an objection to shared use of the access (subject to the conditions set out below).

Landscaping

- 9.19 The submitted block plan shows space available for soft landscaping within the site. This is, admittedly, limited within the public areas due to the need for parking and turning space, but an area of planting is shown to the front of the two houses to break up the parking bays. The plan does, however, show new tree and shrub planting within the rear gardens for the three dwellings and I consider this to be sufficient and appropriate for the scale of the development.
- 9.20 I have asked the agent for an amended landscaping schedule to include more UK native species and specify planting numbers and I will update Members at the Meeting.

Conditions

- 9.21 The majority of necessary conditions (external materials, construction management plan, sustainable development measures, hours of work, etc.) are set out on the outline planning permission and therefore do not require repeating here. The conditions set out below represent those additional ones that have been requested further to the details of the application, or which require some additional information to resolve non-substantive issues, as is common on planning application for developments such as this.

10.0 CONCLUSION

- 10.01 Outline planning permission was granted for the erection of three dwellings on this land after years of neglect and misuse following demolition of the former block garages. This application seeks to confirm the details of those dwellings and the associated development. Whilst I understand and appreciate local objections I don't consider that they amount to a justifiable or defensible reason for refusal in this instance, and I consider this to be an acceptable scheme with no serious amenity impacts.
- 10.02 Taking the above into account I recommend that the reserved matters should be approved subject to receipt of an updated soft landscaping plan.

11.0 RECOMMENDATION – GRANT Subject to the following conditions:

- 1) Construction of the bungalow hereby permitted shall not commence until an Order to re-align the public right of way (ref. ZU36) through the site has been confirmed.

Reason: In the interest of local amenity.

- 2) Prior to first occupation of the dwellings hereby permitted a chicane barrier shall be erected at the northern site boundary where public right of way ZU36 enters the site from Middletune Avenue. This barrier shall be erected in accordance with details that have first been submitted to and agreed in writing by the Local Planning Authority.

Reason: In the interest of local amenity and highway safety.

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

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

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

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

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

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

- 6) The parking and turning areas shown on drawing 1855-PL02 rev. F shall be kept available for the parking and turning of vehicles and no permanent development, whether permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking or re-enacting that Order) or not, shall be carried out on the land or in such a position as to preclude vehicular access thereto.

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

- 7) Before the chalet bungalow hereby permitted is first occupied, the proposed north-facing dormer window in the rear elevation of this dwelling shall be obscure glazed to not less than the equivalent of Pilkington Glass Privacy Level 3, and 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.

Planning Committee Report – 20 June 2019

- 8) No additional windows, doors, voids or other openings shall be inserted, placed or formed at any time in the north-facing first floor wall or roofs of the three dwellings hereby permitted, and/or in the east-facing gable end of the chalet bungalow hereby permitted.

Reason: To prevent the overlooking of adjoining properties and to safeguard the privacy of their occupiers.

INFORMATIVES

- 1) Please note that no furniture may be erected on or across Public Rights of Way without the express consent of the Highway Authority. Furthermore, there must be no disturbance of the surface of the right of way, or obstruction of its use, either during or following any approved development.

In order to ensure public safety during development, the temporary closure of the route will be necessary. Without the former condition request a temporary closure will not be implemented until the footpath diversion order has been confirmed. The temporary closure will be processed by Kent County Council on the basis that:

- The closure is paid for by the developer,
- The duration of the closure is kept to a minimum,
- Alternative routes will be provided for the duration of the closure,
- Six weeks' notice of the requirement of a closure is given by the developer.

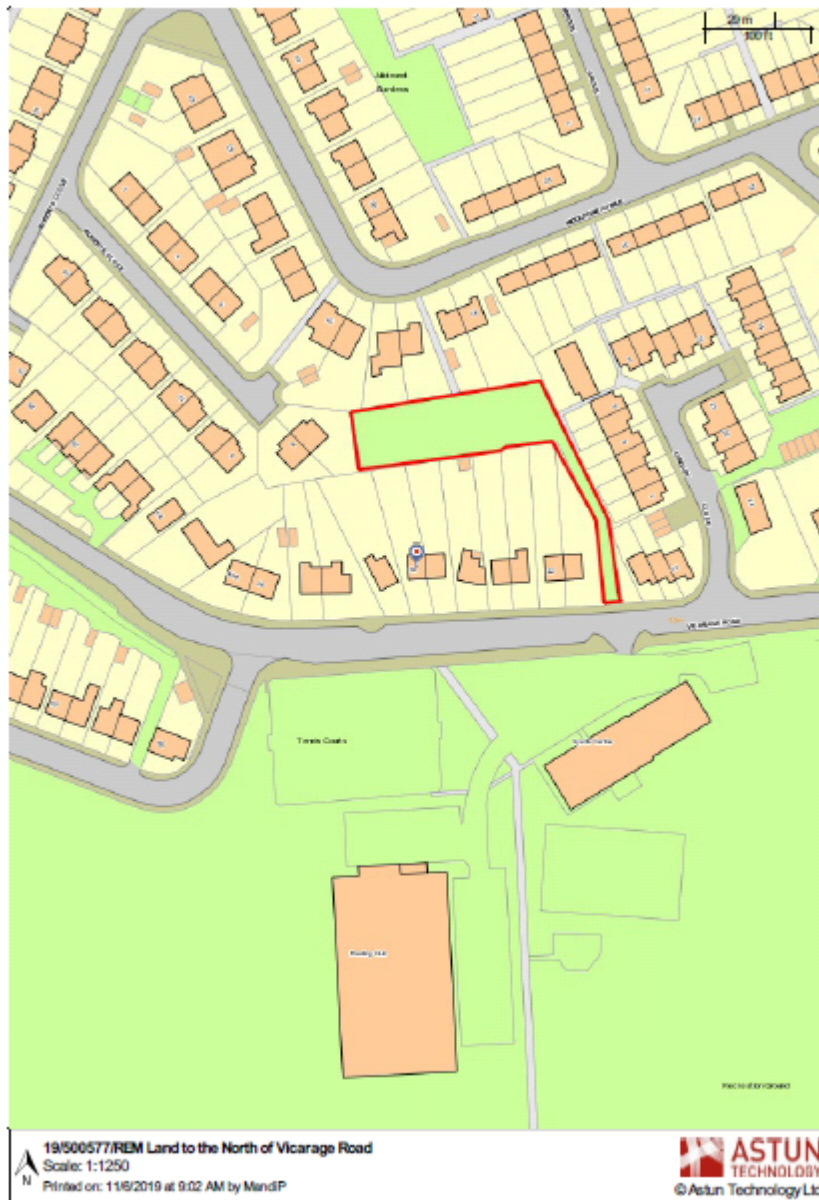
THE COUNCIL'S APPROACH TO THIS APPLICATION

In accordance with paragraph 38 of the National Planning Policy Framework (NPPF), February 2019 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 minor changes required to the application and these were agreed, and the application was then considered by the Planning Committee where the applicant/agent had the opportunity to speak to the Committee and promote the application.

If your decision includes conditions, there is a separate application process to discharge them. You can apply online at, or download forms from, www.planningportal.co.uk (search for 'discharge of conditions').

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



APPENDIX 1

NOTES FOR TECH:		
APPLICATION PROPOSAL		Ref No 18/501409/OUT
Outline Application with all matters reserved for erection of 2 No four bedroom houses and 1 No disabled sheltered bungalow.		
ADDRESS Land To The North Of Vicarage Road Sittingbourne Kent ME10 2BL		
RECOMMENDATION - Application Permitted		
WARD Milton Regis	PARISH/TOWN COUNCIL	APPLICANT Mr Thomas Draper AGENT
DECISION DUE DATE 21/05/18	PUBLICITY EXPIRY DATE 02/05/18	OFFICER SITE VISIT DATE
RELEVANT PLANNING HISTORY (including relevant history on adjoining site):		
App No	Summary	
SW/90/1444	Outline PP granted for erection of three bungalows.	
-		

DESCRIPTION OF SITE

Application site is a parcel of waste ground situated to the rear of properties on Vicarage Road and Middletune Avenue, within the built up area of Sittingbourne.

It is roughly rectangular, with a long vehicle access leading southwards to Vicarage Road, and a Public Right of Way running N/S across the site from Middletune Avenue to Vicarage Road. The land is generally flat and level, and is mostly overgrown other than along the PRoW. It used to contain a block of detached garages but these were demolished in the mid-'90s and the site has since been left unattended. In recent years this has led to it being used for fly tipping, bonfires, drug use, and other ASB.

The site is surrounded buy existing dwellings: Middletune Avenue to the north, Vicarage Road to the south, Dyngley Court to the east, and Roberts Close to the west. The surrounding properties all have their rear elevations facing onto the site, and there is some separation afforded by the depth of the gardens to those properties.

PROPOSAL

Application seeks outline planning permission, with all matters reserved, for the erection of two detached houses and one detached bungalow, including amenity space, parking, turning, access, and accommodation of the PRoW.

All matters are reserved, but substantial indicative details have been provided. These show vehicle access from the existing access off Vicarage Road, which will be widened through removal of existing vegetation and repositioning of an existing lamp post (to be dealt with through other legislation).

Two houses are shown positioned at the western end of the main parcel and a single bungalow at the eastern end, at the top of the access road. The dwellings are set in from the site boundaries. All the properties feature rear gardens and vehicle parking to the front within a communal parking / turning area. Seven parking spaces are shown, and there is turning space for a refuse lorry / fire engine within the centre of the site.

The access road is shown as approximately 5.3m wide at the site entrance, narrowing to 2.7m wide at the tightest point, and being roughly 3m for the majority of the length. The D&A Statement notes that an existing lamp post will be repositioned to enhance the access.

PLANNING CONSTRAINTS

Environment Agency Flood Zone 3.

Public Right of Way.

POLICY AND OTHER CONSIDERATIONS

The National Planning Policy Framework (NPPF) and National Planning Practice Guidance (NPPG) encourage the provision of housing in sustainable urban locations, but with regard to amenity, design, flood risk, and highways, amongst others.

Policies ST1, ST2, ST3, ST4, CP3, CP4, DM7, DM14, DM19, DM21, and DM28 of the adopted SBLP2017 are relevant.

LOCAL REPRESENTATIONS

Four letter of objection have been received from local residents, raising the following summarised concerns:

- Overlooking and loss of privacy from first floor windows;
- Sense of enclosure;
- Loss of light;
- Visual impact;
- Proposed houses will be imposing;
- Safety of footpath users;
- Loss of trees and plants on the site;
- Potential impact on tree roots in neighbouring gardens;
- Noise, dust, and disturbance from vehicle movements; and
- Loss of property value.

In accordance with the Scheme of Delegation I've asked the Ward Councillors if they want to call the application to planning committee, but neither responded.

The Swale Footpaths Group note that PRow ZU56 crosses the site, suggests it may be unsafe for walkers to use the path during construction, suggests matters of privacy and amenity should be considered, and asks whether emergency appliances can access the site.

CONSULTATION RESPONSES

The Environment Agency has no objection subject to conditions as set out below.

KCC Highways do not offer any detailed comments:

"Referring to the above description, it would appear that this development proposal does not meet the criteria to warrant involvement from the Highway Authority in accordance with the current consultation protocol arrangements. If there are any material highway safety concerns that you consider should be brought to the attention of the HA, then please contact us again with your specific concerns for our consideration."

The KCC PRow officer supports the scheme, noting that it will enhance the route of the footpath, but stating that a diversion Order will need to be granted to slightly reposition the route as shown on the indicative layout. He also notes that any works to the PRow would need to be at adoptable standard. He does note, however, that there may be conflict of movements between users of the PRow and vehicle movements at the northern end of the site.

Planning Committee Report – 20 June 2019

KCC Flood Risk officer notes this is not a major scheme and therefore has no comments.

The SBC Community Safety officer supports the scheme, commenting:

“In terms of comments, ASB on this particular piece of land is historically a huge issue on the Middletune Avenue estate, particularly through the Summer months (April-September). There is evidence of significant drug use and dealing on the land identified, largely due to the area being confined and severely overgrown, offering limited chance of offenders being caught. The site is unsafe due to the number of used needles located in the far corners, as well as being a health hazard due to the amount of rubbish dumped on the land. There is a PRoW that runs through the middle, but through engagement with communities, I do not think this is used due to the poor state. This has been an area that as an authority we have been attempting to clear for a number of years, and whilst we have removed large bulky items, it is privately owned and there has been difficulty before now engaging with the land owners. A multi-agency project has been taking place on this estate and the land discussed is a key priority for a number of agencies, all of which will support the benefits of it being cleared (Police, Fire, Optivo and Environmental Response.)”

APPLICANT'S SUPPORTING COMMENTS

“The current site is a derelict parcel of land that once contained 40 lock up garages, with access south to Vicarage Road and via a footpath northwards into Middletune Avenue. The site has become a repository for rubbish and is frequented by drug users. Underneath the accumulated detritus is a concrete base. The surrounding area is characterised by fairly high density housing with a large estate to the north and open land and a fitness/leisure centre to the south bordering the main road. The proposal is for two detached 4 bed houses and a 1 bed disabled/sheltered bungalow...”

The plans for the development and elevations are included to scale with measurements to the nearest buildings...

Due consideration has been given privacy, and windows on the side of the house with stairs could be set higher in the room and/or be fitted with obscured glass. Hung tiles on the exterior will make the properties fit with traditional Kentish style. Access is adequate for both a fire engine and ambulance and bin and skip lorries during construction. Skip and grab lorries used the same access way 25 years ago when the applicant assisted in the removal of the vandalised garages. We will however apply to move the street lamp currently situated at the entrance to the access road one meter to the west...

Although every effort has been made to draw plans accurately they are not exact and are just an indication of the plan we propose.

BACKGROUND PAPERS

The application is accompanied by a full suite of indicative drawings.

HABITAT REGULATIONS ASSESSMENT

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

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

Planning Committee Report – 20 June 2019

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 potential to affect said site's features of interest.

In considering the European site interest, Natural England advises the Council that it should have regard to any potential impacts that the proposal may have. Regulations 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 and can therefore be screened out from any requirement for further assessment.

It is the advice of NE that when recording the HRA the Council should refer to the following information to justify its conclusions regarding the likelihood of significant effects: financial contributions should be made to the Thames, Medway and Swale Estuaries Strategic Access Management and Monitoring (SAMM) Strategy in accordance with the recommendations of the North Kent Environmental Planning Group (NKEPG) and; the strategic mitigation will need to be in place before the dwellings are occupied.

In terms of screening for the likelihood of significant effects from the proposal on the SPA features of interest, the following considerations apply:

- Due to the scale of development there is no scope to provide on site mitigation such as an on site dog walking area or signage to prevent the primary causes of bird disturbance which are recreational disturbance including walking, dog walking (particularly off the lead), and predation of birds by cats.
- Based on the correspondence with Natural England, I conclude that off site mitigation is required. However, the Council has taken the stance that financial contributions will not be sought on developments of this scale because of the practicalities of securing payment. In particular, the legal agreement would cost substantially more to prepare than the contribution itself. This is an illogical approach to adopt; would overburden small scale developers; and would be a poor use of Council resources. This would normally mean that the development should not be allowed to proceed. However, the North Kent Councils have yet to put in place the full measures necessary to achieve mitigation across the area and there are questions relating to the cumulated impacts on schemes of 10 or less that will need to be addressed in on-going discussions with NE. Developer contributions towards strategic mitigation of impacts on the features of interest of the SPA – I understand there are informal thresholds being set by other North Kent Councils of 10 dwellings or more above which developer contributions would be sought. Swale Council is of the opinion that Natural England's suggested approach of seeking developer contributions on single dwellings upwards will not be taken forward and that a threshold of 10 or more will be adopted in due course. In the interim, I need to consider the best way forward that complies with legislation, the views of Natural England, and what is acceptable to officers as a common route forward. Swale Council intends to adopt a formal policy of seeking developer contributions for larger schemes in the fullness of time and that the tariff amount will take account of and compensate for the cumulative impacts of

Planning Committee Report – 20 June 2019

the smaller residential schemes such as this application, on the features of interest of the SPA in order to secure the long term strategic mitigation required. Swale Council is of the opinion that when the tariff is formulated it will encapsulate the time period when this application was determined in order that the individual and cumulative impacts of this scheme will be mitigated for.

Whilst the individual implications of this proposal on the features of interest of the SPA will be extremely minimal in my opinion, cumulative impacts of multiple smaller residential approvals will be dealt with appropriately by the method outlined above.

For these reasons, I conclude that the proposal can be screened out of the need to progress to an Appropriate Assessment. I acknowledge that the mitigation will not be in place prior to occupation of the dwelling proposed but in the longer term the mitigation will be secured at an appropriate level, and in perpetuity.

APPRAISAL

Principle

The application site is within the built up area boundary and the principle of residential development is therefore generally acceptable. I am also mindful of the previous grant of permission for bungalows on the site, and whilst I note that was ~28 years ago many of the in-principle considerations remain the same and indicate that this site may be generally suitable for residential development. Furthermore this site would contribute three dwellings towards the Council's five year housing supply, reducing the potential need for the release of fresh land elsewhere.

Planning gain

This site has, for a number of years since demolition of the former garages, represented a site with potential for considerable anti-social use, and I note the comments from the Council's community safety officer. I consider that tidying up the site and preventing further ASB, by way of the proposed housing development, is a positive gain of the scheme to which I afford significant weight.

I note local objections in respect of the development but I consider that, *in principle*, in this instance the balance of favour generally weighs towards resolving a problem site over the issues that have been raised, subject to full amenity considerations as set out below.

Layout

All matters are reserved, and layout is therefore indicative at this time. However the submitted drawings show that three dwellings could be comfortably accommodated on the site, with sufficient space remaining for gardens, parking, access, turning, and accommodation of the PRow. The drawings also show that appropriate separation distances to existing surrounding dwellings can be achieved.

Whilst the site could be considered as backland development it is entirely enclosed by dwellings, and therefore residential development would not be alien to the character of the area. In that regard I consider that development of the site would not have a serious impact upon the character or appearance of the area.

The site also constitutes previously developed land, having formerly been occupied by a block of garages, and national guidance makes it clear that LPA's should make use of previously-developed land in preference to the release of fresh sites.

I therefore have no serious concerns on this aspect.

Amenity

Planning Committee Report – 20 June 2019

As above, the site will provide sufficient space to ensure a good level of amenity for future residents, and I have no serious concerns in this regard.

Minimum separation distances are maintained from the two houses to neighbouring properties, and I do not consider that there will be any serious issues of overshadowing. The elevations of the proposed dwellings can be configured to ensure there is no serious overlooking or loss of privacy for existing residents.

The proposed bungalow shows an indicative rear-to-rear separation with the existing property to the east of roughly 10m. This is well below the Council's minimum 21m, but as the property will be a bungalow, for which the elevations can be considered in details at reserved matters stage, and conditions can be imposed to restrict PD, a standard 1.8m fence will prevent any serious overlooking of those existing residents. The roof of the bungalow can also be kept low to minimise any sense of overbearing or overshadowing.

The garden for the proposed bungalow is irregularly shaped, but will provide adequate amenity space in my opinion.

As above, there is a positive gain to existing residents from cleaning up the site, in that ASB in the area will reduce. Whilst there will be some additional disturbance from residential use of the site, I consider that this won't be any more significant than from other surrounding properties, and of a generally more pleasant nature than ASB activities (bonfires, fly tipping, drug use, etc.) that the site is currently used for.

Highways, parking, and access

The indicative layout shows sufficient space for vehicle parking in accordance with IGN3, and shows a turning space for service vehicles. Precise layout can be configured at reserved matters stage. I have no serious concerns in this regard.

I have checked online and British fire engines and refuse lorries are a maximum of 2.5m wide. Whilst the access road will be tight at the pinch point, there is just enough clearance for an appliance to get access to the site. Therefore, whilst the minimum width of the access would be 2.7m at the pinch point there would just be enough space for a service vehicle to get through, and I therefore take the view that this is acceptable. The access widens out after this point so there would be sufficient space for pedestrians to see oncoming traffic and wait in a safe position for vehicles to pass. I consider this to be acceptable.

The existing access has sufficient space to accommodate visibility splays, and I therefore have no serious concerns in this regard.

Ecology

There are some existing trees along the access road, and at the rear of the neighbouring gardens. The site itself features a concrete pad in some spots, but is largely overgrown with brambles for the majority.

With specific regard to reptiles: good reptile habitat generally has open aspect areas, is well drained and south facing, is mostly sunny, sheltered and relatively undisturbed. The Amphibian and Reptile Conservation Trust website (<https://www.arc-trust.org/for-reptiles>) notes that thick brambles creating heavy shading at ground level can discourage other plants necessary for good habitat. The brambles on site are thick, and there is heavy shading at ground level, which would discourage reptiles. There are also few areas of open ground that would allow reptiles to bask.

Planning Committee Report – 20 June 2019

KCC Ecology recently provided officer training on how to assess sites for ecological potential, and after visiting the site I consider that there is little potential for anything other than breeding birds to be present. It is only an offence to disturb birds during the breeding season (March-October) and this is controlled via the Wildlife and Countryside Act 1981. I have therefore recommended an informative to draw this to the applicant's attention.

I therefore have no serious concerns on this aspect.

Flood risk

The site lies within FZ3, but the EA do not object, and note that in reality there is little potential for the site to be flooded. I have, however, recommended a FFL condition below, as per their recommendations.

Other matters

I note the objections from local residents, but do not share their concerns.

As above: issues of overlooking, loss of privacy, or loss of light can be controlled / mitigated by conditions or through consideration of design at reserved matters stage. Loss of property value is not a planning consideration; I consider the highways impacts to be acceptable; and I don't consider that there will be significant noise and disturbance as a result of this development. I note the potential for damage to tree roots, and consider that appropriate conditions to protect existing trees can be imposed at the reserved matters stage once the final position of the buildings in relation to any trees has been established.

Conclusion

Taking the above into account I recommend that planning permission should be granted.

RECOMMENDATION – Application Permitted subject to the following conditions:

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

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

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

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

- 3) The development to which this permission relates must be begun not later than the expiration of 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) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:

Planning Committee Report – 20 June 2019

- i. the parking of vehicles of site operatives and visitors
- ii. loading and unloading of plant and materials
- i. storage of plant and materials used in constructing the development
- iv. the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
- v. wheel washing facilities
- vi. measures to control the emission of dust and dirt during construction
- vii. a scheme for recycling/disposing of waste resulting from demolition and construction works

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

- 5) 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.

- 6) 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.

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

Reason: In the interest of visual amenity.

- 8) The development hereby permitted shall not be commenced until such time as a scheme to connect the property to foul and surface water drainage system has been submitted to, and approved in writing by, the local planning authority. The scheme shall be implemented as approved.

Reason: To ensure that the development is connected to mains drainage system, and 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.

- 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 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.

Planning Committee Report – 20 June 2019

Reason: As potentially contaminative historical land uses have been identified on site, and the site is particularly vulnerable as redevelopment works are proposed within an area classified as a Secondary A aquifer and is located within Source Protection Zone 1. The above condition will 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.

- 10) Adequate underground ducts shall be installed before any of the buildings hereby permitted are occupied to enable telephone services and electrical services to be connected to any premises within the application site without resource to the erection of distribution poles and overhead lines, and notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) no distribution pole or overhead line shall be erected other than with the express consent of the Local Planning Authority.

Reason: In the interests of residential amenity.

- 11) The details submitted pursuant to condition (1) above shall show adequate land reserved for the parking or garaging of cars (in accordance with the currently adopted Kent County Council Vehicle Parking Standards). 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) (England) Order 2015 (as amended) (or any order revoking or re-enacting that Order) 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 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.

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

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

- 13) The internal finished floor level of the dwellings hereby permitted shall be set at least 300mm above natural ground level.

Reason: To minimise risk of flooding.

INFORMATIVES

- 1) Please note that the site has high potential to contain breeding birds. It is an offence under the Wildlife and Countryside Act 1981 to intentionally kill, injure, or take any wild bird, or to damage or destroy their nests; or to intentionally or recklessly disturb specific species of wild birds (see the act for a full list of species). The applicant / developer is therefore advised to clear the site outside of the breeding bird

season (March to October), or to consult with a qualified ecologist prior to undertaking any works during the bird breeding season.

The Council's approach to this application:

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

Offering pre-application advice.

Where possible, suggesting solutions to secure a successful outcome.

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

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

2.7 REFERENCE NO - 19/501378/FULL			
APPLICATION PROPOSAL Change of use of residential annexe to independent residential use (Retrospective).			
ADDRESS Annexe James House Kent View Drive Eastchurch Sheerness Kent ME12 4DP			
RECOMMENDATION Grant, subject to conditions and receipt of standard SAMMS contribution			
SUMMARY OF REASONS FOR RECOMMENDATION The proposal would provide an additional dwelling to meet housing supply and would not give rise to adverse harm to residential amenity, visual amenity or highway safety over or beyond the existing situation.			
REASON FOR REFERRAL TO COMMITTEE Objection to the proposal from Eastchurch Parish Council			
WARD Borden And Grove Park		PARISH/TOWN COUNCIL Eastchurch	APPLICANT Ms Patricia Bath AGENT Brachers LLP
DECISION DUE DATE 12/06/19		PUBLICITY EXPIRY DATE 09/05/2019	
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):			
App No	Proposal	Decision	Date
15/503250/SUB	Submission of details pursuant to Conditions: 3 - Details of external finishing materials, and 4 - Details of hard and soft landscaping (original app ref: SW/13/1545)	Approved	19.06.2015
APP/V2255/A/14/2 215852	Appeal against the refusal Ref: SW/13/1545	Appeal Allowed	21.07.2014
SW/13/1545	Proposed dwelling and Annexe	Refused	07.02.2014

MAIN REPORT

1.0 PLANNING HISTORY

- 1.1 The original planning application which relates to this site was refused for the following reason, *'The dwelling, by virtue of its scale and urbanising effect in a location within a rural settlement characterised by sporadic and widely spaced buildings, would be detrimental to the character and appearance of the countryside and the rural environment and would represent an unsustainable form of development.* (Planning application ref: SW/13/1545 dated 7 February 2014).
- 1.2 The decision was appealed and allowed by the Inspectorate. It was concluded that that the principle of residential accommodation was acceptable given that sufficient evidence had been provided to demonstrate that the site was previously developed. In addition, it was considered that the dwelling would satisfactorily integrate into the street scene and thus allowing for the area to maintain its rural character. (Planning Appeal Ref: APP/V2255/A/14/2215852, dated 21 July 2019).

- 1.3 Condition (9), was imposed by the Inspector, which had the effect of *'restricting the use of the garage ancillary to the main dwellingto prevent its future subdivision into a separate unit, in the interests of residential amenity.'* (Appeal Ref: APP/V2255/A/14/2215852, dated 21 July 2019)
- 1.4 It is this ancillary link that the applicant now seeks to remove, to enable the annexe to be used as a single independent residential dwelling.
- 1.5 There are three planning appeals which I consider relevant in the determination of this application. Each Planning Appeal relates to the construction of residential housing located outside the Built-up Area boundary of Eastchurch and all of which are situated within close proximity to the subject site.
- 1.6 Planning appeal for a *'Pair of 3 bedroom semi-detached dwellings..... with associated parking spaces and a 4 bedroom house with double garage and parking all served by the propose extended highway.....'* The appeal was dismissed on the grounds that whilst the site was considered previously developed land, the proposal would cause harm to the landscaping setting of the existing residential setting, and not conserve the beauty of the countryside. (Orchard Way, Eastchurch, Appeal Ref: APP/V2255/W/17/3177787), dated 20 November 2019)
- 1.7 Similarly, an appeal for a *'4 bedroom detached house with integral garage...'* was dismissed as the proposed siting and visual effect on the pattern of development and open space was considered not to satisfy the requirements on the Local Plan or Framework on design. (Land on the corner of Range Road, Eastchurch, Appeal Ref: APP/V2255/W/17/3177790), dated 17 November 2019)
- 1.8 The third appeal for the *'erection of pair of 3 bedroom semi-detached houses with associated garages and car parking'* was allowed by the Inspectorate on the grounds of sustainability. The site was considered a sustainable location, suitable for the proposed location of residential accommodation. (11 Range Road, Eastchurch, APP/V2255/W/15/3135789 dated 28 January 2016)
- 1.9 The key distinction between the Planning Appeals as listed above is that the two appeals which were dismissed (Ref: APP/V2255/W/17/3177787 & APP/V2255/W/15/3135789) came at a time when the Council could demonstrate a 5 year housing supply and given this, the Planning Inspectorate did not deem it considered the scheme acceptable, having regard to the location of the site relative to shops and services, and other dwellings in the immediate vicinity. However, the earlier appeal (Ref: APP/V2255/W/15/3135789) which was Allowed is considered most relevant as it came at a time when the Council was unable to demonstrate a 5 year housing supply, which is the Councils current position.

2.0 DESCRIPTION OF THE SITE

- 2.1 The Annexe is situated on the northern side of Kent View Drive, approximately 53m from the junction with Church Road to the west. There are several residential side roads off this section of Church Road, and nearby to the south is the entrance to the complex of three prisons. The side roads vary in terms of plot size, property type and density, but the general character of the area is of detached properties with occasional undeveloped plots, giving a sense of space and rural character. Shops and services within the village of Eastchurch, are located about half a mile from the site and can be accessed on foot via a dedicated footway with streetlights, and bus services run to Eastchurch and the wider network of centres.

- 2.2 The Annexe is a single storey L-shaped building with a pitched roof, associated hardstanding and vehicle access. It accommodates one self-contained residential unit suitable for two person occupancy with a large open plan living area, double bedroom and a bathroom. It is attached to a double garage to the west.

3.0 PROPOSAL

- 2.1 The proposal seeks to use the Annexe as a separate residential unit.
- 2.2 The application is retrospective and as such no changes are proposed to the existing built form of the unit nor to the existing parking or landscaping layout.

4.0 PLANNING CONSTRAINTS

- 4.1 No planning constraints are identified other than being located outside of the Built-up Area Boundaries.

5.0 POLICY AND CONSIDERATIONS

- 5.1 The National Planning Policy Framework (NPPF) and National Planning Practice Guidance (NPPG)
- 5.2 Bearing Fruits 2031: The Swale Borough Local Plan 2017 policies ST 1, ST 3, ST 6, CP 4, DM 7, DM 14
- 5.3 SPG 4 Kent Vehicle Parking Standards

6.0 LOCAL REPRESENTATIONS

- 6.1 No comments have been received

7.0 CONSULTATIONS

- 7.1 **Eastchurch Parish Council:** Objects to the application. The Council upholds the Inspectors Report of the Appeal Decision and the Schedule of Conditions attached.'
- 7.2 Additionally, Eastchurch Parish Council requested clarification of ancillary use which is defined as accommodation that is subordinate to the main dwelling, the function is restricted to the supplementary enjoyment of the main residence and for no other purpose or operations.
- 7.3 **Natural England:** Assessment to be made in accordance with Natural England.
- 7.4 SAMMS payment will be required on the grounds of mitigation and this can be secured quickly if Members are minded to grant permission.

8.0 APPRAISAL

Principle of Development

- 8.1 The Local Plan 2017 policy ST3 identifies the site as lying outside of the Built-up area boundary of Eastchurch, and therefore in the countryside.. Paragraph 4.3.23 identifies the primary objective here is to protect the open countryside from isolated

and/or large scale development. Where minor development is essential for social, economic or environmental health of a community it would be required to enhance the intrinsic character, beauty, wildlife value, tranquillity and undeveloped nature of the countryside and its communities and buildings.

- 8.2 The Annexe is not located within an isolated position nor is it large scale development. The structure is built and the impact of its built form *'upon the protection and enhancement of the quality, character and amenity of the countryside'* was previously assessed and considered acceptable by the Planning Inspectorate. (Appeal Ref: APP/V2255/A/14/2215852, dated 21 July 2019).
- 8.3 The unit would provide a residential housing unit where the Council has identified a five-year housing supply shortfall. According to paragraph 49 of the National Policy Framework, 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.
- 8.4 Paragraph 14 indicates that for decision-taking, this means, 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 and as such sets out a presumption in favour of sustainable development.
- 8.5 The Framework identifies three dimensions to sustainable development: economic, social and environmental, and states that planning needs to perform roles in all three dimensions. As such, it is necessary to consider the proposal in terms of all three roles to establish whether it constitutes sustainable development.
- 8.6 As previously referred to under section 1.9, the appeal decision which I believe should be given weight based on the Council being unable to demonstrate a five year housing supply and allowing the Appeal on the grounds of sustainability is located within close proximity of the site at 11 Range Road, Eastchurch. The application was for the *'erection of pair of 3 bedroom semi-detached houses with associated garages and car parking'*. (Ref: APP/V2255/W/15/3135789 dated 28.01.2016). The Planning Inspectorate considered the following:

*The site is located outside the defined settlement of Eastchurch, being approximately ¾ mile from the settlement boundary and around 1 mile from the village centre and the goods and services available there. Church Road, which links the Sheppy prison cluster to the village centre, does have a footway along its length and some lighting and so provides a safe pedestrian access to the village centre. Furthermore, on Church Street there is a bus stop around 300 metres from the site which is served by three bus services providing links to the village centre and larger towns further afield. **Accordingly because of the site's accessibility to goods, services and public transport links, the provision of housing in this location would support the well-being of the village and help to perform the social role in sustainable development.***

The prison cluster dominates the context of the site, and the appellant has commented that the neighbouring houses were originally built to house prison staff and their families. It is not unreasonable to consider that the prisons could provide employment opportunities for future residents of the dwellings which would be accessible by walking or cycling. Furthermore there may also be a short term gain for the local economy during the construction period.

Consequently, the development would contribute to the local economy and fulfil the economic role.

As set out above, the immediate area has a primarily domestic character and therefore no harm would be caused to the character or appearance of the countryside as a result of the development. As such the development would protect the countryside and the environmental role would be met.

In terms of complying with specific policies in the Framework, Paragraph 55 advises that isolated homes in the countryside should be avoided. However due to the size of the settlement within which the site is located and the links to the village centre, I do not consider that the development would be isolated.

In summary, there would be no adverse impacts arising from the proposed dwelling, there would be benefits when considered against the Framework as a whole and there are no specific policies in the Framework which indicate that development should be restricted. For all the above reasons, I find that the proposed dwelling would constitute sustainable development.

- 8.7 There are no specific policies in the adopted Local Plan (2017) which allow for the subdivision of existing residential dwellings in countryside locations. However - recent government guidance in paragraph 79 (d) of the revised National Planning Policy Framework NPPF (2018) states that isolated homes in the countryside should be avoided unless, amongst other things, the development would involve the subdivision of an existing residential unit. It is arguable whether this is the case here. Nonetheless, as I set out above, the built form is in place. The building has its own frontage to Kent View Drive and would read as frontage development rather than backland development.
- 8.8 As set out above, the site lies in a comparatively sustainable location. The building is already constructed (lawfully, albeit its use is currently unauthorised) and the Council cannot demonstrate a 5 year supply of housing land, which tilts the policy balance in favour of provision of new residential development in such locations.
- 8.9 Given the above I am, on balance, of the view that the proposal is acceptable in principle. Members should note that the very specific circumstances of this site are given significant weight here – in particular the location relative to Eastchurch, the pedestrian route to Eastchurch from the site, and the fact that the annex has a separate street frontage to the dwelling. I do not envisage such circumstances being readily repeated elsewhere, and my recommendation in this respect does not in my view set a precedent.

Visual Impact

- 8.10 The design and visual impact of the Annexe was previously assessed and considered acceptable under the linked Planning Appeal (Ref: ref: APP/V2255/A/14/2215852). The Planning Inspectorate considered that the proposal being located outside of the Built-up Area Boundaries would not adversely impact upon the character and appearance of this countryside setting and therefore would adhere to the broader principles of the Development Plan. As such, given that this planning application is retrospective, and no further extensions or alterations are proposed to the built form of the structure or to the existing layout of the site, the Planning Inspectorates previous consideration is upheld in this regard.

- 8.11 Should the application be considered acceptable, I recommend the imposition of conditions removing all Permitted Development rights. This would safeguard the risk of enclosure to the front of the Annexe to prevent high fencing from being erected and for hardstanding, to prevent the removal of the front garden. It would also prevent alterations to the building increasing it in size.

Residential Amenity

- 8.12 In terms of habitable provision, the double bedroom has a floor area of 10.6m² whilst the open plan kitchen/living area provides 21m² of usable space. Both rooms are of a sufficient size for daily activities and all rooms are serviced by a window to allow for natural light provision. The total floor area provision is 42.8m² of usable habitable space which exceeds the Councils minimum space standards and overall is considered to provide an acceptable standard of residential accommodation with adequate daylight, sunlight and privacy provision.
- 8.13 The Council requires a good standard of outdoor amenity provision for future occupiers. This site falls well below the normal minimum provision of private amenity space. However – the development is small in scale and is very unlikely to be used as family accommodation. In such circumstances, this Council has in the past considered the lack of provision of private amenity space to be acceptable. Notwithstanding this, there is a small grassed area to the front of the site which although not ideally located in terms of privacy is considered sufficient given that this is not a family unit. In addition, the sites' countryside setting makes the site easy assessable to outdoor open space within close proximity of the site and therefore acceptable in this regard.
- 8.14 In relation to the impact upon neighbouring residential properties, the Annexe is located adjacent to 'St Teresa' to the south, a residential bungalow in habitable use. Two windows are located within the side (east) elevation of the Annexe facing this neighbouring property. Notwithstanding, these windows are high level (approximately 1.8m above floor level) and therefore do not provide direct overlooking. Furthermore, the distance between these properties is 31m a sufficient distance to mitigate against the loss of day light, sunlight, sense of enclosure or loss of privacy and is therefore acceptable in this regard.
- 8.15 Similarly, the windows in the side (west) and rear (north) elevation of the Annexe are high level windows with all other neighbouring residential properties including The Sherries to the north, Cottage & Mairstane (south) and James House (west) being located a minimum distance of 21m from the subject site. As such no adverse amenity concerns are raised in relation to daylight, sunlight, overshadowing, sense of enclosure or loss of privacy and therefore considered acceptable in this regard.
- 8.16 The Annexe would be retained in its current form as a one bedroom self contained unit for two person occupancy and therefore any increased intensification of the site associated with increased noise levels would be minimal and not sufficient to adversely impact upon the existing residential amenity of the area.

Parking

- 8.17 In terms of parking provision, a double garage and associated hardstanding is integrated into the design of the Annexe and this is considered sufficient for the parking of two vehicles. The car parking is considered an over provision for a unit of

this size in accordance with Kent County Council Highways guidance which requires 1 space per 1 bedroom dwelling.

- 8.18 The parking provision for James House would remain unaffected by the proposal.

9.0 CONCLUSION

- 9.1 The principle of a new residential unit outside the Built-up Area Boundaries is contrary to the Local Plan 'Bearing Fruits 2031'. However – as the Council cannot demonstrate a five year supply of housing, the policy objection to development of this kind in the countryside is given less weight in the decision making process and on balance I consider it to be acceptable as a matter of principle. The use of the building as a separate dwelling is acceptable in all other respects, and therefore subject to the SAMMS payment, and to the conditions below, I recommend that planning permission is granted.

RECOMMENDATION – GRANT Subject to the following conditions:

CONDITIONS

- (1) The development hereby approved shall be carried out in accordance with the following approved drawings: Site Location and Block Plans, Proposed Annexe Elevations, 2165/01, 2165/02

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

- (2) Upon completion, no further development, whether permitted by Classes A, B, C, D, E or F of Part 1 of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking and re-enacting that Order) or not, shall be carried out.

Reason: In the interests of the character and appearance of the area, and visual protection of this countryside setting.

- (3) The parking provision associated with the integral double garage, would be retained for the use of the Annexe only and not for general use of the main dwelling James House.

Reason: To ensure adequate parking provision for future residents, and to minimise increased intensification of the site associated with increased elevated noise levels for the protection of neighbouring properties.

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

Reason: In the interests of visual amenity.

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.

Appropriate Assessment under the Conservation of Habitats and Species Regulations 2017

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

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.

The proposal therefore 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 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 solely on the basis of the mitigation measures agreed between Natural England and the North Kent Environmental Planning Group.

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 the recommendations of the North Kent Environmental Planning Group (NKEPG), and that such strategic mitigation must be in place before the residential annexe is occupied.

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

Based on the correspondence with Natural England (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 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 (<https://birdwise.org.uk/>).



PLANNING COMMITTEE – 20 June 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 – Shurland Farm, Shurland Cottage, High Street, Eastchurch**

APPEAL ALLOWED

DELEGATED REFUSAL

Observations

A disappointing decision. The Inspector considered that the proposed development would have a neutral impact on the setting of the nearby designated heritage asset – Shurland Hall.

- **Item 5.2 – 64 School Lane, Lower Halstow**

APPEAL DISMISSED

DELEGATED REFUSAL

Observations

The Inspector concluded that, even though the site lies in the countryside and Council could not demonstrate a five-year supply of housing land, the harm caused by the development was so significant as to warrant the appeal being dismissed. A welcome decision.

- **Item 5.3 – Broadoak Farm, Broadoak Road, Milstead**

APPEAL ALLOWED

DELEGATED REFUSAL

Observations

A quite baffling decision to approve a long new driveway across an open field with no apparent justification.

- **Item 5.4 – Uplees Fruit Farm, Uplees Road, Oare**

APPEAL DISMISSED

APPEAL AGAINST NON-DETERMINATION

Observations

This appeal was lodged whilst the case officer was trying to elicit further information from the applicant to support their case. The decision accords with the Council's policies for protection of the countryside and for promoting only sustainable development and is therefore welcomed.



Appeal Decision

Site visit made on 2 April 2019

by **Kenneth Stone** BSC Hons DipTP MRTPI

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

Decision date: 15 May 2019

Appeal Ref: APP/V2255/D/19/3220061

Shurland Farm, Shurland Cottage, High Street, Eastchurch, ME12 4BN

- 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 Jason Magenty against the decision of Swale Borough Council.
 - The application Ref 18/504232/FULL, dated 10 August 2018, was refused by notice dated 26 November 2018.
 - The development proposed is the conversion and extension of the garage to provide a pool enclosure and associated facilities.
-

Decision

1. The appeal is allowed and planning permission is granted for the conversion and extension of the garage to provide a pool enclosure and associated facilities at Shurland Farm, Shurland Cottage, High Street, Eastchurch, ME12 4BN in accordance with the terms of the application, Ref 18/504232/FULL, dated 10 August 2018, subject to the conditions contained in the schedule at the end of this decision.

Main Issue

2. The main issue is the effect of the proposed development on the character and appearance of the surrounding area, including the effect on the setting of the scheduled monument Shurland house, the Grade II* listed building known as The ruins of Shurland Hall or Castle and the Grade II listed building known as The Garden Walls of Shurland Hall or Castle.

Reasons

3. Shurland Cottage is a modern two storey detached house set in its own plot the boundaries of which are contained by a mix of low brick walls, hedging and open fencing. The plot also contains a detached pitched roof garage at the closest edge to the heritage assets of Shurland Hall, the scheduled monument, hall and ruins and the surrounding garden walls.
4. The cottage is located in the open countryside and beyond Shurland Hall complex, the area is characterised by rolling agricultural fields.
5. In the context of the heritage assets they derive their significance from the architectural, historical and archaeological interest which they possess. The house dates from the early 16th century and is an example of a great house as an outstanding example of its class. Detailed drawings of the site are held in

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

Appeal Decision APP/V2255/D/19/3220061

- the Public Records Office and these can assist in interpreting and understanding the significance and composition of the site with standing and buried remains surviving well.
6. The appeal site is within the setting of all these heritage assets and is now part of the way in which their surroundings have recently evolved. It is however a recent intervention that does not contribute to the significance of the assets it is at best a neutral feature but could be seen to be a negative contribution.
 7. The listed walls contain the existing Shurland Hall remains and are the closest element of the heritage assets to the appeal site but these already sit close to the walls and garage of Shurland Cottage and the proposed extension would be beyond these.
 8. The existing Shurland Cottage is a new development that has no historic or heritage significance and does not contribute to the understanding or significance of the adjoining heritage assets.
 9. The proposed addition would be set within the plot of Shurland cottage would be located between the existing house and detached garage and within the walled section of its curtilage. It would be read as part of that new development and would not extend that development towards the heritage assets. The low scale and flat roof form of the extension would reduce its visibility and in context would not be seen as anything more than an addition to an existing modern intrusion. The development would not overwhelm or substantially add to that development and would only increase the floor space by approximately 27%. Whilst the Council seek to assess the increase against the previous development on the site that is a flawed approach as the existing development has permission and is in place. It is therefore in the context of the existing situation that an assessment of the impact must be made.
 10. Given the constrained nature of the proposed works, the separation caused by the cottage's boundary walls and garage I am satisfied that the proposed development would have little impact or influence on the significance of the heritage assets over and above the impact that already arises from the presence of the cottage and the ancillary buildings within its plot.
 11. The cottage and its plot already exert a neutral/negative effect on the setting of these assets given its proximity, design and form. However, this would be little altered by the proposed development.
 12. In the context of the wider effect on the character of the area and the open countryside beyond, the proposed extension would be a modest addition to the existing dwelling. The site is prominently located on rising ground close to the crest of the slope. However there are few public locations close by from where this can be viewed. The proposed addition would not be readily visible and would be seen against the backdrop of a relatively modern detached house and within the context of its plot and out buildings. With the surrounding boundary features the direct views, if such were available, would be broken up and there would be little effect on the wider open countryside. The plot would be viewed as a whole and part of a developed site in the open countryside as it is now.
 13. For the reasons given above I conclude that the proposed development would not result in any material harm to the character and appearance of the surrounding area, including to the setting of the scheduled monument Shurland

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

2

Appeal Decision APP/V2255/D/19/3220061

house, the Grade II* listed building known as The ruins of Shurland Hall or Castle and the Grade II listed building known as The Garden Walls of Shurland Hall or Castle. Consequently the proposal would not conflict with policies CP4, DM11, DM14, DM32 and DM34 of the adopted 'Bearing Fruits 2031: The Swale Borough Local Plan 2017 which together, in this case, seek high quality design of an appropriate scale that preserves the special architectural or historic interest, and setting and any features of special architectural or historic interest which the listed buildings possess and require that development does not harm the scheduled monument or its setting. This is consistent with the national advice in the National Planning Policy Framework.

Overall conclusion and conditions

14. The Council have suggested a number of conditions which I have considered in the light of the advice in the Planning Practice Guidance (PPG). A condition on the approved plans is required for the avoidance of doubt and to ensure a high-quality development. The scheme was amended during its consideration by the Council and I have considered the proposal on the basis of the amended scheme which was that determined by the Council. Those plans which retain elements of the original scheme which included the extended garage have not been included in the approved plans list to ensure there is no confusion.
15. An archaeological work programme is required given the proximity to the adjoining sensitive site. While this is a relatively modern development and ground disturbance would have occurred with its development the proposal includes a swimming pool which is likely to require deeper penetration in areas of the site where foundations were not previously laid. There is therefore the potential to disturb previously undisturbed ground.
16. There is an existing tree within the plot of the cottage and reasonably close to the access and excavation works. Conditions to protect and ensure good arboricultural practice are therefore required. Conditions in terms of requirements to provide details of materials, window and door details and junction details are required to ensure a high-quality development in the interests of the appearance of the development given its proximity to the listed buildings and scheduled monument.
17. Conditions 3 and 5 are pre-commencement conditions and the appellant has confirmed that they have no objection to these conditions. They are required to ensure the actions are undertaken at an appropriate stage at the start of development to secure the identified interest.
18. For the reasons given above I conclude that the appeal should be allowed.

Kenneth Stone

INSPECTOR

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

3

Appeal Decision APP/V2255/D/19/3220061

Schedule of conditions for appeal APP/V2255/D/19/3220061

- 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: Location Plan, 18-03-01, Proposed Elevations 18-03-100B; Proposed side elevation 18-03-101B; Proposed side elevation – showing glazed link section 18-03-102A; Proposed Plans 18-03-103B.
- 3) No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written specification and timetable which has been submitted to and approved in writing by the Local Planning Authority.
- 4) 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.
 - i) 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 survey and Impact Report (report ref: 1718) dated 10/09/2018, 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 shall be undertaken in accordance with the Arboricultural Report (report ref: 1718) dated 10/09/2018.
- 5) 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 and provide a working methodology for supervision during each stage of the development. It should also detail the proposed replacement of the Poplar tree subject to TPO 10 of 1999 (numbered as T02 on the submitted Arb survey report)
- 6) No development beyond the construction of foundations shall take place until a sample panel of the wall cladding material(s) to be used on the development have been submitted to, and subsequently approved in writing by the LPA, and works shall be implemented in accordance with the approved details.

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

4

Appeal Decision APP/V2255/D/19/3220061

- 7) No development beyond the construction of foundations shall take place until manufacturer/supplier's brochure and specification sheet(s) of the specific window and door product(s)/system(s) to be used have been submitted to, and subsequently approved in writing by the LPA and works shall be implemented in accordance with the approved details.
- 8) No development beyond the construction of foundations shall take place until a 1:1 or 1:2 scale vertical section of the junction between the wall and roof plane of the link extension (between the existing house and garage) has been submitted to, and subsequently approved in writing by the LPA and works shall be carried out in accordance with the approved details.

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Appeal Decision

Site visit made on 7 May 2019

by **N Thomas MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: Friday, 17 May 2019

Appeal Ref: APP/V2255/W/18/3217204

64 School Lane, Lower Halstow ME9 7ET

- 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 Morgans against the decision of Swale Borough Council.
 - The application Ref 18/501742/FULL, dated 28 March 2018, was refused by notice dated 29 May 2018.
 - The development proposed is change of use, conversion and extension of existing garage to form a new 2 bedroom dwelling.
-

Decision

1. The appeal is dismissed.

Procedural Matter

2. Since the Council determined the application, the Government has published the results of the 2018 Housing Delivery Test measurement and the main parties have been given the opportunity to comment on the implications for this case.

Main Issue

3. The main issue is whether the site is a suitable location for the proposed development with regard to the settlement strategy, and its implications for the countryside.

Reasons

4. The site is located to the front and side of 64 School Lane, a semi-detached two storey dwelling. It is on the edge of the village of Lower Halstow, and is adjacent to open fields to the side and rear. To the front of the site is a small tree belt alongside a stream with a public footpath. The appeal site is on the opposite side of School Lane to the more densely developed core of the village, and the semi-detached dwellings at Nos 62 and 64 appear as a small pocket of development which is surrounded by open countryside to the sides and rear. I therefore conclude that the appeal site is within the open countryside, as defined by the settlement boundary for the village, which I understand to follow School Lane in the vicinity of the appeal site.
5. Policy ST3 of the Swale Borough Local Plan 2017 (the Local Plan) sets out the settlement strategy for the Borough and directs development to existing defined settlements and allocated sites. It seeks to restrict development in the

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

Appeal Decision APP/V2255/W/18/3217204

countryside unless it is supported by national planning policy and able to demonstrate that it would contribute to protecting the intrinsic value, landscape setting, tranquillity and beauty of the countryside, its buildings and the vitality of rural communities. Although the site is adjacent to the settlement boundary, the site is not within a defined settlement and therefore the proposal is contrary to the settlement strategy for the area.

6. I accept that part of the proposed dwelling would be formed through the conversion of the existing garage, but the bulk of the building would be new build and I have seen no evidence that this would be in accordance with the development plan. I appreciate that the site comprises previously developed land and would not encroach onto agricultural land, but Policy ST3 does not make an exception for such sites.
7. The existing buildings on the appeal site are modest outbuildings that appear subordinate to the existing dwelling at No 64, and due to the width of the side garden the existing dwelling has a spacious setting. The appeal proposal would result in a substantially extended building that would fill the width of the plot, leaving a relatively small gap either side. I appreciate that the proposed dwelling would have a single storey appearance and that a reduction in the area of hardstanding to the front of the building is suggested in the appellant's Appeal Statement. It would nonetheless appear as a substantial building and a separate dwelling on a subdivided plot. This would result in a more intensively developed appearance that would consolidate the small pocket of development represented by Nos 64 and 62, and intensify this sporadic form of development in the countryside. For these reasons, the proposed development would significantly detract from the open character of the countryside.
8. I am aware that the garage, parking area and drive have an authorised mixed use for residential and repairing, re-spraying, renovating, valeting and/or storage of motor vehicles¹ and that the appellant is of the opinion that this use is still lawful and that the site could be sold with the benefit of this use. While this is disputed by the Council as set out in its reason for refusal, my concern relates to the effect of the increased built form on the site and the conflict with the settlement strategy that would occur through the creation of a dwelling. My observations on site, though only a snap shot in time, are supported by the evidence provided by the appellant, and lead me to conclude that the current use of the site has a limited impact on the character and appearance of the area. I have seen no evidence that the continued mixed use of the site would have a similar harmful effect on the open character of the countryside as the appeal proposal. I therefore do not find that the fall back position put forward by the appellant overrides the harm I have identified.
9. As a result, I conclude that the site is not a suitable location for the proposed development with regard to the settlement strategy, and its implications for the countryside. It would therefore be contrary to policies ST3 and DM14, insofar as they seek to resist development in the countryside and conserve the natural and built environment. The Council has listed Policy DM11 of the Local Plan in its decision notice but this applies to extensions to and replacement of dwellings in the area, and is not applicable to this proposal.

¹ Ref APP/C/97/V2255/646452

Appeal Decision APP/V2255/W/18/3217204

Other Matters

10. I have had regard to the site's location in relation to a European designated site afforded protection under the Conservation of Habitats and Species Regulations 2010 as amended. Although not identified as a formal reason for refusal, the Council has stated that mitigation is required and the appellant has sought to address this. However, as any consideration of that matter would not affect my finding on the main issue, and the appeal would in any case be dismissed, it is not necessary for me to address that objection any further as part of this decision.
11. I saw on my site visit that there has been recent development elsewhere on School Lane², but this is separated from the appeal site by the stream, footpath, tree belt and a field. I understand from the evidence provided by the appellant that the majority of that development was located inside the settlement boundary, with only a small section of land within the countryside being used as garden. I do not therefore find that it is a comparable case that has any bearing on this proposal, and I have determined the appeal on its own merits. My attention has also been drawn to other residential development in the area, but I have seen no evidence that the circumstances are comparable to this case. I acknowledge the appellants' desire to retire and move into a smaller dwelling, but this does not outweigh the harm I have identified. I am also aware that the appellant considers that the Council encouraged them to seek permission to convert the garage, but I have considered the case on its own merits.

Planning Balance and Conclusion

12. The parties agree that the Council is not currently able to demonstrate a five year supply of land for housing. The appellant has stated that the presumption in favour of sustainable development applies due to an ongoing shortfall in housing supply and the Council has not provided any evidence to dispute this. As a result, in accordance with paragraph 11 of the Framework, the most relevant policies for determining the application should not be considered up to date. Paragraph 11 states that planning permission should be granted 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. In this case, from the evidence before me, there are no specific policies in the Framework that indicate that development should be restricted.
13. In the context of the development plan, I have found that the proposal would be contrary to policies ST3 and DM14 of the Local Plan. For this appeal, I have found the policies to be generally consistent with the relevant aims of the Framework which recognises in paragraph 170 the intrinsic character and beauty of the countryside and the need to contribute to and enhance the local environment. While the existing settlement boundaries carry reduced weight due to the housing shortfall, I have found significant harm to arise in the context of the policies stated above to which I attach substantial weight.
14. In terms of benefits, the proposal would make use of previously developed land, would make a modest contribution to the supply of housing and towards helping to address the Council's shortfall, and occupiers would provide additional support to the vitality of the local community. Due to the small scale

² Application ref SW/14/0100

Appeal Decision APP/V2255/W/18/3217204

of the development these are limited benefits. While it would provide a limited amount of short term employment through the construction of the development, it would also result in the loss of the existing employment use, which is therefore a neutral consideration. The site is well located for access to the primary school and other limited services and facilities in Lower Halstow, by both pedestrians and cyclists, which is a moderate environmental benefit.

15. Therefore, in terms of the planning balance, when the proposal is assessed against the policies in the Framework taken as a whole, the adverse impacts of the proposed development, to which I afford substantial weight, significantly and demonstrably outweigh the benefits of the proposal, to which I have afforded limited to moderate weight. This material consideration indicates that the appeal should be dismissed.
16. For the reasons given above, and taking into account all matters raised, I conclude that the appeal should be dismissed.

N Thomas

INSPECTOR

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4



Appeal Decision

Site visit made on 7 May 2019

by P Wookey BA (Hons) DipTP MRTPI

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

Decision date: Wednesday, 22 May 2019

Appeal Ref: APP/V2255/W/19/3221986

Broadoak Farm, Broadoak Road, Milstead ME9 0RS

- 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 Matt Brown against the decision of Swale Borough Council.
 - The application Ref 18/505773/FULL, dated 3 November 2018, was refused by notice dated 14 January 2019.
 - The development proposed is to construct a proposed replacement driveway to the farmhouse, via the adjoining paddock. Note that the paddock has an existing agricultural gateway and established access onto Broadoak Road, which will be re-used. The proposed new driveway constitutes a 'change of use' of that part of the paddock (i.e. the footprint of the driveway) to residential use.
-

Decision

1. The appeal is allowed and planning permission is granted to construct a proposed replacement driveway to the farmhouse, via the adjoining paddock. Note that the paddock has an existing agricultural gateway and established access onto Broadoak Road, which will be re-used. The proposed new driveway constitutes a 'change of use' of that part of the paddock (i.e. the footprint of the driveway) to residential use at Broadoak Farm, Broadoak Road, Milstead ME9 0RS, in accordance with the terms of the application Ref 18/505773/FULL, dated 3 November 2018, subject to the conditions in the attached schedule.

Procedural Matter

2. During my site visit I observed that the construction of the proposed driveway had begun.

Main Issue

3. The main issue is whether or not the proposed driveway would have an adverse effect on the character of the countryside.

Reasons

4. Broadoak Farm, a dwelling house, forms part of a group of former related farm buildings, which now appear to be mainly in residential use. The dwelling is visually prominent, though set well back from the Broadoak Road. Between the dwelling and the main highway is a flat open field, which is described by the appellant as a paddock. There is an existing driveway which leads from the dwelling directly to Broadoak Road. The site is located outside of any defined built up area.

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

Appeal Decision APP/V2255/W/19/3221986

5. Broadoak Farm is located within the Tunstall Farmlands Dry Valley and Downs Landscape Area as defined within the Swale Landscape Character and Biodiversity Appraisal (2011) (SWLCBA) and consequently any development should seek to conserve and restore the landscape quality. A copy of the SWLCBA was not submitted as evidence.
6. The development proposed would construct a new driveway from Broadoak Road, at a point which appears to have been previously used for access to the area described as the paddock. It would lead directly to a hardstanding at the front of the dwelling. The appellant proposes to create a small orchard, by planting fruit trees, between the dwelling, the proposed driveway and Broadoak Road.
7. The Council asserts that the proposed driveway would have an adverse visual effect on the countryside, and that the change of use of the paddock area, which it regards as an extension to the dwelling's amenity area, would be at odds with the surrounding area where most properties have their outdoor living area to the rear of the property.
8. Whilst the development proposed would alter the current appearance of the area, based on my own observations, due to the topography of the land, the proposed new driveway would be partially obscured by the proposed landscaping and planting of a new orchard which would significantly mitigate any visual effect on the character of the surrounding landscape.
9. Moreover, the proposed planting of an orchard between the road and the dwelling would enhance the setting of the wider landscape, which is not disputed by the parties and therefore would be a benefit to the SWLCBA.
10. The council has concerns that the change of use of the paddock area would extend the dwellings outdoor living area in a way that would be at odds with the surrounding area, where most properties have their amenity space to the rear of the property. Based on observations during my site visit and due to the appeal sites rural location which has a diversity of property types in the surrounding area, there is no prevailing pattern of plot composition with the layout of many of the dwellings not conforming to the more linear form of development, which would have outdoor living space at the rear of the property. Therefore, the development proposed would not appear to be at odds with the surrounding area and would not have an adverse effect on the character of the surrounding countryside.
11. Whilst I note the concerns regards the location of the driveway and its effect on highway safety, the highways authority has not raised any concerns. However, as I am allowing the appeal, I am imposing conditions to ensure the development proposed has no impact on highway safety.
12. I conclude that the development proposed would not have an adverse impact on the character of the countryside and would not be contrary to policies DM13 and DM24 of the Swale Borough Local Plan Bearing (2017), which amongst other things seek to ensure new development does not result in harm to the landscape.

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

2

Appeal Decision APP/V2255/W/19/3221986

Conditions

13. The Council has proposed a number of conditions which I have assessed against the advice provided in Planning Practice Guidance and have amended as necessary.
14. Conditions imposed are: 1) is the statutory commencement date; 2) for the avoidance of doubt and to ensure a satisfactory form of development; 3) in the interests of safeguarding the visual character of the surrounding area; 4);5) and 6) in the interests of safeguarding the visual character of the surrounding area and encouraging wildlife and biodiversity; 7) and 8) in the interests of highway safety.

Other Matters

15. I note that reference has been made to the proposed development's effect on the setting of a listed building. Whilst the appellant has stated that Historic England has de-listed Broadoak Farm, no evidence was submitted to support this and as the Council had not raised this as a matter of concern I have not pursued it any further.

Conclusion

16. For the reasons set out above, the appeal is allowed.

Paul Wookey

INSPECTOR

Appeal Decision APP/V2255/W/19/3221986

Schedule of 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 approved plan: 665- 01 Prop New Driveway Broadoaks Site Plan.
- 3) Prior to installation details of the entrance gates shall be submitted to and approved in writing by the Local Planning Authority and works shall be implemented in accordance with the approved details.
- 4) Before any further works commence full details of both hard and soft landscape 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 (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.
- 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.
- 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.
- 7) Before any further works commence a detailed plan showing adequate sight lines shall be submitted to and approved in writing by the Local Planning Authority. The sight lines shall be provided before first use of the driveway and thereafter maintained clear of any structure, tree, plant or other obstruction which exceeds 0.6m above carriageway level within the approved sight lines.
- 8) No gates shall be set within 5.5m of the carriageway edge on Broadoak Road.

End of Schedule



Appeal Decision

Site visit made on 7 May 2019

by **P Wookey BA (Hons) DipTP MRTPI**

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

Decision date: 04 June 2019

Appeal Ref: APP/V2255/W/18/3211348

Uplees Fruit Farm, Uplees Road, Oare ME13 0QR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr R Carter against Swale Borough Council.
 - The application Ref 18/501353/FULL, is dated 26 March 2018.
 - The development proposed is described as retention of mobile home on site for occupation by named occupier Mr Dale Higgins.
-

Decision

1. The appeal is dismissed and planning permission is refused for the retention of mobile home on site for occupation by named occupier Mr Dale Higgins at Uplees Fruit Farm, Uplees Road, Oare ME13 0QR, in accordance with application ref: 18/501353/FUL, dated 26 March 2018.

Procedural Matter

2. Based on site visit observations the mobile home is located on the appeal site.

Main Issue

3. The main issue is whether or not the development proposed would be a suitable location for residential use, having regard to its countryside location.

Reasons

4. The mobile home is located in an isolated position within a rural area, set well back from the main highway of Uplees Road, Oare and is located on a site which has a number of stable buildings and storage containers scattered around the appeal site. Beyond the appeal site the area is characterised by open agricultural land with isolated farm buildings. A small terrace of residential properties is visible in the distance.
5. The mobile home has been on the site for many years, having had a number of previous temporary and personal consents, initially in association with a previous agricultural use and then subsequently to provide accommodation for relatives of the appellant. The Council states that its current occupation of the appeal site is unauthorised.
6. The development proposed would retain the mobile home in its current location and allow the appellants brother to take occupation on a permanent basis, due

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Appeal Decision APP/V2255/W/18/3211348

- to ill health. Currently the brother lives some distance away which requires travel by the appellant to the brother's home on a daily basis. No physical changes would take place to the existing mobile home.
7. The Council has stated that the site is within an area designated as countryside, close to internationally important wildlife sites and some distance outside of any defined built up area boundary and with all journeys having to be made by private car. Moreover, the development proposed would constitute an isolated dwelling outside of the built-up areas defined in the Swale Borough Local Plan Bearing Fruits (2107) (LP).
 8. The appellant asserts that the mobile home has been on the site for a long period of time and is not visible from any public viewpoint and does not harm the biodiversity, its tranquillity or natural beauty. However, whilst the appellant does not dispute that the proposal would be contrary to a strict reading of policy ST3 of the LP which seeks to prevent the development of isolated dwellings in the countryside, it asserts that it does not take into account personal circumstances and adds that the proposal would be consistent with paragraph 8 of the National Planning Policy Framework (2019) (the Framework), with regards the social and environmental benefits resulting from the development proposed.
 9. Based on my observations during my site visit, the retention of the mobile home would constitute an isolated dwelling as it would be located within the open countryside and outside of any defined built up area. It would appear to be incongruous and an unwelcome addition to the characteristic open countryside of the surrounding area. Whilst I acknowledge that the mobile home has been in its current location for a number of years it was not the Council's intention that this would be on a permanent basis, as it would be an unacceptable form of development in the countryside for the above reasons.
 10. Further, the appeal site is remote from any nearby services or day to day facilities and has poor access to the public transport network. The surrounding narrow rural roads have no footpaths and as a result the future occupier would be reliant on private transport to get to and from the site for everyday needs. I note that the appellant has stated that Mr Higgins is not able to drive a vehicle.
 11. Therefore, I conclude that the retention of the mobile home on the appeal site would be contrary to policies ST1 and ST3 of the LP and the Framework, which when read together seek to avoid the development of isolated development in the open countryside.

Planning Balance

12. The Council does not dispute that it cannot demonstrate a five year supply of housing land and based on the Housing Delivery Test (2018) it had failed to deliver on its housing targets for the previous three years. However, even though the development proposed would contribute one dwelling unit to the Council's housing targets, this benefit would not outweigh the significant harm that would be caused by an isolated dwelling in the countryside.
13. I have had regard to all of the evidence submitted by the appellant which would constitute special circumstances, and which might support an exception to the development plan policies. Evidence has been submitted by the appellant which demonstrates that the close proximity of the mobile home

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

2

Appeal Decision APP/V2255/W/18/3211348

would ease the requirement to provide care on a daily basis. Whilst the reduction in travel and close proximity would result in some social and environmental benefits, no substantive evidence has been submitted on which to conclude that the permanent occupation of the mobile home would provide any direct health benefits to Mr Higgins. Whilst the parties dispute whether or not this information had been requested by the Council, based on the evidence before me, there would be insufficient justification to allow permanent residency of the mobile home, given that I attach great weight to the rural restraint policies contained within the development plan. I also note that the appellants would find it unacceptable for a further temporary permission to be granted, had I been minded to allow the appeal.

Other Matters

14. The Council has made reference to the proximity of internationally important wildlife sites to the appeal site. As I have dismissed the appeal on the main issue there would be no harm to the integrity of those sites and I have therefore not pursued the matter further.

Conclusion

15. I conclude that the retention of the mobile home for the occupation of Mr Higgins would not be in a suitable location for permanent residential use and would result in significant harm to the countryside, which would be contrary to policies ST1 and ST3 of the LP and to the Framework, which when read together seek to prevent unacceptable and isolated development in the countryside.
16. For the reasons set out above, the appeal is dismissed.

Paul Wookey

INSPECTOR

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