



AGENDA

PLANNING COMMITTEE MEETING

Date: Thursday, 12 September 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, Benjamin 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.

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

1. Emergency Evacuation Procedure

Pages

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 [15 August 2019](#) (Minute Nos. 182 - 185) and the Extraordinary Meeting held on 29 August 2019 (Minute Nos. to-follow) as correct records.

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 Thursday 5 September 2019 (Minute Nos. to follow).

To consider application 16/503950/FULL, Orchard View, Otterham Quay Lane, Upchurch, nr Sittingbourne, Kent, ME8 8QR.

6. Deferred Items

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To consider the following applications:

Deferred Item 1 – 18/502735/FULL – Land at Perry Court, Ashford Road, Faversham

Deferred Item 2 – 19/501378/FULL – Annex James House, Kent View Drive, Eastchurch

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

Requests to speak on these items must be registered with Democratic Services (democraticservices@swale.gov.uk or call us on 01795 417328) by noon on Wednesday 11 September 2019.

7. Report of the Head of Planning Services

87 –
130

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

The Council operates a scheme of public speaking at meetings of the Planning Committee. All applications on which the public has registered to speak will be taken first. Requests to speak at the meeting must be registered with Democratic Services (democraticservices@swale.gov.uk or call 01795 417328) by noon on Wednesday 11 September 2019.

Issued on Tuesday, 3 September 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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SWALE BOROUGH COUNCIL

PLANNING SERVICES

Planning Items to be submitted to the Planning Committee

12 SEPTEMBER 2019

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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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- Minutes of last Planning Committee Meeting
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DEFERRED ITEM

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PART 2

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PLANNING COMMITTEE – 12 SEPTEMBER 2019

DEFERRED ITEM 1

Report of the Head of Planning

DEFERRED ITEMS

Reports shown in previous Minutes as being deferred from that Meeting

Def Item 1 REFERENCE NO - 18/502735/FULL		
APPLICATION PROPOSAL		
Erection of a new supermarket (Use Class A1) and a hotel (Use Class C1) along with associated accesses, car and cycling parking, lighting, drainage, hard and soft landscaping and associated infrastructure.		
ADDRESS Land At Perry Court Ashford Road Faversham Kent ME13 8YA		
RECOMMENDATION – That delegated authority is given to grant planning permission subject to the submission of a further landscaping plan and completion of a S106 Agreement, and the comments of KCC Highways and Transportation.		
SUMMARY OF REASONS FOR RECOMMENDATION		
<ul style="list-style-type: none"> • The site forms part of a strategic mixed use development site as allocated under policy MU7 of the local plan. • The principle of a hotel has already been established through the grant of outline permission • The impact of the retail unit has been assessed and found to be acceptable • The scale and design of the development is considered to be acceptable. • The scheme would not result in unacceptable impacts upon the highway subject to financial contributions to mitigate impacts at the A2 / A251 and at Brenley Corner • The sustainable measures proposed and landscaping of the site have been improved and found to be acceptable • Other localised impacts have been assessed and found to be acceptable. 		
REASON FOR REFERRAL TO COMMITTEE		
This application was deferred by the Planning Committee on 30 th May 2019.		
WARD Watling	PARISH/TOWN Faversham Town	COUNCIL
		APPLICANT HDD (Faversham) Limited And Premier Inn Hotels Limited
		AGENT Pegasus Planning Group
DECISION DUE DATE		PUBLICITY EXPIRY DATE
06/09/18		08/08/19

1. Background

1.01 This application was reported to the Planning Committee on 30th May 2019. A copy of the report is attached as Appendix A. The planning Committee deferred the application for the following reasons –

- For a decision to be made by the Swale Joint Transportation Board in relation to improvements to the A2 / A251 junction.
- Further details relating to the design of the buildings
- Further details of the environmental impact of the development (particularly sustainable design and construction)
- Further details of the potential impact on the viability of Faversham Town centre
- Further implications for local air quality
- Further details of native tree species to be planted.

1.02 A copy of the minutes of the committee meeting is attached as Appendix B.

1.03 The applicant has subsequently met with my officers and submitted further details in response to the matters raised by the Planning Committee. This includes a design note, retail note, landscape strategy note, Transport Assessment summary note, sustainability briefing note and an Air Quality Assessment summary. The applicant has also provided a revised site plans and landscaping plan which includes amendments to the soft landscaping proposals, and a revised elevation plan showing amendments to the visual appearance of the hotel building at ground floor level. The applicant has also provided further detail of the bricks and cladding proposed for the development.

2. FURTHER REPRESENTATIONS

2.1 3 further letters received from local residents, raising the following concerns –

- Impacts on highways infrastructure and air quality, including through the Ospringe AQMA
- Consideration of this application was postponed indefinitely in May, so why is it being reported back to committee again?
- The cosmetic changes proposed do not address the more significant objections relating to traffic and air quality. Cumulative impacts also need to be considered.
- Past resident comments are not displayed in full text form.
- The change in the political make up of Swale Borough Council and Faversham Town Council should not be ignored.
- The position of the hotel development would have a significant impact on the privacy and outlook of residents on Ashford Road.

2.2 A letter has been received from a consultant representing Tesco, and which is summarised as follows –

- The application still fails to properly assess the retail impact of the scheme, as required by Policy MU7 of the Local Plan.
- The applicant has still not produced a retail impact assessment
- The consultants employed by the Council have not provided an impact assessment and do not identify the actual / likely trading performance of the town centre stores, and must be treated with caution.

3. FURTHER CONSULTATIONS

3.01 Faversham Town Council – No Objection, reasons : -

- Changes made to the application address the material considerations previously raised, including addition of solar panels, change of materials and improvements to the landscaping of the site.
- The concerns about the A2/A251 and Mall Junction have been answered.

3.02 KCC Highways and Transportation – No comments received to date. I will update Members at the meeting.

3.03 Environmental Protection Team Leader – Advises that the effect on Air Quality from this part of the wider development (which also includes up to 310 dwellings, a care home and a substantial amount of class B1 floorspace) will be negligible. By the time this development has been constructed and has been established it is predicted that air pollution levels will have continued to fall, largely as a result of improvements in vehicle technology and the gradual removal and replacement of the most polluting vehicles. The technical note gives more substance to the argument being put forward by quoting a dispersal modelling method and figures that have resulted. Though it would have been preferable to have seen more explanation to the numbers being mentioned in the note, I am satisfied that it all points in the same direction i.e. that air quality in and around this site will not be adversely impacted by this or any other part of the development. The only criticism of this note I would make is in connection with the description of suggested mitigation measures which are too vague and non-specific even though I do not disagree with what is being suggested.

3.04 SBC Climate Change officer - Advise that they are generally happy with the BREEAM very good strategy and EV charging strategy. In respect of EV charging, it is appreciated that the electricity supply capacity may be beyond the control of the applicant. The argument for fewer charge points at the supermarket is understandable. However many local residents live in terraced properties with no space for off road parking – the availability of local charging points would make adoption easier and more likely for them, and would provide charge points close to the motorway. The climate change officer fully supports the greywater harvesting proposed for the hotel and the £20,000 financial contribution towards off-site electric vehicle charge points.

4. APPRAISAL

4.01 This section deals specifically with the queries raised by the Planning Committee in deferring the application in May 2019.

The A2 / A251 Junction

4.02 Proposals for improvements to this junction were reported to the Swale Joint Transportation Board meeting on 24th June. The Board recommended that a scheme for signalisation of the junction be pursued. KCC expect to deliver this scheme in the next 18 months.

Sustainability

4.03 The applicant has provided a briefing note that sets out the sustainable measures to be utilised within the development. The proposals would be designed to meet BREEAM Very Good standards in accordance with policy DM19 of the Local Plan, and this would be secured via a planning condition. The Briefing Note sets out the following sustainability measures that would be provided –

- The use of solar panels on the roof of the hotel building. The Briefing note explains that the panels would cover an area of approximately 140 sqm providing an output of 20KWh, which would be sufficient to cover the heating needs for the hotel.
- The use of air source heat pumps for the hotel
- The use of a greywater recycling system for the hotel, which would be designed to meet 100% of the WC flushing demand.
- The use of a refrigerant heat recovery system in the food store, which would generate sufficient re-usable energy to cater for all the heating requirements of the store.
- A reduction in energy use through increased building fabric energy
- Reductions in water consumption through efficient taps and low flush toilets (and the greywater harvesting described above).
- Use of a sustainable surface water drainage scheme
- Provision of on site electric vehicle charge points and a contribution of £20,000 towards off-site EV charge points in Faversham.

4.04 The Council's Climate Change Officer supports the sustainability measures being provided and in my opinion these would meet if not exceed the policy requirements under DM19 of the Local Plan.

Viability of town centre

4.05 The applicant has provided a Retail Impact Note which sets out the following –

- That the impact of the proposed Aldi store on Faversham town centre has been considered in detail by two independent consultants on behalf of the Council, both of whom confirm that the application accords with the relevant impact test.
- That despite objections from Tesco and Morrison's, neither operator has suggested that the proposed Aldi store would result in the closure of their store.
- That whilst a small proportion of trade draw will be from the town centre (principally Tesco), the impact of this would be limited and would not result in significant impacts.
- That the proposal would result in a negligible trade draw / impact on smaller shops and the market within the town centre, due to its significantly different offer to these

facilities, as highlighting by the ability of small shops / the market to trade alongside existing main-food shopping facilities.

- That the proposed retail store would bring about significant economic benefits and improve consumer choice for the town and surrounding area.
- 4.06 Members will be aware from the original committee report that the impact of the proposed Aldi store on Faversham town centre has been assessed by two external consultants on behalf of the Council, one of which (WYG Planning) has also produced the Swale Borough Council Retail and Leisure Needs Assessment (RLNA) for the Local Plan review. In the RLNA, it was concluded that Faversham town centre displayed good levels of vitality and viability.
- 4.07 Members of the planning committee in May specifically raised concern regarding the impact of the Aldi proposal on Faversham town centre, particularly smaller local shops and the Faversham market. The trade draw forecasts undertaken by the applicant and reviewed by WYG Planning (on behalf of the Council) set out that the turnover of the Aldi store would be in the region of £10.33 million. This turnover would predominantly be drawn from other discount stores (30% drawn from Aldi stores in Sittingbourne and Whitstable), and from Sainsbury's (23%) and Morrison's (10%) in Faversham. The forecasting shows that 15% of the Aldi turnover (approx. £1.47 million) would be drawn from Faversham Town Centre and that this would be almost exclusively drawn from the Tesco store.
- 4.08 The WYG Planning Retail Impact Appraisal states that the impact of the proposal on the convenience goods turnover of Faversham Town Centre would be in the region of 5.6%. The edge of centre Morrison's is predicted to experience an 8% impact. The appraisal has also carried out sensitivity testing based on a scenario if slightly more trade was drawn from the town centre. This forecasts that the impact on convenience goods turnover in the town centre would be in the region of 6.3%, the impact of which would fall most heavily on Iceland and other stores (16%). Members may also be aware that Iceland is due to close in September.
- 4.09 The WYG Appraisal concludes that the impact on the convenience goods turnover of the town centre would be between 5-6%, and that such levels would not normally be cause for concern particularly given the good levels of vitality and viability exhibited in Faversham town centre. The Appraisal sets out that it is unlikely that any individual store would close as a result of the impact of the proposed Aldi store, and that competitive overlap with smaller stores (butchers, bakers, convenience stores) is low. Members should note that proposed conditions 31-35 specifically control the type of retail offer, limiting use to a deep discount retailer, and limiting the floor space and extent that can be used for the sale of comparison goods. Such conditions are all designed to control the scale and type of retailing to limit impacts on the town centre.
- 4.10 I have considered the impact on Faversham markets further and consulted with my colleagues in the Planning Policy team. The markets represent niche retailing and Faversham has a strong reputation both for the regular and specialist markets, I do not consider that the proposal would result in significant impacts on the markets. The markets already co-exist with the nearby Tesco and Morrison's stores, and I do not consider that the proposal would cause unacceptable impacts.
- 4.11 For the benefit of Members, I have attached the WYG Appraisal as Appendix C.
- 4.12 Members will also note the further objection from representatives acting for Tesco. I have already addressed their concern regarding the planning policy position in paragraph 8.10 of the May committee report. In respect of the adequacy of the

assessments undertaken by consultants employed by the Council, I have discussed this further with colleagues in my Planning Policy team. It is considered that these documents are both locally appropriate and proportionate, particularly the work carried out by WYG Planning that uses the most up-to-date figures available from the local plan evidence report on the Retail & Leisure needs published earlier this year. As such I have no concern regarding the adequacy and robustness of the reports.

Air Quality

- 4.13 The applicant has submitted an air quality summary document which explains how the assessment has been carried out in accordance with current guidelines, and based on traffic data agreed with KCC Highways and Highways England which includes traffic generated from the original outline consent (reference 15/504264/OUT and which is described under 'Planning History' in the amended report), additional consented developments in the area and additional traffic generated by the proposed foodstore.
- 4.14 The summary document reports that predicted NO₂ concentrations are predominantly classed as Slight or Negligible, with a small number of predicted Moderate impacts. The Moderate impacts represent a change of less than 1% of the objective of 40µg/m³, and would not result in any new exceedances of this objective within the Ospringe AQMA. Annual PM₁₀ concentrations are predicted to remain within the objective of 40µg/m³.
- 4.15 Future year traffic data has been modelled using 2019 and 2020 background and emissions data. However emissions are predicted to decrease year on year through technology improvements to reduce pollution. By the time maximum development flows would be present, future changes to background concentrations and emission factors indicate that all of the modelled receptor locations within the AQMA would experience negligible impacts arising from the development.
- 4.16 Members will note from the comments received from the Environmental Protection Team Leader that he agrees that air quality impacts would be negligible. On this basis, I do not consider that there would be any significant impacts upon air quality.
- 4.17 The Environmental Protection Team Leader had originally commented that the mitigation measures proposed in the report were vague. Since then, the applicant has confirmed that 6 x 7kw fast changing points would be provided for the hotel scheme, and 2 x 22kw fast charge points would be provided on the foodstore site, with infrastructure provision for a further 4 charging points. The faster charge points at the foodstore would reflect the fact that vehicles are more likely to park for shorter periods than at the hotel site.
- 4.18 The applicant has submitted that they have secured additional electricity capacity to provide EV charge points, but that there is a limit on the network capacity and in turn the number of charge points that can be provided. The applicant has also offered a sum of £20,000 towards the provision of public EV charge points in the wider Faversham area.
- 4.19 These details are acceptable to the Environmental Protection Team Leader and the Climate Change Officer. I am awaiting further comments from KCC Highways on this matter and hope to report these to Members at the meeting.
- 4.20 Members should also note that the other mitigation measures referred to in the Air Quality report are secured under proposed conditions 12 (cycle parking) and 13 (Travel Plan).

Design and landscaping

- 4.21 The design note sets out that a number of changes have been made to the scheme following meetings with officers. These include –
- Revisions to the hotel elevations, to remove areas of render at ground level and replace them with brick elevations.
 - Amendments to the brick colour for the foodstore and hotel as shown on the plans, to be more appropriate to the local vernacular. The applicant has also provided samples of typical bricks and cladding for use in the development.
 - Provision of solar panels on the roof of the hotel building, to be concealed from view by the parapet detail.
 - Screening of service and plant areas to the east of the hotel.
 - A revised site plan and landscaping plan which includes additional tree planting within the hotel and foodstore car parks, additional landscaping details and amendments to open space, to provide greater ecological value and use of native species.
- 4.22 At the May committee, some members queried the design of the development and how it related to the local vernacular. The design is contemporary rather than traditional, and in my opinion this is appropriate for the type of buildings proposed which are commercial and significantly larger in scale than surrounding residential properties. In my opinion, the use of pitched roofs and attempts to create a traditional design would not be a good solution, given the size of the buildings and additional scale that a pitched roof would create, particularly on the hotel building. However, following meetings with my officers, the applicant has made some amendments to the hotel elevations to remove ground floor rendered areas and replace with brickwork. The applicant has also clarified the brick colour to be used for the development, to demonstrate how this can respond to the local vernacular and which would be used as a baseline to agree specific bricks under planning conditions. Different options for cladding of the upper levels of the hotel building have been provided, and would again be secured by condition. My Principal Urban Design and Landscape Officer advises that the hotel scheme has been improved through the recent changes, that the massing of the building is broken up through the use of two materials, and that the design and form of the building is acceptable subject to agreement on materials – and that the use of red bricks and cladding would be in keeping with the Faversham vernacular. She further advises that the massing of the foodstore is broken up horizontally and is light and airy in choice of materials. The use of louvres gives a three dimensional effect and the roof is angled rather than flat. She advises that both designs are appropriate to their local context.
- 4.23 The landscaping and site plans have been updated to include additional landscaping within the car park, and in my opinion this would enhance the visual appearance of the development. The landscaping has been designed to utilise native species, including the use of fruit trees to reflect the orchard character of the area. The species mix is generally acceptable to my Principal Urban Design and Landscape Officer, although she considers that further landscaping could still be secured on the development, and that some individual tree and shrub selections should be amended. I am discussing this with the developer at present. I do not yet have comments from the Council's Tree Consultant, but hope to report these to Members at the meeting.
- 4.24 Overall, I am content that the amendments have improved the scheme, provide some greater clarity over materials, and (subject to some amendments) would provide a greater level of soft landscaping.

5. CONCLUSION

- 5.1 The applicant has provided a number of amendments and supplementary notes to address the matters raised by the planning committee in May. The revised scheme has resulted in improvements to the design, landscaping and sustainability of the development (although further landscaping improvements are still sought). More certainty has now been provided on the timescales for delivery of the A2 / A251 highway improvement scheme, and the Council's Environmental Protection Team Leader remains of the view that air quality impacts would be acceptable.

6. RECOMMENDATION

GRANT Subject to the following conditions, the signing of a suitably-worded Section 106 agreement and the comments of KCC Highways and Transportation.

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.

General

- 2) The development shall be carried out in accordance with the following approved plans: 1416-PP Rev C, 1416-PCL Rev A, 1416-90 Rev E, 1416-300 Rev J, 1416-301 Rev K, 1416-350 Rev D, 1416-206 Rev C, 1416-205 Rev F, 1416-201 Rev D, 1416-200 Rev H, 1416-110 Rev LL, 1416-310, 1416-503

Reason: To accord with the application, in the interests of proper planning

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

Reason: In the interest of visual amenity.

- 4) Prior to the installation of each element described below for the hotel, the following building details (drawings to be at a suggested scale of 1:5 or as appropriate in order to show sufficient detail) shall be submitted to and approved in writing by the Local Planning Authority:

- Section drawings of window frames and glazing bars, to include depth of window reveal from the external face of the building.
- Manufacturer's colour brochure and specification details of the window product.
- Section drawings of the junction between the cladding materials, brickwork and facing materials on the elevations of the building.
- A section drawing of the wall capping detail
- Facing materials for the lift overrun and plant enclosure on the roof of the hotel building.
- Details of rainwater goods

The development shall be implemented in accordance with the approved details.

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

- 5) The development hereby permitted shall incorporate measures to minimise the risk of crime. No development in any phase 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

- 6) The buildings hereby approved shall be constructed to BREEAM 'Very Good' Standard or an equivalent standard and prior to the use of the building the relevant design stage certification shall be submitted to the Local Planning Authority confirming that the required standard has been achieved. The measures set out in the Sustainability Briefing Note (received on 23/08/19) shall be incorporated in full as part of the Standard.

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

Construction

- 7) No development in any phase shall take place until a Construction and Environmental Method Statement for that phase has been submitted to and approved in writing by the Local Planning Authority. The approved Statements shall be adhered to throughout the construction period for those phases. These shall include details relating to:
- (i) The control of noise and vibration emissions from construction activities including groundwork and the formation of infrastructure, along with arrangements to monitor noise emissions from the development site during the construction phase;
 - (ii) The loading and unloading and storage of plant and materials on site;
 - (iii) The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
 - (iv) The control and suppression of dust and noise including arrangements to monitor dust emissions from the development phase during construction;
 - (v) Measures for controlling pollution/sedimentation and responding to any spillages/incidents during the construction phase;
 - (vi) Measures to control mud deposition off-site from vehicles leaving the site, including the provision of wheel washing facilities;
 - (vii) The control of surface water drainage from parking and hard-standing areas including the design and construction of oil interceptors (including during the operational phase);
 - (viii) The use if any of impervious bases and impervious bund walls for the storage of oils, fuels or chemicals on-site;
 - (ix) The location and size of temporary parking and details of operatives and construction vehicle loading, off-loading and turning and personal, operatives and visitor parking;
 - (x) Lighting strategy for the construction phase, designed to minimise light spillage from the application site; and
 - (xi) Measures to manage the routeing and timings for construction and delivery vehicles

Reason: To ensure the development does not prejudice conditions of residential amenity, highway safety and convenience, and local ecology, through adverse levels of noise and disturbance during construction.

- 8) No construction work in connection with each phase of 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

- 9) No impact pile driving in connection with the construction of each phase of the development shall take place on the site on any Sunday or Bank Holiday, nor any other day except between the following times:- Monday to Friday 0800-1800hours, Saturday 0800 - 1300, unless in association with an emergency or with the written approval of the Local Planning Authority.

Reason: In the interests of residential amenity.

Highways

- 10) The access details (including footpath connections) for each phase shown on the approved plans shall be completed prior to the occupation of that phase hereby approved, and the accesses shall thereafter be maintained.

Reason: In the interests of highway safety.

- 11) The area shown on the submitted plans as loading, off-loading and vehicle parking spaces shall be used for or be available for such use at all times when the premises are in use and no 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 that area of land or in such a position as to preclude vehicular access to this reserved area; such land and access thereto shall be provided prior to the commencement of the use hereby permitted.

Reason: Development without adequate provision for the parking, loading or off-loading of vehicles is likely to lead to parking inconvenient to other road users

- 12) Prior to the commencement of the external works for each phase, details of the secure covered cycle storage facilities for that phase have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and maintained thereafter.

Reason: in the interests of sustainable development

- 13) No occupation of each phase shall take place until a Staff Travel Plan, to reduce dependency on the private car, has been submitted to and approved in writing by the Local Planning Authority. The Travel Plan shall include objectives and modal-split targets, a programme of implementation and provision for monitoring, review and improvement (including the appointment of a travel plan coordinator). Thereafter, the Travel Plan shall be put into action and adhered to throughout the life of the development, or that of the Travel Plan itself, whichever is the shorter.

Reason: in the interests of sustainable development

- 14) Prior to the occupation of each phase, details of electric charging facilities – to be of a type as set out in the Sustainability Note by Pegasus Planning - to be provided in that phase shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be completed prior to first use of the buildings hereby approved, and maintained thereafter.

Reason: In the interests of sustainable development.

- 15) No development in any phase shall be brought into use until the visibility splays for that phase as shown on the Site Access Visibility Splays Plan (drawing 17-0303/VS01 appended to the Transport Assessment) have been provided, and such splays shall thereafter be maintained with no obstructions over 0.9 metres above carriageway level within the splays.

Reason: In the interests of highway safety.

Landscaping

- 16) No development 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 within or immediately adjacent to the site, 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.

- 17) No development beyond the construction of foundations shall take place in any phase until full details of both hard and soft landscape works for that phase 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, measures to prevent vehicles from overhanging onto paths and landscaped areas within the car park, and an implementation programme.

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

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

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

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

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

- 20) No development beyond the construction of foundations to the hotel shall take place until details of the design and siting of a public art installation have been submitted to the Local Planning Authority. The approved details shall be installed prior to first opening of the hotel, or within six months of approval by the Local Planning Authority, whichever is the sooner.

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

- 21) The open space for each phase, as identified on drawing 1416 OSA Rev A shall be provided and made available for public use at all times prior to first occupation of that phase of the development, and maintained as such thereafter.

Reason: To ensure that the development contributes to wider space objectives as set out under Policy MU7 of the Local Plan.

Contamination

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

Reason: To protect controlled water and comply with the NPPF.

- 23) If, during development of a relevant phase, contamination not previously identified is found to be present in that phase then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out in that phase until the developer has submitted a remediation strategy to the Local Planning Authority detailing how this unsuspected contamination shall be dealt with and obtained written approval

from the Local Planning Authority. The remediation strategy shall be implemented as approved.

Reason: To protect controlled waters and comply with the NPPF.

Drainage

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

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

- 25) No development shall be occupied in any phase until the approved means of foul sewerage disposal for that phase have been completed.

Reason: To ensure adequate foul drainage facilities are provided

- 26) No development in any phase shall take place until a detailed sustainable surface water drainage scheme for that phase 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 each phase of the 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, as detailed within the Flood Risk Assessment and Drainage Strategy prepared by BSP Consulting referenced 17-0303/FRA-DS, without increase to flood risk on or off-site. The drainage scheme shall also demonstrate that silt and pollutants resulting from the site use and construction can be adequately managed to ensure there is no pollution risk to receiving waters.

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

- 27) No building hereby permitted in any phase shall be occupied until an operation and maintenance manual for the proposed sustainable drainage scheme for that phase 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 it's 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 maintained in accordance with these details.

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

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

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

Environmental

- 29) No dust or fume extraction or filtration equipment, or air conditioning, heating, ventilation or refrigeration equipment shall be installed on each phase of the development until full details of its design, siting, discharge points and predicted acoustic performance for that phase of development have been submitted to and approved in writing by the Local Planning Authority.

Reason: To safeguard the amenities of nearby residential properties.

- 30) No deliveries shall take place outside the hours of 0600 - 2300 hours Monday to Saturday, and deliveries between the hours of 0600 - 0700 shall be conducted in line with the Delivery Management Plan dated November 2018. No deliveries shall take place on a Sunday, bank or public holiday outside of the hours of 08:00 - 20:00, and deliveries between the hours of 08:00 and 09:00 shall be conducted in line with the Delivery Management Plan dated November 2018.

Reason: In the interests of residential amenity.

Retail impact

- 31) The development hereby approved shall only be used as a Class A1 retail foodstore and shall be restricted to 'limited product line deep discount retailing' and shall be used for no other purpose falling within Class A1 of the Town and County Planning (Use Classes) Order 1987 (or any order revoking or re-enacting or amending that Order with or without modification). 'Limited product line deep discount retailing' shall be taken to mean the sale of no more than 2,000 individual product lines.

Reason: To prevent unacceptable impacts arising from the development upon the vitality and viability of Faversham Town Centre

- 32) The Total Class A1 (retail) floorspace hereby permitted shall not exceed 1,725 sqm gross internal area. The net sales area (defined as all internal areas to which customers have access, including checkouts and lobbies) shall not exceed 1,254 sqm without the consent of the Local Planning Authority.

Reason: To prevent unacceptable impacts arising from the development upon the vitality and viability of Faversham Town Centre

- 33) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking or re-enacting or amending that Order with or without modification), the Class A1 (retail) floorspace hereby permitted shall be used primarily for the sale of convenience goods with a maximum of 251 sqm of the net sales area devoted to comparison goods

Reason: To control the extent of comparison goods retailing, Reason: to prevent unacceptable impacts upon the vitality and viability of Faversham Town Centre

- 34) The Class A1 (retail) unit hereby permitted shall be used as a single unit and shall not be sub-divided into two or more units, and no concessions shall be permitted within the unit.

Reason: To prevent unacceptable impacts arising from the development upon the vitality and viability of Faversham Town Centre

- 35) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking or re-enacting or amending that Order with or without modification), no mezzanine floor or other form of internal floor to create additional floorspace other than that hereby permitted shall be constructed in the hereby permitted Class A1 (retail) unit.

Reason: To prevent unacceptable impacts arising from the development upon the vitality and viability of Faversham Town Centre

- 36) The class A1 retail use hereby permitted shall not be open to customers or any other persons not employed within the business operating from the site outside the following times 0700 - 2200 on weekdays, Saturdays and Bank and Public Holidays and any 6 hours between 1000 - 1800 on Sundays.

Reason: In the interests of residential amenity.

Ecology

- 37) No installation of an external lighting scheme for each phase shall take place until a bat sensitive lighting scheme to minimise impacts on bats, for each phase, is submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of amenity and biodiversity

- 38) No development of any phase shall take place until a detailed mitigation strategy for all protected species has been submitted to, and approved in writing by, the Local Planning Authority for that phase. The development shall then be implemented in accordance with the agreed strategy.

Reason: In the interests of biodiversity

- 39) No development beyond the construction of foundations shall take place in any phase until a detailed scheme of ecological enhancements for that phase have been submitted to and approved in writing by the Local Planning Authority. The enhancement measures shall be completed prior to first use of the building.

Reason: In the interests of biodiversity.

Archaeology

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

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

INFORMATIVES

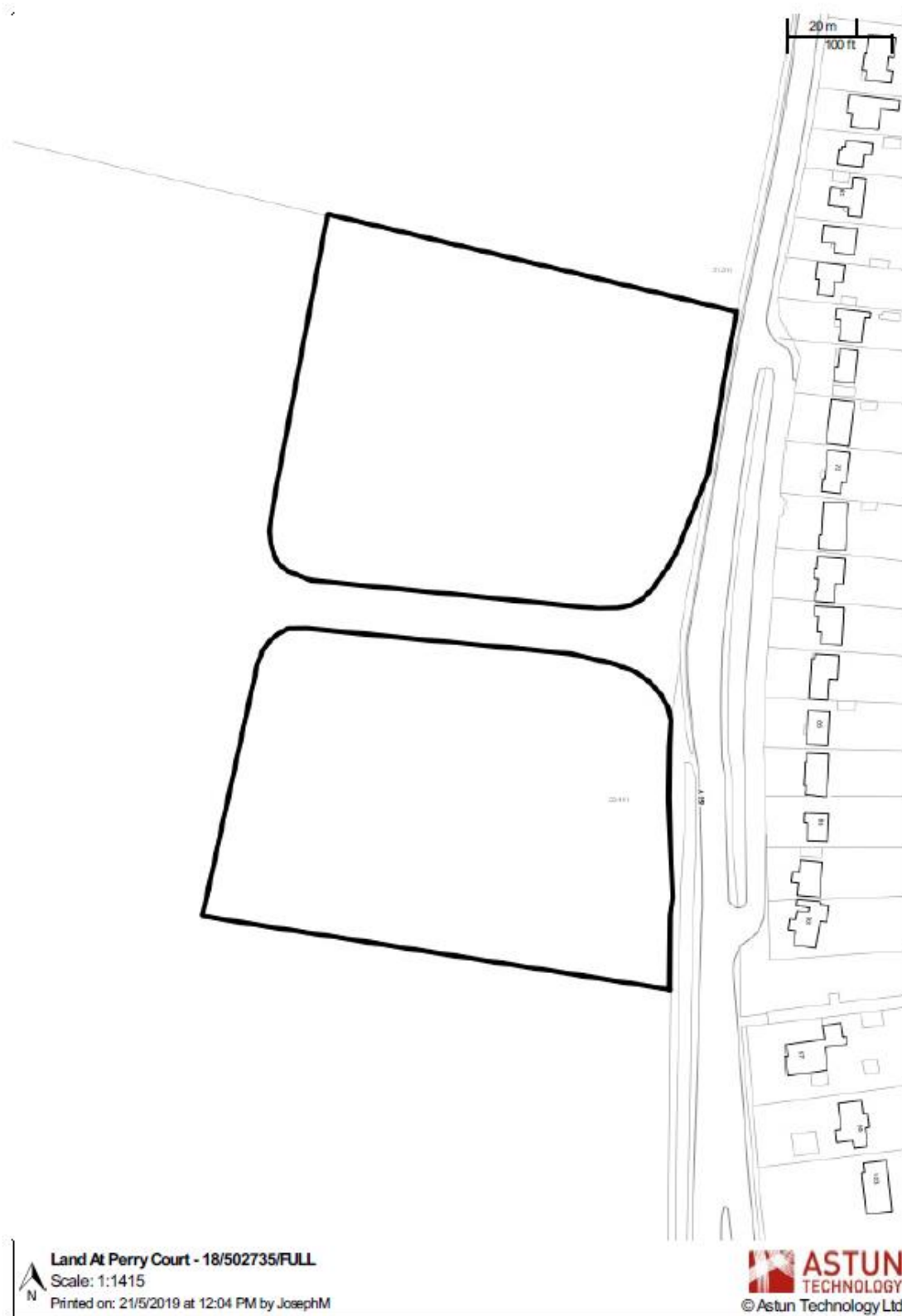
- (1) For the avoidance of doubt, the electricity substation can be constructed in accordance with the approved details and without a requirement to comply with the above pre-commencement conditions other than condition (40)
- (2) For the avoidance of doubt, works in connection with condition (40) (Archaeology) shall be permitted to take place without a requirement to comply with the above pre-commencement conditions.

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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2.4 REFERENCE NO - 18/502735/FULL		
APPLICATION PROPOSAL Erection of a new supermarket (Use Class A1) and a hotel (Use Class C1) along with associated accesses, car and cycling parking, lighting, drainage, hard and soft landscaping and associated infrastructure.		
ADDRESS Land At Perry Court Ashford Road Faversham Kent ME13 8YA		
RECOMMENDATION - Grant subject to completion of a S106 Agreement and submission of an amended plan to improve the area available for landscaping within the site of the retail unit.		
SUMMARY OF REASONS FOR RECOMMENDATION <ul style="list-style-type: none"> • The site forms part of a strategic mixed use development site as allocated under policy MU7 of the local plan. • The principle of a hotel has already been established through the grant of outline permission • The impact of the retail unit has been assessed and found to be acceptable • The scale and design of the development is considered to be acceptable. • The scheme would not result in unacceptable impacts upon the highway subject to financial contributions to mitigate impacts at the A2 / A251 and at Brenley Corner • Other localised impacts have been assessed and found to be acceptable. 		
REASON FOR REFERRAL TO COMMITTEE The application has been referred to committee by Cllr David Simmonds on the basis that the retail store is much larger than was proposed under the outline permission and would have significantly more impact on local residents, that he has concerns over the capacity of the A2 / A251 junction and air quality issues, and regarding shopper / staff car parking and daily deliveries, including Sunday disturbance.		
WARD Watling	PARISH/TOWN COUNCIL Faversham Town	APPLICANT HDD (Faversham) Limited And Premier Inn Hotels Limited AGENT Pegasus Planning Group
DECISION DUE DATE 06/09/18		PUBLICITY EXPIRY DATE 25/02/19

Planning History

15/504264/OUT - Outline application (with all matters reserved other than access into the site) for a mixed use development comprising: up to 310 dwellings; 11,875sqm of B1a floorspace; 3,800sqm of B1b floorspace; 2,850sqm of B1c floorspace; a hotel (use class C1)(up to 3,250sqm) of up to 100 bedrooms including an ancillary restaurant; a care home (use class C2)(up to of 3,800sqm) of up to 60 rooms including all associated ancillary floorspace; a local convenience store (use class A1) of 200sqm; 3 gypsy pitches: internal

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accesses; associated landscaping and open space; areas of play; a noise attenuation bund north of the M2; vehicular and pedestrian accesses from Ashford Road and Brogdale Road; and all other associated infrastructure – Approved 27.03.17

17/506603/REM - Approval of reserved matters relating to scale, layout, appearance and landscaping for the erection of 310 dwellings, pursuant to conditions 1, 4, 10 and 24 of outline planning permission 15/504264/OUT. Approval sought for residential part of outline scheme only - Approved 01.03.2019

18/500815/ENVSCR - EIA Screening Opinion for a Mixed use Local Centre Development – EIA not required (decision made by the Secretary of State) 20/06/18

18/503057 - Erection of a 3 storey, 66 bed care home for older people with associated access, car park and landscaping - Pending Consideration.

1. DESCRIPTION OF SITE

- 1.01 The application site consists of two parcels of land of just under 2 hectares in area, located on the west side of Ashford Road. The land is raised above the level of Ashford Road, by up to 2 metres, and is partially screened by existing hedging.
- 1.02 The land was formerly part of larger agricultural fields, and forms part of the wider Perry Court development site as allocated under Policy MU7 of the adopted Local Plan. This wider land benefits from outline permission for a large scale development under application 15/504264/OUT, and from reserved matters approval for residential development of 310 units on a large part of the site (ref 17/506603/REM).
- 1.03 As part of this existing permission, a new roundabout and access point into the site has been formed from Ashford Road, which has resulted in some re-grading of land levels and removal of hedging.
- 1.04 The two land parcels subject to this application site are sited on either side of this new access point.
- 1.05 The application site is surrounded to the north, south and west by the land allocated for development under Policy MU7 of the Local Plan. Under the terms of the outline permission and reserved matters approvals, this land would form part of the residential development to the west and north. The land to the south has approval under the outline permission for a business park, although to date there has been no reserved matters application for this.
- 1.06 A line of existing detached dwellings are located on the eastern side of Ashford Road and face towards the application site.

2. PROPOSAL

- 2.01 The application seeks planning permission to erect a supermarket and hotel on the site.
- 2.02 The proposed supermarket would be sited on the southern parcel of land, and would consist of a roughly rectangular shaped building of 1,725 sqm gross floor area, with a 1,254 sqm net sales area. The building would be single storey, under a mono-pitched roof and would range between 5.5m and 8.5m in height. The footprint would measure

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63m x 30m. The building would be mainly finished in brickwork and composite cladding, with a Brise Soleil detail around the main entrance.

- 2.03 The building would be sited towards the southern end of the site and the main elevation would face north, towards the main access road leading from the new roundabout into the Perry Court development. A 124 space car park would be provided, the majority of which would be to the front (north) of the building. The layout also includes areas of landscaping and footpaths to the south and east (adjacent to Ashford Road), which would tie in with footpath routes and connections approved within the wider Perry Court development site.
- 2.04 The proposed hotel would be sited on the north parcel of land. The building would be roughly rectangular in shape and would be over three storeys – with a maximum height of approximately 11.1 metres (excluding lift shaft). The building would measure 65m in length, and up to 22m in depth. The building would contain 84 bedrooms, a main reception area and a bar / restaurant facility. The overall floor area of the hotel would be approximately 3000sqm.
- 2.05 The building has been designed in a contemporary style, broken down into three main sections. Each section is articulated to provide slight variations in height. The main elevational treatment of the building would be in brick and timber-style cladding. The cladding is used to frame each section of the building.
- 2.06 The building would be sited close to the southern boundary of the site, next to the proposed access road into the wider development. The car park to the hotel would be sited to the rear of the building and would accommodate 85 parking spaces.

3. PLANNING CONSTRAINTS

Within built confines of Faversham

Part of site allocation Policy MU7

A High Pressure Gas Pipe is located to the south of the proposed retail unit.

4. POLICY AND CONSIDERATIONS

- 4.01 The National Planning Policy Framework (NPPF) – paragraphs 2 (determination of applications), 7 (sustainable development), 8 (the three objectives of sustainable development), 10 (presumption in favour of sustainable development), 54-57 (use of conditions and planning obligations), 80 (building a strong economy), 85-90 (ensuring the vitality of town centres), 108-111 (sustainable transport), 117-121 (Making effective use of land), 124-131 (good design), 149-154 Planning for climate change, 155-165 (flood risk and drainage), 174-177 (biodiversity)
- 4.02 National Planning Practice Guidance (NPPG). The following guidance documents are of relevance - Air Quality, Climate Change, Design, Determining a Planning Application, Ensuring the vitality of town centres, Planning Obligations, Transport evidence bases in plan making and decision taking, Travel plans, Transport Assessments and Statements, Use of Planning Conditions.

Development Plan: Bearing Fruits 2031: The Swale Borough Local Plan 2017:

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- 4.03 Policy MU7 of the Local Plan is relevant insofar that it is a specific site allocation policy for the wider parcel of land at Perry Court, which this application forms a part of. The policy is copied in full below.

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

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

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

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

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

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

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

5. Submit a detailed Heritage Assessment to consider the significance of the impact of development at the local level on the heritage setting of the town and other heritage assets in accordance with policies DM 32-DM 33. An archaeological assessment should consider the importance of the site and, if necessary propose mitigation in accordance with DM 34;

6. Provide the majority of B1 class employment floorspace as B1a (offices). Employment uses other than B1 will not be permitted unless it is clearly shown that B1 uses would not be achievable.

Proposals for alternative employment uses must demonstrate they would not diminish the quality of the development, whilst proposals for main town centre uses will need to be the subject of an impact assessment;

7. Undertake an Air Quality Assessment to ensure that the Ospringe AQMA is not compromised, with, if necessary, the use of innovative mitigation measures;

8. Submit a Noise Assessment and implement any mitigation arising;

9. Be supported by a Transport Assessment to determine the need and timing for any improvements to the transport network and the phasing of development. Development shall undertake such mitigation as necessary which shall include:

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- a. interim improvements at Junction 7 of the M2;*
- b. improvements to the junctions of the A2/A251 and to the A2/Brogdale Road;*
- c. pedestrian and cycling routes;*
- d. public transport enhancements to improve links to the town centre; and*
- e. implementation of an agreed travel Plan; and*
- 10. Provide infrastructure needs arising from the development, including those matters identified by the Local Plan Implementation and Delivery Schedule, in particular those relating to libraries, education and health.*

4.04 The supporting text to the policy states that *“The impact of locating main town centre uses, such as offices, leisure and retail development may require the submission of an impact assessment in accordance with Policy DM 2, but it is the Council’s view that larger scale retail and leisure development is unlikely to be acceptable due to adverse impacts on the town centre.”*

4.05 Policy DM2 relates specifically to proposals for main town centre uses. This includes both retail and hotel development as is proposed under this application. The policy states that proposals for main town centre uses will be permitted subject to –

1. Taking into account the scale and type of development proposed in relation to the size, role and function of the centre,
2. Being located within the town centres as defined on the [Proposals Map](#); or
3. Where demonstrated that a town centre site is not available, being located on a site on the edge of a town centre, subject to criteria 4a to 4c; or
4. Where demonstrated that there are no suitable sites available at locations within 2. and 3. above, proposals elsewhere within the built-up areas of Faversham, Sheerness and Sittingbourne, as shown on the Proposals Map will only be permitted if:
 - a. it is demonstrated by an impact assessment (when the proposal is above the defined floorspace threshold in national planning policy) that it would not individually, or cumulatively with those trading or proposed, undermine the vitality and viability of existing town centres, or of other local centres and the facilities and services of other locations;
 - b. it does not materially prejudice the provision of other land uses, particularly the supply of land for 'B' use class uses, housing, community use and open space; and
 - c. it is well located in relation to the main road network and easily accessible by public transport, pedestrians and cyclists.

4.06 Other relevant policies are ST1 (Delivering sustainable development), ST7 (The Faversham Area Strategy), CP1 (Building a strong economy), CP2 (Sustainable transport), CP4 (good design), DM6 (Managing Transport Demand), DM7 (vehicle parking), DM14 (general Development criteria), DM19 (sustainable design), DM28 (biodiversity),

5. LOCAL REPRESENTATIONS

5.01 This process has included sending notification letters to nearby neighbouring properties, display of a site notice and advertisement of the application in a local paper.

5.02 Following this, 21 letters of objection have been received (some multiple letters from the same household), raising the following matters –

- Overlooking / lack of privacy
- Additional traffic generated (including cumulative impacts)
- Impact upon the A251 / A2 / Mall Junction

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- Creation of noise, smells and disturbance arising from commercial uses
- Impact of additional traffic on air quality (including cumulative development impacts)
- The convenience store permitted under the outline scheme is now a supermarket
- The supermarket will be open for long hours with associated noise, disturbance and pollution.
- A supermarket is not needed in Faversham
- No significant mitigation of traffic on the A251 is proposed
- The location would force people to drive to the supermarket
- Impact of deliveries to the supermarket at unsociable times
- No need for a hotel in Faversham
- The hotel will be a four-storey building and will cause significant privacy issues.
- The size and scale of the hotel would be out of keeping with the area
- Small hotels in the area could go out of business
- The additional traffic and impacts on the A251 will affect the operation of the Fire and Ambulance Services stationed on Ashford Road and Canterbury Road
- Ecological / screening impacts through removal of hedgerows and trees
- Cumulative impacts arising from wider development of Perry Court
- The height difference of the hotel is exacerbated by the higher land levels of the site
- There is still no resolution in place to upgrade the A2 / A251 junction
- Light pollution
- Impact on the Ospringe AQMA
- Loss of agricultural land
- Lack of crossing point on the A2
- The development would compromise any future proposals to create a bypass
- The highway network is already over capacity
- The original outline indicated the hotel would be lower than now proposed
- Disturbance from the hotel if a licence is granted
- Lack of screening on Ashford Road frontage
- Impact on drainage
- The walking / cycling experience on Ashford Road is not safe / pleasant
- Objections raised by residents are ignored
- Additional HGV movements arising from the supermarket operation
- This will encourage people to park on the A251 verges
- Impacts of signage and illumination
- Restrictions should be placed to prevent removal of trolleys from the site
- Noise impacts from hotel users
- Noise impacts from use of hotel car park at unsociable hours
- Development on the site will be greater than as approved at outline stage.
- Existing modern buildings in Faversham do not enhance the town, and the modern buildings proposed will not do so either
- Lack of any proposals to utilise solar energy
- The building designs are not in keeping with the area in a key visual location at the entrance to the town
- Lack of EV charging points
- The design is generic, with no local influence
- The amended plans do not improve the quality of the proposed buildings.
- Impact of an out of town supermarket on the town centre
- The applications should be considered against other approved and current applications at Perry Court

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5.03 A letter has been received from the Faversham Society which states (summarised)

- The supermarket scheme should be supported as it would provide an alternative type to other supermarkets in Faversham and is located close to approved new developments in the town.
- The standardised hotel design is disappointing and more attention should be paid to local materials and roof forms. The location of the hotel is appropriate.

5.04 Two letters have been received from Peacock Smith Solicitors, acting for Morrisons supermarket, and a letter received from MRPP Planning Consultants acting for Tesco. They object to the application on the following grounds –

- Foodstores are already over-provided in Faversham.
- The trade diversion to the proposed Aldi store would primarily come from the town centre, as this is where most food stores are located.
- The scheme does not address how the proposal will affect the wider development and relationship with other land uses within Perry Court.
- The Council's retail consultant has underestimated the impact of the proposed Aldi supermarket on the town centre
- The Council's retail consultant has used benchmark averages which do not reflect the actual turnover of Morrisons, which operates at a lower turnover and therefore the forecast impact is greater.
- The benchmark criteria is of little utility as all stores are shown to operate below benchmark value as a result of the Aldi proposal (i.e because they start at benchmark without it), and this fails to identify the performance of existing stores and vulnerability to change.
- That both the Tesco and Morrisons stores are well connected to the town centre and supports linked trips, which would be reduced if trade was diverted to the proposed Aldi store.
- There are errors in the Carter Jonas analysis which substantially underestimates the floorspace of Tesco.
- Tesco now trades substantially below benchmark.
- It is highly likely that other town centre convenience stores are trading below benchmark levels
- There is no suggestion that Tesco would close, but diverted trade will have other harmful effects, particularly a reduction in linked trips to the town centre.
- The Local Plan "does not suggest a need to support new floorspace outside (Faversham's) existing centre"
- Policy MU7 is clear that any proposals for town centre uses on the Perry Court site will need to be subject to an impact assessment. The applicant has supplied this, nor has the Council undertaken an assessment that legitimately meets this.
- The impact on the town centre will be significantly adverse.
- A full and detailed retail study (to include household surveys)

6. CONSULTATIONS

Faversham Town Council

6.01 Original Plans – state that they are not happy with the design and this should be referred to the Swale Design Panel for review. Raise concern regarding traffic at the A2 / A251 junction upgrade, and that traffic modelling should be undertaken once the upgrade decision has been taken.

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6.02 Amended Plans – state that they support the changes to the proposal, and that previous issues have been addressed, although they remain seriously concerned about the A2 / A251 junction and seek clarification from KCC Highways on this, and are concerned with the new roundabout on the A251 which needs further review.

KCC Highways and Transportation

6.03 Following the submission of amended / additional material KCC Highways do not raise objection to the scheme subject to the imposition of conditions and a S106 Agreement to secure a financial contribution towards improvements to the A2 / Ashford Road junction. The following comments are also made -

- TRICS data demonstrates two- way AM peak movements of an additional 77 vehicles and 150 PM peak movements.
- Tracking demonstrates that a 16.5 metre long vehicle can safely service both the proposed hotel and supermarket.
- The A2 Canterbury Road / A251 Ashford Road junction is predicted to be subject to an additional 32 AM and 66 PM movements. The junction analysis demonstrates that the junction is exceeding capacity and without mitigation the application could not be permitted.
- The A2 London Road / B2041 The Mall junction is predicted to be subject to an additional 15 AM and 29 PM movements.
- The proposed new roundabout junction into Perry Court development would be subject to an additional 77 AM and 150PM peak movements. The additional movements result the junction reaching its capacity in the 2028 AM peak assessment.
- Car parking for the supermarket element is two spaces over provision and the hotel is within standards. Appropriate disability bays and cycle parking is provided. Parking provision is therefore acceptable.
- A staff travel plan has been submitted and is acceptable
- As outlined in the above the A2/A251 junction exceeds its capacity in the future year assessments. It is therefore clear that the additional 98 movements through the junction could not be could be accepted without further works being completed. The Highway Authority are therefore looking at a second phase of improvements that incorporate the A2/A251 and the A2/The Mall junctions. Contributions are now being collected for the junction at a rate of £1020 per peak hour movement through the junctions and include both The Mall and A251 connections with the A2. A financial contribution is therefore requested at a level of £99,660 towards Phase 2 of the A2/A251 Faversham capacity improvement scheme.
- Planning conditions are recommended relating to provision of a construction management plan, provision / retention of parking spaces, cycle spaces and loading / unloading facilities , completion and maintenance of the access, completion / maintenance of visibility splays, and provision of a staff travel plan.

Highways England

6.04 Raise no objection following the submission of amendments / additional information, on the basis that the applicant has agreed to enter into a Section 278 Agreement of the Highways Act 1980 with Highways England for a contribution of £27,105 towards highway works at M2 Junction 7 Brenley Corner.

6.05 Advise that the development will not materially affect the safety, reliability and/or operation of the strategic road network (the tests set out in DfT Circular 02/2013,

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particularly paragraphs 9 & 10, and DCLG NPPF particularly paragraph 109) in this location and its vicinity.

6.06 Advise that the supermarket proposal (which was not part of the outline permission) is likely to be over and above the trips calculated for the outline permission. Cumulatively, there is likely to be a requirement for an additional contribution to offset the impacts at Brenley Corner.

6.07 Advise that confirmation from KCC Highways should be obtained to ensure that the scheme of improvements at the A2/A251 will be sufficient to manage the additional demand placed upon it such that any extent of queuing south along the A251 does adversely impact on the safe and efficient operation of M2 Junction 6.

Environment Agency

6.08 No objection subject to conditions relating to contamination, surface water drainage or foundation design.

Health and Safety Executive

6.09 Do not advise against the grant of planning permission. Recommends that SBC should consider contacting the pipeline operator before deciding the case.

Scotia Gas Networks

6.10 No comments received

SBC Economy and Community Services Manager

6.11 Supports the hotel development in Faversham as it will provide additional bed spaces and will support development of the day visitor economy in accordance with the Council's Visitor Economy Framework (adopted Feb 2018).

Kent Police

6.12 Advise that the application has considered crime prevention and attempted to apply some of the attributes of CPTED in the plans. Advise that further matters relating to the supermarket (parking, landscaping, EV points, permeability, CCTV and lighting, use of shutters / bollards, potential for ATM installation) should be discussed or applied via a planning condition.

Natural England

6.13 Advise they have no comments to make on the application

KCC Ecology

6.14 Raise no objection based on the ecological appraisal submitted. Advise that notable species (including reptiles, breeding birds and badgers) have been recorded within the wider site, and that development will need to follow a precautionary mitigation strategy. The mitigation proposed is appropriate. Require conditions relating to bat sensitive lighting, ecological mitigation, and ecological enhancements to the site.

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KCC Drainage

- 6.15 Raise no objection to surface water drainage principles, but these need to be fully modelled at detailed design stage, and a condition is recommended to deal with this.

SBC Environmental Protection Team Manager (EPTM)

- 6.16 Raises no objection to the development, subject to the imposition of conditions.
- 6.17 In respect of air quality, the EPTM advises that the updated Air Quality Assessment is a competent report, uses acceptable methodology (although the dispersion modelling method is not named), and up to date guidance. It describes the Swale AQ data with particular reference to the Ospringe AQMA and models how this development would impact the AQMA for both NO₂ and PM₁₀, comparing it with actual monitored data and predicting the difference. Appendix I shows that in 2019 there are predicted to be some moderate impacts at various locations within the AQMA; the predicted impact is compared with the methodology used in the 2017 EPUK Guidance. These would reduce the next year 2020 but there were still predicted to be some moderate impacts, especially near the vicinity of the Ship Inn.
- 6.18 The report concludes that there will not be any significant adverse impacts on the AQMA or elsewhere as a result of this latest development. This is qualified in the conclusion by the addition of some mitigation measures.
- 6.19 The EPTM advises they are pleased that mitigation measures have been included, as there is still a prediction of some 'moderate' impacts in 2020 from the development and in his opinion the measures are necessary. No objection is raised to the report, provided that the measures outlined in paragraphs 5.34 & 5.35 are employed *exactly as written*. This will mean employing a person to act as a travel plan co-ordinator and there will need to be a sufficient number of electric charging points at the locations described in the final paragraph of 5.34.
- 6.20 The EPTM is satisfied that impacts relating to noise and operation of the service yard can be suitably controlled by condition, and recommends a condition requiring details of any plant or ventilation equipment.

UK Power Networks

- 6.21 Advise that the proposed development is in close proximity to a substation and could be notifiable under the Part Wall Act. Advise that substations should be a minimum of 7 metres (if enclosed) from living / bedroom accommodation to avoid noise / vibration, that 24 hr access to a substation has to be maintained.

Southern Water

- 6.22 Advise that foul sewage disposal can be provided to service the proposed development.

7 BACKGROUND PAPERS AND PLANS

- 7.01 The application includes the following documents: Planning statement, Design and Access statement, Landscape and Visual Appraisal, Arboricultural Assessment,

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Ecological Appraisal, Flood Risk Assessment, Retail Statement, Staff Travel Plan, Transport Statement. The applicant has also provided written responses to the Carter Jonas retail statement, the Council's new Retail and Leisure Needs Assessment, and the objections received on behalf of Tesco and Morrisons.

8. APPRAISALPrinciple of Development

- 8.01 The site is located within the built confines of Faversham under Policy ST3 of the Local Plan, and as designated through the allocation of the wider site for development under Policy MU7 of the Local Plan.
- 8.02 The wider site also benefits from permission for a mixed use development on the site under 15/504264/OUT, incorporating 310 dwellings, a care home, a hotel development of up to 100 bedrooms and 3250 sqm (with ancillary restaurant), B1 employment land, and a local convenience store. Reserved matters for the housing development has been granted under 17/506603/REM.
- 8.03 The land parcels subject to this application were indicatively shown to be allocated for use as a care home and hotel development on the parameter plans submitted with the outline application in 2015. The parameter plans set out indicative building heights of 11 metres and Gross Floor space of 3,800 sqm for the care home and 3,200 sqm for the hotel. It remains an option for the developer to bring forward development of these parcels in accordance with the outline permission as an alternative to this application now sought.
- 8.04 The care home is now proposed on land elsewhere within the wider Perry Court site. This is subject to a separate application which is currently under consideration (18/503057/FULL). The potential use of this land for the care home, and layout of the residential development as approved under the reserved matters means that a further parcel has been identified by the developer to accommodate a supermarket over and above the quantum of development originally approved at outline stage.
- 8.05 Whilst the land is currently undeveloped former agricultural land (albeit that site access works and preparatory works for wider development of the site have been undertaken), it is clear from the allocation of the site for development in the Local Plan, and from the planning permissions granted on the site and wider surroundings, that development is accepted in principle.
- 8.06 In my opinion, the key issues relate to the following matters –
- The proposal for a supermarket (rather than a local convenience store) on the site and the implications of this, including the effect on the town and other centres, traffic impacts, local impacts, and the ability for the wider Perry Court site to be developed under the framework of Policy MU7. Members will note that Policy MU7 does allow for a mixed use development to come forward, and criteria 6 of the policy explains that proposals for main town centre uses will need to be subject to an impact assessment. As such this policy does not

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prohibit a retail use as a matter of principle, but sets tests against which such use should be considered.

- I consider the principle of a hotel to be acceptable at Perry Court as this was permitted under the outline scheme. The hotel as now proposed would fall well within the parameters for a hotel as set under the outline permission. The provision of a hotel would help promote the Borough's visitor economy and deliver economic benefits. In my opinion, the main issues for consideration in relation to the hotel are those of scale, design, and relationship with surrounding buildings, rather than matters of principle.

8.07 As the site is both allocated for development and benefits from permission, matters such as loss of countryside and loss of best and most versatile agricultural land do not carry weight in the determination of this application.

Retail Impact

8.08 Both the NPPF and the Local Plan policy DM2 seek to protect the vitality and viability of town centres. As part of this process, proposals for main town centre uses should follow a sequential test and (where necessary) include a retail impact assessment to establish the effect of a retail development on the vitality and viability of a centre. Policy DM2 uses the NPPF threshold that a retail impact assessment should be provided if the development exceeds 2,500sqm of gross floorspace.

8.09 In respect of the hotel element of this scheme (which is also a main town centre use and normally subject to the sequential test), I am satisfied that this was explored and found to be acceptable under the outline permission granted. As this could still be implemented on the site under a reserved matters application for a hotel of up to 100 bedrooms, I do not consider that the hotel now proposed (at 84 bedrooms) needs to be tested again under an impact assessment.

8.10 As the retail unit would be under 2,500 sqm, there is no requirement for the applicant to submit a retail impact assessment under policy DM2 or the NPPF. Whilst policy MU7 of the Local Plan specifies that proposals for town centre uses will need to be subject to an impact assessment, the supporting text to this policy states that such a requirement should be in accordance with Policy DM2. As such I am satisfied that the requirement under MU7 is not more onerous than that under DM2, as has been suggested by the consultant acting for Tesco.

8.11 However, although the threshold is not met to require an applicant to provide a retail impact assessment, the Council should still consider the impact of a retail development on the town centre (or other centres) further.

8.12 The application includes a retail statement which firstly sets out that the sequential and impact tests are not required as the provision of a local centre is supported under Policy MU7 of the Local Plan. However I would disagree with this approach in respect of the sequential test. The supporting text to Policy MU7 (para 6.6.108) makes clear that any

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large scale retail facility on the site is unlikely to be acceptable (although subject to a RIA, and I consider the proposal to go well beyond the local convenience offer (200 sqm) as approved under the outline permission.

8.13 Notwithstanding this, the retail statement then proceeds to provide a sequential test and compares the scheme to a range of selected town centre, edge of centre and out of centre sites. These are (in part) assessed against the locational criteria of the application site, being 900m south of the defined town centre boundary and 1.1km from the primary shopping area. The report then discounts a list of potential alternative sites in Faversham, which include the following –

- *Town Centre* – Faversham Post Office and depot, 9 existing vacant units in the town centre. These were discounted on the basis that the post office site was still in use and unavailable, and too small in size to accommodate the Aldi store, and the existing vacant units were far too small (between 40 – 250 sqm) to accommodate the development.
- *Edge of centre* (within 300m of Primary Shopping Area) – Buildings at West Street (unavailable and too small in size), Car Park, Institute Rd (still operational and limited in size), Tesco car park (unavailable, too small, commercially unviable), Faversham Leisure centre / Theatre car park (unavailable, too small), Queens Hall Car Park (well used / unavailable, too small).
- *Out of Centre* – Oare Gravelworks (formally allocated but with no retail element included. Not as accessible or well connected with poorer road connections and greater distance to the Primary Shopping Area). Land East of Love Lane (formally allocated, permission granted for other uses, not as accessible / well connected to the town centre)

8.14 This has been further reviewed by my colleagues and the conclusion reached that we are satisfied that there are no other sequentially preferable sites available. I am therefore satisfied that the scheme meets the sequential test parameters.

8.15 Notwithstanding that the retail unit falls under the threshold for an applicant to provide a retail impact assessment, such smaller developments may still result in impacts existing centres. A retail consultant was initially employed by the Council to establish whether this was likely, and gave advice that the development could result in trade diversion both from Faversham and, to a lesser degree, from Sittingbourne. Following this initial advice, the consultant then undertook a retail impact assessment on behalf of the Council to establish the likely effects of such trade diversion.

8.16 The consultant forecast that there would be trade draw from Faversham town centre, and particularly the existing Tesco and Morrisons supermarket. This forecasting was primarily based on “benchmark” trading data, as the Council’s own data contained within its Town Centre Study dated back to 2010 and was out of date. The consultant forecast trade diversion to be in the region of 11% from the wider convenience offer in the town centre, and 12% from the Tesco and Morrisons stores, advised that this was a cause for concern but concluded that the proposal would be unlikely to seriously

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undermine the viability of these stores resulting in their potential closure and a consequent significant adverse impact on the vitality and viability of Faversham Town Centre as a whole.

- 8.17 The Council subsequently received objections from consultants acting for existing supermarkets in Faversham, as summarised in paragraph 5.04 above. The main concern relating to the development and the retail report was that these stores are trading well under benchmark levels – and that as such the retail impact would be greater than forecast. Alternatively, the applicant’s agent raised concern that predicted trading for the proposed Aldi store was overestimated, and that the turnover for the Tesco store was underestimated as it did not factor in an extension to the premises.
- 8.18 In the meantime, the Council has been undertaking a review of its Town Centre Study (2010) as part of the Local Plan process, and commissioned WYG Planning consultants to undertake such work. An updated Retail and Leisure Needs Assessment (RLNA) was produced and reported to the Local Plan Panel in March. The report provides up to date information and data on the health of existing centres, and the trading performance of existing convenience stores. For Faversham, the report concludes that the town centre displays good levels of vitality and viability, is well represented by convenience goods provision, vacancy levels are below national average, and the town centre is attractive with a good standard of environmental quality. The report does not identify a need for additional convenience floorspace in the town during the plan period.
- 8.19 Given the production and publishing of this report, it has been considered necessary to carry out a further review of the retail impact, based on consideration of the updated assessment. As WYG Planning consultants undertook the Borough-wide assessment, they have been employed to re-review the impact of this development. This report (the WYG report) recognises that existing stores are trading below benchmark level (as set out in the RLNA), but states that this does not necessarily mean that such stores are not viable or vulnerable to the opening of new stores. The WYG report also sets out that the lower turnover of the proposed Aldi store, as set out by the applicant’s consultant, is consistent with the Aldi Sales density set out in the RLNA.
- 8.20 The WYG report agrees that trade for the new Aldi store will be drawn substantially from other “discounter stores” such as Aldi in Sittingbourne and Whitstable (both 15% of the predicted turnover for the proposed store), but also from Tesco in Faversham town centre (15%), and Morrisons (edge of centre) 10%.
- 8.21 The WYG report then compares the effect of such trade diversion from existing stores, and the likely reduction in the annual turnover of these stores. It focuses on Faversham Town centre stores, but recognizes the role of Morrisons as an edge of centre store in facilitating linked trips to the centre. The report estimates the impact on Faversham town centre as a whole to be 5-6%, and on Morrisons to be 8%. It concludes that such impacts would not be “significantly adverse” and that it is unlikely any existing stores would close as a result of the Aldi proposal. This is on the basis that Aldi trades as a “discounter retailer” and as such competitive overlap with smaller stores (such as butchers, bakers, convenience stores, and Iceland) is low.

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- 8.22 Subject to conditions to limit occupation to a “discounter store” and to control the extent of floorspace and comparison goods offer (see proposed conditions 31-35), the WYG report considers the scheme to be acceptable when tested against the NPPF (and I consider the same applies when tested against policy DM2) in relation to the retail impact tests, with no significant impacts arising, provided the above conditions are attached.
- 8.23 Overall, I am satisfied that there are no sequentially preferable sites for the retail development, and that the principle of a hotel development has been accepted through the grant of outline permission which includes a hotel of up to 100 rooms on the wider site – and which can still be implemented. Whilst the retail impact assessment concludes that there would be some loss of trade arising from the proposed supermarket on Faversham town centre, the advice received from the Council’s consultant is that this would be unlikely to result in significant adverse impacts, and in turn I do not consider that it would undermine the vitality or viability of the Faversham town centre or other centres. On this basis, I consider the retail impact to be acceptable under the terms of policy DM2 of the Local Plan and the NPPF.
- 8.24 Members should also note that the proposal would create employment opportunities, and the application forecasts that 75 equivalent full time jobs would be created. The hotel development would also be likely to increase local spending by overnight visitors. Policy CP1 of the Local Plan seeks for development proposals to contribute towards building a strong competitive economy, and to widen the Council’s tourism offer, and this would contribute towards this.

Visual Impact

- 8.25 Policy CP4 of the Local Plan requires that development proposals should be of high quality design, appropriate to their surroundings, deliver safe attractive places, promote / reinforce local distinctiveness, make safe connections and provide green corridors. Policy MU7 states that development of Perry Court should demonstrate a strong landscape framework, hedge and tree planting, and provide footpath and cycle routes within green corridors. Built form should be high quality design and relate to existing built form and topography, rural approaches to the town and views from the south.
- 8.26 The proposal would form the primary building frontage into the “gateway” to the Perry Court wide development, and as such the need for a high quality design is paramount. Although the developer was encouraged to use the Design Panel for advice, they did not take up this option. However I am satisfied that my officers have been able to analyse the design impacts and negotiate design improvements to the scheme.
- 8.27 The principal elevations to both schemes face the primary road leading from the roundabout on Ashford Road into the site. The buildings would be set between 17 and 30 metres from the Ashford Road frontage, and this space would be used to provide landscaping and pedestrian footpaths that would connect through the wider Perry Court site and onto Ashford Road. I consider this “soft” edge to the Ashford Road frontage to be appropriate, and the footpath / cycle connections provide links through green corridors in accordance with the policy.

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- 8.28 The hotel building would be taller and more prominent than the retail unit, being some 11 metres in height and sited (following advice from my officers) close to the primary road frontage into the site. This gives greater enclosure and strength to the street scene, and gives emphasis to the built form rather than car parking, which has been sited to the rear. The hotel follows a contemporary design, and the scale of the building has been broken into three sections through use of different materials and slight variations in height. The darker colour of the cladding and brickwork has been negotiated between officers and the applicant to provide a more recessive and organic tone to the building, on this edge-of-settlement location.
- 8.29 The retail unit takes a different approach, with car parking provided to the front and the unit set back in excess of 50 metres from the primary road. The building would be lower in height (at 8.5m) and less prominent than the hotel due to its set back into the site. Whilst my officers would have preferred the building to be close to the primary road to provide greater strength to the streetscene, this is not a format usually used by convenience traders, and was not an option that the applicant was willing to follow. As an alternative, officers are negotiating with the applicant to provide additional landscaping to the site boundaries, and within the car park, and to agree a form of public art installation, to enhance the public realm. This is considered to be an acceptable compromise.
- 8.30 The retail building is proposed to be occupied by Aldi, and the design does follow a “corporate” approach in part. My officers have negotiated with the applicant to lift this design substantially from the original submission, through the use of different materials and provision of a corner detail at the main entrance to the building, which includes a Brise Soleil system with beige / brown coloured louvres. The intention is that the materials to be used for both the retail unit and hotel building are similar in appearance, to provide some visual coherency.
- 8.31 The landscape approach is to provide a tree-lined “Avenue” effect on both sides of the primary road, and to utilise similar hard and soft landscaping schemes (for the footpaths / cyclepaths and Ashford Road frontage). This has the potential to provide an attractive landscaped entrance to the site.
- 8.32 In my opinion, the larger scale of the buildings would be appropriate at the entrance to this wider development site, and the scale and height (particularly relating to the hotel) would not be disproportionate to other surrounding existing and proposed residential dwellings, which are/ would be sited some 50-60 metres from these proposed buildings. Soft landscaping, particularly on the boundary with Ashford Road, would also soften the visual impact of the buildings. The contemporary style of the hotel with a flat roof helps to limit the height of this building, and Members should note that at 11 metres in height, this would be no greater than the form of development on this plot as shown on the parameter plans submitted with the outline permission (albeit that the parameter plans refer to two storey development). The proposed retail unit would be lower in height than the outline parameter plans, and both buildings would be smaller in floor area than the parameter plans. Members should also note that the outline permission includes the provision of employment land allocated to the south of the retail unit of up to three storeys and 12.5 metres in height.

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8.33 The application includes a Landscape and Visual Impact assessment which identifies the landscape character of the surrounding area and viewpoints of the development. The main “rural view” of the development is from the south, and such views are limited by landscaping, the effect of the M2 motorway, and the existing built confines of Faversham. When taking into account the outline permission and the scale of the development when compared to the outline parameters as described above, the scheme is not considered to result in any significant adverse effects or any greater effects than envisaged from the outline scheme.

8.34 Taking the above factors into account, I would conclude that the development is well designed, that the layout provides a substantial degree of landscaping and green corridors providing pedestrian and cycle connections, in accordance with the above policies.

The ability to integrate a larger retail development within the Wider Perry Court scheme

8.35 The outline permission included a parameters plan that demonstrated how the quantum of development approved under 15/504264 could be distributed through the site. This includes use of a 0.5 Ha parcel of land as a mixed use retail / residential area, as well as parcels for employment land, a care home and hotel development.

8.36 The residential development as approved under reserved matters application 17/506603 accommodated the 310 residential units without the need to utilise the 0.5 Ha parcel of land. The developer is seeking (under a separate application) to move the care home onto this 0.5 Ha parcel, which in turn would enable the two parcels of land subject to this application to be considered for retail / hotel use.

8.37 In wider layout terms, I am satisfied that the integration of a larger retail unit as now proposed would not compromise the wider Perry Court development.

Residential Amenity

8.38 Policy DM14 of the Local Plan states that all developments should cause no significant harm to the amenities of surrounding uses or areas.

8.39 In this instance, the closest neighbouring uses are the existing dwellings on the east side of Ashford Road, and the new dwellings as approved within the wider Perry Court development site.

8.40 The hotel scheme proposes a building of three storeys in height and up to 11 metres in height. The building would be orientated to face side on to the dwellings on Ashford Road, and the depth of the building would be up to 22 metres at ground level, and 14 metres at first and second floor level. The supermarket would be up to 8.5 metres in height, with a flank elevation facing Ashford Road of some 30 metres in depth. Both buildings have been designed to include a landscaped buffer area to the Ashford Road frontage.

8.41 The buildings would be sited in the region of 55m-60m from the dwellings on the east side of Ashford Road. In addition, due to levels changes between the site and Ashford Road, the buildings would be raised above the level of these dwellings by around 1.5

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metres. The section drawings submitted with the application indicate that the hotel building would be some 4.5 metres taller than a typical ridge line of nearby dwellings on Ashford Road, and the supermarket building would be some 2.6 metres taller.

- 8.42 The buildings would clearly be visible from these existing properties, across an existing private road, the A251 and through the landscaped buffer. At 3 storeys in height, the hotel development would also be taller than the indicative plans submitted with the outline application – which showed the hotel to be a 2 storey building. However notwithstanding this, given the considerable separation distance (in planning terms), the intervening A251 road and the ability for some softening through landscaping, I do not consider the buildings would cause unacceptable impacts on light, privacy or outlook to these properties.
- 8.43 The new residential development within Perry Court would be located generally to the west of the application site. This includes land subject to a current application for development of a care home. A gap of 21 metres would be maintained between the proposed care home building and the hotel. In amenity terms, I consider this relationship to be acceptable.
- 8.44 The closest permitted dwellings on the wider Perry Court site would be to the west of the retail unit, at a distance of 46 metres from the building. These properties would face the retail unit and car park. Given the relatively low height and form of the retail unit, I consider this distance to be acceptable to preserve sufficient light, privacy and outlook to these approved dwellings. Further residential development to the north of the hotel would be separated by an area of public open space, and I consider this to be acceptable.
- 8.45 The proposals would also attract vehicle movements over long periods of the day. Given the function of Ashford Road as an A class road and a connection between Faversham and the M2, I consider that any noise / disturbance generated from customer vehicle movements and activity within car parks would be unlikely to cause unacceptable impacts on the amenities of those properties to the east of Ashford Road. The most trips would be generated by the retail unit, and the entrance to this would not pass through the approved residential development to the west. Whilst noise from the car park and activity around the retail unit in particular would most likely be evident to those new dwellings to the west, I do not consider this to be inherently unacceptable given the separation distances involved, and I consider that this would be taken into account by potential occupants of the new development when considering whether to reside in these units. In addition, I consider that at times earlier in the morning or late at night when the premises first opens or is soon to shut, the unit is less likely to be busy and as a result customers are more likely to park in the main car parking area to the front of the store rather than the car park by the side, which is closest to these residential units.
- 8.46 The application seeks to permit deliveries to the retail units between the hours of 06:00 to 23:00 hours, and a Delivery Management Plan has been submitted following initial concerns raised by the Environmental Health Officer. The plan includes measures such as no use of reversing beepers and requirements to turn off refrigeration equipment

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when vehicles are stationary. These measures are acceptable to the EHO to avoid unacceptable impacts on surrounding properties.

- 8.47 Taking the above into account, there would clearly be some impacts arising from the scheme, particularly the change in the outlook of existing properties on the east side of Ashford Road, and in respect of the hotel the building would be larger than indicatively shown under the outline permission. Nonetheless, as a full application there is no reason why the proposed development has to conform to the outline scheme. Whilst the developments are large and would be clearly visible from these properties, given the intervening distance and presence of the A251 road, I do not consider that this would result in unacceptable impacts that could justify a refusal in planning terms. On this basis, I do not consider the development would be in conflict with Policy DM14 of the Local Plan.

Highways

- 8.48 Policy DM6 of the Local Plan requires developments that generate significant traffic to include a Transport Assessment with any application. Where impacts from development on traffic generation would be in excess of the capacity of the highway network, improvements to the network as agreed by the Borough Council and Highway Authority will be expected. If cumulative impacts of development are severe, then the development will be refused.
- 8.49 Policy DM6 also requires developments to demonstrate that opportunities for sustainable transport modes have been taken up, and that applications demonstrate that proposals would not worsen air quality to an unacceptable degree. Developments should include provision for cyclists and pedestrians, and include facilities for low emission vehicles.
- 8.50 Policy MU7 of the Local Plan sets out that development of the site should include interim improvements to J7 of the M2, improvements to the A2 / A251 and the A2 / Brogdale Road, pedestrian and cycle routes, public transport improvements, and implementation of an agreed travel plan.
- 8.51 The hotel proposal does not raise any additional highways issues beyond those previously considered acceptable as part of the outline application for the wider site. That application was assessed to include a hotel development of up to 100 bedrooms. Although this is a separate application, it would effectively replace the hotel development proposed under the outline permission, and proposes an 84 bed hotel, which would have less traffic impacts than the modelling undertaken for the outline scheme.
- 8.52 The retail proposal does raise additional highways issues, as this is a larger development to the scheme permitted at outline stage. The application includes a Transport Assessment (as amended) which sets out the highways implications relating to the scheme. In this respect, KCC Highways advise that the modelling forecasts two way AM peak movements of an additional 77 vehicles and 150 PM peak movements on the new Perry Court Roundabout. The proposals would also result in an additional 32 AM and 66 PM movements on the Ashford Road / A2 junction, and an additional 15 AM and 29 PM movements on the A2 / Mall junction. KCC Highways advise that the

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A2 / A251 junction analysis demonstrates that this junction is exceeding capacity and that without mitigation the application could not be permitted.

- 8.53 This is not unsurprising as the need for improvements to this junction has already been identified. The wider outline permission for Perry Court has secured a sum of £300,000 for this purpose and other nearby development schemes are also contributing to this. KCC have been working on plans for either signalisation or a roundabout scheme for this junction, although these are currently being reviewed with the aim to provide a more comprehensive scheme with greater land-take, in order to provide greater capacity. In order to mitigate against the traffic impacts arising from this application, KCC Highways advise that an additional sum of £99,660 is required towards phase 2 of the junction improvement works. This will be secured via S106 Agreement. KCC Highways will be taking a report to the Joint Transportation Board on the 24th June which will set out the intended approach for the junction improvement.
- 8.54 Highways England have also identified that the retail element of the scheme will result in traffic impacts over and above those assessed under the outline scheme. Highways England seek a financial contribution towards improvements to Brenley Corner to mitigate this, and a sum of £27,105 has been agreed. On this basis, Highways England do not object to the proposal.
- 8.55 In terms of sustainability, the site is within walking distance from large areas of the town, although this does need to be tempered by the likelihood that many shoppers will use cars for ease or to carry shopping that could not be done by foot or bike. Nonetheless, the development would provide pedestrian access onto Ashford Road via the newly installed crossing point, and further footpath and cycle connections would be provided through the wider Perry Court development, leading to the A2 via the public footpath through Abbey School. In addition, I understand that part of the wider highways mitigation proposals being considered by KCC Highways are to install a crossing facility onto the A2, which would make the pedestrian connection to Faversham easier and more attractive.
- 8.56 The proposals both include car parks that would meet the parking requirements of KCC.
- 8.57 To summarise, the proposal would lead to greater traffic generation, and both KCC Highways and Highways England have identified that mitigation is required to deal with such impacts. The applicant has agreed to make the necessary financial contributions as requested to enable KCC Highways and Highways England to carry out the required mitigation. On this basis, I consider the proposal would not cause unacceptable highways impacts, and would accord with Policies DM6 and DM7 of the Local Plan.

Air Quality

- 8.58 Policy DM6 (2) (d) of the adopted Local Plan states that developments involving significant transport movements should integrate air quality management and environmental quality into developments and, in doing so, demonstrate that proposals do not worsen air quality to an unacceptable degree, especially taking into account the cumulative impact of development schemes within or likely to impact upon Air Quality Management Areas. Paragraph 181 of the NPPF states that planning policies and decisions should sustain and contribute towards compliance with relevant limit values

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or national objectives for pollutants, taking into account the presence of Air Quality Management Areas and Clean Air Zones, and cumulative impacts from individual sites in local areas.

- 8.59 The site is not located within an Air Quality Management Area. However an AQMA is designated at Ospringe, approximately one kilometre to the west as the crow flies (or 1.4km by road) of the site.
- 8.60 The applicant has submitted an air quality assessment which models the wider Perry Court development flows with the proposed supermarket traffic, together with other committed developments. The modelling takes into account existing base conditions against a “maximum development flow” scenario.
- 8.61 The worst case nitrogen dioxide (NO₂) impacts arising from the development (modelled on maximum development flows present in 2020) are classed as moderate at the Public House on the northwest corner of the junction with Ospringe Road and at a few other receptors at similar positions relative to London Road. However, the report states that actual changes relative to the air quality assessment level (the AQAL) are small at 0.3 µg/m³ or less, which represents a change of only 1% relative to the AQAL. Other modelled changes are calculated to be either slight or mainly negligible.
- 8.62 The reports sets out that by the time maximum development flows would be present in practice (i.e. that the worst case 2020 scenario above will not in practice occur as all committed development will not be built by this time), future changes to background concentrations and emission factors indicate that all of the modelled receptors within the AQMA would experience a negligible impact due to development traffic.
- 8.63 In respect of PM₁₀ emissions (organic pollutants measuring 10 µg or less), the report sets out that , modelled concentrations show no changes arising from the development, that all modelled concentrations continue to lie well below the air quality objectives, and for all receptors the significance of development is defined as negligible.
- 8.64 The report states that the above effects are similar to those modelled for the original Perry Court development that was given outline planning permission. As such the additional/revised traffic generated by the local centre developments (the Aldi store and the hotel) will not significantly alter the local air quality, and the effects that were considered acceptable for approval of the Perry Court development will also be acceptable for the local centre developments.
- 8.65 The Council’s Environmental Protection Team Manager accepts the results of the report that that there will not be any significant adverse impacts on the AQMA or elsewhere as a result of this latest development. However as some ‘moderate’ impacts are forecast in 2020 from the development, it will be necessary to include mitigation measures. No objection is raised subject to securing a travel plan coordinator and electric charging points measures outlined in the AQ report.
- 8.66 On this basis the application is not considered to worsen air quality to an unacceptable degree, and mitigation is provided to help offset any air quality impact. This is considered to comply with Policy DM6 of the Local Plan and the NPPF.

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Ecology

- 8.67 The ecological impacts of development on the wider Perry Court site have been previously considered and found to be acceptable under the outline permission. The KCC Ecologist advises that notable species (including reptiles, breeding birds and badgers) have been recorded within the wider site, and that as such that development will need to follow a precautionary mitigation strategy, which can be secured via a planning condition, and likewise ecological enhancements.
- 8.68 Natural England has not identified any conflict with the protection of the Swale and Thames Estuary SPA and Ramsar sites, and as this is not a residential development there is no requirement to contribute towards SAMMS.
- 8.69 I am satisfied that, subject to this, the scheme would not cause adverse impacts on biodiversity, and would comply with policy DM28.

9. CONCLUSION

- 9.01 This application would deliver development on a strategic site allocated for mixed use development in the Local Plan. The scheme would essentially add a supermarket to the quantum of development previously approved under outline permission 15/504264, and the retail impact associated with this has been found to be acceptable, subject to conditions to control the type of retail offer and floorspace. The proposed hotel would be in accordance with the parameters previously agreed for such use under the outline permission. The scheme would deliver economic benefits through additional jobs and improvements to the tourism offer
- 9.02 The scale and design of the scheme are acceptable, subject to agreement on the provision of further landscaping, and whilst the scheme would clearly change the outlook from dwellings on Ashford Road, this would not be to an unacceptable degree. Highways impacts are acceptable, subject to financial contributions towards identified mitigation, and air quality impacts are not considered to be unacceptable.
- 9.03 Overall, I am of the opinion that the scheme is acceptable and accords with the development plan and the NPPF.

10. RECOMMENDATION

Delegate to officers to GRANT permission subject to –

- Completion of a S106 Agreement to secure the additional highways contributions identified
 - Submission of an amended plan to improve the extent of landscaping to the front of the retail site and car park.
 - and the following conditions:-
- 1) The development to which this permission relates must be begun not later than the expiration of three years beginning with the date on which the permission is granted.

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

General

- 2) The development shall be carried out in accordance with the following approved plans: 1416-PP Rev B, 1416-PCL Rev D, 1416-90 Rev E, 1416-300 Rev J, 1416-301 Rev K, 1416-350 Rev D, 1416-206 Rev C, 1416-205 Rev F, 1416-201 Rev D, 1416-200 Rev H, 1416-110 Rev EE

Reason: To accord with the application, in the interests of proper planning

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

Reason: In the interest of visual amenity.

- 4) No development beyond the construction of foundations for the hotel shall take place until the following building details (drawings to be at a suggested scale of 1:5) have been submitted to and approved in writing by the Local Planning Authority:
- Section drawings of window frames and glazing bars, to include depth of window reveal from the external face of the building.
 - Manufacturer's colour brochure and specification details of the window product.
 - Section drawings of the junction between the cladding materials, brickwork and facing materials on the elevations of the building.
 - A section drawing of the wall capping detail
 - Facing materials for the lift overrun and plant enclosure on the roof of the hotel building.
 - Details of rainwater goods

The development shall be implemented in accordance with the approved details.

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

- 5) The development hereby permitted shall incorporate measures to minimise the risk of crime. No development in any phase 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

- 6) The buildings hereby approved shall be constructed to BREEAM 'Very Good' Standard or an equivalent standard and prior to the use of the building the relevant

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design stage 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.

Construction

- 7) No development in any phase shall take place until a Construction and Environmental Method Statement for that phase has been submitted to and approved in writing by the Local Planning Authority. The approved Statements shall be adhered to throughout the construction period for those phases. These shall include details relating to:
- (i) The control of noise and vibration emissions from construction activities including groundwork and the formation of infrastructure, along with arrangements to monitor noise emissions from the development site during the construction phase;
 - (ii) The loading and unloading and storage of plant and materials on site;
 - (iii) The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
 - (iv) The control and suppression of dust and noise including arrangements to monitor dust emissions from the development phase during construction;
 - (v) Measures for controlling pollution/sedimentation and responding to any spillages/incidents during the construction phase;
 - (vi) Measures to control mud deposition off-site from vehicles leaving the site, including the provision of wheel washing facilities;
 - (vii) The control of surface water drainage from parking and hard-standing areas including the design and construction of oil interceptors (including during the operational phase);
 - (viii) The use if any of impervious bases and impervious bund walls for the storage of oils, fuels or chemicals on-site;
 - (ix) The location and size of temporary parking and details of operatives and construction vehicle loading, off-loading and turning and personal, operatives and visitor parking;
 - (x) Lighting strategy for the construction phase, designed to minimise light spillage from the application site; and
 - (xi) Measures to manage the routeing and timings for construction and delivery vehicles

Reason: To ensure the development does not prejudice conditions of residential amenity, highway safety and convenience, and local ecology, through adverse levels of noise and disturbance during construction.

- 8) No construction work in connection with each phase of 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

- 9) No impact pile driving in connection with the construction of each phase of the development shall take place on the site on any Sunday or Bank Holiday, nor any other day except between the following times:- Monday to Friday 0800-1800hours,

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Saturday 0800 – 1300, unless in association with an emergency or with the written approval of the Local Planning Authority.

Reason: In the interests of residential amenity.

Highways

- 10) The access details (including footpath connections) for each phase shown on the approved plans shall be completed prior to the occupation of that phase hereby approved, and the accesses shall thereafter be maintained.

Reason: In the interests of highway safety.

- 11) The area shown on the submitted plans as loading, off-loading and vehicle parking spaces shall be used for or be available for such use at all times when the premises are in use and no 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 that area of land or in such a position as to preclude vehicular access to this reserved area; such land and access thereto shall be provided prior to the commencement of the use hereby permitted.

Reason: Development without adequate provision for the parking, loading or off-loading of vehicles is likely to lead to parking inconvenient to other road users

- 12) Prior to the commencement of the external works for each phase, details of the secure covered cycle storage facilities for that phase have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and maintained thereafter.

Reason: in the interests of sustainable development

- 13) No occupation of each phase shall take place until a Staff Travel Plan, to reduce dependency on the private car, has been submitted to and approved in writing by the Local Planning Authority. The Travel Plan shall include objectives and modal-split targets, a programme of implementation and provision for monitoring, review and improvement (including the appointment of a travel plan coordinator). Thereafter, the Travel Plan shall be put into action and adhered to throughout the life of the development, or that of the Travel Plan itself, whichever is the shorter.

Reason: in the interests of sustainable development

- 14) Prior to the commencement of the external works for each phase, details of electric charging facilities to be provided in that phase shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be completed prior to first public use of the buildings, and maintained thereafter.

Reason: In the interests of sustainable development.

- 15) No development in any phase shall be brought into use until the visibility splays as shown on the approved plans have been provided, and such splays shall thereafter be maintained with no obstructions over 0.9 metres above carriageway level within the splays.

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Reason: In the interests of highway safety.

Landscaping

- 16) No development 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 within or immediately adjacent to the site, 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.

- 17) 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, measures to prevent vehicles from overhanging onto paths and landscaped areas within the car park, and an implementation programme.

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

- 18) All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of each phase of the development or in accordance with the programme, taking account of the planting seasons, as agreed in writing with the Local Planning Authority.

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

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

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

- 20) No development beyond the construction of foundations to the retail unit shall take place until details of the design and siting of a public art installation have been submitted to and approved in writing by the Local Planning Authority. The approved details shall be installed prior to first opening of the retail unit to the public, or in accordance with a timetable approved in writing by the Local Planning Authority.

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

- 21) The open space for each phase, as identified on drawing 1416 OSA shall be provided and made available for public use at all times prior to first occupation of that phase of the development, and maintained as such thereafter.

Reason: To ensure that the development contributes to wider space objectives as set out under Policy MU7 of the Local Plan.

Contamination

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

Reason: To protect controlled water and comply with the NPPF.

- 23) If, during development of a relevant phase, contamination not previously identified is found to be present in that phase then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out in that phase until the developer has submitted a remediation strategy to the Local Planning Authority detailing how this unsuspected contamination shall be dealt with and obtained written approval from the Local Planning Authority. The remediation strategy shall be implemented as approved.

Reason: To protect controlled waters and comply with the NPPF.

Drainage

- 24) No infiltration of surface water drainage into the ground in any phase is permitted other than with the written consent of the Local Planning Authority for that phase.

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

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

- 25) No development shall commence in any phase until details of the proposed means of foul sewerage disposal for that phase have been submitted to, and approved in writing by, the Local Planning Authority.

Reason: To ensure adequate foul drainage facilities are provided

- 26) No development in any phase shall take place until a detailed sustainable surface water drainage scheme for that phase 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 each phase of the 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, as detailed within the Flood Risk Assessment and Drainage Strategy prepared by BSP Consulting referenced 17-0303/FRA-DS, without increase to flood risk on or off-site. The drainage scheme shall also demonstrate that silt and pollutants resulting from the site use and construction can be adequately managed to ensure there is no pollution risk to receiving waters.

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

- 27) No building hereby permitted in any phase shall be occupied until an operation and maintenance manual for the proposed sustainable drainage scheme for that phase 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 maintained in accordance with these details.

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

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

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

Environmental

- 29) No dust or fume extraction or filtration equipment, or air conditioning, heating, ventilation or refrigeration equipment shall be installed on each phase of the development until full details of its design, siting, discharge points and predicted acoustic performance for that phase of development have been submitted to and approved in writing by the Local Planning Authority.

Reason: To safeguard the amenities of nearby residential properties.

- 30) No deliveries shall take place outside the hours of 0600 - 2300 hours Monday to Saturday, and deliveries between the hours of 0600 - 0700 shall be conducted in line with the Delivery Management Plan dated November 2018. No deliveries shall take place on a Sunday, bank or public holiday outside of the hours of 08:00 – 20:00, and deliveries between the hours of 08:00 and 09:00 shall be conducted in line with the Delivery Management Plan dated November 2018.

Reason: In the interests of residential amenity.

Retail impact

- 31) The development hereby approved shall only be used as a Class A1 retail foodstore and shall be restricted to 'limited product line deep discount retailing' and shall be used for no other purpose falling within Class A1 of the Town and County Planning (Use Classes) Order 1987 (or any order revoking or re-enacting or amending that Order with or without modification). 'Limited product line deep discount retailing' shall be taken to mean the sale of no more than 2,000 individual product lines.

Reason: To prevent unacceptable impacts arising from the development upon the vitality and viability of Faversham Town Centre

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32) The Total Class A1 (retail) floorspace hereby permitted shall not exceed 1,725 sqm gross internal area. The net sales area (defined as all internal areas to which customers have access, including checkouts and lobbies) shall not exceed 1,254 sqm without the consent of the Local Planning Authority.

Reason: To prevent unacceptable impacts arising from the development upon the vitality and viability of Faversham Town Centre

33) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking or re-enacting or amending that Order with or without modification), the Class A1 (retail) floorspace hereby permitted shall be used primarily for the sale of convenience goods with a maximum of 251 sqm of the net sales area devoted to comparison goods

Reason: To control the extent of comparison goods retailing, Reason: to prevent unacceptable impacts upon the vitality and viability of Faversham Town Centre

34) The Class A1 (retail) unit hereby permitted shall be used as a single unit and shall not be sub-divided into two or more units, and no concessions shall be permitted within the unit.

Reason: To prevent unacceptable impacts arising from the development upon the vitality and viability of Faversham Town Centre

35) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking or re-enacting or amending that Order with or without modification), no mezzanine floor or other form of internal floor to create additional floorspace other than that hereby permitted shall be constructed in the hereby permitted Class A1 (retail) unit.

Reason: To prevent unacceptable impacts arising from the development upon the vitality and viability of Faversham Town Centre

36) The class A1 retail use hereby permitted shall not be open to customers or any other persons not employed within the business operating from the site outside the following times 0700 - 2200 on weekdays, Saturdays and Bank and Public Holidays and any 6 hours between 1000 - 1800 on Sundays.

Reason: In the interests of residential amenity.

Ecology

37) No installation of an external lighting scheme for each phase shall take place until a bat sensitive lighting scheme to minimise impacts on bats, for each phase, is submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of amenity and biodiversity

38) No development of any phase shall take place until a detailed mitigation strategy for all protected species has been submitted to, and approved in writing by, the Local Planning Authority for that phase. The development shall then be implemented in

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accordance with the agreed strategy.

Reason: In the interests of biodiversity

- 39) No development beyond the construction of foundations shall take place in any phase until a detailed scheme of ecological enhancements for that phase have been submitted to and approved in writing by the Local Planning Authority. The enhancement measures shall be completed prior to first use of the building.

Reason: In the interests of biodiversity.

Archaeology

- 40) No development of any phase shall take place until the applicant, or their agents or successors in title, has secured the implementation of the following, for each phase:

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

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

INFORMATIVES

- 1) A formal application for connection to the public sewerage system is required in order to service this development, please contact Southern Water, Sparrowgrove House, Sparrowgrove, Otterbourne, Hampshire SO21 2SW (Tel: 0330 303 0119) or www.southernwater.co.uk. Please read our New Connections Services Charging Arrangements documents which has now been published and is available to read on our website via the following link <https://beta.southernwater.co.uk/infrastructure-charges>.

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.

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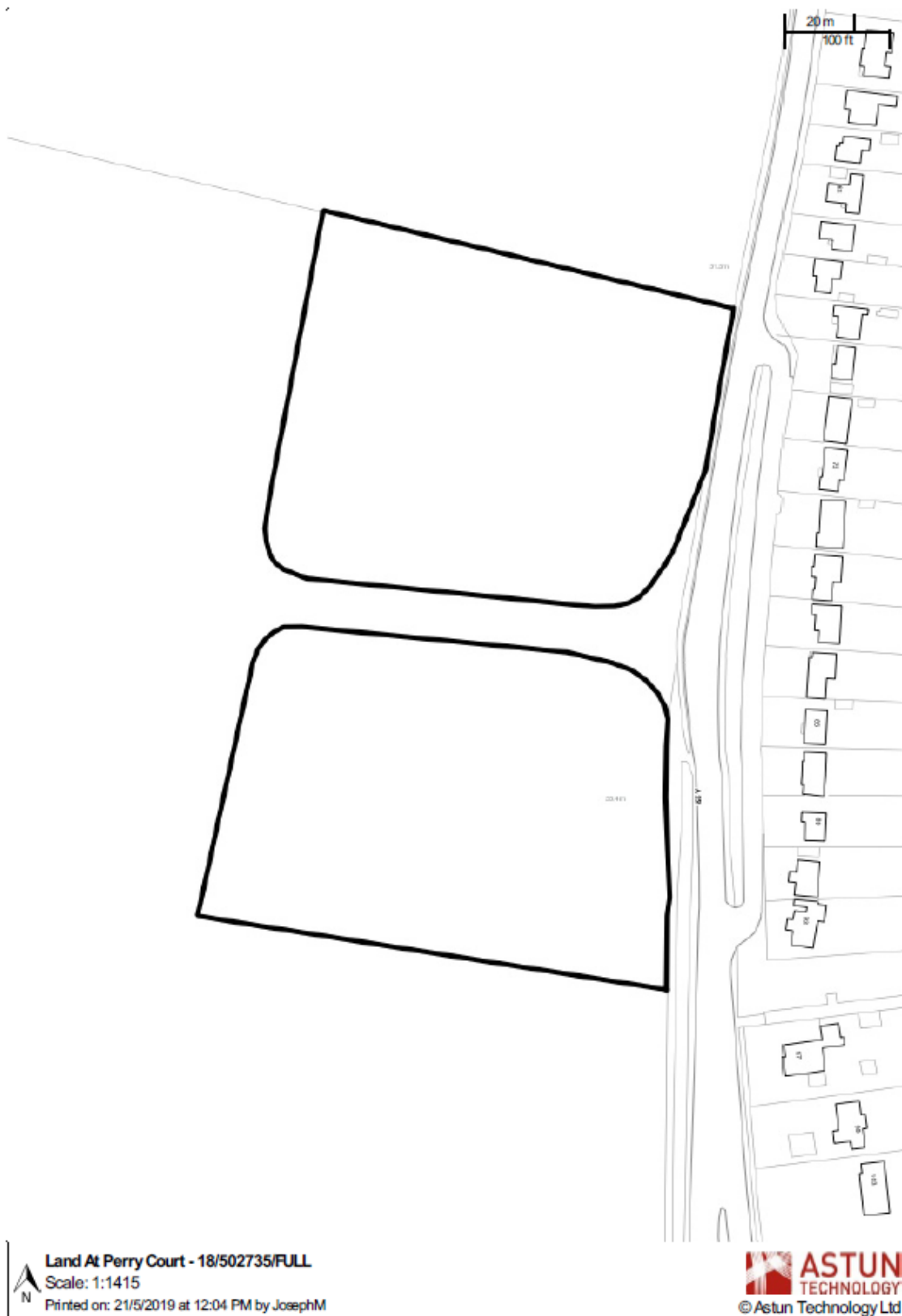
In this case, the application was considered by the Planning Committee where the applicant/agent had the opportunity to speak to the Committee and promote the application.

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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2.4 REFERENCE NO – 18/502735/FULL		
APPLICATION PROPOSAL		
Erection of a new supermarket (Use Class A1) and a hotel (Use Class C1) along with associated accesses, car and cycling parking, lighting, drainage, hard and soft landscaping and associated infrastructure.		
ADDRESS Land at Perry Court, Ashford Road, Faversham, Kent, ME13 8YA		
WARD Watling	PARISH/TOWN COUNCIL Faversham Town	APPLICANT HDD (Faversham) Limited and Premier Inn Hotels Limited AGENT Pegasus Planning Group

The Major Projects Officer drew Members' attention to the tabled update which had previously been emailed to the Committee and included further representations from consultants acting for Tesco and Morrisons; the Council's Tree Officer; details of updated site plans; costings for the provision of public art; and amendments to conditions (2), (4), (14), (15), (17), (18), (20), (21), and informatives (1) and (2) of the Committee report. He also drew attention to the further letter from Tesco which was also tabled for Members.

The Major Projects Officer reported that there was an error on condition (14) of the tabled paper, and it should refer to "charging facilities" not "changing" as stated.

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The Major Projects Officer sought delegation to refine the wording to condition (20) of the tabled paper to omit "...and approved in writing by..." from the 3rd line.

The Major Projects Officer further reported that Southern Water were happy with the foul and surface water drainage strategy and recommended removal of that condition. Southern Water had suggested that the applicant consult with the Environment Agency regarding use of soakaways for surface water disposal. The Major Projects Officer noted condition (25) of the Committee report, which he considered should be amended to refer to the approved details, rather than removed altogether.

The Major Projects Officer sought delegated authority to approve the application subject to the signing of a suitably-worded Section 106 Agreement, and the planning conditions as set out in the main report and as amended by the tabled paper and above update.

Town Councillor John Irwin, representing Faversham Town Council, spoke against the application.

Mr Scott Davidson, the Applicant, spoke in support of the application.

The Chairman invited Members to ask questions.

A Member asked how the proposed materials for the supermarket and hotel fitted-in with the local vernacular? The Conservation and Design Manager – Planning said that the applicants had worked closely with officers to improve the materials and design of the scheme. He explained that whilst the format of the proposed supermarket was a standard format, it used materials that were the same across the three sites and primarily of a traditional local brickwork and render, and added further details including to the brise-soleil and mono-pitched roof to add further design elements to the building. He explained that officers had also negotiated substantial landscaping to the front of the supermarket building and hotel. He considered that on balance the siting was acceptable and created a strong entrance to the site with trees leading into it.

In response to a question, the Major Projects Officer confirmed that there would be a restaurant at the hotel. A Member raised concern about deliveries as it was a residential area. The Major Projects Officer referred to condition (30) of the Committee report which imposed delivery restrictions.

A Member queried what was meant by phasing in condition (14) of the Committee report, in respect of details of electric charging, and asked whether this could be "tightened-up" to ensure it was clear that this would be provided at both the supermarket and hotel. The Major Projects Officer confirmed that the supermarket and hotel would be built under two separate phases, and agreed to amend the wording in the condition as requested.

A Member asked for confirmation that under Policy DM2, any building under 2,500 square metres did not require a Retail Assessment? He also asked officers whether they were aware of the contributions for improvements towards highway

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improvements to the A2/A251 junction, and at what stage of the development they would be paid?

The Major Projects Officer explained that following the publication of the Retail and Leisure Needs Assessment for Swale it had been considered necessary to carry out an independent assessment of the retail impact of the proposed development, as set out in paragraph 8.19 on page 147 of the Committee report, and this had been carried out by White Young Green Planning Consultants. The Major Projects Officer explained that the assessment had been received relatively recently and it was that document that Tesco considered they should have been formally consulted on.

The KCC Highway and Transportation Officer confirmed that the highway contribution was £99,660 calculated on a movement rate of £1,020 per peak hour movement through the A2/A251 junction, as per the original planning application 15/504264. He confirmed that the applicant had not challenged that calculation. He explained that it would be usual for payments of that kind to be made prior to occupation of the building.

A Member queried whether the design of the A2/A251 junction improvements had been approved, and when would it be constructed in relation to the construction of the supermarket and hotel.

The KCC Highways and Transportation Officer stated that he would be taking a report outlining details of three options for improvements to the A2/A251 junction to the meeting of the Swale Joint Transportation Board on Monday 24 June 2019, and was therefore unable to provide timings in terms of this application.

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

Councillor Nicolas Hampshire moved the following motion: That the application be deferred until details of the A2/A251 junction improvements were known. This was seconded by Councillor Paul Stephen.

Councillor Benjamin Martin asked that this included a site meeting.

On being put to the vote the motion was lost.

Members debated the application and raised the following points: welcomed anything that brought employment to Faversham; the delivery times of 0600 - 2300 hours should be amended to 0700 to 2200 hours; did not like the design of the proposed supermarket and hotel; the supermarket and hotel should have pitched roofs with local Kent peg tiles; concerned that operators of the medieval market and independent shops had not been consulted on the application; the landscaping needed to include native species; needed to have a better understanding of the environmental details, such as whether solar panels were to be included; did not think it necessary to defer, as KCC Highways and Transportation had already carried out traffic modelling; had full faith in officers that this was a suitable design; disappointed with the design; challenged the need for a supermarket; considered the Sainsbury's building was a better design; local bio-mass boilers should be

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provided; ground source heat pumps and solar panels should be provided; this development would have an adverse impact on air pollution; the condition relating to charging for electric vehicles should specify whether they would be rapid charge; would have an adverse impact on the viability of Faversham Town Centre; the Section 106 monies from this scheme would help to fund any improvements to the A2/A251 junction improvements; and should not consider until details of the junction improvements were known.

The Head of Planning stated that officers had worked very hard with the applicants to secure a quality scheme, particularly in respect of landscaping. He reminded Members that the applicants were not responsible for highway decisions relating to the public road network.

Councillor Monique Bonney moved the following motion: That the application be deferred until the decision of the Swale Joint Transportation Board in relation to the proposed A2/A251 junction improvements was known. Further details be provided of the design of the proposed buildings, the environmental impact (particularly sustainable design and construction), the potential impact on the viability of Faversham Town Centre, the implications for local air quality and native tree species be planted. This was seconded by Councillor Benjamin Martin.

On being put to the vote the motion to defer was agreed.

Resolved: That application 18/50638/FULL be deferred until the decision of the Swale Joint Transportation Board in relation to the proposed A2/A251 junction improvements was known, and further details be provided of the design of the proposed buildings, the environmental impact (particularly sustainable design and construction), the potential impact on the viability of Faversham Town Centre, the implications for local air quality and native tree species be planted.



SWALE BOROUGH COUNCIL

Appraisal of Retail Impact Planning Policy Matters

**Proposed Aldi Store on Land at Perry Court, Ashford Road,
Faversham**

May 2019



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1.0 Introduction

1.1 Introduction & Instruction

1.1.1 Swale Borough Council ('SBC') has instructed WYG Planning ('WYG') to provide retail planning advice in respect of an application which seeks full planning permission on land at Perry Court, Ashford Road, Faversham for:

"Erection of a new supermarket (Use Class A1) and a hotel (Use Class C1) along with associated accesses, car and cycling parking, lighting, drainage, hard and soft landscaping and associated infrastructure" (LPA ref. 18/502735/FULL).

1.1.2 In accordance with our instruction from SBC, our advice is limited to matters relating to the retail impact of the proposed new Aldi store and includes the consideration of the use of conditions. Specifically, we have carried out a review of the retail work undertaken by Pegasus Group ('PG') on behalf of the applicant contained within a letter dated 24 April 2019. Whilst not a full retail impact assessment, this is referred to within this report as 'the 2019 PG RIA'.

1.1.3 In preparing this advice regard has also been had to the following submissions and third-party comments on the application proposal, including the advice previously provided by Carter Jonas ('CJ'), as follows:

- Retail Statement prepared by PG dated May 2018 ('the 2018 PG RS'), which focused primarily on the sequential approach.
- Stage 1 Advice prepared by CJ dated 06.09.2018.
- Peacock and Smith letter on behalf of Wm Morrison Supermarkets plc dated 24.10.2018.
- Stage 2 Appraisal – Retail Impact Assessment prepared by CJ dated 29.10.2018 ('the 2018 CJ RIA').
- PG letter responding to the 2018 CJ RIA dated 22.11.2018. Again, whilst this is not a full retail impact assessment, this letter is referred to within this report as 'the 2018 PG RIA'.
- Peacock and Smith letter on behalf of Wm Morrison Supermarkets plc dated 28.11.2018.
- MRPP letter on behalf of Tesco Stores Ltd dated 15.05.19.

1.1.4 This commission follows the preparation by WYG of the SBC Retail and Leisure Needs Assessment published in December 2018 ('the RLNA'). The RLNA forms part of the evidence base for the Council's emerging local plan covering the period 2022-2038. It was informed by a shopping survey by NEMS Market Research to establish existing shopping patterns within the 'study area' and updated health checks for the three town centres and 11 local centres within the borough. The 'study area' for the RLNA

is roughly based on the district area, split into six zones; it reflected the study area of the Council's previous 2010 retail study. The RLNA deals with the need for retail and commercial leisure over the plan period.

- 1.1.5 The proposal has been considered in the context of the development plan for the area and other material planning policy considerations such as the National Planning Policy Framework ('the NPPF') and the National Planning Policy Guidance ('the NPPG'). In summary, this provides that applications for retail and other main town centre uses that are neither in an existing centre nor in accordance with an up-to-date local plan will be assessed against the key tests of sequential approach and retail impact.
- 1.1.6 Importantly, the NPPF advises that where an application fails to satisfy the sequential test or is likely to have a significant adverse impact on one or more of the factors set out in paragraph 89, it should be refused.
- 1.1.7 However, notwithstanding the wording of paragraph 90 in the case of *Zurich Assurances Limited v North Lincolnshire Council* judgement [2012] EWHC 3708 (Admin), the Court identified that the failure of the sequential approach or retail impact tests and the consequent presumption of refusal, is just one consideration which the Local Planning Authority must balance against other considerations to see whether or not it is outweighed by other such considerations.
- 1.1.8 As noted above, our advice has been sought solely in respect of the retail impact tests, despite the application being below the threshold for undertaking a retail impact assessment under local policy and national guidance. Accordingly, having regard to the location of the application site outside a defined centre, the focus for our advice to SBC is on the retail impact of the proposed development on defined centres taking into account the impact of the proposal on existing, committed and planned investment and the vitality and viability of these centres including local consumer choice and trade in the town centre and wider area (paragraph 89 of the NPPF).
- 1.1.9 Specifically, it considers whether the conclusion drawn by the 2018 CJ RIA holds true in the context of the updated data available within the RLNA and the information available within the 2019 PG RIA, including any necessary sensitivity testing. For the avoidance of doubt the conclusion of the 2018 CJ RIA was that, whilst finely balanced, the proposal would not give rise to significant adverse impact on vitality and viability of Faversham Town Centre as a whole.

1.2 The Application Site and Proposal

- 1.2.1 The application site is located on land at Perry Court, off Ashford Road, Faversham. It forms an amended proposal for a 'local centre' originally approved in March 2017 as part of a large residential-led mixed-use scheme under outline planning permission (LPA ref. 15/504264). As originally approved, the 2017 scheme provided for 200sq m of Class A1 (retail) uses, expected to be a convenience store.

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- 1.2.2 In retail planning policy terms, the site is considered to be located in an out-of-centre location being circa 900m south of the edge of the designated town centre for Faversham and 1.1km south of the primary shopping area (paragraph (#)2.4 of the 2018 PG RS). It occupies a location where new retail facilities are expected to serve new residential development, albeit on a smaller scale.
- 1.2.3 The application submission sets out the retail floorspace of the proposed new store is 1,715sq m gross with a 1,254sq m net sales area. The 2018 PG RS indicates at #2.13-2.17 details of the Aldi model which is said to trade as a 'limited assortment discounter' ('LAD'). A LAD is described as a store where the number of core food product lines stocked is deliberately restricted to approximately 1,500 in comparison to 20,000+ lines in 'mainstream' supermarkets. PG continue that the key focus of the retail offer is on 'bulk' food shopping trips, meaning that Aldi does not sell tobacco, unwrapped bread/cakes and pharmaceutical products and that the stores do not have butchery, fishmonger, bakery, delicatessen or hot food counters nor customer restaurants or in-store franchises such as photo processing or dry-cleaning.
- 1.2.4 PG highlights at #2.16 of the 2018 PG RS that these factors are:
- '.....important when considering the trading effects of an Aldi foodstore; as clearly the potential for cross-over with the offer of independent high-street retailers is far less than it is for 'mainstream' food retailers that stock a far wider spectrum of goods.'*
- 1.2.5 PG outline that the ratio of convenience to comparison goods in an Aldi store is typically 80:20. They indicate that the comparison goods offer is 'ancillary' to the food offer and is subject to regular change with seasonal demand, such that there is constant variety in terms of range and choice, with no particular type of comparison goods predominating. Again, PG stress that this approach means that the *'the potential for Aldi to compete with high-street comparison retailers is extremely limited.'*
- 1.2.6 PG identifies at page 6 of the 2019 PG RIA that the applicant is willing to accept restrictive retail planning conditions so that *'the use and operation of the retail unit proposed is controlled and restricted to the form of development tested through the impact assessments carried out to date.'* To meet this objective, PG sets out four suggested conditions, as follows:
- Floorspace Restriction – the total Class A1 (retail) floorspace hereby permitted shall not exceed 1,725sq m gross internal area. The net sales (defined as all internal areas to which customers have access, including checkouts and lobbies) shall not exceed 1,254sq m without the consent of the Local Planning Authority.
 - Sale of Goods Restriction – notwithstanding the provisions of the Town and Country Planning (general permitted Development) Order 2015 (or any order revoking or re-enacting or amending that Order with or without modification), the Class A1 (retail) floorspace hereby permitted shall be used primarily for the sale of convenience goods with a maximum of 251sq m of the net sales are devoted to comparison goods without the consent of the Local Planning Authority.

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- Subdivision – The Class A1 (retail) unit hereby permitted shall be used as a single unit and shall not be sub-divided into two or more units, and no concessions shall be permitted within the unit without the consent of the Local Planning Authority.
 - Mezzanine Restriction - notwithstanding the provisions of the Town and Country Planning (general permitted Development) Order 2015 (or any order revoking or re-enacting or amending that Order with or without modification), no mezzanine floor or other form of internal floor to create additional floorspace other than that hereby permitted shall be constructed in the hereby permitted Class A1 (retail) unit without the consented of the Local Planning Authority.

1.2.7 For the purpose of this retail appraisal we have taken into account the above proposed planning conditions. Subject to the findings of our appraisal we will advise the Council whether we consider the proposed conditions are necessary and/or whether alternative/additional planning conditions are required for the proposed development to meet the relevant retail policy tests and ensure the use and operation of the retail unit aligns with the form of development tests through the impact assessments, as sought by PG.

1.3 Structure of Appraisal

1.3.1 The remainder of the appraisal is structured as follows:

- Section 2: reviews the methodology and conclusions of the 2019 PG RIA, including sensitivity testing, in order to consider the likely retail impacts of the proposal and whether any significant adverse impacts arise; and
- Section 3: summarises the findings of our appraisal.

2.0 Appraisal of Retail Impact

2.1 Requirements of NPPF and NPPG

2.1.1 As identified in Section 1, Paragraph 89 of the NPPF identifies that planning applications for retail development outside town centre, not in accordance with an up to date Local Plan, should be assessed in terms of the following impacts on centres:

1. The impact of the proposal on existing, committed and planned public and private investment in a centre of centres in the catchment area of the proposal; and
2. The impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and wider area.

2.1.2 Confirmation of how the retail impact test should be used in decision taking is set out in paragraphs 16 of the 'Ensuring the Vitality of Town Centres' section of the NPPG. The guidance states that the impact test should be undertaken in a proportionate and locally appropriate way, drawing on existing information where possible. Ideally, applicants and local planning authorities should seek to agree the scope; key impacts for assessment; and level of detail required in advance of applications being submitted.

2.1.3 Paragraph 17 notes that as a guiding principle impact should be assessed on a 'like-for-like basis' in respect of that particular sector. Retail uses tend to compete with their most comparable competitive facilities. It also notes that where wider town centre developments or investments are in progress, it will be appropriate to assess the impact of relevant applications on that investment.

2.1.4 Paragraph 18 sets out a checklist for applying the impact test whilst paragraph 19 provides a diagram setting out some of the key steps which should be taken when carrying out an impact test in decision-taking.

2.1.5 We are not aware of any existing, committed and planned public and private investment in Faversham Town Centre which is sufficiently well advanced to be considered under criterion 1. Therefore, the focus of this section is on the second test in relation to vitality and viability of centres, which is reflected in the work undertaken by PG and CJ to date.

2.1.6 Our commentary is structured using the headings from the 2019 PG RIA. We note the 2019 PG RIA strays into matters not central to the consideration of impact e.g. retail need/capacity. The availability of capacity/need is only relevant in so far as it relates to potential impacts, rather than a test in its own right. Accordingly, our commentary focuses on the relevant aspects of the 2019 PG RIA for the determination of this application.

2.2 Pegasus Group Assessment - Impact on In-Centre Turnover

Faversham Town Centre Health Check

2.2.1 PG endorses the findings of the health check for Faversham Town Centre included within the RLNA and the conclusion that the town centre is displaying good levels of vitality and viability.

2.2.2 For the avoidance of doubt and of relevance to this report, the RLNA found in respect of Faversham Town Centre:

- no qualitative deficiency of convenience goods provision in the town centre, with proportionally a higher amount of convenience goods retailers than the national average position.
- The Tesco store on Crescent Road being the largest store in the centre, followed by the edge-of-centre Morrison store on North Lane. In addition, there is an Iceland, Co-op and several other baker, butcher and convenience stores.
- Proportionally, the centre has slightly higher number of comparison goods retailers than the national average position. The offer is skewed towards independent retailers, with only 11 national retailers in the centre, and smaller size units.
- The proportion of retail service units is also slightly above the UK average position. The offer is heavily skewed towards health & beauty facilities. There is a reasonable level of food & drink operators, other leisure providers and financial and business services all attracting people into the centre for purposes other than retailing.
- A vacancy rate below the national average position both in terms of number of units and floorspace.
- 9 operator requirements including both Aldi and Lidl.
- High to good levels of pedestrian activity observed, noting that the market contributed to pedestrian activity and good levels of accessibility by train, bus, on foot and by car to the centre.
- In terms of views and behaviour, shopping was the main reason for visiting the centre (39% food shopping, 34% non-food shopping). The main 'like' about the centre was its attractive environment and 41% of people said there would be nothing that would make them visit the centre more often, if a reason was given, the most popular was more/better clothes shops or 'high street' retailers.

In summary, the RLNA concluded in respect of Faversham Town Centre that it displayed good levels of vitality and viability.

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- 2.2.3 PG highlights their specific agreement with the conclusion within the RLNA on vacancy rates in Faversham Town Centre, noting that these are significantly below at 8% the national average of 11% and is a sign of the town centre's vitality and viability. We would agree with this conclusion.

Trading performance of Existing Stores

- 2.2.4 PG refers to Table 4 of Appendix G of the RLNA, which sets out the trading performance of existing convenience stores derived from the NEMs household survey in comparison with benchmark trading positions of stores in the study area. PG raises two criticisms of the information in this table: that the market share derived existing trading performance of stores is underestimated owing to the use of census-based population data and forecasts, and the benchmark turnovers are overestimated owing to the convenience goods sales areas for stores adopted, which PG claim are too large. We comment briefly on both matters below.
- 2.2.5 The use of census-based population data and forecasts is a standard approach for preparing retail studies and was agreed with SBC in the absence of available local forecast population information from Kent County Council. The Experian Micromarketer MMG3 data is based on the ONS 2014 based sub-national population projections. These projections are based on the continuation of recent demographic trends and are undertaken every 2 years. ONS confirms that these projections are appropriate for the use of '*local-level policy and planning*'. Accordingly, it is considered that the data source used in the RLNA is appropriate. In any event, we note PG does not provide an alternative source of population projections.
- 2.2.6 Turning to the calculation of benchmark turnovers, we note PG believe the data used in the RLNA has resulted in overestimates for benchmark turnover owing to a '*very high proportion of convenience goods sales area*' being adopted. The base floorspace data (gross, sales area and convenience goods sales area) used in the RLNA has been sourced from ORC StorePoint floorspace information which is provided on a store by store basis. Thus, it is a widely used and reliable data source which provides store specific floorspace information. Changes from this base position have been incorporated into the RLNA where updated and local information has been available (retail studies, impact assessments, Experian good or WYG assessment).
- 2.2.7 Conversely, in support of their contention PG refer to an average position from retailer summaries produced by GlobalData i.e. not store specific but the average position across a retailer's portfolio of stores. Given the diversity of stores in retailer's portfolios it is no surprise than an individual store within Faversham might trade differently from the average position. PG do also make reference to the original plans for the Morrisons store in Faversham in support of their claim that net sales areas have been overstated for this one store.
- 2.2.8 Taking just one example, if we consider the Tesco store Table 4 of the RLNA provides a convenience goods sales area of 2,334sq m, we note in the MRPP letter on behalf of Tesco Stores Ltd that their agent suggests a convenience trading area of 2,676sq m for their Crescent Road store. This suggests that the

RLNA has actually *underestimated* rather than overestimated the convenience goods floorspace of this store, notwithstanding the robustness of the base information source.

2.2.9 Thus, whilst the use of published sources can throw up anomalies, the benchmark and market share derived turnovers presented in Table 4 provide a reasonable basis in our view to consider the potential impact trading effects of the proposed new Aldi Store on the basis of the information available. Moreover, we note PG does not provide any alternative sources of information (save for copies of 1991 plans of the original Morrisons (previously Co-op) store) or present an alternative pattern of shopping in the study area from their own household shoppers survey.

2.2.10 Table 4 of the RLNA suggests that against benchmark performance levels the existing stores in Faversham are trading below these levels, including those in and on the edge of the town centre. We agree with PG that 'undertrading' of stores does not necessarily mean stores are not viable or that they are particularly vulnerable to the opening of new stores. That said, it is one consideration in the overall balance of whether a proposal might give rise to significant adverse levels of impact on a centre, which includes the potential for store closures owing to poor trading levels.

Turnover of the Proposal

2.2.11 PG sets out in the 2018 PG RIA the assumed convenience goods turnover of the proposed Aldi store at 2018 and 2022 using 80% of the total sales area i.e. 1,003sq m, as follows:

- 2018 £10.86m
- 2022 £10.93m

The above turnovers are calculated on the basis of sales densities published by Globaldata (2018) of £10,827/sq m at 2018, £10,896/sq m at 2022. The price base is not provided by PG.

2.2.12 In the 2019 PG RIA, it is noted that Table 4 of the RLNA corroborates the sales density adopted by PG (as opposed to that suggested previously by CJ), in that it presents an Aldi benchmark sales density of £10,303/sq m at 2019 in 2016 prices, using GlobalData sourced information. Thus, adopting this 2019 sales density the convenience goods turnover of the proposed new store can be calculated as £10.33m at 2019 in 2016 prices.

Trade Diversion

2.2.13 PG indicate in their 2019 PG RIA that owing to up-to-date shopping pattern data there is a need to revisit the trade diversion pattern suggested in their 2018 PG RIA. We would agree that this is a reasonable approach, providing that reasoned justification of the any changed trade draw assumptions are given.

- 2.2.14 In the current case we note that the revised trade diversion set out by PG at Table 1 of the 2019 PG RIA has a reduced total trade draw from Faversham Town Centre, the differences between the 2018 and 2019 position taken by PG and for comparison the CJ suggested position is set out below:

Figure WYG 1: Assumed Trade Draw Patterns by PG and CJ

Destination	Trade Draw		
	2018 CJ RIA	2018 PG RIA	2019 PG RIA
	%	%	%
Faversham Town Centre			
Co-op, Forbes Road	2%	0%	0%
Iceland, High Street	3%	1%	0%
Other Stores	1%	1%	0%
Tesco, Crescent Road	15%	15%	15%
Total	21%	17%	15%

Sources: Table 3 of 2018 CJ RIA, Table 3 of 2018 PG RIA, Table 1 of 2019 PG RIA

- 2.2.15 We would agree that the revised trading performance and role of some of the existing town centre stores revealed by the RLNA suggests that the new Aldi, given its particular product range, would compete less aggressively with these stores and so it is reasonable to revise the trade drawn from them. That said, in our view, it is important to undertake a sensitivity test to ensure that should a higher amount of trade be drawn from town centre stores impacts do not give rise to significant adverse levels.
- 2.2.16 We note in presenting the trade draw pattern in Table 1 of the 2019 PG RIA this is applied to 95% of the calculated 2022 turnover i.e. £10.38m. Whilst not explicitly set out by PG, it is assumed that 5% of the trade is drawn from beyond the catchment. This is a reasonable assumption in our view and one that was also adopted by CJ.
- 2.2.17 At this juncture it is also worth noting that PG only deal with the impacts arising from the convenience goods element of the new Aldi store and no analysis is presented on the smaller comparison goods element. This is accepted as a reasonable approach given the scale of the comparison offer, its changeable and seasonal product range which is incidental to the main convenience offer. This assumption reflects the Aldi model as a LAD.
- 2.2.18 Understandably, the trade draw pattern reflects that the new Aldi will draw significant proportions of trade from other LAD stores. On this basis, some 15% of trade is drawn from Aldi in Sittingbourne, 15% from Aldi in Whitstable despite their relative distance, as compared to only 10% from the closer Morrisons store in Faversham. Thus, the trading format of the proposed Aldi trading as a LAD goes to the heart of the assumed trade draw pattern presented by PG. This is an important consideration when considering potential conditions.

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2.2.19 Overall, we are broadly comfortable with the trade draw pattern presented at Table 1 of the 2019 PG RIA on the basis that the new Aldi store will trade as a LAD. However, given the slightly changed position on the amount drawn from the town centre, a sensitivity test is undertaken below to ensure different impact levels do not arise if slightly more trade is drawn from the town centre.

Retail Impact

2.2.20 PG uses the household survey derived 2019 turnovers of existing stores from the RLNA at 2019 to present the potential impact arising from the proposal. PG highlights that this is a robust position to adopt given that it ignores the expenditure increases between 2019 and 2022 which would assist in off-setting impacts. We agree this is a robust position. However, as PG does not provide a price base, it is unclear whether using the 2022 calculated turnover of the store (unknown price base) against 2019 turnovers of existing facilities (in 2016 prices) will provide an accurate reflection of potential impacts arising. Moreover, we note some differences/errors between the survey derived 2019 turnovers presented in Table 4 of the RLNA and those presented by PG e.g. Tesco 2019 turnover is £24.7m in Table 2 of the 2019 PG RIA and £24.1m in Table 4 of the RLNA. The correct RLNA 2019 survey derived turnovers have been used here.

2.2.21 Accordingly, we have recast the impact tables using the 2019 turnover of the proposed new Aldi store (£10.33m) presented above against the correct 2019 RLNA turnovers of existing facilities, which are in a consistent price base. We have adopted the assumption that 95% of trade is taken from the catchment area i.e. £9.82m.

Figure WYG 2: 2019 Impacts adopting 2019 PG RIA Trade Draw

Destination	Existing Turnover 2019 ¹	Trade Draw ²		Solus Impact
	£m	%	£m	%
<i>Faversham Town Centre</i>				
Co-op, Forbes Road	1.1	0	0	0.0%
Iceland, High Street	0.6	0	0	0.0%
Other Stores	0.6	0	0	0.0%
Tesco, Crescent Road	24.1	15	1.47	6.1%
Faversham Town Centre Total	26.4	15	1.47	5.6%
Wm Morrison, North Road	12.3	10	0.98	8.0%
Sainsbury's, Bysing Wood Road	19.4	23	2.26	11.6%
Other Faversham	0.5	0	0	0.0%
Total	58.5	48	4.71	-

Notes: Figures may not add due to rounding.

Source: ¹ Table 4 of RLNA

² Trade draw pattern from Table 1 of 2019 PG RIA

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- 2.2.22 The above suggests that the impact on convenience goods turnover of Faversham Town Centre is in the order of 5.6%. This is in the same order as that calculated by PG in their 2019 assessment. In addition, the edge-of-centre Morrison store is predicted to experience 8% impact. As noted in the RLNA, this store acts as true edge-of-centre store with the store car park (despite its limited size) acting as one of the centre's car parks and linked trips to the town centre observed. Thus, impact on this store and consequential reduction in linked trips is a valid consideration in considering the impact on Faversham Town Centre as a whole.
- 2.2.23 As noted above, given the changed position of PG on trade drawn from the town centre, we have re-worked the figures below at Figure WYG 3 using the trade draw pattern presented in the 2018 PG RIA.

Figure WYG 3: 2019 Impacts adopting 2018 PG RIA Trade Draw (Sensitivity Test)

Destination	Existing Turnover 2019 ¹	Trade Draw ²		Solus Impact
	£m	%	£m	%
<i>Faversham Town Centre</i>				
Co-op, Forbes Road	1.1	0	0	0.0%
Iceland, High Street	0.6	1	0.10	16.6%
Other Stores	0.6	1	0.10	16.6%
Tesco, Crescent Road	24.1	15	1.47	6.1%
Faversham Town Centre Total	26.4	15	1.67	6.3%
Morrisons, North Road	12.3	10	0.98	8.0%
Sainsbury's, Bysing Wood Road	19.4	23	2.26	11.6%
Other Faversham	0.5	0	0	0.0%
Total	58.5	48	4.91	-

Notes: Figures may not add due to rounding.

Source: ¹ Table 4 of RLNA

² Trade draw pattern from Table 3 of 2018 PG RIA

- 2.2.24 Table WYG 3 suggests that should a higher level of trade be drawn from town centre stores along the lines suggested by PG in 2018, impact on convenience goods turnover at 2019 is estimated to be 6.3%. This impact falls most heavily on the Iceland and other stores (16%).
- 2.2.25 The above suggests that impacts arising on the 2019 convenience goods turnover of the town centre is estimated to be between 5-6%. Such levels of impact would not normally give cause for concern, particularly given the increase in expenditure available to existing facilities to a design (impact) year (previously shown to be 2022) has been ignored and given the good levels of vitality and viability exhibited by Faversham Town Centre. Moreover, these impact figures relate only to the convenience goods turnover rather than the turnover of the centre as a whole.

2.2.26 Even when the impact on individual stores and the potential reduction of linked trips from the Morrison store is considered, we consider that it unlikely that any individual store would close as a direct result of the impact of the proposed Aldi store, albeit that this is predicated on the basis that it trades as a LAD and so competitive overlap with smaller stores (butchers, bakers, convenience stores) and the Iceland (which in this case is skewed very much to the frozen food offer) is low and thus trade draw is more akin to the 2019 PG assumptions.

2.2.27 In summary, the predicted level of quantitative impact on the convenience goods turnover of Faversham Town Centre is low and not at a level that we consider could be argued to be 'significant adverse'. Thus, the 'on balance' conclusion of CJ that the scheme proposed will not give rise to significant adverse levels of impact on Faversham Town Centre, subject to the imposition of appropriate conditions. Use of conditions is addressed in detail below.

Suggested Planning Conditions

2.2.28 As noted above, PG set out four conditions which seek to control:

- Total amount of gross and net sales floorspace.
- The maximum amount of comparison goods floorspace within the store.
- Subdivision
- Insertion of a mezzanine.

With these in place, which we have reproduced verbatim at #1.2.6 of this report, PG argue that the '*use and operation of the retail unit proposed is controlled and restricted to the form of development tested through the impact assessments carried out to date*'. We agree that conditions which seek to address the matters above should be attached to any grant of planning permission. However, the term '*without the consent of the Local Planning Authority*' should be removed from the versions suggested by PG so that the condition is precise in line with the tests of conditions.

2.2.29 In addition, in this case, it is our strongly held view that a condition should be added to any planning permission to ensure the Aldi store trades as a LAD, as only in this way can the use and operation of the retail unit proposed be '*controlled and restricted to the form of development tested through the impact assessments carried out to date*'. It is clear from the assessments presented by PG that the trade draw and so impacts arising are predicated on the basis that the store trades as a 'limited assortment discounter' (LAD), see #2.16, #4.36 and #6.4 of 2018 PG RS, the key factors underlying the trade diversion set out at page 4 of the 2018 PG RIA and trade draw patterns skewed towards diversion from other LADs presented at page 6 of the 2019 PG RIA.

2.2.30 We do not agree that given the sales density of Aldi is now akin to other 'mainstream' foodstores that this type of condition is superfluous. In short, PG cannot have it both ways, they cannot present a trade draw pattern which reflects the new Aldi store will trade most aggressively with existing discount stores and then argue in respect of conditions that such a condition is not necessary, because LADs no longer have a specific trade diversion pattern. In short, PG has argued that the new Aldi is a LAD and has gone to some lengths to present the Aldi model and, as such, it is reasonable in this case to ensure going forward that the store continues to trade as a LAD so that impacts arising as in line with that assessed.

2.2.31 Accordingly, in addition to the four conditions suggested by PG, as amended to be precise, we would recommend an additional condition to ensure the store is only used as a deep discounter or LAD. Such a condition could read as follows:

'The development hereby approved shall only be used as a Class A1 retail foodstore and shall be restricted to 'limited product line deep discount retailing' and shall be used for no other purpose falling within Class A1 of the Town and County Planning (Use Classes) Order 1987 (or any order revoking or re-enacting or amending that Order with or without modification). 'Limited product line deep discount retailing' shall be taken to mean the sale of no more than 2,000 individual product lines.'

We are aware that Aldi is able to trade under such a condition, having recently accepted the same condition for a scheme granted planning permission in December 2018 in Yeovil. Moreover, the above is generous in terms of product lines, providing 500 more product lines than the 'Aldi model' presented by PG in the 2018 PG RS. Moreover, it does not restrict the future provision of counters, such as bakers, butchery, fishmonger.

2.3 Conclusions Regarding Retail Impact

2.3.1 We have carefully considered the planning application against the impact tests set out in the NPPF. We consider that the proposal is acceptable in relation to the retail impact tests with no significant adverse impacts arising, providing suitable conditions are attached which ensure the proposed store trades in the form tested through the impact assessments.

2.4 Other Comments

2.4.1 The remainder of the 2019 PG RIA letter relates to retail need/capacity. Given that even PG note that there is 'no requirement to consider retail need through the consideration of these application proposals', we are not proposing to comment in detail on PG's analysis. The availability of expenditure to support additional retail facilities in a catchment area is relevant only in so far as it might influence impacts arising from a proposal.

2.4.2 We would note that PG in commenting on the RLNA and considering qualitative need do so on the basis of the scheme fulfilling a 'need' for a deep discounter, for example, in looking at 'leakage' from the Faversham area, PG suggest that this is principally owing to *'the lack of discount convenience stores within Faversham'* and *'Clearly, a discount foodstore in the town would therefore provide an alternative offer to the existing facilities in the town and significantly enhance convenience retail offer within the town improving consumer choice'*. Such arguments support the need for a condition ensuring the new store trades as a LAD, as only in this way can it provide that different offer, stem leakage and increase consumer choice suggested by the applicant's agent.

3.0 Conclusions

3.1. Scope & Purpose

- 3.1.1 This appraisal has been prepared by WYG in response to an instruction by the SBC to carry out an independent review of the potential retail impacts on Faversham Town Centre of a proposed Aldi store forming part of a mixed-use scheme at Perry Count, Faversham (LPA Ref. 18/502735).
- 3.1.2 The site subject to this application lies in an out of centre location and is not in accordance with an up to date development plan. Therefore, reflecting our instruction and local and national planning policy, our advice to SBC focused on the impact of the proposal on nearby retail centres, including Faversham Town Centre, taking into account the impact of the proposal on planned investment and the vitality and viability of these centres.

3.2. Retail Impact

- 3.2.1 Dealing with the first part of the impact test, we are not aware of any existing, committed and planned public and private investment in Faversham Town Centre which is sufficiently well advanced to be considered under this part of the impact test.
- 3.2.2 Turning to the vitality and viability of existing centres, as a result of the limited trading overlap owing to the specific nature of the proposal and consequential low level of quantitative impact assessed, we conclude that the proposed development would not result in any significant adverse impacts on Faversham Town Centre. Even taking robust 2019 impacts and considering only impacts on convenience goods turnovers, rather than the centre as a whole, it is assessed that no significant adverse impact on centre turnover would arise owing to the proposed Aldi 'LAD' model for the new store.
- 3.2.3 Accordingly, we recommend that conditions are attached to any grant of planning permission to limit the size of the store (gross and sales area), amount of comparison goods floorspace, sub-division and insertion of mezzanine and to restrict use to a 'limited assortment discounter'. And on this basis, we consider that the proposal is acceptable in relation to the two retail impact tests with no significant adverse impacts arising.

3.3. Conclusions

- 3.3.1 Overall, having regard to our detailed appraisal of the planning application it is our opinion that the proposal is consistent with the requirements of current retail planning policy, subject to the imposition of appropriate conditions.

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Def Item 2 REFERENCE NO - 19/501378/FULL			
APPLICATION PROPOSAL Change of use of residential annex to independent residential use (Retrospective).			
ADDRESS Annex 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 This application was deferred by the Members at the committee meeting of 20th June 2019 and delegation given to officers to negotiate a larger area of amenity space for the new dwelling.			
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 Annex	Refused	07.02.2014

MAIN REPORT

1.0 BACKGROUND

- 1.0 Members will note that this application was reported to the Planning Committee on the 20th June 2019. The application was deferred subject to the negotiation of larger amenity space provision for the new dwelling (formed from the existing annexe building).
- 1.1 In this regard: an amended drawing has been submitted which proposes a larger area of amenity provision, measuring 13m deep by 6m wide and set to the side of the building. I consider that this would provide a good standard of amenity for future occupants of the property.
- 1.2 It should be noted that in order to deliver this provision it was necessary to reduce the size of the existing garden to the rear of the main dwelling 'James House'. As a result,

the depth of the garden of James House is reduced from 15m to of 11m. This is sufficient garden space for the property in my opinion, but I do not consider it logical to further encroach upon the rear garden of James House given that it is 4 bedroom family unit and the larger of the two properties. As such, for the benefit of both properties, I consider that the correct ratio of amenity space has been provided and the subject site 'James Annexe' would benefit from a sufficient size of usable space to the benefit of future occupiers.

- 1.3 The other aspects of the development are considered within the original report, which is attached for Member's information.
- 1.4 Taking the above into account I consider the scheme to be acceptable and recommend that planning permission should be granted subject to the receipt of standard SAMMS contribution as set out in the original report.

RECOMMENDATION – GRANT Subject to the following 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 rev. C, and 2165/03 rev. A.

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 shall be retained for the use of the Annexe only and not for general use of the main dwelling, known as James House.

Reason: To ensure adequate parking provision for future residents, and in the interests of highway safety and amenity.

- (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.



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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

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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/W15/3135789 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/W15/3135789) 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/W15/3135789) 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.

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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

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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 APPRAISALPrinciple 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:

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*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

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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.

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- 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

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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.

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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

APPENDIX 1

Planning Committee Report - 20 June 2019

ITEM 2.7

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/>).

APPENDIX 1



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PLANNING COMMITTEE – 12 SEPTEMBER 2019

PART 2

Report of the Head of Planning

PART 2

Applications for which **PERMISSION** is recommended

2.1 REFERENCE NO - 19/503080/FULL		
APPLICATION PROPOSAL Change of use from Class C3 (dwelling) to C2 (residential care home for elderly people) and conversion of garage to a habitable space.		
ADDRESS 58 Volante Drive Sittingbourne Kent ME10 2JJ		
RECOMMENDATION Grant subject to receipt of an amended drawing showing 2 parking spaces.		
SUMMARY OF REASONS FOR RECOMMENDATION The development would not give rise to any serious amenity concerns.		
REASON FOR REFERRAL TO COMMITTEE Called in by Ward Councillor Winckless.		
WARD Milton Regis	PARISH/TOWN COUNCIL	APPLICANT A Faseha AGENT EvolutionBlue
DECISION DUE DATE 14/08/19	PUBLICITY EXPIRY DATE 16/08/19	

Planning History

None.

1. DESCRIPTION OF SITE

- 1.1 58 Volante Drive is a detached house situated on a modern housing estate within the built up area of Sittingbourne. It is located at the head of a cul-de-sac, with one parking space to the front of the integral garage and a small lawn area to the front. To the northern side is an area of allocated parking/access belonging to neighbouring properties. The driveway for the neighbour to the south runs across the front of the property.
- 1.2 The wider area is characterised by a mix of detached and semi-detached houses, although there is a small terrace of bungalows to the north (with the allocated parking/access). The road here is brick paved, and many of the neighbouring properties have paved over their front gardens to provide off-road parking.

2. PROPOSAL

- 2.1 This application seeks planning permission for change of use of the property from a Class C3 residential dwelling to a Class C2 residential care home. The applicant has

stated that the care home will cater for elderly patients. The application also seeks permission to convert the existing integral garage to a bedroom.

- 2.2 There will be 5 bedrooms within the property: 4 at first floor and 1 within the converted garage. 5 wet rooms will also be provided within the property, as well as a communal lounge and dining area, a kitchen, office space, WC, and storage room.
- 2.3 3 parking spaces are proposed to the front of the property: 1 on the existing driveway to the front of the garage and 2 on the lawn area, which is to be reinforced with “grasscrete” grid to support vehicles without losing the grass.
- 2.4 The existing garage door will be replaced with a window.
- 2.5 No changes are proposed within the rear garden, where the existing lawn and decking will be retained.
- 2.6 There will be 2.5 FTE staff working at the site.

3. SUMMARY INFORMATION

	Proposed
Parking Spaces	3
No. of Residential Units	1
No. of Bedrooms	5

4. PLANNING CONSTRAINTS

- 4.1 None.

5. POLICY AND CONSIDERATIONS

- 5.1 The National Planning Policy Framework (NPPF), at paragraph 61, recognises the need to provide many different types of housing and accommodation for varying different groups, including the elderly and those with disabilities. Paragraph 91 a) promotes social interaction between groups who may otherwise not come into contact, by way of mixed-use developments (amongst others). Para. 92 continues to state that development to provide social and community facilities should be supported in principle. All of the above is, however, subject to there being no serious amenity impacts arising from such proposals.
- 5.2 Policies ST1 (sustainable development), CP3 (wide choice of homes), CP5 (health and wellbeing), DM7 (vehicle parking), and DM14 (general criteria) of the adopted Swale Borough Local Plan 2017 are relevant.
- 5.3 Policy CP5, in particular, echoes paras. 91 a) and 92 of the NPPF, as above.

6. LOCAL REPRESENTATIONS

- 6.1 11 letters of objection (from 9 addresses) have been received raising the following summarised issues:
 - Work being carried out within the property ahead of any consent being granted [NB: internal works do not require permission, and no works had been carried out to the garage at the time officers visited the site];

- Appreciate that such accommodation is in demand, but this is the wrong location for it;
- Local parking pressure will be exacerbated;
- Inadequate parking at the site;
- Inconsiderate parking blocking access [NB: in general, not from the application property];
- There is a school nearby and emergency vehicles would have trouble accessing the site at peak school run times;
- The property has been empty for three years, and not in use as accommodation for adults with learning difficulties as set out in the application form;
- Noise and general disturbance from vehicles and visitors to the site;
- Potential for 24hr activity from shift changes, ambulances, etc.;
- Loss of view from the front (lounge) window at no. 60 (adjacent) due to vehicles parked on frontage;
- Impact on local property prices;
- Where would bins be stored; and
- Potential for anti-social behaviour from residents of the property.

6.2 2 additional letters (from addresses who had already commented) were received in response to a round of re-consultation following clarification of the description of development. They repeat issues already noted above.

7. CONSULTATIONS

7.1 None.

7.2 KCC Highways would not normally comment on an application of this scale, but I have informally discussed the proposals with their officers, who noted that the parking provision is in accordance with the requirements of the adopted Kent Vehicle Parking Standards, and that there is unrestricted (apart from waiting restrictions during school drop-off/pick-up hours at a nearby access to a local primary school) on-road parking throughout the wider housing estate.

8. BACKGROUND PAPERS AND PLANS

8.1 The application is accompanied by existing and proposed floor plans and elevations.

9. APPRAISAL

Principle of development

9.1 The application site sits in a sustainable location within the defined built up area boundary, and the above local and national policies support the provision of social and community facilities (which a care home, elderly or otherwise, would comprise). Furthermore, in terms of space available, the building appears to be capable of supporting five residents and 2.5FTE staff. In these regards the principle of development is acceptable subject to consideration of amenity impacts, as set out below.

Highways

- 9.2 Highways and parking impact appears to be the main issue from the letters that have been submitted, and I can appreciate local concern on the matter. However, the development would provide three parking spaces, which is in accordance with the requirements of the adopted Kent Vehicle Parking Standards (1 ambulance space, 1 staff space, and 1 space per 6 bedrooms).
- 9.3 The parking spaces are tightly packed onto the frontage of the property, but from visiting the area I note that this would not be an uncommon arrangement on the estate; many nearby properties have paved over their front gardens to provide off-road parking spaces. However, such an arrangement would be to the detriment of the character of the area in my opinion, and may not be workable in reality due to the double-stacking of vehicles. I therefore consider that one parking space should be removed from the plans to allow retention of an area of soft landscaping to the front of the property. It is likely that ambulance visits to the property will be infrequent, and therefore removing a dedicated ambulance space is acceptable – an ambulance parking on the street for a short period and infrequently would not give rise to serious highway safety or amenity issues. I have requested an amended drawing accordingly.
- 9.4 Whilst I appreciate that there is local parking pressure I do note that there are no on-road parking restrictions (other than the peak time waiting restrictions by the primary school access on the next street) and staff / visitors could freely park anywhere on the surrounding streets. Potential obstruction of resident's driveways / access is not a planning concern, but considerate parking (which could be enforced by the police if necessary) would limit this.
- 9.5 The loss of the existing garage space is acceptable in my opinion. When visiting the property I noted that the existing integral garage was undersized by current standards. The Council often approves applications for garage conversions where it is not reasonably possible to park a modern-sized vehicle within.
- 9.6 Therefore, whilst I do appreciate and understand local objection, I do not consider that there are grounds under the planning regulations to refuse the application on highways or parking.

Local amenity

- 9.7 The use of the property as a residential care home should not, in itself, give rise to any more noise and disturbance than "normal" residential use, as it would still comprise people using the premises as their home. I note concern regarding potential anti-social behaviour from occupants, but this could be true of *any* property and it is not for the planning system to make judgements on the behaviour of either applicants or end-users.
- 9.8 There would be some noise and disturbance generated by vehicles and visitors to the property, but this should not be any greater than the disturbance from, for example, typical houseguests or delivery vehicles.
- 9.9 The loss of views from existing windows is not a material planning consideration – one does not have the right to views across a third party's land. In any case it should be noted that the front garden area could potentially be paved over and used for parking under permitted development rights, as has happened at neighbouring properties.

- 9.10 The property itself would provide a good standard of amenity for residents, in my opinion. Bedrooms would of an acceptable size, and there is communal living space and an adequately sized rear garden.
- 9.11 I do not consider that the proposed use of the property would give rise to any additional overlooking, loss of privacy, or similar amenity concerns for the neighbours over typical residential use of the building.
- 9.12 As set out at 9.3: I have requested an amended drawing to reduce the frontage parking provision to 2 spaces. This would provide for employee and visitor parking in accordance with adopted requirements, and an ambulance could park on the highway as and when required (much as it would do to visit any other property on the estate). This allows for retention of an area of soft landscaping to the front of the property which would enhance the street scene.

Other matters

- 9.13 The carrying out of internal works on an unlisted building does not require planning permission. Conversion of the garage requires planning permission, but when I visited the property no works had been carried out on the garage and the applicant advised he was waiting for the application to be determined before doing so.
- 9.14 Impact on property prices is not a material planning consideration.
- 9.15 Wheelie bins for the property could be stored in the rear garden, or possibly on the side access indicated on the submitted block plan.

10. CONCLUSION

- 10.1 The application proposes change of use, conversion of a garage to a bedroom, and associated works to convert a detached house into a 5-bed Class C2 residential care home (likely for elderly people). I note local objections, particularly in respect of parking and highways matters, but do not consider that they amount to a justifiable reason for refusal.
- 10.2 Taking the above into account, and subject to the receipt of an amended drawing showing 2 parking spaces and frontage landscaping, I recommend that planning permission should be granted.

11. RECOMMENDATION

GRANT Subject to the following conditions:

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

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

- 2) No development shall take place other than in accordance with drawing VIB/GC/V1.

Reason: For the avoidance of doubt.

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

Reason: In the interests of visual amenity.

- 4) The parking spaces shown on the approved drawing, received 02.09.2019, shall be kept available for the parking of vehicles and no permanent development, whether permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking or re-enacting that Order) or not, shall be carried out on the land or in such a position as to preclude vehicular access thereto.

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

- 5) The premises shall be used for the purpose of a residential care home and for no other purpose whatsoever, including any other purposes in Class C2 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended) and any other use whether permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking or re-enacting that Order) or not.

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

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 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.



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2.2 REFERENCE NO - 19/501640/FULL			
APPLICATION PROPOSAL Erection of polytunnels and water storage tanks. Demolition of redundant concrete fibre building.			
ADDRESS Land North Of Highstreet Road Hernhill Kent ME13 9EJ			
RECOMMENDATION Application Permitted			
SUMMARY OF REASONS FOR RECOMMENDATION Proposal is broadly in line with national and local planning policy			
REASON FOR REFERRAL TO COMMITTEE Parish Council objection			
WARD Boughton And Courtenay	PARISH/TOWN Hernhill	COUNCIL	APPLICANT Moneypeak Ltd AGENT Angela Hirst Chartered Surveyors
DECISION DUE DATE 28/06/19	PUBLICITY EXPIRY DATE 10/05/19	OFFICER SITE VISIT DATE 16.04.2019	
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):			
SW/09/0268	Application for construction of tunnels for horticultural production on agricultural land. (NB. This land is to the immediate south-west of the site the subject of the present application.)	Refused	29/05/2009
It should be noted that a subsequent Appeal decided under reference APP/V2255/A/09/2117254/NWF was allowed, and costs were awarded against the Council			

1.0 DESCRIPTION OF SITE

- 1.01 The site is a large field to the west of the A299 Thanet Way, to the immediate west of an existing petrol filling station and services area and northwest of the junction turnoff to Faversham and Hernhill. The site extends north from a southern boundary with Highstreet Road. Further west, there is an area of existing glasshouses.
- 1.02 It should be noted that the boundary between the Boroughs of Swale and Canterbury crosses this site; the southernmost third of the site (measuring approximately 3.8 hectares) is within Swale, whilst the northernmost two-thirds of the site (measuring approximately 12.7 hectares) falls under Canterbury City Council's jurisdiction.
- 1.03 The site is fairly flat, with a small increase in height towards the northern end.
- 1.04 The areas of land alongside the Thanet Way are characterised by agricultural land, particularly utilising poly tunnels and glasshouses for crop growing purposes. The area of land between the site and the Thanet way is also the location of a large petrol filling station and shop; a café; and a Travelodge hotel.
- 1.05 The site is outside any established built-up area boundary, within the six-kilometre consultation zone for a Site of Special Scientific Interest (SSSI) and near to a Ramsar Site, which is designated along the Swale and the Thames Estuary.

- 1.06 To the immediate east of the site, there is a public right of way, running between the adjacent services area and the site in question. No changes to the right of way are proposed.
- 1.07 The land is Grade 3b Agricultural land, which is defined as being moderate quality agricultural land; land capable of producing moderate yields of a narrow range of crops, principally cereals and grass or lower yields of a wider range of crops or high yields of grass which can be grazed or harvested over most of the year.
- 1.08 The application site does not adjoin any residential curtilage; the nearest dwelling is a minimum of 200 metres from the application site, and on the opposite side of the dual carriageway.

2.0 PROPOSAL

- 2.01 The proposal is threefold: to remove an existing agricultural building from the site (inside Canterbury's boundary); to construct four small water reservoirs and a drainage pond on the north west part of the site (less than one half of one of the proposed reservoirs ('Reservoir 4') would be situated on land within Swale Borough); and the construction and all-year-round permanent retention of poly tunnels on site, for the growing of strawberries. A total of 28 hectares of polytunnels is proposed of which 8 hectares would be in the Swale Borough area.
- 2.02 Each poly tunnel would have a height of 4 metres; a width of 8 metres, and would be provided with both heating and low level LED lighting, to stimulate growth outside of the usual growing season.
- 2.03 The drawings submitted show a connecting road to the existing access to the farm.
- 2.04 The proposal is accompanied by a Design and Access Statement; an ecological appraisal; an ecological mitigation and enhancement plan; an Ecological Impact Assessment; a Flood Risk Assessment; a Habitats Regulations Screening Assessment; a landscape and visual assessment; a Transport Statement; a water vole survey; a wintering bird survey; a reptile survey; and an Economic Appraisal.
- 2.05 Of particular importance are the ecological reports, which also include a list of mitigation measures to ensure that the ecology of the site is not adversely impacted by the proposal, if approved. These state that

'The ecological mitigation and enhancement strategy objectives for the proposed development are:

- *Ensure that construction works do not kill or injure reptiles;*
- *Ensure that where possible potential reptile habitat is protected and enhanced;*
- *Ensure that site clearance and demolition works do not result in the intentional destruction of active bird nests, eggs and/or young;*
- *Ensure that construction works do not disturb any breeding wild bird listed on Schedule 1. This includes adults and their young, at, on or near an 'active' nest;*
- *Ensure that no works are conducted within 5m of the northern drain boundary and the on-site water body (Target Note 3) in order to avoid impacts to potential water vole (*Arvicola amphibius*) habitat;*
- *Ensure that works within 8m of the top of the southern bank of the northern drain boundary are avoided so that the need for an Environment Agency Flood Consent Licence (which considers ecology) is avoided;*

- *Ensure that where possible habitats are created and enhanced for the benefit of Species of Principal Importance; and*
- *Ensure that where possible Habitats of Principal Importance are created and enhanced.*

2.06 The Economic Appraisal accompanying the proposal should also be noted. It makes the following concluding statements:

‘Moneypeak Ltd is a profitable business generating an average profit over the last four years of £0.55 million. The previous expansion of the business in 2011 improved profitability although recent increases in costs have reduced overall profitability. Forecasts for the new heated polytunnels show the expansion is profitable and will allow the business to continue its development and growth.

The S&A Group has invested around £10.95 million into the site at Hernhill Nursery and is planning to invest a further £3.5 million into the site. The capital expenditure made at the nursery has not been included in the ongoing economic impact of the business in Kent. However, there will be a considerable positive economic impact from the capital investment at the Nursery.

The proposed expansion will generate employment for the business both in full time staff (8) and in picking and packing labour (37 FTE’s). There is a continuous labour requirement for around nine months of the year, with a peak in April/May and a trough in December/January. The increased labour requirement and near continuous demand for labour will allow the business to employ local staff and improve local employment prospects.

The business as a whole has a major positive impact on the local economy, spending around £2.3 million locally. This is forecast to increase to around £2.8 million with the new heated polytunnels. In addition the proposed new production areas creates around 46 FTE’s.

The LM3 calculation shows that the business’ current impact on the local economy is over £8.9 million. The proposed increase in growing area will increase the business impact on the local economy to around over £10.9 million. The business has a significant positive economic impact on the local economy.’

2.07 The application shows a landscaping plan which would retain existing hedging on the perimeters of the site; introduce new hedging to those parts of the perimeter which do not have existing hedging, and the introduction of three ‘copse’ areas of new trees, the latter all being within that part of the land which comes under Canterbury City Council’s jurisdiction.

3.0 SUMMARY INFORMATION

	Existing	Proposed	Change (+/-)
Site Area (ha)	16.5 hectares	16.5 hectares, including 3.8 hectares within Swale Borough Council area.	-
Approximate height of poly tunnels	-	4 metres	+ 4 metres
Approximate Width per poly tunnel	-	8 metres	+ 8 metres

4.0 PLANNING CONSTRAINTS

Potential Archaeological Importance

Environment Agency Flood Zone 2 & 3

5.0 POLICY AND OTHER CONSIDERATIONS

- 5.01 Bearing Fruits 2031: The Swale Borough Local Plan 2017 - Policies CP1, (Building a strong, competitive economy); DM3 (The rural economy), DM14 (General development criteria), DM21 (Water, flooding and drainage), DM24 (Conserving and enhancing valued landscapes, DM 28 (Biodiversity and geological conservation), and DM31 (Agricultural land).
- 5.02 Swale Landscape Character and Biodiversity Appraisal SPD – Waterham Clay Farmlands is in poor condition and its sensitivity is moderate.

6.0 LOCAL REPRESENTATIONS

- 6.01 No local representations have been received.

7.0 CONSULTATIONS

- 7.01 Hernhill Parish Council raises objection to the application. Their reason for objection, in its entirety, is as follows: *'The Parish Council objects to the proposed scheme given the scale and visual impact of the development on the open landscape as they will be permanently in situ.'*
- 7.02 Southern Water raises no objection, but recommends that the Environment Agency should be consulted regarding surface water disposal.
- 7.03 The Environment Agency offers no comment on the application
- 7.04 Kent Police raises no objections.
- 7.05 Canterbury City Council raises no objection to the proposal. Their comments may be summarised as follows:
 - The proposal needs to demonstrate that the public benefits outweigh any harm from the scheme
 - Development is unlikely to have an unacceptable impact on residential amenity
 - The character of the area is that of actively farmed agricultural land with glasshouses
- 7.06 Natural England originally asked for additional information to determine the impacts on designated sites; this information being received by the applicant, Natural England now raises no objection, subject to a mitigation condition.
- 7.07 KCC Highways and Transportation raises no objection, subject to conditions included below.
- 7.08 KCC Flood and Water Management raises no objection to the proposal, subject to conditions included below.
- 7.09 The Council's Rural Affairs Consultant raises no objection to the application, noting that the final decision of whether or not the benefits of the scheme outweigh the harm must be the Council's decision.

- 7.10 KCC Ecology raises no objection to the proposal, subject to the inclusion of a number of conditions included below. Their comments are as follows:

'Low population of slow worm, grass snake and common lizard present

- *41 species of bird during the wintering bird survey*
- *5 species of principle importance*
- *1 species listed on the wildlife and countryside act*
- *At least 6 farmland/marshland species*
- *Barn owl roost*
- *Least two species of foraging bats*
- *Harvest Mouse (species of principle importance)*

The report has made the following mitigation recommendations:

- *Sensitively designed lighting plan*
- *Increase and enhancement of hedgerows*
- *Sensitive management of the retained scrub, reedbed and grassland*
- *Creation of a on site receptor site.*
- *Site clearance works done to minimise/avoid impact on birds.*
- *Precautionary mitigation for water vole. hedgehogs and badgers*

We advise that in principle we are satisfied with the proposals but recommend that, in addition to the above mitigation, the following is implemented within the site:

- *Erection of barn owl box within the site.*
- *Management of retained farmland to benefit farmland/marshland species.*
- *SPA/Ramsar/SSSI*

The wintering bird surveys did not assess the site as having functionally linked habitat as very low numbers of qualifying bird species were recorded on site or close to it.

The submitted information has detailed that the construction and operational phase of the development may have a negative impact on the designated site and the HRA has made a number of recommendations to minimise / avoid an impact. SWB will have to carry out an Appropriate Assessment as part of this application. NE's comments on the website provides further details on this point.'

The Council's Appropriate Assessment is attached to this report as Appendix A.

- 7.11 No response has been received from the County Principal Archaeological Officer. In view of the history of the site, I have considered it prudent to include an archaeological watching brief condition below.
- 7.12 SBC's Environmental Protection Team Leader raises no objection to the proposal.

8.0 APPRAISAL

- 8.01 The issues raised by this proposal are the principle of the development in the countryside, the visual amenity / landscape impact; the economic need; and the potential effect on the environment.

- 8.02 With regard to the principle, the Council's Rural Affairs Consultant has responded as follows: *'It has been recognised for some years that the use of polytunnels is now a necessary part of modern soft fruit production. The system has a number of advantages over conventional unprotected growing including the ability to protect crops from the wind and rain, reduce pesticide/ fungicide use, extend the growing season, provide better yields and continuity of supply, and greater ease of managing the plants and picking the fruits.'*

As indicated above, the use of tunnels assists UK growers to meet customer demand as opposed to what might be regarded as the less sustainable alternative of foreign imports.

In effect the tunnels comprise units of production in themselves, and can be regarded as inherently required and appropriate for the purpose of modern UK soft fruit production. ' I would contend that this justifies the principle of the development.

- 8.03 In terms of amenity, it cannot be denied that polytunnels are not the most attractive structures found within the countryside, and in other locations, such as in very rural and isolated locations, or in an Area of Outstanding Natural Beauty (AONB), such a large scale use of such tunnels might not prove to be acceptable. However, there are a number of factors involved with this development and this specific location which I am of the opinion weigh in its favour such that it may be judged to be acceptable from a visual amenity perspective. .
- 8.04 Firstly, the land itself is fairly flat, with no particular prominent features. It is, in essence, a flattish area of land, soliciting little notice or indeed appreciation. The location of the land also adds to this view, being situated close to the A299 Thanet Way, a busy dual carriageway, with a minimum separation distance of 70 metres. As such, the location of the site renders itself not to be worthy of any specific designation; its primary physical feature is a busy dual-carriageway road, with development of polytunnels and glasshouses immediately adjoining the road and, I therefore contend that the land itself, nor its location, is particularly worthy of any particular merit. The fact that the land is also Grade 3b agricultural land should also be noted.
- 8.05 Added to the above, there is an established 'ribbon' of existing polytunnels and glasshouses on either side of the Thanet Way, probably for the reasons noted above, which seems to have set a serious precedent in this matter. Indeed, it will be noted that there is an existing area of glasshouse to the immediate west of the proposed site. I am therefore of the opinion that, as the sides of the Thanet Way are typically set aside for this use, the proposed polytunnels are an appropriate use for this site. As such, whilst I understand the concerns raised by the Parish Council, I cannot agree with their conclusion. As the area is characterised by such uses, I do not believe that the use on this site will be detrimental to the visual amenity of the area or have an unacceptable impact on landscape quality. It should be noted that the applicant has outlined proposals for new hedging and new 'copse' areas on the site, and I have thought it prudent to include standard landscaping conditions to ensure that full details of such may be submitted and that these landscaping details will be carried out, in the interests of visual amenity.
- 8.06 I note the use of the proposed low-level LED lighting, but again, I do not believe that this would have an adverse effect on the appearance of the area. Members may be aware of the Thanet Earth project, near Manston, which uses large glasshouses, brightly lit, and in a prominent position. The polytunnels proposed in this application would be of a much smaller and lower scale, with very low level lighting, and in a flat, non-prominent position. As such, and unlike the Thanet Earth units, this proposal would

not have a high level impact on the surrounding countryside. I would therefore contend that the proposal is acceptable on visual amenity grounds.

- 8.07 In terms of residential amenity, it should be noted that the nearest dwelling to the site is over two hundred metres away, and on the other side of the Thanet Way. As such, I am of the opinion that the proposal would have little or no adverse impact upon residential amenity.
- 8.08 In terms of the economic need, I am of the opinion that the economic appraisal accompanying the application successfully makes the case that the applicant is prepared to make significant investments on this site, to increase fruit production in an area where such uses are already well-established; to create direct employment; and to create ancillary employment via transport, etc., in accordance with Policies CP1 and DM3 of Bearing Fruits 2031 – The Swale Borough Local Plan 2017. It should be noted that the applicant hopes to receive EU funding to assist in this level of investment, and as such hopes to have a decision on the application before 31st October, when the UK is expected to leave the European Union.
- 8.09 With regard to the proposal's effect on the environment, I note that the application is accompanied by a number of different surveys covering the environmental aspects and potential impacts of the proposal. These surveys have all been studied by Natural England, the Environment Agency and the other technical consultees, none of whom has raised objection to the proposal, subject to the inclusion of the conditions listed below. I am reliant on their expert advice on this matter, and if they are satisfied that the proposal would not have a negative impact upon the environment and local wildlife, then I am content to take that expert advice, in accordance with policy DM28 of Bearing Fruits 2031 – The Swale Borough Local Plan 2017.
- 8.10 Finally, I would draw Members' attention to the above-mentioned appeal referring to land to the south of Highstreet Road, which was recommended for approval, but refused at Committee. This was for a similar proposal, but for an area of land ten hectares larger, which was approved on appeal and the Council lost costs following the Planning Committee's resolution to refuse the proposal. I am of the opinion that this case has set an important precedent which should be taken into account when considering the present proposal.

9.0 CONCLUSION

- 9.01 I therefore recommend that the proposal be approved, subject to the conditions 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 development beyond the construction of foundations shall take place until details in the form of British Standards or commercial specifications of the proposed colouring of the water storage reservoir that would be partly located within the Borough of Swale hereby approved have been submitted to and approved in writing by the Local Planning Authority, and these works shall be implemented in accordance with the approved details.

Reason: In the interest of visual amenity.

- (3) No floodlighting, security lighting or other external lighting shall be installed or operated at the site.

Reason: In the interests of visual amenity and the residential amenities of occupiers of nearby dwellings.

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

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

Reason: In the interests of residential amenity.

- (5) No development beyond the construction of foundations shall take place until 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 chosen to enhance biodiversity), plant sizes and numbers where appropriate, means of enclosure, hard surfacing materials, and an implementation programme.

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

- (6) 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.

- (7) Upon completion of the approved landscaping scheme, any trees or shrubs that are removed, dying, being severely damaged or becoming seriously diseased within five years of planting shall be replaced with trees or shrubs of such size and species as

may be agreed in writing with the Local Planning Authority, and within whatever planting season is agreed.

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

- (8) No development shall take place until a construction management plan shall have been submitted to and approved in writing by the Local Planning Authority. The plan shall include details of:

- a) The routing of construction and delivery vehicles to and from the site
- b) Parking and turning areas for construction and delivery vehicles and site personnel
- c) Timing of deliveries
- d) Provision of wheel washing facilities
- e) Temporary traffic management/signage

Reason: In the interests of highway safety.

- (9) No development shall take place until a Travel Plan highlighting measures to encourage sustainable travel to and from and within the wider site shall have been submitted to and approved in writing by the Local Planning Authority. The development shall then be carried out in complete accordance with these approved details.

Reason: In the interests of highway safety.

- (10) No development beyond the construction of foundations shall take place until details of the provision and permanent retention of secure covered cycle parking facilities shall have been submitted to and approved in writing by the Local Planning Authority. The development shall then be carried out in complete accordance with the approved details.

Reason: In the interests of highway safety.

- (11) No development beyond the construction of foundations shall take place until a detailed sustainable surface water drainage scheme for the site has been submitted to and approved in writing by the Local Planning Authority. The detailed drainage scheme shall demonstrate that the surface water generated by this development (for all rainfall durations and intensities up to and including the climate change adjusted critical 100 year storm) can be accommodated and disposed of without increase to flood risk on or off-site. The drainage scheme shall also demonstrate that silt and pollutants resulting from the site use can be adequately managed to ensure there is no pollution risk to receiving waters.

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

- (12) The development hereby permitted shall be carried out in complete accordance with the *construction phase mitigation measures as outlined in paragraph 6.16 of the applicants shadow Habitat Regulation Assessment (HRA)*

Reason: In the interests of supporting sustainability and biodiversity.

- (13) In the event of the fruit coverings and/ or the frames becoming redundant for horticulture purposes, the coverings, frames and associated equipment shall be removed from the site within a period not exceeding nine months unless otherwise agreed in writing by the Local Planning Authority.

Reasons: To minimise the visual impact of the development on the rural landscape.

- (14) No development beyond the construction of foundations shall take place until details are submitted to and approved in writing by the Local Planning Authority, which show a schedule of works designed to improve biodiversity on site. Upon approval, these works shall be implemented within six months of the date of that approval and retained as such in perpetuity.

Reason: To encourage wildlife and biodiversity.

- (15) Development shall not begin in any phase until a detailed sustainable surface water drainage scheme for the site has been submitted to and approved in writing by the Local Planning Authority. The detailed drainage scheme shall be based upon the submitted Flood Risk Assessment (Envireau, March 2019), and shall demonstrate that the surface water generated by this development (for all rainfall durations and intensities up to and beyond 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 (with reference to published guidance):

- That silt and pollutants resulting from the site use can be adequately managed to ensure there is no pollution risk to receiving waters
- Appropriate operational, maintenance and access requirements for each drainage feature or SuDS component are adequately considered, including any proposed arrangements for future adoption by any public body or statutory undertaker

The drainage scheme shall be implemented in accordance with the approved details.

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.

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

Reason: To ensure that flood risks from development to the future users of the land and neighbouring land are minimised, together with those risks to controlled waters, property and ecological systems, and to ensure that the development as constructed is compliant with and subsequently maintained pursuant to the requirements of paragraph 165 of the National Planning Policy Framework.

- (17) Before the development hereby permitted is commenced, in addition to the mitigation measures recommended in the ecological reports submitted with the application, the developer shall also erect a barn owl box on the site and submit a Management Plan for retained farmland to benefit farmland/marshland species.

Reasons: In the interests of enhancing biodiversity on the site.

- (18) No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of a watching brief to be undertaken by an archaeologist approved by the Local Planning Authority so that the excavation is observed and items of interest and finds are recorded. The watching brief shall be in accordance with a written specification and timetable which has been submitted to and approved in writing by the Local Planning Authority.

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

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

INFORMATIVES

- (1) It is the responsibility of the applicant to ensure, before the development hereby approved is commenced, that all necessary highway approvals and consents where required are obtained and that the limits of highway boundary are clearly established in order to avoid any enforcement action being taken by the Highway Authority.

Across the county there are pieces of land next to private homes and gardens that do not look like roads or pavements but are actually part of the road. This is called 'highway land'. Some of this land is owned by The Kent County Council (KCC) whilst some are owned by third party owners. Irrespective of the ownership, this land may have 'highway rights' over the topsoil. Information about how to clarify the highway boundary can be found at: <https://www.kent.gov.uk/roads-and-travel/what-we-look-after/highway-land/highway-boundary-enquiries>

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

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



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APPENDIX 1



Habitat Regulation Assessment (HRA)¹ Screening Matrix and Appropriate Assessment (AA) Statement

IMPORTANT NOTE: Undertaking the HRA process is the responsibility of the decision maker as the Competent Authority for the purpose of the Habitats Regulations¹. However, it is the responsibility of the applicant to provide the Competent Authority with the information required to complete this process.

Application reference:	19/501640/FULL
Application address:	Land north of Highstreet Road, Hernhill, ME13 9EJ
Application description:	Erection of polytunnels and water storage tanks. Demolition of redundant concrete fibre building.
Lead Planning Officer:	Andrew Spiers
HRA Date:	30/08/19

Part 1 – Details of the plan or project

European site or sites potentially impacted by planning application, plan or project (Delete as appropriate):	Medway Estuary & Marshes SPA and Ramsar Site Thames Estuary & Marshes SPA and Ramsar Site The Swale SPA and Ramsar Site
Is the planning application directly connected to the management of the site?	No

Part 2 – HRA Screening Assessment

Screening under Regulation 63(1)(a) of the Habitats Regulations – The Applicant should provide evidence to allow a judgement to be made as to whether there could be any potential significant impacts of the development on the integrity of the SPA / Ramsar Site.

The coastline of North Kent encompasses three Special Protection Areas (SPAs): the Thames Estuary and Marshes SPA, the Medway Estuary and Marshes SPA and the Swale SPA. They are classified in accordance with the European Birds Directive which requires Member States to classify sites that are important for bird species listed on Annex 1 of the European Directive, which are rare and / or vulnerable in a European context, and also sites that form a critically

¹ All references in this document to the 'Habitats Regulations' refer to the Conservation of Habitats and Species Regulations 2017

APPENDIX 1

important network for birds on migration. All three sites are also listed as Wetlands of International Importance under the Ramsar Convention (Ramsar Sites). For clarity, and the purpose of this assessment, ‘European Sites’ refers to both the SPA(s) and Ramsar² Site(s). Studies have shown marked declines in key bird species, particularly in areas that are busiest with recreational activity.

The HRA submitted as part of the application identified that there was the potential for the disturbance of birds during the construction stage of the project, the site being located only a short distance outside the SPA.

Following the CJEU ruling³, avoidance or mitigation measures cannot be taken into account as part of the application at this stage of the HRA, and must be considered under an Appropriate Assessment stage of the HRA in part 3 of this document.

Are there any other plans or projects that together with the planning application being assessed could result in a likely significant effect the site when considered in-combination?	Yes. All new dwellings built within 6km of the SPA and Ramsar Site, or other developments that could lead to an increased recreational pressure, could combine to have a likely significant effect on the SPA and Ramsar Site.
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Would the proposal lead to a likely significant effect on the European sites, without mitigation measures either alone or in-combination? YES

Part 3 – Appropriate Assessment

Appropriate Assessment under Regulation 63(1) – if there are any potential significant impacts, the Applicant must provide evidence showing avoidance and/or mitigation measures to allow an Assessment to be made. The Applicant must also provide details which demonstrate any long-term management, maintenance and funding of any solution.

The project being assessed would potentially result in having an adverse effect on the integrity of The Swale Special Protection Area (SPA) and Ramsar site, and might damage or destroy the interest features for which The Swale Site of Special Scientific Interest (SSSI) has been notified.

Natural England has advised that these effects can be mitigated by the submission and implementation of an appropriate Construction Phase Mitigation Plan. The applicant has already reacted to this request and has submitted a Construction Phase Mitigation Plan, which NE acknowledged to be sound on 20th August 2019, and further clarified as such on 29th August 2019.

As such, should the scheme be approved, the Council will ensure by Condition that that the requirements within the Construction Phase Mitigation Plan shall be carried out in strict accordance with these approved details.

² As a matter of Government Policy (NPPF Paragraph 18), Ramsar Sites should be given the same protection of European Sites.

APPENDIX 1

Part 4 – Summary of the Appropriate Assessment - To be carried out by the Competent Authority (the local planning authority) in liaison with Natural England

Having considered the proposed mitigation and avoidance measures to be provided via the construction Phase Mitigation Plan, Swale Borough Council concludes that with this mitigation, the plan or project will have no adverse effect on the integrity of the European protected site(s).

Having made this appropriate assessment of the implications of the plan or project for the site(s) in view of that site’s conservation objectives, and having consulted Natural England and fully considered any representation received (see below), the authority may now agree to the plan or project under regulation 63 of the Conservation of Habitats and Species Regulations 2017.

Natural England Officer:

³ CJEU Ruling Case C-323/17

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PLANNING COMMITTEE – 12 SEPTEMBER 2019**PART 3**

Report of the Head of Planning

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

3.1 REFERENCE NO - 19/502228/FULL		
APPLICATION PROPOSAL Extensions to first floor and roof of residential dwelling including installation of solar panels.		
ADDRESS 110 Southsea Avenue, Private Street, Minster-on-Sea, Sheerness, Kent ME12 2LU		
RECOMMENDATION Refuse		
SUMMARY OF REASONS FOR REFUSAL The development, due to its design, would result in an incongruous addition that would dominate the form, character and appearance of the existing dwelling and would not be in keeping with the design of properties along the northern side of Southsea Avenue, which would adversely impact the streetscene. As such, the proposal is contrary to Policies CP4, DM14 and DM16 of “Bearing Fruits 2031: The Swale Borough Local Plan 2017” and to the advice of the Council’s adopted Supplementary Planning Guidance entitled “Designing an Extension – A Guide for Householders”.		
REASON FOR REFERRAL TO COMMITTEE Parish Council supports the application		
WARD Minster Cliffs	PARISH/TOWN COUNCIL Minster-On-Sea	APPLICANT Mr Caleb Watson AGENT Wyndham Jordan Architects
DECISION DUE DATE 28/06/19		PUBLICITY EXPIRY DATE 30/07/19

Planning History

SW/80/0784
Erection of garage
Approved Decision Date: 30.07.1980

SW/79/1172
Erection of a house
Approved Decision Date: 11.02.1980

1.0 DESCRIPTION OF SITE

1.01 110 Southsea Avenue is a detached chalet bungalow located on the northern side of Southsea Avenue, within the built up area boundary of Minster. The property is set back from the road with vehicle hardstanding to the front and to the side. It has a

- hipped roof with three dormer windows located on the front and rear roof slopes. There is a large detached garage, an outbuilding, and a generous garden to the rear.
- 1.02 The application site is bounded by residential properties to the east, west and south. The Little Oyster Residential Care Home lies to the north. The streetscene is varied and has a broad mix of house types and designs. Conlin (to the west) is a bungalow with a shallow pitched roof; and Den Briel (to the east) is a chalet bungalow that has been extended at roof level.
- 1.03 Land levels slope upwards to the southeast here, so that Conlin is at a lower level than the application property, and Den Briel is higher.

2.0 PROPOSAL

- 2.01 The application seeks planning permission for extensions to the first floor and roof of the property including the installation of solar panels.
- 2.02 The existing pitched roof dormer windows on the property would be replaced with dual pitched roof extensions to the front and rear roof slopes. The ridgeline of the extensions would have an overall height to match the existing roof ridge; with a section of flat roof located between the newly formed gable ends. The eaves height of the dwelling would be raised by 2.5m.
- 2.03 Twelve solar panels would be installed on the property. Three would be located on the existing front roof slope; and the other nine would be located on the roof slopes of the proposed roof extension at the front of dwelling.
- 2.04 The application proposes a reduction in the number of bedrooms at the property from five to four; but increasing the size of the remaining bedrooms and creating an additional shower room and ensuite WC at first floor level. Three windows are proposed in the front elevation of the property at first floor; these would serve the two front bedrooms and the stairwell/landing. On the rear elevation at first floor level, a pair of Juliet balconies would be introduced to serve the two rear bedrooms; and two windows are proposed to serve the new shower room and ensuite WC.
- 2.05 The proposed materials would include plain brown tiles; cementitious weatherboard cladding to the cheeks of the extensions; and white pvcu fenestration.
- 2.06 The submitted plans also show that a new flat roof would be constructed above the existing ground floor window on the front elevation of the dwelling.
- 2.07 The proposal has been amended since receipt. The original submission proposed a large, flat roofed dormer to the rear elevation of the property, however, further to discussions between officers and the agent/applicant, this was amended to the current design. It was suggested to the agent/applicant that the flat roofed element of the proposed extensions be removed or reduced, however no further amendments were received. A re-consultation was carried out.

3.0 PLANNING CONSTRAINTS

- 3.01 Potential Archaeological Importance

4.0 POLICY AND CONSIDERATIONS

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

- 4.02 The Swale Borough Local Plan “Bearing Fruits 2031” (adopted 2017). Policies CP4 (requiring good design), DM7 (parking), DM14 (general development criteria) and DM16 (alterations and extensions).
- 4.03 The Council’s adopted Supplementary Planning Guidance (SPG) titled “Designing an Extension” is also relevant and remains a material planning consideration having been through a formal consultation and adoption process.
- 4.04 Kent Vehicle Parking Standards (July 2006) and the Kent Design Guide Review: Interim Guidance Note 3 – Residential Parking (November 2008).

5.0 LOCAL REPRESENTATIONS

- 5.01 None received.

6.0 CONSULTATIONS

- 6.01 Minster-on Sea Parish Council support the application commenting
“Minster-on-Sea Parish Council believes the proposal improves the streetscene”.

7.0 BACKGROUND PAPERS AND PLANS

- 7.01 Application papers and drawings referring to application reference 19/502228/FULL.

8.0 APPRAISAL

Principal of Development

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

Visual Impact

- 8.02 The proposed solar panels would be prominent on the roof slope, located on the front and side elevations of the property. However, they would only project approximately 50mm above the roof plane. It is worth considering the fallback position. Given that the host dwelling is not a listed building and is not located within a conservation area; it appears that the applicant would likely be successful in applying for a Certificate of Lawfulness under Part 14 of the General Permitted Development Order 2015 (as amended). Also, the proposed solar panels promote sustainable development in seeking to generate energy from a sustainable source.
- 8.03 The submitted plans show that a new flat zinc roof would be constructed above the existing ground floor window on the front elevation of the dwelling. This would project only 0.5m forwards of the front wall of the dwelling, and I do not believe it would harm the character and appearance of the property or be an intrusive feature within the streetscene.
- 8.04 The development seeks to add a first floor to the existing chalet bungalow, effectively turning the property into a two storey dwelling.

- 8.05 Properties along this part of Southsea Avenue are a mixture of detached two and single storey dwellings, and a mixture of materials is used in the road so that there is little uniformity to the road. Two storey dwellings are present on the southern side of the road, opposite the application site; whilst on the northern side, the form of dwellings comprise bungalows and chalet bungalows, which appear to increment in height and bulk as the land levels rise travelling east.
- 8.06 The host dwelling is sited adjacent to a single storey dwelling, Conlin, which has a shallow pitched roof and is situated lower than the host property; and there is a chalet bungalow the other side. Den Briel, the adjacent chalet bungalow, makes use of different roof forms to add interest and reduce the overall visual bulk of the building. However, the proposal, with an entire first floor being added provides no such relief or reduction in bulk through design; the section of flat roof located between the two gable ends serving to increase the vertical emphasis of the property, and only adding to its prominence in my view.
- 8.07 The maximum height of the dwelling would stay the same; however, the eaves height would be raised approximately 2.5m, (from 2.3m to 5m) and the dwellings bulk would significantly increase in width and depth. I consider that the proposed first floor extensions would totally dominate the original form of the dwelling which would be lost within the proposed design.
- 8.08 Whilst the local planning authority would support some form of enlargement of the dwelling, I do not consider that the plans as submitted are acceptable. I am of the opinion that the dwelling as designed is incongruous, with a design that appears bulky and is out of character with the dwellings on the northern side of the road; and dominates the original appearance of the dwelling. Whilst there are two storey dwellings on the southern side of the road, I do not consider it appropriate to replicate this here. I take the view that it would look particularly out of place when considering the design of the adjoining neighbouring bungalow, and then the neighbouring chalet bungalow, and the pattern along this side of the road where the size and bulk of the dwellings appear to increment as the land rises.
- 8.09 Due to the aforementioned design, I consider that the proposal would result in an incongruous dwelling that would not be in keeping with the dwellings on the northern side of Southsea Avenue, and the development would have a detrimental impact upon the character and appearance of the host dwelling. As such, the proposal would fail to comply with local planning policies.

Residential Amenity

- 8.10 The overall roofline of the dwelling would not increase as a result of the proposal; however, the eaves height would be raised from approximately 2.8m to 5.3m. In respect of the impact upon the amenities of the adjacent property Conlin (to the north west), I take into consideration that the proposed first floor extensions would not project forwards of the front wall of this neighbouring property; nor would they project beyond its rear elevation. Although the flank wall of the host dwelling would be built up at first floor level, and I note that there are windows located in the facing flank wall at Conlin; I take into consideration that these side windows do not serve habitable rooms. The proposal would be set back approximately 2.4m from the common boundary with this neighbouring property; and approximately 3.7m from dwelling itself. Due to this separating distance, I do not believe that the proposal would result in unacceptable overbearing or overshadowing impacts for this neighbour.

- 8.11 Whilst the proposed first floor extensions would likely result in some sense of enclosure for the neighbouring dwelling to the south east, Den Briel, the extension to the front elevation would only project approximately 0.5m forwards of the recessed front wall at Den Briel; and there would be a separating distance of approximately 1.6m between the flank wall of the first floor front extension and the side wall of this adjacent dwelling. At the rear, the proposed first floor extension would project approximately 3.4m beyond the rear elevation of Den Briel, which is in excess of the guidance in the Council's SPG which recommends a maximum projection of 1.8m for first floor rear extensions. However, the proposed rear extension has been designed so that it is set back from the existing flank of the property, unlike the proposed front extension; meaning that it would sit approximately 2.4m away from the closest flank wall at Den Briel. Taking into account this separating distance, I am of the opinion that the proposal would not result in unacceptable unneighbourly impacts to Den Briel in terms of obstructing light and views.
- 8.12 The proposal would introduce new windows into the front and rear elevations of the dwelling at first floor, including two Juliet balconies at the rear; replacing the existing front and rear facing windows at roof level. There would be a distance in excess of 18m from the new windows in the front elevation to the boundary with the nearest facing property, Alchemy; and there would be a distance of approximately 35m from the proposed fenestration at the rear of the property to the rear boundary of the application site. Due to the distance involved, I consider that the proposal would not result in significant additional harm in terms of overlooking over and above the current arrangement.

Parking

- 8.13 The number of bedrooms at the property would be reduced from five to four as a result of the proposal, and the existing off-street parking provision would not be affected. The parking requirements for a four bedroom property in the suburban area according to the Kent Design Guide Review – IGN3 is for two off-street parking spaces, and this would be provided by the existing hardstanding to the front and side of the property. I therefore consider the parking arrangements to be acceptable.

9.0 CONCLUSION

- 9.01 The development, due to its design, would dominate the character and appearance of the existing dwelling and would result in an incongruous addition that would not be in keeping with the design of the properties along the northern side of Southsea Avenue. I therefore recommend that planning permission be refused.

10.0 RECOMMENDATION – REFUSE for the following reason:

- (1) The development, due to its design, would result in an incongruous addition that would dominate the form, character and appearance of the existing dwelling and would not be in keeping with the design of properties along the northern side of Southsea Avenue, which would adversely impact the streetscene. As such, the proposal would be contrary to Policies CP4, DM14 and DM16 of "Bearing Fruits 2031: The Swale Borough Local Plan 2017" and to the advice of the Council's adopted Supplementary Planning Guidance entitled "Designing an Extension – A Guide for Householders".

The Council's approach to the application:

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

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

In this instance:

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

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



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PLANNING COMMITTEE – 12 SEPTEMBER 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 – 17 Musgrave Road, Sittingbourne**

APPEAL DISMISSED / COSTS REFUSED

DELEGATED REFUSAL

Observations

Full support for the Council's decision to refuse planning permission for a new dwelling in the rear garden of 17 Musgrave Road. The Inspector agreed that the proposal would amount to backland development that would be harmful to both visual and residential amenities. The costs claim was also refused, as the Inspector found that the Council had not acted unreasonably.

- **Item 5.2 – Land at Swanton Farm, Bicknor**

APPEAL ALLOWED

DELEGATED REFUSAL

The Inspector disagreed with the Council's conclusion that the cherry coverings would have an unacceptable impact on the setting of the Grade II listed Swanton Court and the special qualities and distinctive character of the Kent Down AONB. Instead, the Inspector concluded that with landscape planting to provide mitigation (secured by condition) the impacts of the development, when considered cumulatively with other cherry coverings in the locality, would fall within acceptable limits.

- **Item 5.3 – Barn Adjacent Bracondale and Newlands, Dargate**

APPEAL DISMISSED

DELEGATED REFUSAL

Full support for the Council's decision to reject new housing in a remote and unsustainable rural location in line with the Local Plan's clear settlement strategy, and to protect the character of the countryside.

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The Planning Inspectorate

Appeal Decision

Site visit made on 20 June 2019

by **D J Board BSc (Hons) MA MRTPI**

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

Decision date: 25 July 2019

Appeal Ref: APP/V2255/W/19/3225737
17 Musgrave Road, Sittingbourne, ME10 2EJ

- 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 Hutchinson Properties (Mr Hutchinson) against the decision of Swale Borough Council.
 - The application Ref 18/506592/FULL, dated 18 December 2018, was refused by notice dated 1 March 2019.
 - The development proposed is erection of two storey, three bedroom house with new access and car and cycle parking.
-

Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Hutchinson Properties (Mr Hutchinson) against Swale Borough Council. This application will be the subject of a separate Decision.

Main Issues

3. The main issues are the effect of the provision of a dwelling on (a) the character and appearance of the area and (b) the living conditions of the occupiers of existing dwellings 16 and 17 Musgrave Road, with particular regard to noise and disturbance.

Reasons

Character and appearance

4. I understand that the site is close to industrial buildings which are to its side and rear. Nonetheless Musgrave Road itself is typified by two storey dwellings, in terraced groups, which front the road. The dwellings form a strong frontage to the street scene. They generally have a simple form and appearance with a gable roof.
5. The new dwelling would be located at the end of the road in an area between No 16 and No 17, which currently forms part of the garden area of No 17. The footprint of the new dwelling would be detached and wider than those around it. At ground floor it would be 'L' shaped. As a result, it would have a wide roof treated with a hip at one end and a gable at the other. The appellant submits that there would only be partial or glimpsed views of the scheme against a backdrop of industrial buildings. Furthermore, that the site is not important in the wider setting of the area. Nevertheless, even if appropriate

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materials were used the overall design and appearance of the dwelling would be a stark contrast to the prevailing style and would appear incongruous.

6. I therefore conclude that the introduction of a dwelling in this location would have a harmful effect on the character and appearance of the area. It would be in conflict with policy DM14 of the Swale Borough Local Plan (LP) which amongst other things requires new development to reflect the positive features of the locality and be well sited and of a scale and design appropriate to the location.

Living conditions of existing occupiers

7. The Council's decision specifically refers to the creation of an access point between No 16 and No 17. More specifically that it would lead to noise and disturbance that would impact on the living conditions of existing occupiers. The appellant submits that the existing dwellings already produce noise and that the access would be for the needs of the scheme only. Nonetheless, it would introduce a new dwelling into an existing garden area. As such, whilst acknowledging the existing situation, I have carefully considered the changes that would result from the appeal scheme.
8. The layout plans show that the boundary between the site and No 16 would be treated with a 2m high brick wall. No 16 has side facing windows and the shared boundary would be with its garden area. The layout would introduce two parking spaces for the new dwelling along a substantial portion of the common boundary. Vehicles would access from the road, past the side of No 16 and then along its boundary. As such the majority of the garden area for this dwelling area would be exposed to vehicular movements and the associated noise and disturbance.
9. No 17 would also have a 2m wall on the new boundary that would divide it from the appeal site. This dwelling has windows that would face directly onto the new access point. A new parking area would be provided for the dwelling and the plans show an area for turning to serve the spaces for no 17 and 17A. Therefore, vehicles entering for both dwellings would drive directly past the side elevation of No 17. In addition, even if vehicles enter and exit in forward gear, there would be some reversing and it is probable that vehicles reversing and turning would be undertaking these manoeuvres in the area close to this dwelling and its garden area. This would subject occupiers to the noise and disturbance from the movements.
10. The appellant submits that permitted development would allow for a new access point without planning permission. However, a new dwelling is distinct from this and would not be permitted development. As such I have considered the scheme before me in its totality on its merits. I therefore conclude that the proposal would have a harmful effect on the living conditions of existing occupiers with particular regard to noise and disturbance. The proposal would therefore be in conflict with LP policy DM14 which amongst other things sets out that new development should cause no significant harm to amenity and be well sited.

Other matters

11. I appreciate that the dwelling could be positioned so that the main windows face the commercial buildings and that suitably sized garden areas would be

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- created. However, this does not alter my findings on character and appearance or noise and disturbance.
12. The site is within 6km of the Medway Estuary and Marshes Special Protection Area (SPA). Natural England have identified that a new dwelling would increase recreational use. As such the proposal has potential to affect the site's features of interest. The appellant has agreed in principle to pay a mitigation contribution. However, I have no mechanism before me that would secure it and this could not be dealt with by condition as the appellant suggests. A condition would not meet the tests set out in the Framework or Planning Practice Guidance. As I am dismissing the appeal for other reasons I have not pursued this issue further.
13. I note that the appeal scheme would provide an additional dwelling. In addition, I understand that this part of the borough is in general a sustainable location for new housing and the proposed dwelling would contribute to the range of housing choice. However, none of these matters alters or outweighs my conclusions on the determining issues in the appeal.
14. The appellant submits that the Council does not have a five-year supply of deliverable housing. If policies for the supply of housing land are not up to date then less weight must be given to policy objectives in relation to the location of development. However, even if I were to conclude relevant policies for the supply of housing should not be considered up-to-date, the adverse impacts of granting permission that I have identified would significantly and demonstrably outweigh the benefit of the provision of a dwelling in this case.

Conclusion

15. For the above reasons and having regard to all other matters raised I conclude that the appeal should be dismissed.

D J Board

INSPECTOR



Costs Decision

Site visit made on 20 June 2019

by **D J Board BSc (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 25 July 2019

Costs application in relation to Appeal Ref: APP/V2255/W/19/3225737 17 Musgrave Road, Sittingbourne, ME10 2EJ

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Hutchinson Properties (Mr Hutchinson) for a full award of costs against Swale Borough Council.
 - The appeal was against the refusal of planning permission for erection of a two storey, three bedroom house with new access and car and cycle parking.
-

Decision

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

Reasons

2. The Planning Practice Guidance (PPG) advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process. In this case the applicant is concerned about the manner in which the Council assessed the planning application. More specifically that if it had applied the tilted balance test in the National Planning Policy Framework to the scheme then planning permission would have been granted.
3. The Council's officer report did not consider the tilted balance test. Nonetheless it considered the planning merits of a scheme for a dwelling within an area where the Council takes the view that housing is acceptable in principle. The report considers the issues and explains the Council's position on them with reference to the relevant policies of the Swale Borough Local Plan.
4. Within its statement of case the Council has considered the tilted balance but concludes, as I have, that the harm arising from the provision of a dwelling would significantly and demonstrably outweigh the benefit arising from the provision of one dwelling. Fundamentally, given the location of the site and the planning issues involved, the consideration of the test by the Council at application stage would not have changed the outcome of the application or the need for an appeal. As such I do not consider that the Council's approach has been unreasonable.
5. I therefore find that unreasonable behaviour resulting in unnecessary expense as described in the PPG, has not been demonstrated. For the reasons given above I refuse the application for an award of costs.

D J Board
INSPECTOR

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The Planning Inspectorate

Appeal Decision

Site visit made on 20 June 2019

by **D J Board BSc (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: **2 August 2019**

Appeal Ref: APP/V2255/W/18/3214269

Land at Swanton Farm, Bicknor, Sittingbourne, ME9 8AY

- 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 FW Mansfield & Son against the decision of Swale Borough Council.
 - The application Ref 18/501702/FULL, dated 27 March 2018, was refused by notice dated 5 July 2018.
 - The development proposed is erection of cherry coverings and framework.
-

Decision

1. The appeal is allowed and planning permission is granted for erection of cherry coverings and framework at Land at Swanton Farm, Bicknor, Sittingbourne, ME9 8AY in accordance with the terms of the application, Ref 18/501702/FULL, dated 27 March 2018 subject to the conditions in Annex A.

Application for costs

2. An application for costs was made by FW Mansfield & Son against Swale Borough Council. This application will be the subject of a separate Decision.

Main Issues

3. The effect of the erection of cherry coverings and framework on the character and appearance of the area, having regard to the setting of the Kent Downs Area of Outstanding Natural Beauty (AONB) and whether the proposal would preserve the special architectural and historic interest of the nearby Grade II listed building including its setting.

Reasons

Character and appearance

4. The site is located within the AONB which is a statutory designation. The importance of the AONB designation is set out in The National Planning Policy Framework (the Framework) paragraph 172 which sets out that great weight should be given to conserving and enhancing the scenic beauty of AONBs. Policy DM24 of the Swale Borough Local Plan (LP) seeks to conserve and enhance the special qualities and distinctive character of the AONB and seeks to deliver the Kent Downs Area of Outstanding Natural Beauty Management Plan (MP). It also refers to the need to minimise the impact of individual proposals and their cumulative effect on the AONB.
5. Section 6 of the MP refers to the farmed landscape and that '*...historically orchards and horticulture have played an important part in the special*

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character of the AONB landscape...' and that *'...in the Kent Downs it is the traditional cherry orchards that are particularly distinctive...'* Policy FL8 refers specifically to proposals for polytunnels. It requires them to be assessed for their impact on the AONB landscape, refer to siting and mitigation and to be fully justified.

6. The appellants information explains the extent of their soft and top up fruit farming across Kent. The production of Cherries is described as an essential part of the 'fruit basket' offered by the business to existing clients. The scheme proposes cherry coverings across the orchards annotated on the plans as 'A' and 'B/C'. The reasons that the coverings are required are given as the improved quality of fruit, improved productivity and the ability to guarantee supply to customers. The appellants are limited by their land ownership and consider this location to offer an optimum soil type and orientation. In this regard the submitted evidence demonstrates that the appellants farming practices require the coverings to maximise the soft fruit crop.
7. I understand that the polytunnels applied for were omitted from a previous scheme granted planning permission by the Council. Nonetheless, I have considered the scheme before me on its merits, including consideration of its cumulative effects. The structures would have a maximum height of about 4m with a distance of about 7.75m between the apexes of the posts. There are generous margins around the edge of each field. The framework would be wooden and the wooden sections would be covered in a translucent polythene material. Bird netting is shown across the grass alleys that exist between the rows of trees.
8. The main concern expressed regarding additional coverings is their visual impact when viewed in combination with those already permitted. In this case the appellants have clarified¹ that the cherry areas would only be covered for a period of 3 months each year. As such the main impact would be when the coverings are in place. I appreciate that there will be some points in the immediate and wider locality where the coverings would be glimpsed and, in some cases, visible in part. The existing orchards and the wider site are well screened by mature windbreak features within the site and boundary foliage also provide a degree of screening. The uncovered frames would have a lesser landscape impact. Generally, they would be seen at a distance against the ground or a backdrop of trees and hedges.
9. There is an existing public right of way (PROW) that runs through part of the farm. Within the site the landscape is experienced within this context. Specifically, it is evident that the user is within the wider farm landscape. Views remain across the farm and to the distant backdrop of the Swale estuary. Due to their location, to the south and east of the PROW, I do not consider that the coverings would have a significant effect on the experience for user of this PROW.
10. From the footpath on the opposite side of Swanton Street there would be views looking west toward orchards A, B & C. I appreciate that there would be some views of the appeal site from this location. Nevertheless, this would be at some distance and for much of the year this would be filtered by foliage. The same is true of Bicknor Lane and Swanton Street. I note that there are some views of the farm and the group of fields that could cumulatively contain

¹ Final comments 29 May 2019

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coverings. However, the occasions where they would be viewed in their entirety or without filtering from vegetation would, in my view, be limited. Therefore, I consider that, overall, the coverings would not have an adverse effect on landscape character, including the natural beauty of the AONB.

11. I have carefully considered the submissions from interested parties, including a landscape statement on behalf of the occupiers of Swanton Court. The submission makes reference to the Department for Environment Food and Rural Affairs code of practice for polytunnels, which contains a number of recommendations. In addition, I understand that the appeal scheme does not propose to rotate the coverings on the farm. Nevertheless, the code makes recommendations which sit alongside the planning requirements but I have no evidence that these should be binding. Furthermore, the scheme before me seeks fixed coverings and I have assessed the scheme on this basis.
12. In this case I have found that the appellants have justified their requirements and that the siting and mitigation, including an additional belt of planting, would not be in conflict with FL8. Accordingly, the scheme would not harm the AONB landscape. I therefore conclude that the scheme would not harm the character and appearance of the area, having regard to its location in the Kent Downs AONB. It would not be in conflict with policies DM3 and DM24 of the Swale Borough Local Plan (LP) and SD1, SD3, SD8, SD11, FL8, FL9 and AEu14 of the MP.

Listed Building Setting

13. Sections 16(2) and 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) require special regard to be had to the desirability of preserving the listed building or its setting or any features of special architectural or historic interest which it possesses. The Framework advises that significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. The glossary to the Framework states that the setting of a heritage asset comprises the surroundings in which it is experienced and that different elements of that setting may either make a positive, negative or neutral contribution to its significance.
14. There is no dispute that the site shares a boundary with the grounds of Swanton Court which is a Grade II listed building. It sits within a large plot behind strong boundaries. It is described as a 16th century hall house with a front range dating from 1854. From the evidence available, including the listing description, the significance and special interest of the building is derived from its age form, fabric and architectural features. The third-party heritage statement suggests that the setting of the building also extends beyond its garden to the wider rural area. The fruit growing is in my view an intrinsic part of that rural landscape.
15. The plans show that Orchard A would be closest to the boundary. The area where the cherry trees are located is set away from the boundary. Therefore, there would be an intervening grass area before the coverings begin. When travelling on the road and from the public right of way to the south and east of Swanton Court there are glimpsed views of the listed building within its grounds. The located of Orchard A does not, in my view, feature strongly in the experience of the listed building. As such the provision of cherry coverings would not harm the significance of the listed building or harm its setting.

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Furthermore, in the wider context I consider that the building, its outbuildings and gardens would remain as experienced in a wider agricultural and rural landscape.

16. Accordingly, taking into account all of the above, I consider that the cherry coverings would preserve the significance and special interest, including the setting, of the listed building. It would not be in conflict with LP policies CP8 and DM32 which amongst other things seeks to preserve the special architectural and historic interest and setting of listed buildings.

Other matters

17. The issue of surface water drainage has also been brought to my attention. In particular that there is a need for the scheme to manage any additional run off created by the provision of the coverings. The report² produced seeks to provide a strategy that will ensure that the run off from the coverings will not result in an increased surface water discharge over the existing greenfield situation. It proposes trench infiltration and bunding to manage the runoff and surface water. However, the report does not set out exactly how this would be undertaken. Therefore, it would be necessary to secure the detail by condition.
18. The occupiers of Swanton Court also raise a concern about the view of the coverings from the garden and first floor of the property. When the coverings are in place the outlook from this property would change. However, the views would be filtered by the boundary treatment and would be part of the wider agricultural landscape in this location. Therefore, I do not consider that the scheme should be resisted on this basis.

Conditions

19. I have considered the conditions put forward against paragraph 55 of the Framework, the Planning Practice Guidance and where necessary I have amended the wording in the interests of precision. Conditions 1 & 2 are required because they set the necessary time limit and the approved plans as this provides certainty.
20. The appellant submits that the Council's suggested condition for landscaping is not necessary. More specifically that a landscaping condition is only required to secure additional shelterbelt planting as set out in Appendix H of the statement of case. I agree with the appellants that what is necessary is the additional shelterbelt planting.
21. In the interests of the character and appearance of the area it would be necessary to control the periods when the polythene is on the coverings. It would also be necessary to seek the detail of the surface water trench infiltration and bunding scheme.

Conclusion

22. Accordingly, for the above reasons and having regard to all other matters raised I conclude that the appeal should be allowed.

D J Board
INSPECTOR

² Monson Flood Risk Assessment and Surface Water Drainage Strategy 01/03/18

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Annex A – 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, block plan and proposed sections 2559/134.
- 3) No development shall commence until there shall have been submitted to and approved in writing by the local planning authority a scheme of shelterbelt landscaping in the position shown on the plan in Appendix H to the appellants' statement of case. Details shall include a plan showing details of the size, species and location of the planting, a timetable for its implementation and a management plan for the lifetime of the development.
- 4) No building hereby permitted shall be occupied until surface water drainage works shall have been implemented in accordance with details that shall first have been submitted to and approved in writing by the local planning authority. Before any details are submitted to the local planning authority an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system, having regard to Defra's non-statutory technical standards for sustainable drainage systems (or any subsequent version), and the results of the assessment shall have been provided to the local planning authority. Where a sustainable drainage scheme is to be provided, the submitted details shall:
 - i) provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
 - ii) include a timetable for its implementation; and,
 - iii) provide, a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.
- 5) No building hereby permitted shall be put to beneficial use until a scheme for removal of the polythene has been submitted to and approved in writing by the local planning authority. Details shall include a timetable for the months when the polythene would be in place, its implementation and provide, a management and maintenance plan for the lifetime of the development which shall include the arrangements for storage of the polythene.

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Appeal Decision

Site visit made on 19 July 2019

by **R Sabu BA(Hons) MA BArch PgDip ARB RIBA**

an Inspector appointed by the Secretary of State

Decision date: 08 August 2019

Appeal Ref: APP/V2255/W/19/3226891

Barn Adjacent Bracondale And Newlands, Butlers Hill, Dargate ME13 9HH

- 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 Peters against the decision of Swale Borough Council.
 - The application Ref 18/505290/FULL, dated 9 October 2018, was refused by notice dated 5 December 2018.
 - The development proposed is conversion of a disused barn into a residential dwelling.
-

Decision

1. The appeal is dismissed.

Procedural Matter

2. While the address on the application form states 'Brecondale', from the evidence before me the correct name of the adjacent property is 'Bracondale'. I have therefore amended the address above accordingly.

Main Issues

3. The main issues are:
 - whether the proposed development would be in a suitable location for housing with particular regard to the accessibility of services and facilities; and
 - the effect of the proposed development on the character and appearance of the area.

Reasons

Location

4. The site is located outside a defined built-up area boundary and is therefore in the countryside in the terms of Bearing Fruits 2031 The Swale Borough Local Plan Adopted July 2017 (LP).
5. From the evidence before me, the nearest settlement of Dargate has few services or facilities including a pub and other settlements, such as Faversham, with a wider range of services, are a significant distance away. Therefore, it is likely that future occupiers would be reliant on the private car for daily requirements. While there is a bus service, since the road lacks footpaths and streetlights, it would be likely to discourage use of the buses for users of the site thereby leading to likely further reliance on the car. While I

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note that there are some services in Dunkirk, from the evidence before me, these would not remove entirely the dependence on the private vehicle for daily requirements. Therefore, for the foregoing reasons, the proposal would result in adverse environmental impacts.

6. I note the comments of the Inspector for the case at 'Brook Farm'¹ who found the site to be isolated in the terms of paragraph 55 of the former National Planning Policy Framework. The Framework was revised in February 2019 and on my reading the closest equivalent of paragraph 55 are paragraphs 78 and 79 in the revised version. However, that case preceded the Court of Appeal decision² where the judge found, 'the word 'isolated' in the phrase 'isolated homes in the countryside' simply connotes a dwelling that is physically separate or remote from a settlement. Whether a proposed new dwelling is, or is not, 'isolated' in this sense will be a matter of fact and planning judgment for the decision-maker in the particular circumstances of the case in hand³.' That judgment remains relevant in my view as the revised text of the Framework is similar to the previous version. Since the site lies within a ribbon of housing and adjacent to existing buildings, it is within a settlement and not isolated in the terms of the Framework and would not conflict with paragraph 79 of the revised Framework in this regard.
7. However, although I have found that the site is not isolated in the terms of the revised Framework, and while I acknowledge that sustainable transport solutions will vary between urban and rural areas, this does not override the adverse environmental effects of the development that would arise from the dependence on the private motor vehicle. Given the limited accessibility of services and facilities, the proposal would do little to enhance or maintain the vitality of rural communities or support local services in the terms of paragraph 78 of the revised Framework.
8. I note the comments of the Inspector for the case at 'Acorns'⁴ who also concluded in a similar way that Dargate has limited accessibility of services and facilities. In any event each case must be determined on its individual merits. While I acknowledge that the revised Framework requires that great weight is attached to the benefits of using suitable sites within existing settlements for homes, given the limited accessibility of services and facilities, the site would not be suitable and would not accord with the revised Framework in this regard.
9. Consequently, the proposed development would not be in a suitable location for housing with particular regard to the accessibility of services and facilities. It would therefore conflict with LP Policies ST1 and ST3 which, amongst other things, seek to maintain the vitality of rural communities and direct development towards urban areas. It would also conflict with LP Policy DM14 which seeks development that accords with the policies and proposals of the adopted Development Plan unless material considerations indicate otherwise.
10. While the site may have been marketed for rent as a commercial property, there is little evidence before me to demonstrate that there is no demand for the site as a community facility. Therefore, the proposal would conflict with

¹ Appeal ref: APP/V2255/W/16/3148613

² Braintree DC v SSCLG, Greyread Ltd & Granville Developments Ltd [2018] EWCA Civ 610

³ Paragraph 31 of the judgment

⁴ Appeal ref: APP/V2255/A/14/2223979

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LP Policy DM3 in this regard. It would also conflict with paragraph 78 of the Framework.

11. LP Policy DM9 relates to affordable housing and is not directly relevant to the proposal which is for market housing.

Character and appearance

12. The site lies within a ribbon of moderately spaced housing with open countryside beyond such that the area has an open rural appearance. The existing barn has timber cladding, steep pitched roof and limited openings that give the building an agricultural character that is distinct from the other more common residential buildings in the vicinity. Consequently, the existing building through its agricultural appearance provides a distinct contribution to the street scene.
13. The proposed scheme would convert the existing agricultural barn building into a residential dwelling. While many of the existing openings at ground floor are proposed to be re-used, the proposal includes significant widening of the openings in both gable ends at first floor. Since the agricultural character of the building is reliant on small openings among other things, the proposal would detrimentally alter the agricultural appearance of the building and would be in conflict with 'The Conservation of Traditional Farm Buildings' SPD (SPD) which seeks to preserve the character of traditional agricultural buildings. Given the distinct contribution that the existing building makes to the street scene and area, the proposal would also adversely affect the character and appearance of the surroundings.
14. Furthermore, the proposal includes a number of roof lights that would break up the sweep of the roof that is characteristic of such agricultural buildings. This aspect of the proposal would therefore further diminish the agricultural character of the barn. I note that the appellant has submitted revised drawings as part of the appeal which omit the roof lights that were proposed in the application drawings. Even if I were to have regard to these drawings, since they retain the widened openings in the gable ends at first floor, the proposal would still harmfully alter the agricultural appearance of the building.
15. Consequently, the proposal would harm the character and appearance of the area. Therefore, it would conflict with LP Policy DM14 which among other things seeks development that reflects the positive characteristics and features of the site and locality. It would also conflict with LP Policy DM16 which requires among other things that alterations to existing buildings are of an appropriate design and quality which respond positively to the style and character of the building being extended. It would also conflict with the SPD and the revised Framework in this regard.

Other Matters

16. I note the proximity of the site to The Swale Special Protection Area (SPA). Had I found the appeal development to be acceptable in terms of location and character and appearance, I would have found it necessary to investigate this matter in greater detail as part of my appropriate assessment. However, in the circumstances of this case this has not proved to be a determinative matter given the unsuitability of the site for housing and the harm to the character and appearance of the area that would arise from the development.

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17. I acknowledge the willingness of the appellant to provide financial contributions towards the mitigation measures. However, while not determinative, as no mechanism to secure financial contribution towards the mitigation measures has been provided, it has not been demonstrated that the proposal would not harm the SPA. Therefore, the proposal would not accord with the Framework in this particular regard which attributes high levels of protection to Special Protection Areas.
18. While I note local comments regarding the existing building being made habitable rather than falling into disrepair, given the harm to character and appearance and the unsuitability of the location for housing, this does not override the harm identified.

Planning Balance

19. The Council has stated that it can demonstrate a five-year housing supply. However, the appellant has drawn my attention to the Housing Delivery Test which indicates that the delivery of housing was substantially below (less than 75% of) the housing requirement over the previous three years and this is undisputed by the Council.
20. The proposal would provide a limited contribution of a single dwelling to the local housing supply, some social benefit through the contribution of future occupiers to the local community and there may be some temporary benefit during the construction process. However, given the limited scale of the proposal these benefits would be limited.
21. Since the proposal would result in housing in an unsuitable location as well as harm to the character and appearance of the area, I attribute significant weight to the adverse effects of the proposal. Therefore, even if the tilted balance in the terms of paragraph 11(d) of the Framework is engaged, the adverse effects would significantly and demonstrably outweigh the benefits.

Conclusion

22. For the reasons given above the appeal is dismissed.

R Sabu

INSPECTOR