



AGENDA

PLANNING COMMITTEE MEETING

Date: Thursday, 5 March 2020

Time: 7.00pm

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

Membership:

Councillors Cameron Beart, Monique Bonney, Roger Clark, Simon Clark, Mike Dendor, Tim Gibson (Chairman), James Hall, James Hunt, Carole Jackson, Elliott Jayes, Peter Marchington, Benjamin Martin (Vice-Chairman), Ben J Martin, David Simmons, Paul Stephen, 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 6 February 2020 (Minute Nos. 498 - 505) as a correct record.

4. Declarations of Interest

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

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

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

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

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

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

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

Part B reports for the Planning Committee to decide

5. Deferred Item 1 - 41

To consider the following application:

19/503810/OUT, Land on the south east side of Bartletts Close, Halfway.

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

Requests to speak on this item must be registered with Democratic Services (democraticservices@swale.gov.uk or call us on 01795 417328) by noon on Wednesday 4 March 2020.

6. Report of the Head of Planning Services 42 - 141

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

The Council operates a scheme of public speaking at meetings of the Planning Committee. All applications on which the public has registered to speak will be taken first. Requests to speak at the meeting must be registered with Democratic Services (democraticservices@swale.gov.uk or call 01795 417328) by noon on Wednesday 4 March 2020.

7. Exclusion of the Press and Public

To decide whether to pass the resolution set out below in respect of the following item:

That under Section 100A(4) of the Local Government Act 1972, the press and public be excluded from the meeting for the following item of business on the grounds that it involves the likely disclosure of exempt information as defined in Paragraphs 5 and 7.

5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.
7. Information relation to any action in connection with the prevention, investigation or prosecution of crime.

8. Report of the Head of Planning Services

Issued on Tuesday, 25 February 2020

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

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

PLANNING COMMITTEE – 5 MARCH 2020**DEFERRED ITEM**

Report of the Head of Planning

DEFERRED ITEMS

Reports shown in previous Minutes as being deferred from that Meeting

| | | |
|--|----------------------------|---|
| Def Item 1 REFERENCE NO - 19/503810/OUT | | |
| APPLICATION PROPOSAL | | |
| Outline application for the erection of 17 dwellings with new access road, associated parking and landscaping. (Access being sought, all other matters reserved for future consideration). | | |
| ADDRESS Land On The South East Side Of Bartletts Close Halfway Kent ME12 3EG | | |
| RECOMMENDATION Grant subject to conditions and a suitably-worded Section 106 agreement | | |
| SUMMARY OF REASONS FOR RECOMMENDATION | | |
| <p>The Council is currently unable to demonstrate a 5-year supply of housing sites, and this development would contribute towards addressing this identified under supply. When assessed against para 11 of the NPPF, it is considered that the positive impacts of the development in terms of its sustainable location and social benefits of the scheme comply with the environmental and social objectives of sustainable development. Whilst there would be an adverse impact from the development on undeveloped land, it is not considered that this adverse impact would significantly and demonstrably outweigh the identified benefits of the scheme. As such when assessed against paragraph 11 of the NPPF, the proposal is considered to comprise sustainable development, and the principle of this development is considered acceptable.</p> <p>Furthermore, the scheme would not give rise to any unacceptable impacts upon highway safety, visual or residential amenities and there are no objections from technical consultees.</p> | | |
| REASON FOR REFERRAL TO COMMITTEE | | |
| This application was deferred by the Planning Committee on 27 th January 2020. | | |
| WARD Queenborough And Halfway | PARISH/TOWN COUNCIL | APPLICANT Mr Stephen Potter AGENT Penshurst Planning Ltd |
| DECISION DUE DATE | | PUBLICITY EXPIRY DATE |
| 17/01/2020 | | 01/11/19 |

1. BACKGROUND

- 1.1 This application was first reported to Planning Committee on 27th January 2019. At that meeting the following amendment was put forward by Councillor James Hunt; *“That the application be delegated to officers to approve subject to a Section 38 Agreement being agreed with the Ward Members and officers, with the full cost going to the applicant and if not, the application being brought back to the Planning Committee”*.
- 1.2 During the meeting, upon being put to the vote with the amendment outlined above, the motion to approve the application was lost. As a result of the above, the Head of

Planning Services called-in the application and deferred the matter to a future meeting. For clarity, the following was resolved:

“That as the Planning Committee was minded to make a decision that would be contrary to officer recommendation and contrary to planning policy and/or guidance, determination of the application be deferred to a future meeting of the Committee.”

- 1.3 The original committee report has been included at Appendix 1, which sets out the description of the site, the proposal, local representations, consultations and the appraisal of the scheme. The tabled update is included at Appendix 2. The form that this supplementary report will take will be to provide further detail in relation to the proposed highways impact of development and to advise Members on the possible implications of refusing the application on this basis.

2. APPRAISAL

- 2.1 A central part of the committee discussion related to the impact of the proposed development on the local highway network and upon the unmade private road along Bartletts Close. Since the 27th January committee meeting, the applicant’s transport consultant has provided further comments in the form of a Technical Note (dated 14/02/2020). The Technical Note seeks to respond to concerns which were raised by Members, and provides further information regarding the unmade private road along Bartletts Close and argues that there is a lack of a planning justification to provide road improvements from the proposed application for 17 units.
- 2.2 Paragraph 9.21 of the committee report (see Appendix 1) sets out that *“In terms of the impact upon the local highway network, KCC Highways have outlined that the traffic from 17 dwellings would not constitute a significant impact on the capacity of the local highway network”*. It should be noted that the combined impact of the proposed development and development at the Belgrave Road site, including the proposed mitigation measures under this scheme (ref: 19/501921/FULL) had been considered by KCC Highways when the comments for this application were issued.
- 2.3 Furthermore, the Belgrave Road application was heard at the 6th February committee meeting, and the committee report outlines that the Belgrave Road application would not cause any unacceptable highways impacts. Paragraph 3.1 of said committee report assessed the cumulative impact and stated *“It should also be taken into consideration that the Technical Note, which KCC Highways & Transportation have commented on, took into account the development at Land On The South East Side Of Bartletts Close for 17 dwellings (19/503810/OUT), which is being reported to planning committee on 27th January 2020. This site is located close to the Belgrave Road site and the Technical Note concluded that the traffic impacts from this development would have minimal implications upon the capacity of Belgrave Road”*. It should also be noted that the Belgrave Road application has a resolution to approve planning permission. As such taking the above into account, it is not considered that the proposed development for 17 dwellings would result in a significant impact on the capacity of the local highway network to warrant refusal.
- 2.4 As set out in the previous committee report, the applicant is not offering to upgrade the road linkages to adoptable standards between the application site and the existing adopted highway along Uplands Way. Following consultation on the application, KCC Highways confirmed they raised no objection to the development, and did not request

that the site and linkage roads are made up to adoptable standards in relation to this development. There is no policy basis within the adopted Local Plan to require existing unmade roads or application sites to be made up to adoptable standards. Taking into account the lack of a policy basis, and that KCC Highways do not consider this work would be necessary to support the proposed development it is not considered that this would warrant a reason for refusal. Furthermore, it should be noted that the maintenance of the unmade road along Bartletts Close would be a civil matter.

2.5 Paragraphs 108 and 109 of the NPPF below applicable;

2.6 *“108. In assessing sites that may be allocated for development in plans, or specific applications for development, it should be ensured that:*

a) appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location;

b) safe and suitable access to the site can be achieved for all users; and

c) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.

109. Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.”

It is considered that the proposed development would meet paragraph 108 and as set out in the planning committee report and above, the proposal is not considered to result in any significant impact on the transport network or highway safety. Nor is it considered that the development would result in an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe to warrant refusal on highway grounds.

2.7 Paragraph 55 of the National Planning Policy Framework makes clear that planning conditions should be kept to a minimum, and only used where they satisfy the following tests:

1. *necessary;*
2. *relevant to planning;*
3. *relevant to the development to be permitted;*
4. *enforceable;*
5. *precise; and*
6. *reasonable in all other respects.*

Taking into account the above and assessment within the planning committee report, it is not considered that a condition seeking improvements to the unmade road along Bartlett’s Close would meet the conditions tests, and therefore a condition seeking such improvements would not be appropriate.

2.8 Paragraph 56 of the National Planning Policy Framework sets out that *“planning obligations must only be sought where they meet all of the following tests*

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

Further to the assessment above, it is not considered that the suggested improvements to the unmade road long Bartlett's Close would meet these tests and therefore a planning obligation would not be appropriate.

- 2.9 The additional Technical Note provided to support the application also sets out that the residents along Bartlett's Close have the option to approach KCC Highways to make up the road, outside of the planning system. A copy of the Technical Note has been provided at Appendix 3.

Planning Conditions

- 2.10 Members will recall that an additional condition regarding Archaeology (no. 22) was included in the tabled update, and that an additional condition requiring the access to the site to be provided prior to the occupation of the first dwelling was verbally updated at the committee meeting. For the avoidance of doubt the previous conditions and these additional conditions (nos. 22 and 23) have been included within this report

3. CONCLUSION

- 3.1 As set out in the original report and above, I consider the advice from KCC Highways & Transportation to be very clear, advising that the development would not cause any unacceptable highways impacts and would not require the development to make up the unmade road along Bartlett's Close. Furthermore it is not considered there is any policy basis either within the local plan or NPPF to require the development to provide this, and it would not meet the tests for planning conditions or obligations.
- 3.2 On the basis of the above reasoning, in the event that the Planning Committee was minded to refuse the scheme on highways grounds, I consider there would be a high likelihood that such a refusal would not be credible at an appeal. This is based on the fact that the Planning Committee has no technical evidence to support a refusal or condition/planning obligation for works to the unmade road. In my opinion there would be a high risk of costs being awarded against the Council at an appeal in such a scenario.
- 3.3 The Council is currently unable to demonstrate a 5-year supply of housing sites and therefore the tilted balance in paragraph 11 of the NPPF is relevant. The development would contribute towards addressing this identified under supply, and the proposal is considered to form sustainable development. Furthermore, the scheme would not give rise to any unacceptable impacts upon highway, visual or residential amenities and there are no objections from technical consultees. On the basis of the above, it is considered that planning permission should be granted for this development subject to the conditions listed below and an appropriately worded Section 106 Agreement.

4. RECOMMENDATION

GRANT Subject to the following conditions and an appropriately worded Section 106 Agreement (to secure the Heads of Terms as set out in the 27th January 2020 Committee report at paragraphs 9.40 to 9.43, which as noted above is attached as Appendix 1).

CONDITIONS to include

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

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

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

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

3. The development to which this permission relates must be begun not later than the expiration of two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.

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

4. The details submitted pursuant to condition (1) above shall show adequate land, reserved for the parking or garaging of cars (in accordance with the currently adopted Kent County Council Vehicle Parking Standards) which land shall be kept available for this purpose at all times and no permanent development, whether permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking or re-enacting that Order) or not shall be carried out on such land (other than the erection of a private garage or garages) or in a position as to preclude vehicular access thereto; such land and access thereto shall be provided prior to the occupation of the dwelling(s) hereby permitted.

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

5. All hard and soft landscape works submitted and approved pursuant to condition (1) above shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development or in accordance with the programme agreed in writing with the Local Planning Authority.

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

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

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

7. 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 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 (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.

8. 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 and prepared by a suitably competent person, has been submitted to and approved by the Local Planning Authority. The Report shall demonstrate the suitable modelled operation of the drainage system where the system constructed is different to that approved. The Report shall contain information and evidence (including photographs) of details and locations of inlets, outlets and control structures; landscape plans; full as built drawings; information pertinent to the installation of those items identified on the critical drainage assets drawing; and, the submission of an operation and maintenance manual for 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.

9. Construction of the development shall not commence until details of the proposed means of foul sewerage disposal have been submitted to, and approved in writing by, the Local Planning Authority in consultation with Southern Water.

Reason: To ensure that foul and surface water is adequately disposed of.

10. No development shall take place (including any ground works, site or vegetation clearance), until a method statement for the safeguarding of badger, reptiles, great crested newt, breeding birds and hedgehog has been submitted to and approved in writing by the local planning authority. The content of the method statement shall include the:
 - a) Purpose and objectives for the proposed works;
 - b) Detailed design and/or working methods necessary to achieve stated objectives including any required updated surveys;
 - c) Extent and location of proposed works, including the identification of a suitable receptor site (where appropriate), shown on appropriate scale maps and plans;
 - d) Timetable for implementation, demonstrating that works are aligned with the proposed phasing of construction;
 - e) Persons responsible for implementing the works, including times during construction when specialist ecologists need to be present on site to undertake / oversee works;

- f) Use of protective fences, exclusion barriers and warning signs;
- g) Initial aftercare and long-term maintenance (where relevant);
- h) Disposal of any wastes for implementing work.

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

Reason: To protect habitats and species identified in the ecological surveys from adverse impacts during construction.

11. Prior to the commencement of any above ground works, a scheme for the enhancement of biodiversity on the site shall have been submitted to and approved in writing by the Local Planning Authority. These shall include the installation of bat and bird nesting boxes along with provision of native planting where possible. The approved details will be implemented and thereafter retained. The provision and installation of enhancements should take place within 6 months of the commencement of works, where appropriate.

Reason: To enhance biodiversity

12. No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
- a) Routing of construction and delivery vehicles to / from 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 the amenities of the area and highway safety and convenience

13. The commencement of the development shall not take place until a programme for the suppression of dust during the construction of the development has been submitted to and approved in writing by the Local Planning Authority. The measures approved shall be employed throughout the period of construction unless any variation has been approved by the Local Planning Authority.

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

14. No development beyond the construction of foundations shall take place until details have been submitted to the Local Planning Authority and approved in writing, which set out what measures have been taken to ensure that the development incorporates sustainable construction techniques such as water conservation and recycling, renewable energy production including the inclusion of solar thermal or solar photo voltaic installations, and energy efficiency. Upon approval, the details shall be incorporated into the development in accordance with the approved details prior to the first use of any dwelling.

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

15. No development shall commence until details have been submitted to and approved in writing by the Local Planning Authority setting out and quantifying what measures, or offsetting schemes, are to be included in the development which will reduce the transport related air pollution of the development during construction and when in occupation. The details shall include 1 electric vehicle charging point for each dwelling

and no dwelling shall be occupied until the charging point for that dwelling has been installed.

Reason: To encourage the use of electric vehicles, in the interests of climate change and reducing pollution.

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

Reason: In the interests of water conservation and sustainability.

17. The details submitted pursuant to condition (1) above shall demonstrate how principles relating to minimising the opportunities for crime and anti-social behavior have been incorporated in the layout, landscaping and building design.

Reason: In the interests of minimising the opportunities for crime and anti-social behaviour.

18. The details submitted pursuant to condition (1) above shall show dwellings extending to no more than two storeys in height.

Reason: In the interests of complementing the character and appearance of existing development in the vicinity of the site.

19. The details submitted pursuant to condition (1) above shall include details of a landscape buffer which is a minimum of five meters along the south-western and south-eastern boundaries of the site.

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

20. No construction work in connection with the development shall take place on any Sunday or Bank Holiday, nor on any other day except between the following times:- Monday to Friday 0800 - 1800 hours, Saturdays 0800 - 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.

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

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

Reason: In the interests of residential amenity.

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

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

recorded.

23. The access hereby approved (as shown on drawing no. 1140 SKO2 Rev A) shall be constructed and completed prior to the occupation of the first dwelling.

Reason: To ensure that a satisfactory means of access is provided for the site.

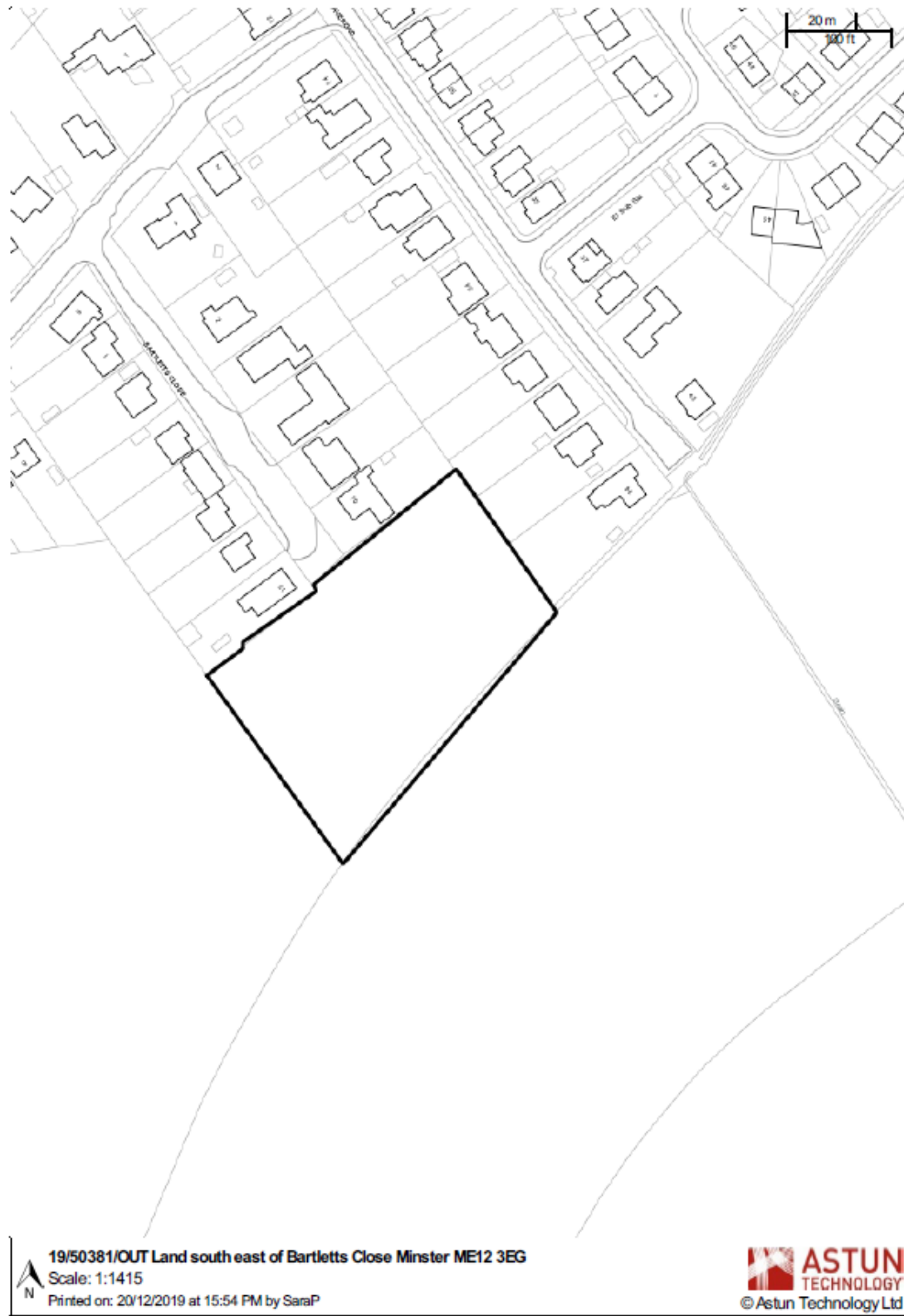
The Council's approach to the application

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.

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.



APPENDIX 1

| | | |
|---|----------------------------|---|
| 2.3 REFERENCE NO - 19/503810/OUT | | |
| APPLICATION PROPOSAL Outline application for the erection of 17 dwellings with new access road, associated parking and landscaping. (Access being sought, all other matters reserved for future consideration). | | |
| ADDRESS Land On The South East Side Of Bartletts Close Halfway Kent ME12 3EG | | |
| RECOMMENDATION Grant subject to conditions and a suitably-worded Section 106 agreement | | |
| SUMMARY OF REASONS FOR RECOMMENDATION The Council is currently unable to demonstrate a 5-year supply of housing sites and a result of this development would contribute towards addressing this identified under supply. Whilst the site falls outside the settlement boundary it is a sustainable location adjacent to an existing urban area with a good range of services which can be reached by sustainable travel modes, and there are a range of public transport options which enable connectivity to nearby larger urban areas. When assessed against para 11 of the NPPF, it is considered that the positive impacts of the development in terms of its sustainable location and social benefits of the scheme comply with the environmental and social objectives of sustainable development. Whilst there would be an adverse impact from the development on undeveloped land, it is not considered that this adverse impact would significantly and demonstrably outweigh the identified benefits of the scheme. As such when assessed against paragraph 11 of the NPPF, the proposal is considered to comprise sustainable development, and the principle of this development is considered acceptable. | | |
| REASON FOR REFERRAL TO COMMITTEE Called in at the request of Cllr Beart | | |
| WARD Queenborough And Halfway | PARISH/TOWN COUNCIL | APPLICANT Mr Stephen Potter AGENT Penshurst Planning Ltd |
| DECISION DUE DATE 28/10/19 | | PUBLICITY EXPIRY DATE 01/11/19 |

Planning History

SW/04/0739

9 units consisting of 4 three bedroom chalet bungalows, 2 four bedroom houses and 3 five bedroom houses

Refused

Decision Date: 16.09.2004

Summarised reasons for refusal of SW/04/0739;

- 1. Release of the site for residential development is contrary to the objective of PPG.3 which gives priority to the re-use of previously developed land within urban areas. The site is not an allocated site and there are other alternative previously developed sites available within the existing developed area of Sheerness, Queenborough and Minster.*
- 2. The proposal would fail to protect the countryside for its own sake and result in the loss*

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Report to Planning Committee – 27 January 2020

Item 2.3

of land that is of importance for landscape and settlement separation.

3. *The proposed development would result in development at a low density, making inefficient use of land.*
4. *The proposed development would result in a mix of houses and chalet bungalows that would be incongruous with existing development in the vicinity.*

1. DESCRIPTION OF SITE

- 1.1 The application site is situated to the south of a residential cul-de-sac at Bartletts Close and adjoins the built up area boundary of Halfway/Minster. The site itself therefore falls within the open countryside.
- 1.2 The site is roughly rectangular in shape and comprises grassland. In terms of land levels, the site rises gently to the south east where in the southern corner the site is 15.69mAOD and the northern corner is 12.62mAOD. There is existing mature hedge planting along the south-west and south-east boundaries. The north-east boundary comprises a mix of hedge planting and close boarded fencing (with existing dwellings), and the north-west boundary comprises a mix of close boarded fencing (with dwellings) and planting.
- 1.3 There is an existing vehicular access to the site from Bartletts Close, and currently comprises a pair of 2m high entrance gates with close boarded fencing either side. Bartletts Close is an unmade private road which provides access to 12 detached dwellings.
- 1.4 There are residential dwellings to the north, north-west and east of the site, with open agricultural fields to the east, south and west. There is a pending planning application for 153 dwellings (Land at Belgrave Road, reference 19/501921/FULL) on the land to the east/north-east of the proposal site.
- 1.5 The site falls within a designated Important Local Countryside Gap as outlined in Policy DM25 of the Local Plan with regard to the separation of settlements at Queenborough, Sheerness, Minster and Halfway (The West Sheppey Triangle).

2. PROPOSAL

- 2.1 The proposal seeks outline planning permission for the erection of 17 dwellings with an internal access road connecting onto Bartletts Close. Details of the access are sought at this outline stage, with all other matters reserved for future consideration.
- 2.2 The proposed development would have a density of 31 dwellings per hectare.
- 2.3 The application has been supported by an illustrative proposed site plan, which indicates that the site could support a mix of detached, semi detached and terraced properties which would either be bungalows, chalet bungalows or two storey houses. The illustrative plan indicates there would be 6 x two bedroom properties; 8 x 3 bedroom properties; and 3 x 4 bed properties.

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Report to Planning Committee – 27 January 2020

Item 2.3

- 2.4 The indicative layout indicates each dwelling would have two car parking spaces, with three visitor car parking spaces for the site.
- 2.5 The site would be accessed via a shared vehicular and pedestrian access road which adjoins the existing road along Barletts Close, which is a private road. The internal site road would be T shaped with the arms extending south-west and north-east, with dwellings located either side.
- 2.6 The indicative layout indicates hedge and tree planting is proposed around the site boundaries, and within the site around the internal access road and parking areas.

3. SUMMARY INFORMATION

| | Existing | Proposed | Change (+/-) |
|--------------------------|-----------------|-----------------|---------------------|
| Site Area (ha) | 0.55ha | 0.55ha | None |
| No. of Storeys | 0 | 1 -2 storeys | + 1 -2 storeys |
| Parking Spaces | 0 | 37 | + 37 |
| No. of Residential Units | 0 | 17 | + 17 |

4. PLANNING CONSTRAINTS

- 4.1 Potential Archaeological Importance
- 4.2 Public Footpath (ZS11) approximately 375m to the south/south-east of site.

5. POLICY AND CONSIDERATIONS

- 5.1 The National Planning Policy Framework (NPPF): Paras 7, 8, 11 (sustainable development); 34 (developer contributions); 59-76 (delivering a sufficient supply of homes); 77-79 (rural housing); 102 (transport); 127 and 130 (achieving well designed places); 165 (sustainable drainage systems); 170 (local and natural environment); 175 (biodiversity).
- 5.2 National Planning Practice Guidance (NPPG): Air Quality; Design; Determining a planning application; Flood risk and coastal change; Natural Environment; Open space, sports and recreation facilities, public rights of way and local green space; Planning obligations; Travel Plans, Transport Assessments and Statements; Use of planning conditions.
- 5.3 Development Plan: Bearing Fruits 2031: The Swale Borough Local Plan 2017:
 ST1 (Delivering sustainable development in Swale); ST2 (Development targets for jobs and homes 2014 – 2031); ST3 (The Swale settlement strategy); ST 4 (Meeting the Local Plan development targets); ST6 (The Isle of Sheppey area strategy); CP3 (Delivering a wide choice of high quality homes); CP4 (Requiring good design); CP6 (Community facilities and services to meet local needs); DM7 (Vehicle parking); DM8 (Affordable housing); DM14 (General development criteria); DM17 (Open space, sports and recreation provision); DM19 (Sustainable design and construction); DM21

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(Water, flooding and drainage); DM24 (Conserving and enhancing valued landscapes); DM25 (The separation of settlements – Important Local Countryside Gaps); DM28 (Biodiversity and geological conservation); DM29 (Woodlands, trees and hedges); DM31 (Agricultural land).

5.4 Landscape SPD – Swale Landscape Character and Biodiversity Appraisal 2011. The site falls within character area 13: Central Sheppey Farmlands which comprises of the Clay Farmland Landscape Types. The landscape condition is described as ‘poor’ with a ‘moderate’ sensitivity. The guidelines for this area are to restore and create.

6. LOCAL REPRESENTATIONS

6.1 Fifty-six letters and emails of objection have been received. Their content may be summarised as follows:

- Outside the built up area as defined by policy ST3
- Within the designated countryside gap as defined by policy DM25
- The boundaries/separation between Halfway, Minster & Queenborough will get smaller
- The site is not on an allocated housing site as set out within the Swale Local Plan, adopted in 2017.
- Outline approval would be premature to the Local Plan review.
- Proposed dwellings would not be in keeping with the character of the area.
- Bartletts Close is predominantly detached single storey bungalows
- Harm to residential amenity – loss of light, daylight
- Harm to residential amenity – loss of privacy, overlooking
- Harm to residential amenity – noise, smells and disturbance
- Harmful impact on air quality
- Increased traffic
- Significant increase in traffic when taking into account 153 dwellings at Belgrave Road site.
- The transport assessment doesn’t reflect the traffic problems in the area in the afternoon or early evening
- Proposal will cause damage to existing unmade road of Barletts Close
- Proposal will increase maintenance costs along the unmade road of Bartletts Close, for existing residents
- Increased damage to existing properties – eg. From stones breaking windows due to increased vehicular movements
- Increased dust during construction
- No development should occur unless the developer undertakes to make up Barletts Close and the unmade section of Uplands Way, to a reasonable highway surfaced standard.
- The previous application (SW/04/0739) included a condition requested from the Highways Manager requesting Bartletts Close and the length of Uplands Way from the junction with Bartletts Close to the junction with Belgrave Road to be made up to adoption standards including drainage and street lighting.
- Unsuitable access roads for construction vehicles
- Traffic will have to access the site from Queenborough Road through existing housing via The Rise, Uplands Way then Bartletts Close.
- Highways England have objected to development along the A249 corridor.
- Lack of parking spaces

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- Safety risk for pedestrians
- Increased flood risk
- Increased surface water leading to localised flood risk
- There is poor drainage along Bartletts Close leading to localised flooding.
- Localised flooding has increased since the site was cleared of vegetation
- Sewerage system at capacity
- Ecology report undertaken after the site was cleared.
- Site clearance harmful to wildlife and ecology
- No provision for on site green space
- No local parks/playgrounds for children. The nearest to the site (King George Playing field in Queenborough) is 15-30minute walk via crossing a dual carriageway.
- Lack of services and infrastructure locally – healthcare, schools, nursery. Local minor injury clinic is at capacity.
- Misleading information provided
- Proposal would “block” existing solar panels
- Proposal represents overdevelopment of the area
- Neighbour along Bartlets Close will not give access permission, nor consent for the developer/future developers for rights of vehicle access, or connecting any surface or foul drain outside of their land.
- Existing houses available for sale or rent, as evident from estate agent
- Devaluation of existing properties
- Lack of notification for residents

6.2 A representation has been received from Gordon Henderson MP for Sittingbourne and Sheppey. The letter supports a letter of objection by a constituent and refers specifically to points regarding the site not being an allocated housing site within the Swale Local Plan adopted in 2017, and conflict with Policy ST3 as the site is outside the built up area boundary.

7. CONSULTATIONS

7.1 Natural England raise no objection (12/08/2019)

The proposal will give rise to increased recreational disturbance to the Swale and Medway Special Protection Areas and Ramsar site. However, subject to the appropriate financial contribution being secured, Natural England is satisfied that the proposal will mitigate against the potential recreational impacts of the development on the site. However, due to the People Over Wind ruling by the Court of Justice of the European Union, Natural England advise that the measures to avoid or reduce the likely harmful effects from the development may need to be formally checked and confirmed via an Appropriate Assessment. It is for the Council to decide whether an Appropriate Assessment is required and Natural England must be consulted.

An Appropriate Assessment has been carried out and I have re-consulted with Natural England on this basis. They have confirmed that subject to securing the appropriate mitigation (i.e. payment of the financial contribution) that they raise no objection to the proposal.

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7.2 **Southern Water raise no objection (22/08/2019) subject to a condition** for details of foul and surface water sewage disposal, and an informative regarding connection to the public foul sewer.

7.3 **KCC Ecology raise no objection (21/05/2019) subject to conditions**

The ecological information submitted in support of the planning application is considered to have provided sufficient information. If planning permission is granted, it is advised that conditions securing the production of a biodiversity method statement and an ecological enhancement plan are attached. Developer Contributions will need to be provided due to the increase in dwellings within the zone of influence (6 km) of the Swale Special Protection Area.

KCC Ecology advise that due to the need for the application to contribute to the North Kent SAMMS, there is a need for an appropriate assessment to be carried out as part of this application.

7.4 **KCC Economic Development raise no objection (22/08/2019) subject to the following requested developer contributions:**

- Primary Education - £77,095.00 (£4535 per dwelling)
- Secondary Education - £69,955 (£4115 per dwelling)
- Community Learning - £1027.24 (£60.43 per dwelling)
- Youth Service - £638.91 (£37.58 per dwelling)
- Library - £816.27 (£48.02 per dwelling)
- Social Care - £1036.83 (£60.99 per dwelling)

7.5 **KCC Flood and Water Management raise no objection (28/10/2019) subject to conditions**

22/08/2019: Requested a surface water drainage strategy.

28/10/2019: Kent County Council as Lead Local Flood Authority have reviewed the Drainage Impact and Flood Risk Assessment by Tridax Consulting (September 2019) and have no objections at this outline stage. Infiltration testing appears to have been already undertaken at two locations at the site of which the results are presented within the report. A relatively low infiltration value of 0.01m/hr was obtained. While this infiltration value is not ideal, infiltration features with large surface areas including proposed permeable paving can reduce the pressure on site. Requests a detailed surface water drainage scheme and verification report via condition, and an informative regarding infiltration.

7.6 **KCC Highways and Transportation raise no objection (28/10/2019) subject to conditions**

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02/10/2019: 1) I would not expect the traffic from 17 dwellings to constitute a significant impact on the capacity of the local highway network and the distribution of trips from this site will likely see the majority of journeys coming and going in a westerly direction along the A250/Queenborough Road in order to access employment and amenities available in Queenborough, Sheerness and the mainland. Consequently I have no objection to the principle of development. 2) The submitted Transport Statement suggests that the extension to Bartletts Close may be subject to a Section 38 Agreement. With no existing connection to the public highway this will not be possible unless the applicant wishes to upgrade the necessary linkages to an adoptable standard. This will need to be clarified as a matter of priority.

28/10/2019: It is noted that the applicant has confirmed that the new estate road is not to be constructed to adoptable standards and the estate road and its linkages to the public highway are not being offered for adoption. Consequently the proposals do not directly concern this authority and I raise no objection on behalf of the local highway authority.

7.7 Kent Police raise no objection (19/08/2019)

Kent Police request a condition to address matters to design out crime including lighting, boundary treatment, planting, windows/doors, and security measures.

7.8 Environmental Protection Team Leader raises no objection subject to conditions (06/12/2019)

They have requested conditions regarding suppression of dust and hours of construction work

7.9 Swale Clinical Commissioning Group (NHS) raise no objection (28/10/2019) and request that a financial contribution of £16,164 towards refurbishment, reconfiguration and/or extension of Sheppey NHS Healthcare Centre and or Sheerness Health Centre (Dr Chandran's branch surgery).**7.10 SBC Greenspaces Manager raises no objection (01/08/2019)**

It is noted there are limited opportunities for the provision of onsite open space, and therefore an off site contribution should be sought towards the increase in capacity and enhancement of nearby play and sport facilities at King George's Playing Field, Queenborough. The Swale Open Spaces & Play Strategy and Sports Pitch Strategy both seek to enhance limited/poor provision through investment including the use of off-site planning contributions. An off-site contribution (at King George's playing field, Queenborough) for formal sports of £593 per dwelling and for play contribution of £446 per dwelling is requested.

7.11 Medway Internal Drainage Board raise no objection (12/12/2019)

Medway IDB agree with the comments raised by KCC Flood and Water and request that the conditions seeking further details at design stage and included on any permission.

APPENDIX 1**8. BACKGROUND PAPERS AND PLANS**

8.1 The application has been supported by a site location plan and an illustrative proposed block plan. The application has also been supported by a planning, design and access statement (including appendices); Transport Statement; Preliminary Ecological Appraisal Report; Drainage Impact and Flood Risk Assessment; and a letter in response to KCC Highways comments.

9. APPRAISAL**Principle of Development**

9.1 The site is located on the edge of, but outside, the built up area boundary of Halfway. The main relevant planning policy is ST3 of the Local Plan, which states that at locations in the open countryside outside the defined built up area boundaries, development will not be permitted unless supported by national policy and where it would contribute to protecting and, where appropriate, enhancing the intrinsic value, landscape setting, tranquillity and beauty of the countryside, its buildings, and the vitality of rural communities.

9.2 The National Planning Policy Guidance (NPPF) seeks to promote sustainable development in rural areas, and housing should be located where it will enhance or maintain the vitality of rural communities and avoid isolated new homes in the countryside.

9.3 Paragraph 79 of the NPPF states that the local planning authority (LPA) should avoid isolated homes in the countryside. Given the site's position adjoining the settlement boundary and close proximity to existing residential dwellings, it is not considered that the site would constitute isolated homes in the countryside.

9.4 Paragraphs 11 and 73 of the NPPF requires the Council to meet the full, objectively assessed needs (OAN) for housing and other uses as well as any needs that cannot be met within neighbouring areas. In addition, the Council should annually update a supply of specific deliverable sites sufficient to provide five years' worth of housing against their housing requirements with an additional 5% buffer. The Council's latest position was published in February 2019 following the publication of the Housing Delivery Test (HDT) that saw the Council meeting 74% of its requirement. As a result, a 20% buffer (rather than a 5% buffer) must be applied to the housing land supply figures in assessing the 5 year HLS position. To this end, the Council can demonstrate only a supply of 4.6 years and therefore cannot demonstrate a 5 year housing supply. In such situations, the NPPF advises that plans and decisions should apply a presumption in favour of sustainable development. For making decisions this means that where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:

11.d) i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or

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11.d) ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

9.5 The site is within the 6km buffer zone of the Swale and Medway Special Protection Areas (SPAs) which is covered by para 11.d) i. As such, an appropriate assessment has been carried out (as set out in para 9.48-9.52) that there would be no adverse impact on the integrity of the SPA subject to appropriate mitigation (SAMMS payment). As such, being within the SPA would not represent a reason for refusal, and the application must be considered against para 11.d) ii. Therefore it needs to be considered whether the proposal constitutes sustainable development.

9.6 Para 11 of the NPPF details that there is a presumption in favour of sustainable development which should be seen as a golden thread running through decision taking.

9.7 Para 8 of the NPPF explains that achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways:

a) **an economic objective** – to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure;

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

c) **an environmental objective** – to contribute to protecting and enhancing our natural, built and historic environment; including making effective use of land, helping to improve biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy.

9.8 Paragraph 8 of the NPPF sets out in c) that part of the environmental objective of sustainable development is to move to a low carbon economy. Paragraph 78 states that in order to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. It can be seen that sustainability is thus a multi-faceted and broad-based concept. It is often necessary to weigh certain attributes against each other in order to arrive at a balanced position.

Environmental Role

9.9 With regard to the proposed dwellings, a key consideration is whether future occupants of the dwellings would be likely to meet some/all day-to-day needs by walking to facilities, therefore reducing the need to travel by private car which would reduce greenhouse gas emissions (para 148 of the NPPF).

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- 9.10 The site adjoins the built up settlement boundary of Halfway. Halfway itself forms part of the West Sheppey Triangle which is a Tier 3 'Other Urban Local Centre' settlement within the Councils settlement strategy which is considered to provide a reasonable range of services. Policy ST6, the Isle of Sheppey area strategy states that the focus of development and long-term change is at settlements within the West Sheppey Triangle. The site is considered to relate well to the existing urban settlement of Halfway and the West Sheppey Triangle which itself is considered to be sustainable as it has access to shops, services, education and healthcare facilities.
- 9.11 As noted above the site adjoins the existing settlement boundary within an urban area and therefore benefits from good connectivity to the existing footpaths and roads within the urban area. There are a number of services within walking distance of the site in Halfway which include Halfway House Primary School, pharmacy, cultural centre and a range of shops/services at the junction of Halfway and Queenborough Road (approx. 1300m-1420m from the site); a church, football and sports clubs, social club and pre-school along Queenborough Road (Halfway) (approx. 250m-555m from the site) and there is a secondary school (Oasis Academy Isle of Sheppey) approximately 1990m from the site. To the west of the site there are a number of services within Queenborough including a train station, primary school and nursery, open space and play area, library and post office. It is considered that many of these services are within walking distance, and could also be reached by cycling.
- 9.12 In terms of public transport, there is a bus stop located on Queenborough Road approximately 410m to the north of the site. Halfway is serviced by routes 334 and 341 (Sheerness to Maidstone); 360, 362 and 365 (Rushenden to Leysdown); 368 (Minster to Rushenden), and the more frequent provide up to two services per hour. Hourly services operate towards Sittingbourne and Maidstone (Monday-Saturday). The nearest train station is located at Queenborough approximately 1310m to the west of the site, and provides services to Sheerness, together with London and the Kent Coast via Sittingbourne.
- 9.13 Taking into account the above, it is considered that the location of the site has suitable connectivity to public transport routes including various bus services connecting the site to both nearby settlements on the Isle of Sheppey and Sittingbourne and Maidstone, and access to the train station providing wider connections. It is considered there is a good range of services and facilities within Halfway to the east of the site, and also services in Queenborough to the west of the site, many of which can be reached by sustainable travels modes including walking, cycling or public transport.
- 9.14 The Council's settlement strategy requires residential development to be steered to sustainable locations, whilst the site is situated in the open countryside, its location adjoining the settlement boundary in a sustainable urban area. As such it is considered that the site is a suitable location for this scale of residential development, having regard to the settlement strategy and accessibility to services and facilities. It is therefore considered that the site would comply with policies ST1 and ST3 of the Local Plan which seek, amongst other matters, to deliver sustainable development that accords with the settlement strategy. Therefore the proposal is considered to contribute toward a move

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to a low carbon future as advocated by paragraph 148 of the NPPF. This is considered to be a positive in terms of whether the proposal comprises sustainable development.

- 9.15 However the site comprises of undeveloped greenfield land and cannot be considered as brownfield or previously developed land. Therefore the development would take place on an undeveloped site which is considered to have a significant adverse impact.

Social and Economic Role

- 9.16 The proposal is for 17 dwellings (the indicative plan outlines this could accommodate 6 x 2 bed, 8 x 3 bed and 3 x 4 bed dwellings) which would be of some social benefit. As outlined above, the site has good connectivity with an existing urban area with has a good range of services. As such it is considered that the proposed dwellings would help support the social viability of the existing urban area including existing shops, schools and nearby employment opportunities. It is considered that this would result in a positive impact.

- 9.17 As economic benefits from the construction of these dwellings would be short-term, these are limited and would carry little weight. It is considered that there would be a neutral impact.

Principle of Development Summary

- 9.18 The proposal site is considered to be in a sustainable location adjacent to an existing urban area with a good range of services which can be reached by sustainable travel modes, and there are a range of public transport options which enable connectivity to nearby larger urban areas. The sustainability of the site in terms of location and access to services is considered to be positive. The social benefits of the additional dwellings are considered to be positive, and the economic benefits are considered to be neutral. The development would occur on undeveloped land which is considered to have a significant adverse impact.

- 9.19 When assessed against para 11 of the NPPF, it is considered that the positive impacts of the development in terms of it sustainable location and social benefits of the scheme comply with the environmental and social objectives of sustainable development. The proposal would also help contribute towards the Borough's housing land supply, and whilst the proposal is a relatively small site it will make a contribution in a sustainable location and is a significant positive when the extent of the housing deficit is considered. Therefore it is not considered that the adverse impact in terms of developing an undeveloped parcel of land would significantly and demonstrably outweigh the benefits of the scheme outlined above. As such, the proposal is considered to comprise sustainable development, and the principle of this development is considered acceptable.

Access, Highways and Parking

- 9.20 The proposed development would be accessed via a shared vehicular and pedestrian access road which adjoins the existing road along Barletts Close which is a private

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unmade road. The internal site road would be T shaped with the arms extending south-west and north-east, with dwellings located either side as shown on the illustrative block plan.

- 9.21 In terms of the impact upon the local highway network, KCC Highways have outlined that the traffic from 17 dwellings would not constitute a significant impact on the capacity of the local highway network. KCC Highways note that the distribution of trips from the site will likely see the majority of journeys coming and going in a westerly direction along the A250/Queenborough Road in order to access employment and amenities available in Queenborough, Sheerness and the mainland. On this basis, KCC Highways raise no objection to the principle of residential development on this site.
- 9.22 The internal road layout being T shaped takes into account the need for a turning head that can accommodate a refuse vehicle and large vehicles to access and egress the site in a forward gear. This will be subject to detailed design, and further discussions with the highway authority for determination at a later date as part of a layout reserved matters submission, although the general principles of the road layout are acceptable.
- 9.23 The submitted Transport Statement outlined that the access road to serve the development site itself (from Bartletts Close) would be provided under a Section 38 Agreement of the Highways Act 1980 and constructed to adoptable standards. As the site connects to an unmade private road, KCC Highways sought clarification as whether the applicant intended to upgrade the necessary linkages to the public highway to an adoptable standard (ie. along Barletts Close and Uplands Way), as it would not be possible to do a Section 38 Agreement as the site does not connect to the public highway. Further information was provided which outlined that the new estate road will be private and maintained by the future residents, and thus the application is not offering to upgrade the linkages to adoptable standards, and neither the new estate road nor linkages are being offered for adoption by the highways authority. KCC Highways have therefore commented that as the proposals do not directly concern the highways authority and no objection is raised by KCC Highways.
- 9.24 Local residents have raised concerns regarding the impact on the unmade road along Bartletts Close and part of Uplands Way are noted in terms of damage to the road surface, and increased maintenance costs. These concerns are noted, however these would be civil matters between the existing property owners and the site developer. Furthermore, KCC Highways have not requested that the site and linkage roads are made up to adoptable standards. As such, it is not considered that the development could be refused on this basis.
- 9.25 In terms of parking, the illustrative block plan indicates each dwelling would have two car parking spaces, and three visitor spaces would be provided across the site. It is considered that adequate parking provision can be provided on site and this would be considered in depth when a detailed layout is available at reserved matters stage. As such I do not consider the proposal would be likely to increase parking pressure on the nearby area.

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9.26 KCC Highways have requested a condition seeking a Construction Method Statement plan, which will be included at condition 12.

Visual Impact

9.27 The site falls under Policy DM25 the separation of settlements – Important Local Countryside Gaps and therefore a key consideration is whether an appropriate countryside gap will be maintained. Halfway is identified within part 3 of the policy and relates to the maintaining the separation of settlements between Queenborough, Sheerness, Minster and Halfway. Policy DM25 outlines that within the identified important countryside gaps “unless allocated for development by the Local Plan, planning permission will not be granted for development that would undermine one or more of their purposes” – their purpose being to retain the individual character and settling of the settlement.

9.28 The proposal site is a relatively small site (0.55 hectares) which adjoins the built up urban area on two sides to the north and east. It is considered the proposal site forms a natural continuation of the existing built up area and would provide a natural extension to the settlement boundary. The proposal would also have a similar alignment to the allocated housing site at Belgrave Road (ref; 19/501921/FULL) to the north-east and east of the site, and taking both sites into consideration would provide a clear settlement edge to Halfway. Furthermore the site is visually well contained, both by the existing residential development to the north and east, but also by existing residential development to the north-west and the rising ground to the west, south west, south and east (Furze Hill and Barrows Hill) which will limit the prominence of residential development on the site. There is existing landscaping along the site boundaries in the form of tree and hedge planting, and this can be enhanced to the further screen the site from any wider vantage points which would be considered at the reserved matters stage. Whilst the proposal is only at outline stage, it is considered that the site can accommodate 1-2 storey dwellings due to its visual containment.

9.29 Therefore taking into account the above it is considered that the proposal would retain the individual character and setting of the settlement of Halfway, and due to the sites visual containment and small scale it would maintain the separation of settlements between Queenborough, Sheerness, Minster and Halfway. As such, whilst the proposal falls within the important local countryside gap, it is considered that the modest scale residential development would not conflict with the aims of Policy DM25, and that the detailed scheme at reserved matters can control the scale and form of development, and provide an appropriate landscaped edge to the site.

9.30 Local representations have raised concerns that the proposed development would be out of character with the area as the majority of dwellings along Barletts Close are detached bungalows, and the proposed indicative scheme includes bungalows, two storey dwellings (including semi-detached and terraced properties). Whilst Barletts Close is predominantly detached bungalows, the adjoining roads including Belgrave Road and Uplands way have a greater variety of dwellings including semi-detached and detached two storey dwellings. Furthermore the submitted plans at the Belgrave Road

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site (application 19/501921/FULL) includes a range of dwellings including detached, semi-detached and terraced properties. The detailed design of the dwellings are not being considered at this stage, but it is considered that a mix of housing types indicated on the indicative block plan would not cause any harm to the character of the area taking into account the range of dwellings within the surrounding area.

Residential Amenity

- 9.31 DM14 of the Local Plan states that all developments should cause no significant harm to the amenities of surrounding uses or area. The detailed scheme for the new dwellings would be secured at the reserved matters stage and this will include the design, form and scale of the dwellings including details such as window/door placement and details of boundary treatments.
- 9.32 The closest residential properties are nos. 10 and 13 Bartletts Close immediately to the north of the site, and no. 30, 32 and 34 Belgrave Road immediately to the north-east of the site. Whilst layout and design are matters for future consideration, the application shows an illustrative layout which maintains sufficient spacing between proposed dwellings and existing neighbouring properties. It is considered that the site can accommodate 17 dwellings without resulting in a significantly harmful impact upon existing neighbouring dwellings in terms of residential amenity.
- 9.33 Taking the above into account, it is considered that the development could be designed to avoid unacceptable impacts on neighbours, and comply with the above policies.

Ecology

- 9.34 Paragraph 174 of the NPPF 2018 advises that when determining planning applications, local planning authorities should aim to conserve and enhance biodiversity. It also advises that opportunities to incorporate biodiversity in and around developments should be encouraged. The application has been supported by a Preliminary Ecological Appraisal and KCC Ecology are satisfied the appropriate level of ecological survey work has been undertaken. KCC Ecology are satisfied with the outlined mitigation measures in principle, and recommend that a condition is attached to any planning permission which secures the recommended mitigation and ensures that the finer details on how protected species and habitats will be safeguarded are provided (including any updated surveys, as required) at the reserved matters stage.
- 9.35 As such, KCC Ecology raise no objection to the proposed development subject to conditions seeking a biodiversity method statement and ecological enhancements which are included in conditions 10 and 11.
- 9.36 It is noted that representations from objectors received refer to the site being cleared of vegetation prior to the submission of the planning application and therefore a harmful impact upon biodiversity has occurred. Planning applications need to be determined on the basis of the information available and the current site condition. The assessment above outlines that the proposed development would be acceptable in terms of ecology and biodiversity, and the conditions will ensure appropriate mitigation and safeguarding

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for protected species, and secure a net gain in biodiversity via the ecological enhancement condition.

Drainage

- 9.37 It is noted that local residents have raised concerns regarding localised flooding which occurs from run-off from the site and leads down to Bartletts Close. The application has been supported by a surface water drainage strategy and flood risk assessment. The submitted information outlines that onsite measures will include permeable paving for the access roads and parking areas, and cellular soakaways to collect surface water.
- 9.38 KCC Flood and Water as the Lead Local Flood Authority raise no objection to development at this outline stage. They note that a relatively low infiltration value was obtained for the site and while this is not ideal, infiltration features with large surface areas including proposed permeable paving can reduce the pressure on site. As such, KCC Flood and Water raise no objection to the proposed development subject to conditions including a detailed surface water drainage scheme, verification report and an informative regarding infiltration. Medway IDB have been consulted on this application and agree with the points raised by KCC Flood and Water and support the further details sought via condition. Therefore it is considered the proposed development would comply with policy DM21 of Bearing Fruits 2031: The Swale Borough Local Plan 2017 and paragraph 165 of the NPPF.

Developer Contributions

- 9.39 Members will note from the consultation responses received above that in line with normal procedures for a development of this size, it would generate a requirement for financial contributions to deal with additional demand on local infrastructure. The contributions requested are as follows:
- 9.40 Primary Education - £77,095.00
- Secondary Education - £69,955
- Community Learning - £1027.24
- Youth Service - £638.91
- Library - £816.27
- Social Care - £1036.83
- Swale CCG (NHS) - £16,164
- SPA Mitigation (SAMMS) - £4174.52

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Refuse Bins - £1756.10

Formal Sports - £10,081

Play Contribution - £7582

Administration and Monitoring Fee —£9464.98

Total - £198,764.61

- 9.41 The applicant has agreed to pay these contributions and it is considered that they meet the relevant tests for planning obligations. Furthermore, despite local concern regarding a lack of local infrastructure, no objections have been received from the relevant consultees on this basis.
- 9.42 It is also considered that a Section 106 Agreement is the best mechanism for addressing the SAMM contribution (of £245.56 per dwelling), the details of which are set out under the subheading 'The Conservation of Habitats and Species Regulations 2017'.

Affordable Housing

- 9.43 Policy DM 8 of the Local Plan sets out that on the Isle of Sheppey, the affordable housing percentage sought will be 0%.
- 9.44 Paragraph 6 of Policy DM 8 sets out possible exceptions to the adopted 0% requirement for the Isle of Sheppey and states that *'If evidence demonstrates that economic conditions, or the proposed characteristics of the development or its location, have positively changed the impact of viability of the provision of affordable housing, the Council will seek a proportion of affordable housing closer to the assessed level of need, or higher if development viability is not compromised.'* It is not considered that there is any evidence that would demonstrate that the economic circumstances on the Isle of Sheppey have improved since the adoption of the Local Plan in 2017 to be able to sustain the provision of affordable housing in this location.
- 9.45 It is noted that paragraph 64 of the NPPF states the following:
- 9.46 *"Where major development involving the provision of housing is proposed, planning policies and decisions should expect at least 10% of the homes to be available for affordable home ownership²⁹, unless this would exceed the level of affordable housing required in the area, or significantly prejudice the ability to meet the identified affordable housing needs of specific groups. Exemptions to this 10% requirement should also be made where the site or proposed development:*
- a) provides solely for Build to Rent homes;*
 - b) provides specialist accommodation for a group of people with specific needs (such as purpose-built accommodation for the elderly or students);*
 - c) is proposed to be developed by people who wish to build or commission their own homes; or*

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d) is exclusively for affordable housing, an entry-level exception site or a rural exception site.

²⁹ As part of the overall affordable housing contribution from the site.”

9.47 Therefore the Local Plan, which is area specific, must be given a significant amount of weight and due to the above considerations I do not consider that affordable housing could be insisted upon on this site.

The Conservation of Habitats and Species Regulations 2017

9.48 The application site is located within 6km of The Medway Estuary and Marshes Special Protection Area (SPA) and the Swale SPA which are European designated sites afforded protection under the Conservation of Habitats and Species Regulations 2017 as amended (the Habitat Regulations). SPAs are protected sites classified in accordance with Article 4 of the EC Birds Directive. They are classified for rare and vulnerable birds and for regularly occurring migratory species. Article 4(4) of the Birds Directive (2009/147/EC) requires Member States to take appropriate steps to avoid pollution or deterioration of habitats or any disturbances affecting the birds, in so far as these would be significant having regard to the objectives of this Article.

9.49 Residential development within 6km of any access point to the SPAs has the potential for negative impacts upon that protected area by virtue of increased public access and degradation of special features therein. The HRA carried out by the Council as part of the Local Plan process (at the publication stage in April 2015 and one at the Main Mods stage in June 2016) considered the imposition of a tariff system to mitigate impacts upon the SPA (£245.56 per dwelling as ultimately agreed by the North Kent Environmental Planning Group and Natural England) – these mitigation measures are considered to be ecologically sound.

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

9.51 In this regard, whilst there are likely to be impacts upon the SPAs arising from this development, the scale of development (17 dwellings with access to other recreation areas) and the mitigation measures to be implemented within the SPA from collection of the standard SAMMS tariff I believe will ensure that these impacts will not be significant or long-term. However, in order to confirm this I have carried out an Appropriate Assessment and re-consulted with Natural England. Subject to Natural England confirming that the existing approach by the Council securing appropriate mitigation, via the SAMMS payment is suitable, then this will prevent harmful effects on the protected sites and members will be updated at committee regarding this. As set out, above, the

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applicant has agreed to pay the tariff and as such I therefore consider that, subject to mitigation, there will be no adverse effect on the integrity of the SPAs.

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

10. CONCLUSION

10.1 The Council is currently unable to demonstrate a 5-year supply of housing sites and this development would help to contribute towards addressing this identified under supply. Whilst the site falls outside the settlement boundary it is a sustainable location adjacent to an existing urban area with a good range of services which can be reached by sustainable travel modes, and there are a range of public transport options which enable connectivity to nearby larger urban areas. When assessed against para 11 of the NPPF, it is considered that the positive impacts of the development in terms of its sustainable location and social benefits of the scheme comply with the environmental and social objectives of sustainable development. Whilst there would be an adverse impact from the development on undeveloped land, it is not considered that this adverse impact would significantly and demonstrably outweigh the identified benefits of the scheme. As such when assessed against paragraph 11 of the NPPF, the proposal is considered to comprise sustainable development, and the principle of this development is considered acceptable.

10.2 It is considered that the principle of residential development at the site, and the details of access being considered at this outline stage do not conflict with either local or national planning policies. On the basis of the above, it is considered that planning permission should be granted for this development subject to the conditions listed below and an appropriately worded Section 106 Agreement to include the contributions as set out in this report.

11. RECOMMENDATION

GRANT Subject to the signing of a suitably-worded Section 106 agreement (see paragraphs 9.40 to 9.43 above) and the following conditions

CONDITIONS as follows:

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

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

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

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grant of outline planning permission.

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

3. The development to which this permission relates must be begun not later than the expiration of two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.

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

4. The details submitted pursuant to condition (1) above shall show adequate land, reserved for the parking or garaging of cars (in accordance with the currently adopted Kent County Council Vehicle Parking Standards) which land shall be kept available for this purpose at all times and no permanent development, whether permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking or re-enacting that Order) or not shall be carried out on such land (other than the erection of a private garage or garages) or in a position as to preclude vehicular access thereto; such land and access thereto shall be provided prior to the occupation of the dwelling(s) hereby permitted.

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

5. All hard and soft landscape works submitted and approved pursuant to condition (1) above shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development or in accordance with the programme agreed in writing with the Local Planning Authority.

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

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

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

7. 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 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 (with reference to published guidance):

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- 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.

8. 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 and prepared by a suitably competent person, has been submitted to and approved by the Local Planning Authority. The Report shall demonstrate the suitable modelled operation of the drainage system where the system constructed is different to that approved. The Report shall contain information and evidence (including photographs) of details and locations of inlets, outlets and control structures; landscape plans; full as built drawings; information pertinent to the installation of those items identified on the critical drainage assets drawing; and, the submission of an operation and maintenance manual for 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.

9. Construction of the development shall not commence until details of the proposed means of foul sewerage disposal have been submitted to, and approved in writing by, the Local Planning Authority in consultation with Southern Water.

Reason: To ensure that foul and surface water is adequately disposed of.

10. No development shall take place (including any ground works, site or vegetation clearance), until a method statement for the safeguarding of badger, reptiles, great crested newt, breeding birds and hedgehog has been submitted to and approved in writing by the local planning authority. The content of the method statement shall include the:
- a) Purpose and objectives for the proposed works;
 - b) Detailed design and/or working methods necessary to achieve stated objectives including any required updated surveys;
 - c) Extent and location of proposed works, including the identification of a suitable receptor site (where appropriate), shown on appropriate scale maps and plans;
 - d) Timetable for implementation, demonstrating that works are aligned with the proposed phasing of construction;

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- e) Persons responsible for implementing the works, including times during construction when specialist ecologists need to be present on site to undertake / oversee works;
- f) Use of protective fences, exclusion barriers and warning signs;
- g) Initial aftercare and long-term maintenance (where relevant);
- h) Disposal of any wastes for implementing work.

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

Reason: To protect habitats and species identified in the ecological surveys from adverse impacts during construction.

11. Prior to the commencement of any above ground works, a scheme for the enhancement of biodiversity on the site shall have been submitted to and approved in writing by the Local Planning Authority. These shall include the installation of bat and bird nesting boxes along with provision of native planting where possible. The approved details will be implemented and thereafter retained. The provision and installation of enhancements should take place within 6 months of the commencement of works, where appropriate.

Reason: To enhance biodiversity

12. No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
- a) Routing of construction and delivery vehicles to / from 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 the amenities of the area and highway safety and convenience

13. The commencement of the development shall not take place until a programme for the suppression of dust during the construction of the development has been submitted to and approved in writing by the Local Planning Authority. The measures approved shall be employed throughout the period of construction unless any variation has been approved by the Local Planning Authority.

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

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

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approval, the details shall be incorporated into the development in accordance with the approved details prior to the first use of any dwelling.

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

15. No development shall commence until details have been submitted to and approved in writing by the Local Planning Authority setting out and quantifying what measures, or offsetting schemes, are to be included in the development which will reduce the transport related air pollution of the development during construction and when in occupation. The details shall include 1 electric vehicle charging point for each dwelling and no dwelling shall be occupied until the charging point for that dwelling has been installed.

Reason: To encourage the use of electric vehicles, in the interests of climate change and reducing pollution.

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

Reason: In the interests of water conservation and sustainability.

17. The details submitted pursuant to condition (1) above shall demonstrate how principles relating to minimising the opportunities for crime and anti-social behavior have been incorporated in the layout, landscaping and building design.

Reason: In the interests of minimising the opportunities for crime and anti-social behaviour.

18. The details submitted pursuant to condition (1) above shall show dwellings extending to no more than two storeys in height.

Reason: In the interests of complementing the character and appearance of existing development in the vicinity of the site.

19. The details submitted pursuant to condition (1) above shall include details of a landscape buffer which is a minimum of five meters along the south-western and south-eastern boundaries of the site.

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

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

Monday to Friday 0800 - 1800 hours, Saturdays 0800 - 1300 hours unless in association with an emergency or with the prior written approval of the Local Planning Authority.

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Reason: In the interests of residential amenity.

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

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

Reason: In the interests of residential amenity.

INFORMATIVES

KCC Flood and Water:

Any infiltration should occur into clean, uncontaminated, natural ground and an unsaturated zone be provided between the invert levels of each soakaway and any groundwater.

KCC Ecology:

There is a risk that invasive non-native species may be present on site, principally those listed on schedule 9 of the wildlife and countryside act 1981 (as amended) which makes it an offence to plant or otherwise cause it to grow in the wild. Planning consent for a development does not provide a defence against prosecution under this act. Measures will need to be undertaken to ensure that any invasive species are eradicated prior to commencement of development, and that precautionary working methods are followed during site works, to ensure that no offences occur.

Southern Water:

A formal application for connection to the public sewerage system is required in order to service this development. Please read Southern Waters New Connections Services Charging Arrangements documents which has now been published and is available to read on the website via the following link <https://beta.southernwater.co.uk/infrastructure-charges>.

KCC Economic Development:

Kent County Council recommends that all developers work with a telecommunication partner or subcontractor in the early stages of planning for any new development to make sure that gigabit capable fibre to the premise Broadband connections. Access to gigabit broadband is an essential utility for all new homes and businesses and given the same importance as water or power in any development design. Please liaise with a telecom provider to decide the appropriate solution for this development and the availability of the nearest gigabit connection. We understand that major telecommunication providers are now offering fibre to the premise broadband connections free of charge to the developer. For advice on how to proceed with providing broadband access please contact broadband@kent.gov.uk

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

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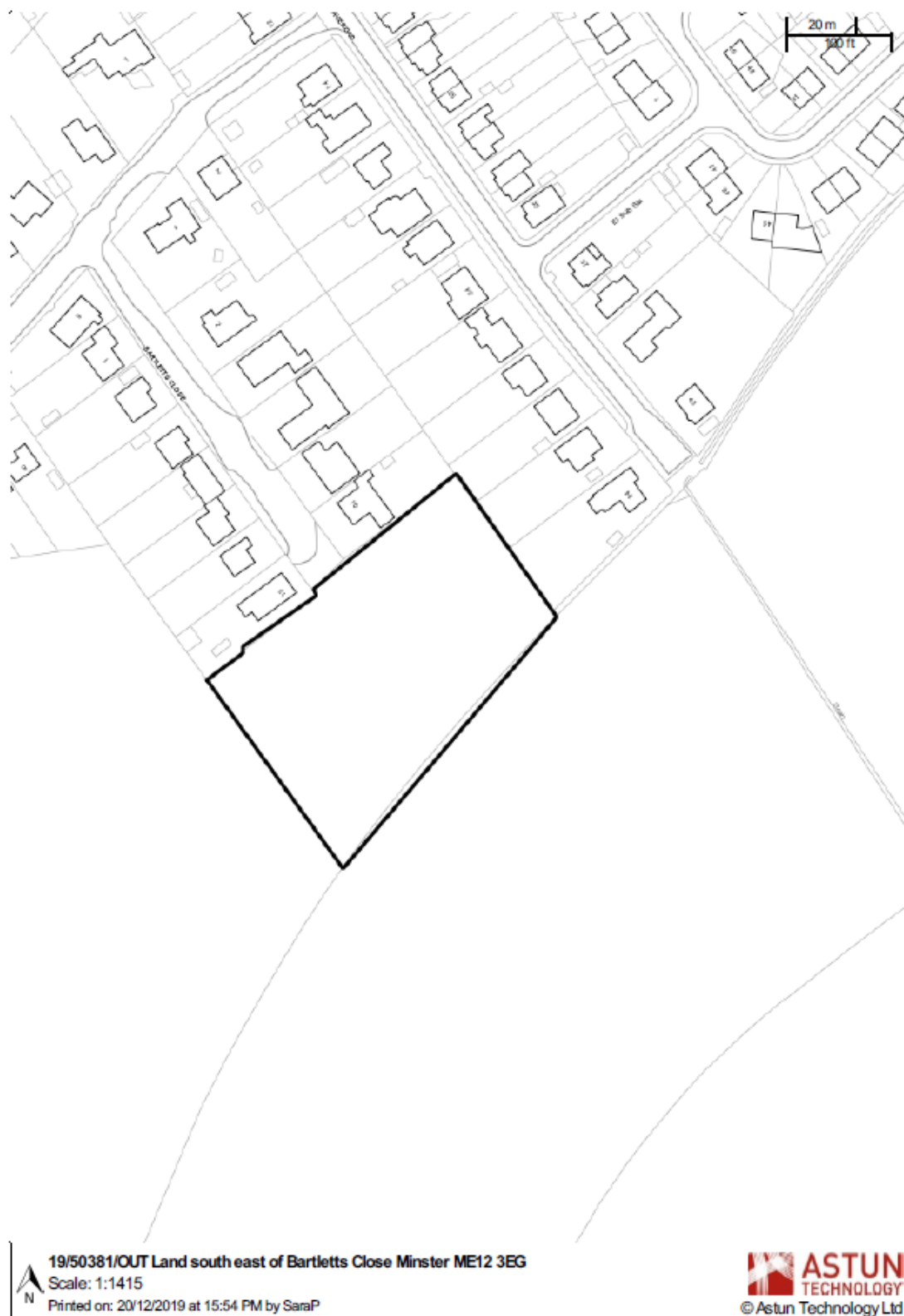
proposals focused on solutions. We work with applicants/agents in a positive and creative way by offering a pre-application advice service, where possible, suggesting solutions to secure a successful outcome and as appropriate, updating applicants / agents of any issues that may arise in the processing 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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19/503810/OUT– Land on the South East Side of Bartletts Close - TABLED UPDATE FOR ITEM 2.3

1. Further to the report at Pages 63 to 86 of the Agenda, KCC Archaeology have provided comments outlining that the site has potential for archaeological remains. The site lies on the lower slopes of two prominent hills at the west end of the island, Furze Hill and Barrows Hill. Prehistoric sites on Sheppey are known on the higher areas and KCC Archaeology expect this to be a particularly good focus. Given the potential for development of this site to impact on archaeological remains KCC Archaeology have requested that in any forthcoming consent provision is made for a programme of archaeological works via a condition. The agent has agreed to this pre-commencement condition, and this additional condition (condition 22) would read:

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

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

2. Further to Paragraph 9.51 regarding ‘The Conservation of Habitats and Species Regulations 2017’ appraisal, Natural England raise no objection to the Appropriate Assessment undertaken, subject to securing appropriate mitigation via the SAMMS payment. As set out in the report the applicant has agreed to pay the SAMMS tariff and this will be secured via a S.106 agreement.
3. Recommendation: planning permission to be granted subject to conditions as set out in report, with the additional condition (22) outlined above, and to the signing of a suitably-worded section 106 agreement to secure developer contributions as itemised at Paragraph 9.39 to 9.42 of the report (on Pages 76 and 77).

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APPENDIX 3

Mr L Brown BSc MSc MCIHT, CMILT
L Brown Associates Ltd
34 Fallowfield
Chatham
Kent
ME5 0DX
14.02.20
Tel 07709 969 599
Ref SW/19/503810/OUT

Ms C Griffiths
Senior Planning Officer
Development Management
Swale Borough Council
Swale House
East Street
Sittingbourne
Kent
ME10 3HT

Dear Ms Griffiths,

**Land On The South East Side Of Bartletts Close Halfway Kent, ME12 3EG
Outline Application 19/503810 – 17 Dwellings with Private New Access Road.**

We have been requested by the agent, Peter Cooper and client to prepare this letter as it is understood Members may wish the 170m length of Bartlett Close to be made up to adoptable standards prior to the development coming forward. As a highway and transportation engineer with a background working for KCC for over 13 years plus my experience with highway legislation including the Highways Act 1980 I wish to set out the issues that are raised and the concerns which are pertinent should Members consider this as a requirement.

The section of Bartletts Close, with a mainly gravel or road scalping surface, which members have referred to; is a "Private Street" which is a highway maintained by the street frontagers. Highway legislation dictates when, how and by what authority the road may be made up. Utility companies are also involved with new street works as their plant may be under or over the road in question.

Under normal circumstances Private Streets are made up by the highway authority based on many requests from house owners who front onto the road. Then KCC would, if in Kent, go to committee to highlight such requests and to commence formal consultations with householders. If more than 50 to 60% say are agreeable, then KCC would determine whether to go ahead or not. KCC members are involved as they instruct officers in the decision-making process due to cost, timescales and possibly many objections.

The adoption road construction process, if undertaken by KCC following residents requests then involves the works being costed including professional fees, construction costs and utility company consultations. When costed it is then divided into a cost per linear metre frontage. Then funds are requested from the owners. Based

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on a length of 170m the overall cost may be of the order of over £2,000 per linear metre hence £340,000 plus utility costs. We hasten to add the £2000 is based on an approximation. We do not undertake such work hence again we suggest KCC be contacted to determine what may be the budget sum per linear metre involved.

Most Private Streets have funds available, in the coffers of the highway authority, as any development in the past and current time under the Advance Payment Code (APC) procedure (Highways Act legislation) deposit funds for the future making up of the road. After the building regulations are approved the Highway Authority have a 6-week window to serve notice on and obtain a deposit for making up the road in future. KCC in the past have been regimental in following this course of action. The legislation was included in the Highways Act 1959 before the Highways Act 1980 came into legislation. We recommend you seek to determine what funds KCC already have collected, and is available, so that Members are aware residents have always had the option to make the road up.

We would refer you to our Transport Statement plus letters on this matter, addressed to KCC, which refers to the APC. KCC have agreed in writing the new road can remain private (28th October 2019).

If we now review how a planning condition may be used to seek the future making up of the road we have appeal decisions relating to Grampian conditions. Inspectors now reject such conditions where there is no likelihood of such conditions being implemented.

The NPPF also has planning condition tests including not being seen to purchase an approval if planning conditions are seen to be unreasonable or disproportionate. The judiciary in the higher and court of appeal also take this same approach. We have examples on file.

| TEST | KEY QUESTIONS | THIS DEVELOPMENT |
|-------------------------|--|--|
| 1. Necessary | Will it be appropriate to refuse planning permission without the requirements imposed by a condition? - A condition must not be imposed unless there is a definite planning reason for it, i.e. to make the development acceptable. | No KCC highways have identified that these works are not required. They agree to the development including a turning head for refuse vehicles. |
| 2. Relevant to planning | Does the condition relate to planning objectives and is it within the scope of the permission to which it is to be attached? - A condition must | No. The making up of the 170m stretch of road would be within the control of the highway authority. They have the jurisdiction to permit and |

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| | not be used to control matters that are subject to specific control elsewhere in planning legislation | to deal with Section 278 Agreements (Highways Act 1980). Given KCC do not support any "off site" highway works this is not relevant to the development of the site. We would refer you to our TS, letters plus responses in the public domain from KCC. Any such works would also take many months (7 to 8) to construct and would cause unnecessary disruption to residents. |
| 3. Relevant to the development to be permitted | <p>Does the condition fairly and reasonably relate to the development to be permitted?</p> <ul style="list-style-type: none"> - It is not sufficient that a condition is related to planning objectives; it must also be justified by the nature or impact of the development permitted. - A condition cannot be imposed in order to remedy a pre-existing problem or issue not created by the proposed development. | No. It has been demonstrated through the Transport Statement, which KCC accepts, that the proposed development does not impact on the existing highway (private street) and the network to such an extent to justify changes to the road construction. In NPPF policy terms the development impacts are not severe. |
| 4. Enforceable | <p>Would it be practically possible to enforce the condition?</p> <ul style="list-style-type: none"> - Unenforceable conditions include those for which it would, in practice be impossible to detect a contravention or remedy any breach of the condition, or those concerned | As KCC do not support the making up of the road there are no assurances KCC would permit Section 278 of the Highways Act be used. KCC should be involved in any road construction and adoption planning conditions. |

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| | | |
|-------------------------------------|--|--|
| | with matters over which the applicant has no control. | |
| 5. Precise | Is the condition written in a way that makes it clear to the applicant and others what must be done to comply with it? - Poorly worded conditions are those that do not clearly state what is required and when must not be used. | The wording has not yet been produced by the Council. This may be delegated to officers. |
| 6. Reasonable in all other respects | Is the condition reasonable? - Conditions which place unjustifiable and disproportionate burdens on an applicant will fail the test of reasonableness. - Unreasonable conditions cannot be used to make development that is unacceptable in planning terms acceptable. | Making up 170m of road is not reasonable based on the new section and turning head being provided by the applicant. Existing residents have the power to seek the future making up of the road, albeit funded by them. The proposal is therefore disproportionate and would fail the test. |

Taking the six tests as set out in paragraph 55 of the Feb 2019 NPPF, the conditions imposed by the Planning Committee are likely to fail them all.

We appreciate you taking this application back to Committee and would like Members to be made aware that their request is considered to be unreasonable by KCC (as they have never requested it) and the applicant; and does not meet the six tests as set out in the Framework.

Should the Committee be of the view to defend their recommendation, then it is likely that the applicant will consider submitting an appeal to the Planning Inspectorate against the imposition of such a condition. We would seek confirmation from KCC beforehand as to the following, if Members do not have the information before them prior to determining the application: -

- A) How many Private Streets have been made up in Kent in the last 5 Years?
- B) What funds are already available from the residents in Bartletts Close?
- C) How many times and in which year have local residents requested the making up of the road?

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D) What budget costs, albeit estimates at this stage, have KCC in respect of making up a new road, based on a linear metre cost? Then the 170m length of road can be costed more accurately.

We hope to have clarified the issues that have resulted from Members desire to have the road made up as a public highway. If you require further information, please do not hesitate to contact me.

Yours Sincerely



Mr L Brown

Planning letter 3–Bartletts to Swale case officer

CC Client

CC Peter Cooper

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SWALE BOROUGH COUNCIL

PLANNING SERVICES

Planning Items to be submitted to the Planning Committee

5 MARCH 2020

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

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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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- **Deferred Items**
- **Minutes of any Working Party Meetings**

DEFERRED ITEM

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| <u>PART 2</u> | | | |
| 2.1 Pg 42 - 65 | 18/506328/OUT | IWADE | Land Lying to the South of Dunlin Walk |
| 2.2 Pg 66 - 70 | 19/504059/FULL | SITTINGBOURNE | Wentworth House, Wentworth Drive |
| 2.3 Pg 71 - 90 | 19/506038/REM | OSPRINGE | Land fronting Painter Forstal Road |
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| 5.2 Pg 106 - 110 | 19/502422/FULL | BOUGHTON | Blean Cottage, Hickmans Green |
| 5.3 Pg 111 - 117 | 18/504110/FULL | LOWER HALSTOW | Funton Brickworks, Raspberry Hill Lane/Sheerness Road |
| 5.4 Pg 118 - 120 | 19/502206/FULL | NEWINGTON | 61 Playstool Road |
| 5.5 Pg 121 - 128 | 18/500003/FULL | BREDGAR | One Acre, Blind Mary's Lane |
| 5.6 Pg 129 - 134 | 18/506067/LAWPRO | LYNSTED | Loyterton Farmhouse, Tickham Lane |
| 5.7 Pg 135 - 141 | 19/501668/FULL | DUNKIRK | Land adj to The Old School, London Road |

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PLANNING COMMITTEE – 5 MARCH 2020**PART 2**

Report of the Head of Planning

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

| | | |
|--|--|---|
| 2.1 REFERENCE NO - 18/506328/OUT | | |
| APPLICATION PROPOSAL Outline Application for the erection of 20 residential dwellings (access being sought, all other matters for future consideration). | | |
| ADDRESS Land Lying To The South Of Dunlin Walk Iwade Kent ME9 8TG | | |
| RECOMMENDATION – Grant subject to conditions and securing a Section 106 legal agreement | | |
| SUMMARY OF REASONS FOR RECOMMENDATION The proposal is acceptable with regards to the relevant policies of the development plan; Bearing Fruits (2031), government guidance in the NPPF and all other material planning considerations. | | |
| REASON FOR REFERRAL TO COMMITTEE Iwade Parish Council object to the proposal | | |
| WARD Bobbing, Iwade And Lower Halstow | PARISH/TOWN COUNCIL Iwade | APPLICANT BDW Kent AGENT |
| DECISION DUE DATE 15/02/20 | PUBLICITY EXPIRY DATE 08/08/19 | |

Planning History

14/500739/R3REG - Regulation 3 (KCC) - expansion of Iwade Community primary school from two form entry (2FE) three form entry (3FE), including the erection of a two storey extension to the existing school building, creation of new access via School Lane, provision of parent drop-off and pick up facilities and additional parking spaces together with new hard and soft landscaping

Decision: Approved Decision Date: 28/11/ 2014

SW/00/0340 - Outline application for residential development and future expansion of primary school. Land at North West Sector of, School Lane, West of The Street, Iwade.

Decision: Approved Decision Date: 13/10/2000

SW/01/0375 - Approval of Reserved Matters of SW/00/340 for erection of 130 dwellings together with roads, sewers and all ancillary works.

Decision: Approved Decision Date: 20/09/2001

SW/01/0389 - Approval of Reserved Matters of SW/00/340 for Erection of 140, Two, Three, Four and Five bedroom dwellings, associated roads, parking and sewers.

Decision: Approved Decision Date: 22/10/2001

SW/02/0788 - Erection of 87 dwellings (Approval of Reserved Matters of SW/00/0340)

Decision: Approved Decision Date: 01/10/2002

1. DESCRIPTION OF SITE

- 1.1 The application site is located to the north of the centre of Iwade village. The application site comprises of two parcels of land adjacent to each other, separated by Dunlin Walk. The smaller of the two parcels of land roughly triangular shaped to the east of the main site is unmanaged land comprising untended grass. The site generally slopes from west to east with a maximum height difference of approximately one metre.
- 1.2 The site falls within the built up area boundary of Iwade. The application site forms part of a wider scheme of several hundred homes within Iwade developed predominantly by Ward Homes (now part of Barratt Developments) over a 15 year period. To the south of the application site is Iwade Community Primary School, to the north and west is residential housing and to the east is The Woolpack Pub.
- 1.3 The application site is accessed via Sanderling Way, which is an adopted public carriageway that abuts the application site between properties numbered 4 and 5 Dunlin Walk, which is a shared footway-cycle way. Dunlin Walk runs immediately north of and between the two parcels of land that make up the application site.
- 1.4 The application site is reasonably well served by public transport. There are 3 bus stops near the site all accessible on foot with the closest being approximately 270 meters away on the northern stretch of The Street, accessed via Sanderling Way. There are two railway stations near the proposed development: Swale Halt Station (approximately 1.8km away) and Kemsley Railway Station (approximately 2km away). There are a number of key community services and facilities, as well as The Woolpack Pub and Iwade Community Primary School, there are health care services and a number of local shops.

2. PROPOSAL

- 2.1 Outline planning permission is sought for the erection of 20 residential dwellings with access being sought at this stage, with all other matters reserved for future consideration.
- 2.2 The application comprises of two parcels of land. Residential development is being proposed on the larger, rectangular parcel of land along the south side of Dunlin Walk, whilst the smaller irregular parcel of land is being put forward as an ecology mitigation and enhancement area at the eastern end of Dunlin Walk. (The larger rectangular parcel of land is referred to as parcel 1 and the smaller irregular parcel of land is referred to as parcel 2).
- 2.3 The indicative layout shows a mix of 20 two- and three-bedroom houses arranged in a linear layout, with 44 parking spaces, 4 visitor parking spaces and 8 garages for 8 of the houses situated in front of and between the houses. Vehicle access to the site would be from Sanderling Way which would lead to a road running along the length of the row of houses.
- 2.4 In particular, outline application SW/00/0340 should be noted with respect to this planning application proposal. The outline application was for residential development and future expansion of primary school. Land at North West Sector of, School Lane, West of The Street, Iwade. Granted 13/10/2000. As part of the outline planning permission, a parcel of land was designated for the future expansion of Iwade Primary

School which was later transferred to the school and used for the school expansion as part of Kent County Council's application (ref: SW/14/500739) to expand from a two-form entry to a three-form entry, which included the erection of a two storey extension.

- 2.5 The proposed application site was not included within the designated school future expansion land nor has the application site been included within any subsequent reserved matters applications.
- 2.6 It should be noted that parcel 2 of the application site, put forward as an ecology mitigation and enhancement area, is within housing allocation A20.14 'Iwade Village Centre' which is allocated for a minimum of 10 dwellings in the Local Plan.

3. SUMMARY INFORMATION

| | Proposed (indicative layout/plans) |
|------------------------------|--|
| Site Area (ha) | Overall: 0.65ha (within same ownership –red & blue site outlines) Parcel 1: 0.55ha Parcel 2: 0.04ha |
| Approximate Ridge Height (m) | 2 storeys, some houses have accommodation in the roof |
| Approximate Eaves Height (m) | Not known |
| Approximate Depth (m) | For 2 bedroom houses; 8.5m For 3 bedroom houses; 6m, 8.5m and 10m |
| Approximate Width (m) | For 2 bedroom houses; 5m, for 3 bedroom houses; 8m, 9m and 9.5m |
| No. of Storeys | 2 (some houses with accommodation in the roof) |
| Parking Spaces | 44 (excluding garage and visitor spaces) |
| No. of Residential Units | 20 (4 x 2 bedroom houses, 10 x 3 bedroom houses and 6 x 4 bedroom houses) |
| No. of Affordable Units | No affordable units but instead a commuted sum |

4. PLANNING CONSTRAINTS

- 4.1 Potential Archaeological Importance

5. POLICY AND CONSIDERATIONS

- 5.1 The National Planning Policy Framework (NPPF): Paras 7, 8, 11 (sustainable development); 34 (developer contributions); 59-76 (delivering a sufficient supply of homes); 77-79 (rural housing); 98(promoting healthy and safe communities); 102 (transport); 127, 130 and 131 (achieving well designed places); 165 (sustainable drainage systems); 170 (local and natural environment); 175 (biodiversity).
- 5.2 National Planning Practice Guidance (NPPG): Air Quality; Design; Determining a planning application; Flood risk and coastal change; Natural Environment; Open space, sports and recreation facilities, public rights of way and local green space; Planning obligations; Travel Plans, Transport Assessments and Statements; Use of planning conditions.
- 5.3 Development Plan: Bearing Fruits 2031: The Swale Borough Local Plan 2017: ST1 (Delivering sustainable development in Swale); ST2 (Development targets for jobs and homes 2014 – 2031); ST3 (The Swale settlement strategy); ST 4 (Meeting the Local Plan development targets); CP3 (Delivering a wide choice of high quality homes); CP4 (Requiring good design); CP6 (Community facilities and services to meet local needs); A20.14 (New allocations on sites within existing settlements); DM7 (Vehicle parking);

DM8 (Affordable housing); DM14 (General development criteria); DM17 (Open space, sports and recreation provision); DM19 (Sustainable design and construction); DM21 (Water, flooding and drainage); DM28 (Biodiversity and geological conservation); DM29 (Woodlands, trees and hedges); DM34 (Scheduled monuments and archaeological sites).

6. LOCAL REPRESENTATIONS

6.1 34 letters of objection have been received from 34 properties. The reasons for objection and comments are as follows;

- Policies CP4, DM7, DM14, DM17 and DM28 are not being met by this proposal
- The site is not allocated in the Local Plan
- The housing would be surplus to demand, therefore these dwellings are not required.
- The main junction accessing Sanderling Way (The Street/Sanderling Way/Sheppey Way) - There is not enough room to manoeuvre vehicles to turn left when vehicles are coming from the opposite direction.
- Sanderling Way is not suitable for the main access route for construction and delivery vehicles
- Danger to the safety of parents and children using Dunlin Walk and Sanderling Walk as a walking route to school
- Increased traffic and congestion, including at school times
- Emergency vehicles will not be able to get through increased
- The proposed new road serving the house is not large enough for refuse vehicles
- Insufficient parking
- There is not enough room to keep the path and grass verge and fit a road, another path and a house with a front and back garden that would fit in with the aesthetics of the area, it would be cramped
- Harm to residential amenity – loss of privacy; loss of light; noise and disturbance from development; disruption from construction works
- Increased antisocial behaviour
- Increased pressure facilities in Iwade, e.g. doctors surgeries
- Iwade residents are outgrowing the local services and no additional facilities are planned e.g. doctors surgeries, schools, shops
- Increased risk of flooding due to removal of green space
- Ruining green space used for recreation
- Loss of trees and bushes would diminish the landscape
- Loss of wildlife habitat
- Increase in air pollution from increased traffic
- Reservoirs supplying water to Kent homes are low for sometimes in the year this problem will be exacerbated
- The applicants planning statement at paragraph 1.6.3 is considered inaccurate. The school may expand in the future to meet further demand. The school has been enlarged from 2 form entry to 3 form entry however, no account was taken of enlarging the usable physical education / play facilities, so the school has less outdoor space for the increase in children.
- Area is already over-populated
- The application site would be of better benefit to the community if it was used as a parking area for the school or nursery nearby

- The trees and bushes along the entirety of Dunlin Walk should remain to retain privacy for existing residents
- A Tree Preservation Order should be placed on the trees so they cannot be removed

7. CONSULTATIONS

7.1 Iwade Parish Council – Object for the following reasons;

- Objection. Policy A17: Parcel 1 was not included in Local Plan Policy A17 for housing allocation and as such must have been considered unsuitable for such.

- Surplus of dwellings: Table 4.3.5 identifies that Swale has a surplus of 932-982 dwellings against requirements placed upon the Council which suggests that the proposed dwellings are not required.

- Policy DM14: the proposal is contrary to this policy which seeks to conserve and enhance the natural and / or built environment, ensure development is both well sited and of a scale, design and appearance and detail that is sympathetic and appropriate to the location and seek to achieve safe vehicular access, convenient routes and facilities for pedestrians and cyclists, enhanced public transport facilities and services together with parking and servicing facilities.

- The site is used regularly by residents of all ages for recreational purposes and the proposal is to construct up to 2.5 storeys high directly abutting a primary school, with the development accessed via roads with limited capacity across a pedestrianised walk. This proposal would fail to provide safe vehicular access. Apart from the issues of the junction of The Street and Sanderling Way, access to the site is unacceptably unsafe. Vehicles exiting the proposed development from the western end run the very real risk of collision with vehicles entering and exiting the parking spaces of residents at houses 1-4. Pedestrians are at greater risk of collision going east to west along Dunlin Walk with vehicles entering the proposed development, particularly as the electricity substation next to No. 5 Dunlin Walk results in a restricted view. Dunlin Walk is the main pedestrian thoroughfare for residents in the northern and north-western part of the village to the village centre. It is currently a safe route for children walking to school or nursery with their parents from the Sanderling Way estate. It is also a safe route for youngsters walking to bus stops to get onward travel to their secondary schools in Sittingbourne. If this proposed development is approved it will mean the unhindered path to the village centre will be broken up by an access road to the new houses. Children and young families will face a less safe route to their destinations with the crossing of a road.

- Policy DM28: the proposal is contrary to this policy, it would lead to loss of habitat for Great Crested Newts.

- Parking: inadequate visitor parking; tandem parking is not efficient and often not used; the existing parking space in Sanderling Way is insufficient and the proposal will exacerbate this; and increased parking in the area will impeded emergency vehicle access.

- Junction of Sanderling Way / The Street: this is a blind corner for those turning right from Sanderling Way onto The Street – many vehicles do not stay on the correct side of the road at this junction and this has resulted in several near misses. The Parish

Council has used this objection in relation to 18/505157/OUT, requesting that the junction is redesigned to improve safety.

- Loss of privacy: The western end of the proposed development will overlook a number of houses on Mallard Close Sanderling Way.

- Potential expansion of Iwade Community Primary School: parcel 1 could be used for expansion of the school in the future.

- Medical facilities: lack of funding for medical facilities and existing services are at capacity.

- Child safe concerns: from children in the adjacent school grounds being overlooked.

7.2 **Environment Agency** – No objection, and they note that the development falls outside their statutory remit.

7.3 **Highways England (HE)** have considered the implications of the development for the strategic road network, which includes the A249 and the M2 and note that the development would generate a relatively small number of additional peak hour movements on their network. With regard to the M2 Junction 5 they note that there is very little spare capacity, however, and also note the potential for cumulative impacts and requested a condition tying the occupation of this development to the delivery of the proposed upgrade. With regard to the A249 Grovehurst junction they requested a condition seeking a scheme of mitigation prior to development and tying the occupation of this development to the delivery of the mitigation scheme at this junction.

However, further to the recent refusal of application 18/503135/OUT (700 dwellings on land at Barton Hill Drive) Highways England have re-allocated the network capacity from that site to other sites, and no Grampian condition is required for this application with regard to the M2 Junction 5. KCC Highways have also secured a suitable scheme of mitigation (as outlined in para 7.10) and therefore the conditions requested by Highways England are superseded.

Highways England have provided a written response (30/01/2020) outlining they raise no objection to the application, and that this proposed development can utilise the spare capacity without the need for any restrictions on the occupation of dwellings before the M2 J5 improvements are built out, or the contract is let. Highways England have also outlined that there is safe capacity at the A249 Grovehurst junction (taking into the agreed developer contribution) which can be utilised by development at Dunlin Walk.

7.4 **Natural England** – No objection. NE comment that as the application will result in a net increase in residential accommodation, impacts to the coastal Special Protection Area and Ramsar Site may result in increased recreational disturbance and they note that Council has appropriate measures (a financial contribution = 20 x £245.56 = £4911.20) in place to manage these potential impacts and are satisfied with this. NE raise no objection to the Appropriate Assessment undertaken subject to securing appropriate mitigation via the SAMMS payment.

7.5 **Southern Water** – No objection. Comment that initial investigations indicate that Southern Water can provide foul sewage disposal to service the proposed development.

- 7.6 **Swale NHS** - No objection. The NHS requires a financial contribution of £17,280 to be earmarked for Iwade Health Centre.
- 7.7 **Kent County Council Economic Development (Developer Contributions)** – Request the following contributions: Primary Education (£3,340 per house) = £66,480, Secondary Education (£4,115 per house) = £82,300, Libraries (£108.32 per dwelling) = £2,166.40 and provision of high speed fibre optic broadband connection.
- 7.8 **KCC Drainage** – No objection. KCC Drainage initially objected because of insufficient details within the submitted Drainage Impact Statement relating to drainage discharge rates. Two subsequent revised drainage impact statements have been submitted, the final surface water drainage strategy addressing KCC Drainage concerns subject to 3 conditions relating to demonstrating that the requirements for surface water drainage can be accommodated within the proposed development layout (the layout required by Condition 2 of this report in the reserved matters application), submission of a surface water drainage scheme and Verification report pertaining to the surface water drainage system.
- 7.9 **KCC Ecology** – No objection. Conditions are advised with respect to submission of an Ecological Mitigation and Enhancement Strategy and Management Plan in relation to Great Crested Newts, external lighting in relation to bats as detailed within section 6.3 of the submitted Ecological Assessment, Hedgehog movement through the site and ecological enhancements.
- 7.10 **KCC Highways and Transportation** – No objection

Initial comments (19/12/2018) were no objection in principle to the proposed development, although they required further detail: an adoption plan; visibility splays addressed in relation to the western parking adjacent to the proposed access in Sanderling; and Dunlin Walk to remain flush with Sanderling Walk and have priority. KCC Highways (14/02/19) have advised these matters have been addressed following receipt of amended plans, and raise no objection subject to conditions or a S.106 agreement regarding details of a construction management plan; highways works sought via a Section 278/38 agreement; and measures to prevent surface water onto the highway

28/02/2019: KCC Highways outlined a review of traffic modelling and surveys undertaken in respect of recent planning applications and other study work concerning the A249/Grovehurst junction has demonstrated the need for highway improvements to be made to this part of the highway network to support development in this area. This shows that the junction is already operating over capacity, and the Highway Authority would not wish to allow further housing development that would exacerbate the current levels of congestion. As such, it is not considered appropriate that development can be brought forward without the guarantee of highway improvements being provided to cater for the additional traffic generated. KCC Highways set out that the junction was submitted for a major improvement scheme to support the Local Plan scale of development using finance from Central Government's HIF bid process, and advised that the development will have to propose mitigation for the success or otherwise of the HIF bid. The development will therefore have to either;

(i) wait until the HIF bid is decided and if successful, contribute an equitable rate towards the HIF Improvements.

(ii) pre HIF determination, propose a fully costed interim mitigation scheme and contribute an equitable rate towards the Major Highway Junction Improvement Scheme in the event of no HIF funding being awarded.

(iii) wait until the HIF bid is determined and if unsuccessful, provide a proportionate amount of the total costs of the Major Highway Junction Improvement Scheme without HIF funding.

Consequently, KCC Highways maintained a holding objection until one of the above options has been realised.

11/11/2019: KCC Highways advised that a figure of £2,657.00 per dwelling (index-linked) has been agreed for developer contributions towards improvements at the A249/Grovehurst junction for the proposal site, and sites in the surrounding area. As such, KCC Highways remove the holding objection to the application.

7.11 **KCC Archaeology** – No objection. Recommends that for any forthcoming consent archaeological measures in this area can be secured through the imposition of a condition relating to the implementation of a programme of archaeological work.

7.12 **Kent Police** – No objection. They have advised of a number of security measures which are noted by the Applicant and will be incorporated into the design of the reserved matters application.

7.13 **Public Rights of Way** – No objection. Public Footpath ZR91 passes along Dunlin Walk. The PROW Officer has confirmed that there is no objection to the proposed access road crossing the public footpath insofar that any works meet the specification required by KCC Highways and Transportation which would be addressed as part of the detailed design process.

7.14 **Swale Footpaths Group** – No objection. Swale Footpaths Group commented that footpath ZR91 is nearby and it appears this path would be unaffected.

7.15 **Environmental Protection Team Leader** – No objection. Initial comments recommended refusal until assessments relating to noise, air quality and land contamination have been carried out. The Applicant's response was that from a review of the Local Requirements Checklist it does not appear that a development of up to 20 dwellings outside of an AQMA would meet the threshold for which an air quality and noise impact assessment would be required as part of the planning application. Therefore, revised comments were provided stating that there is no justification for requesting a Preliminary Risk Assessment or Contaminated Land Report to be submitted with the application. The site does not appear to have any previous industrial use on it, and it does not appear that neighbouring developments were subject to a contaminated land condition. Therefore the requirement for any submissions under land contamination are not deemed necessary. Following discussions with an Environmental Health Officer and a review of Mid Kent's Procedure Note, it was decided that a full Air Quality Assessment or a condition for air quality mitigation measures is not deemed reasonable for this size of development as it is not in or near to an Air Quality Management Area. With regard to potential noise and dust, two conditions have been advised for the protection of residential amenity during construction relation to hours of construction and the submission of a Construction Code of Practice.

- 7.16 **SBC Affordable Housing Manager** – No objection. In accordance with Policy DM8, affordable housing provision in Iwade is 10%, which equates to 2 dwellings. Due to the low number of affordable housing units required and the high tenure split for Affordable Rent Tenure (90%) both of these homes should be provided as Affordable / Social rent tenure. However, recently the Housing Manager has been in talks with housing association partners who are reluctant to purchase affordable housing on site if there are less than approximately 40 affordable units available. For this reason the Housing Manager approached partners to see if they would be interested in acquiring the site for delivery as a 100% affordable housing. However, the Applicant's Agent was against this due to the affect on the viability of the scheme and proposed to maintain their offer of a commuted sum.

The offer of a commuted sum has been discussed with the Affordable Housing Manager and it is considered in this instance on site affordable units should be provided, in the form of two affordable / social rent tenure. The agent has agreed to this on-site provision. The Council's Strategic Housing Manager raises no objection to the provision of two affordable rented units on site. The Council's Affordable Housing Manager has also outlined the difficulty with securing small numbers of units with registered providers, and therefore has requested the S.106 agreement includes a cascade system to secure an alternative form of affordable housing to include for example a change of affordable tenure to shared ownership; securing affordable rented units on an alternative site owned by the same developer elsewhere within the Borough; or a commuted sum in the event a registered provider cannot deliver two affordable rented units on site.

- 7.17 **SBC Greenspaces Manager** – No objection. Commented that while no specific open space provision is included in the proposed outline development, there are existing facilities and further planned facilities within easy walking distance of the proposal and therefore would not request on-site facilities. Seeks a contribution of £446.00 per dwelling (Open Spaces & Play Strategy 2018-2022) toward enhancing/increasing capacity of the off-site existing play /fitness provision in the village.

8. BACKGROUND PAPERS AND PLANS

- 8.1 Location Plan, Indicative Layout Rev A, Indicative Street Scene, 6960-SK001-Rev P3 Below Ground Drainage Strategy, 6960.D007 Rev P4 Drainage Impact Statement and Design Philosophy, Arboricultural Constraints (October 2018), Arboricultural Impact Assessment (October 2018), Highways Technical Note 2: Access Appraisal, Planning Statement, Design and Access Statement, Ecological Assessment,

9. APPRAISAL

Principle of Development

- 9.1 The site of the proposed residential units does not have any specific allocation in the Local Plan but is located within the built up area boundary of Iwade, where the principle of residential development is acceptable. The site is in an appropriate and sustainable location with good access to local facilities, transport links and schools, where good use should be made of available land. Furthermore, it is also important for Members to note that the Council is currently unable to demonstrate a 5-year housing land supply. As a result of this, it is considered that the benefits of addressing this shortfall, upon a site within an existing built up area boundary should be given additional weight.

9.2 The application is in close proximity to Iwade Community Primary School, under application reference 14/500739/R3REG permission was granted for the expansion of Iwade Community primary school from two form entry (2FE) three form entry (3FE). The proposed application site was not included within the designated school future expansion land nor has the application site been included within any subsequent reserved matters applications. KCC Economic Development has also indicated that the school is unable to be expanded further. Therefore, on the basis of the above assessment, it is considered that the principle of residential development is acceptable in this location.

Access, Highways, Parking

- 9.3 As noted above, the application is seeking outline consent, with details of access being sought at this stage. Means of access is being proposed from Sanderling Way between properties numbered 4 to 5 Dunlin Walk, towards the western end of the site. Sanderling Way is an adopted public highway and in light of this, part of the proposed development will be offered for adoption, this is shown on drawing 1810028-02 Rev A.
- 9.4 KCC Highways and Transportation raised no objection in principle to the proposed development subject to further details regarding an adoption plan, visibility splays; and the footpath along Dunlin Walk to remain flush with Sanderling Way Walk and have pedestrian priority (between 4 and 5 Dunlin Walk). These matters have been addressed in drawing 1810028-03 Rev A. The depth of the kerb build-out on the west side of Sanderling Way (next to 4 Dunlin Walk) has been increased by 1.7m and can still accommodate a refuse vehicle turning manoeuvre. The carriageway width is therefore 4.3m rather than 4.1m. The drawing also shows a raised table to demonstrate how the footpath will be level. The adoptable area has also been adjusted to cover only the turning head, which the Applicant has said may be defined by granite setts or similar, to be agreed at the detailed design stage as part of the Section 38 (Highways Act) procedure.
- 9.5 Due to the cul-de-sac design, the proposed vehicular access incorporates a turning head. Swept path analysis has been undertaken and demonstrates that the proposed site access can be adequately serviced by an 11.4-metre long refuse freighter and an 8.7-metre-long fire appliance entering and leaving the site in forward gear. This is shown on drawing 1810028-TK01 Rev C.
- 9.6 KCC Highways advised they raised no objection to the amended information received and requested conditions including a construction management plan; highways works sought via a Section 278/38 agreement; and measures to prevent surface water onto the highway.
- 9.7 The proposed indicative layout provides 48 parking spaces, 4 of which are visitor spaces, plus 8 garage spaces which would be broadly in accordance with the KCC Residential Parking standards. As mentioned above, KCC Highways raise no objection, and appropriate details regarding parking can be secured at the reserved matters stage.
- 9.8 With regard to the impact on the A249/Grovehurst junction, KCC Highways raised a holding objection until a scheme of mitigation could be agreed. As per KCC Highways latest comments a developer contribution (of £2657.00 per dwelling) has been agreed for off-site highways works at this junction for development at sites in Iwade and

Sittingbourne (near this junction). As such, no objection is raised regarding the impact on the local highway network subject to the imposition of appropriate conditions and the payment of developer contributions as set out in paragraph 7.10 above. These payments will be secured under the Section 106 agreement that would accompany any planning permission granted for this development.

- 9.9 Highways England initially objected to the development on the grounds that M2 junction 5 did not have sufficient capacity to absorb the predicted traffic flows arising from this scheme (and others). However: the Council recently refused permission for application 18/503135/OUT (700 dwellings on land at Barton Hill Drive), which has enabled HE to “re-allocate” the predicted capacity from that development to other schemes in Sittingbourne and on the Island, including this current application. The predicted peak flow generation from this scheme is 4 vehicle movements, which is well within the remaining capacity. Highways England have provided a written response outlining they raise no objection to the application, and that this proposed development can utilise the spare capacity without the need for any restrictions on the occupation of dwellings before the M2 J5 improvements are built out, or the contract is let. Highways England have also outlined that there is safe capacity at the A249 Grovehurst junction (taking into the agreed developer contribution, towards upgrading the junction) which can be utilised by development at Dunlin Walk.

Visual Amenity

- 9.10 As set out above, all matters of detail (other than access) are reserved for future consideration should this application be approved. As such, this is largely an issue to be dealt with at the reserved matters stage. Nevertheless, it is reasonable to conclude that 20 dwellings can be accommodated on the site, without a harmful impact on visual amenity or the character of the wider area.
- 9.11 The site is well contained by existing development within Iwade including residential development to the north and west, Iwade Community Primary School to the south, and The Woolpack Pub to the east of the site and is situated within the built up area of the settlement. As such, the provision of residential development will not have significant impacts on the wider landscape.
- 9.12 The existing residential development in Sanderling Way and recent development in Iwade comprises predominantly 2 and 2.5 storey development. The indicative plans show a mix of two storey dwellings and 2.5 storey dwellings with accommodation in the roof space and it is considered that the proposed indicative height, scale and massing of the proposed development would accord with the existing character of the area. Given the predominant scale of development in the vicinity, which is generally no more than 2-2.5 storeys in height, a condition is included to limit the height of the new development to 2.5 storeys.
- 9.13 The site area is 0.65 hectares, providing a development density of 30 dwellings per hectare. This is an appropriate density for the site given the character and mix of existing development on adjacent land. The development would make efficient use of land (as required by the NPPF) without resulting in a scheme that would be out of character with the adjacent development.

Affordable Housing

- 9.14 Policy DM8 requires 10% of the total number of homes on this site to be delivered as affordable housing. This equates to 2 affordable homes. If 2 homes were to be provided as affordable housing, due to the low number of affordable housing units required and high tenure split for Affordable Rent tenure (90%), then both these homes would be provided as Affordable / Social rent tenure.
- 9.15 A commuted sum approach was initially proposed rather than on-site provision. However, the applicant's agent has subsequently agreed to the provision of two affordable housing units (rented) on site. Due to the low number of affordable housing units required and high tenure split for Affordable Rent tenure (90%), both these homes would be provided as Affordable / Social rent tenure. The provision of two affordable units on site would comply with Policy DM8, which requires 10% affordable housing for sites in Iwade, and will be secured by a S.106 legal agreement. As noted above, the Council's Affordable Housing Manager raises no objection to the provision of two affordable rented units on site.
- 9.16 The Council's Affordable Housing Manager has also outlined the difficulty with securing small numbers of units with registered providers, and therefore has requested that the S.106 agreement includes a cascade system to secure an alternative form of affordable housing to include for example a change of affordable tenure to shared ownership; securing affordable rented units on an alternative site owned by the same developer elsewhere within the Borough; or a commuted sum in the event that a registered provider cannot deliver two affordable rented units on site.

Residential Amenity

- 9.17 DM14 of the Local Plan states that all developments should cause no significant harm to the amenities of surrounding uses or area. The detailed scheme for the new dwellings would be secured at the reserved matters stage and this will include the design, form and scale of the dwellings including details such as window/door placement and details of boundary treatments.
- 9.18 Whilst layout and design are matters for future consideration, the application shows an illustrative layout which maintains sufficient spacing between proposed dwellings and existing neighbouring properties. It is considered that the site can accommodate 20 dwellings without resulting in a significantly harmful impact upon existing neighbouring dwellings in terms of residential amenity. It should be noted that the separation distances between the proposed houses and those in Sanderling Way and to the west of the application site range between 15m to 20m which are considered to be sufficient distances to mitigate loss of light, outlook and privacy.
- 9.19 With regard to future residential amenity, the indicative plans show that the rear garden areas range between 55sqm to 108sqm and some are short of the 10m standard for rear gardens, however it is considered there will be sufficient external amenity space to serve future occupants.
- 9.20 Taking the above into account, it is considered that the development could be designed to avoid unacceptable impacts on neighbours, and comply with the above policies.

Ecology

- 9.21 Paragraph 174 of the NPPF 2018 advises that when determining planning applications, local planning authorities should aim to conserve and enhance biodiversity. It also advises that opportunities to incorporate biodiversity in and around developments should be encouraged. The application has been supported by an Ecological Assessment.
- 9.22 The assessment sets out that there are 2 ponds within 100m from the site boundary, located within the school grounds. A survey conducted by Indigo in 2014 found a medium population of Great Crested Newts present. It may be assumed that the site provides part of a route of connectivity between the 2 ponds within the school grounds and ponds to the north and east of Iwade Village. As a result, the proposed development may result in the loss of terrestrial habitat. To mitigate against the loss of terrestrial habitat, the southern boundary of parcel 1 (for residential development) is proposed to be enhanced to be suitable for GCN commuting. This involves the introduction of a raised bank in the rear gardens of the proposed dwellings planted with native species hedging. In addition to this, part of parcel 2 will be enhanced for the benefit of Great Crested Newts as set out in the submitted ecology report.
- 9.23 As set out in the consultation response KCC Ecology are satisfied the appropriate level of ecological survey work has been undertaken. KCC Ecology are satisfied with the outlined mitigation measures, and recommend conditions to secure the details of an Ecological Mitigation and Enhancement Strategy and Management Plan in relation to Great Crested Newts; external lighting in relation to bats as detailed within section 6.3 of the submitted Ecological Assessment; Hedgehog movement through the site; and ecological enhancements. As such, KCC Ecology raise no objection to the proposed development subject to requested conditions ecological enhancements which are included in conditions (nos. 14, 15, 16 and 17).

Drainage / Flood Risk

- 9.24 Kent County Council Drainage initially objected to the scheme because of insufficient details within the submitted Drainage Impact Statement relating to drainage discharge rates. Two subsequent revised drainage impact statements have been submitted, and following receipt of the further information KCC Drainage outlined they raised no objection to the outline application subject to further details sought via condition. These conditions include the provision of a finalised layout to ensure the requirements for surface water drainage can be accommodated within the development site; submission of a surface water drainage scheme; and verification report pertaining to the surface water drainage system. Therefore it is considered the proposed development would comply with policy DM21 of Bearing Fruits 2031: The Swale Borough Local Plan 2017 and paragraph 165 of the NPPF.

Archaeology

- 9.25 Iwade is generally archaeologically sensitive with remains of prehistoric, Roman, Saxon and medieval date having been found during development works in and surrounding the village. With respect to the main site area this was covered by archaeological evaluation as part of the Iwade VI development and no archaeological remains were

identified. The smaller site has not been evaluated in the past and lies closer to the church and the significant Iwade III development that found a focus of medieval activity is in this area. KCC Archaeology have advised a condition relating to the implementation of a programme of archaeological work and this is included at condition (12).

Landscaping / Trees / Greenspaces

- 9.26 Landscaping is a reserved matter. An Arboricultural Impact Assessment and Arboricultural Constraints Report has been carried out on the application site to assess the quality and value of trees and other significant vegetation, the impact of the development and measures to mitigate against any negative impacts resulting from the development. Within the existing application sites there is low quality of tree stock as described within the submitted arboricultural impact assessment by The Urban Forest Consultancy. As such and in consultation with the Council's Tree Consultant, there are no arboricultural reasons to refuse the outline consent. The Tree Consultant has advised that with any future detailed application, the Council would expect suitable conditions attached for landscaping together with the submission of an arboricultural method statement.
- 9.27 The amount of development, 20 residential units, is normally the threshold for triggering the provision of open space. While no specific open space provision is included in the proposed outline development there are existing facilities and further planned facilities within easy walking distance of the proposal. These include open space, play facilities, sports pitches and allotments and as such it is difficult to justify any requirement to supply what would be in scale, a relatively small additional open space. However, a contribution of £446 per dwelling (Open Spaces & Play Strategy 2018-2022) is sought towards enhancing / increasing capacity of the off-site existing play / fitness provision in the village.

S106 and Developer Contributions

- 9.28 The following developer contributions are required:

Primary Education - £66,480 (£3,324 x 20 dwellings)

Secondary Education - £82,300 (£4,115 x 20 dwellings)

Libraries - £2,166.40 (£108.32 x 20 dwellings)

Swale CCG (NHS) - £17,280

SPA Mitigation (SAMMS) - £4911.20 (£245.56 x 20 dwellings)

Wheelie bins - £2,066 (£103.30 x 20 dwellings)

Greenspaces - £8,920 (£446 per dwelling)

Off site highways works (A249/Grovehurst junction) - £53,140 (£2,657.00 per dwelling)

Administration / Monitoring fee - £5000 (which equates to just over 2% of the total value of the contributions)

Total: £242,263.60

- 9.29 The applicant has agreed to pay these contributions and it is considered that they meet the relevant tests for planning obligations. Furthermore, despite local concern regarding a lack of local infrastructure, no objections have been received from the relevant consultees on this basis.
- 9.30 It is also considered that a Section 106 Agreement is the best mechanism for addressing the SAMM contribution (of £245.56 per dwelling), the details of which are set out under the subheading 'The Conservation of Habitats and Species Regulations 2017

Sustainable Design and Construction

- 9.31 The Council has declared a Climate Change and Biodiversity Emergency, and this is a material planning consideration. Conditions have been incorporated to this outline application (nos. 21, 22 and 23) to ensure that the final development incorporates sustainable measures. In addition, if outline permission is granted, the subsequent reserved matters submission(s) will allow the Council to ensure the scheme is designed in a way that takes steps to minimise the environmental impacts.

The Conservation of Habitats and Species Regulations 2017

- 9.32 The application site is located within 6km of The Medway Estuary and Marshes Special Protection Area (SPA) and the Swale SPA which are European designated sites afforded protection under the Conservation of Habitats and Species Regulations 2017 as amended (the Habitat Regulations). SPAs are protected sites classified in accordance with Article 4 of the EC Birds Directive. They are classified for rare and vulnerable birds and for regularly occurring migratory species. Article 4(4) of the Birds Directive (2009/147/EC) requires Member States to take appropriate steps to avoid pollution or deterioration of habitats or any disturbances affecting the birds, in so far as these would be significant having regard to the objectives of this Article.
- 9.33 Residential development within 6km of any access point to the SPAs has the potential for negative impacts upon that protected area by virtue of increased public access and degradation of special features therein. The HRA carried out by the Council as part of the Local Plan process (at the publication stage in April 2015 and one at the Main Mods stage in June 2016) considered the imposition of a tariff system to mitigate impacts upon the SPA (£245.56 per dwelling as ultimately agreed by the North Kent Environmental Planning Group and Natural England) – these mitigation measures are considered to be ecologically sound.
- 9.34 However, the recent (April 2018) judgement (People Over Wind v Coillte Teoranta, ref. C-323/17) handed down by the Court of Justice of the European Union ruled that, when determining the impacts of a development on protected area, "it is not appropriate, at the screening stage, to take account of the measures intended to avoid or reduce the harmful effects of the plan or project on that site." The development therefore cannot be screened out of the need to provide an Appropriate Assessment (AA) solely on the basis of the agreed mitigation measures (SAMMS), and needs to progress to consideration under an AA.
- 9.35 In this regard, whilst there are likely to be impacts upon the SPAs arising from this development, the scale of development (20 dwellings within the built up area boundary with access to other recreation areas) and the mitigation measures to be implemented

within the SPA from collection of the standard SAMMS tariff I believe will ensure that these impacts will not be significant or long-term. However, in order to confirm this I have carried out an Appropriate Assessment and re-consulted with Natural England. The consultation response from Natural England (05/02/2020) outlines that they raise no objection to the Appropriate Assessment undertaken, subject to securing appropriate mitigation via the SAMMS payment. As set out, above, the applicant has agreed to pay the tariff and as such I therefore consider that, subject to mitigation, there will be no adverse effect on the integrity of the SPAs.

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

10. CONCLUSION

- 10.1 The application site is suitable for development and located within the built up area of Iwade, with good connectivity to local schools and shops, and the wider bus, road and rail network. KCC Highways have indicated that the scheme will have negligible impact on the highway network subject to the financial contribution sought towards off-site highway works at the A249/Grovehurst Junction. Whilst this is an application in outline only, an indicative layout and street scene has been prepared to demonstrate how the site can accommodate a sympathetically designed scheme that reflects the design characteristics of the local area and broadly complies with policy with regard to housing mix and affordable housing. Weight also needs to be given to the lack of a five-year housing land supply. As such, I consider that outline planning permission should be given subject to conditions set out below and the signing of a Section 106 agreement.

11. RECOMMENDATION

- 11.1 GRANT Subject to the following conditions and the signing of a suitably-worded Section 106 Agreement to secure the contributions as set out in Paragraphs 9.28 to 9.30 above, with authority to make minor amendments to the wording of conditions and the Section 106 clauses as required:

CONDITIONS:

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

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

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

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

3. The development to which this permission relates must be begun not later than the

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

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

4. The details submitted pursuant to condition (1) above shall show adequate land, reserved for the parking or garaging of cars (in accordance with the currently adopted Kent County Council Vehicle Parking Standards) which land shall be kept available for this purpose at all times and no permanent development, whether permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking or re-enacting that Order) or not shall be carried out on such land (other than the erection of a private garage or garages) or in a position as to preclude vehicular access thereto; such land and access thereto shall be provided prior to the occupation of the dwelling(s) hereby permitted.

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

5. No demolition, construction or ground works shall take place until an Arboricultural Method Statement in accordance with the current edition of BS: 5837 has been submitted to and approved in writing by the Local Planning Authority. The works shall be carried out in accordance with the approved details.

Reason: This information is required prior to the commencement of demolition, construction or ground works in order to protect existing trees.

6. The details submitted pursuant to condition (1) above shall include 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, the retention and reinforcement of vegetation along the southern and eastern boundaries of the site and an implementation programme. The works shall be carried out prior to the occupation of any part of the development or in accordance with the programme agreed in writing with the Local Planning Authority.

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

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 the details required by condition (1) shall demonstrate that requirements for surface water drainage for all rainfall durations and intensities up to and including the climate change adjusted critical 100 year storm can be accommodated within the proposed development layout.

Reason: To ensure the development is served by satisfactory arrangements for the disposal of surface water and that they are incorporated into the proposed layouts.

9. 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 principles contained within the Drainage Impact Statement and Design Philosophy (Reference 6960-D007, Revision P4) and shall demonstrate that the surface water generated by this development (for all rainfall durations and intensities up to and including the climate change adjusted critical 100 year storm) can be accommodated and disposed of without increase to flood risk on or off-site. The drainage scheme shall also demonstrate (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.

10. No building on any phase (or within an agreed implementation schedule) of the development hereby permitted shall be occupied until a Verification Report pertaining to the surface water drainage system, carried out by a suitably qualified professional, has been submitted to the Local Planning Authority which demonstrates the suitable 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; topographical survey of 'as constructed' features; and an operation and maintenance manual for 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 (July 2018).

11. Construction of the development shall not commence until details of the proposed means of foul sewerage disposal have been submitted to, and approved in writing by, the Local Planning Authority in consultation with Southern Water.

Reason: To ensure that foul water is adequately disposed of.

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

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

13. The details submitted pursuant to condition (1) above shall include details in the form of samples of external finishing materials to be used in the construction of the development hereby approved shall be submitted to and approved in writing by the Local Planning Authority and shall be implemented in accordance with the approved details.

Reason: In the interest of visual amenity.

14. No development shall take place until an Ecological Mitigation and Enhancement Strategy and Management Plan (EMES &MP) has been submitted to and approved in writing by the local planning authority.
The EMES & MP shall include the following:
- a) Purpose and conservation objectives for the proposed works.
 - b) Review of site potential and constraints.
 - c) Detailed design(s) and/or working method(s) to achieve stated objectives.
 - d) Extent and location/area of proposed works on appropriate scale maps and plans
 - e) Type and source of materials to be used where appropriate, e.g. native species of local provenance.
 - f) Timetable for implementation demonstrating that works are aligned with the proposed phasing of development.
 - g) Details of initial aftercare and long-term maintenance.
 - h) Details for monitoring and remedial measures.

The EMES & MP shall be implemented in accordance with the approved details and all features shall be retained in that manner thereafter.

Reason: In the interest of protecting ecology.

15. All external lighting shall be designed and installed in accordance with the details within section 6.3 of the Ecological Assessment (Bakerwell Ltd November 2018), as already submitted with the planning application and agreed in principle with the local planning authority prior to determination.

Reason: In the interests of protecting the local bat population.

16. To allow the movement of Hedgehogs through the development area, all ecological measures and/or works shall be carried out in accordance with the details within section 6.4 of the Ecological Assessment (Bakerwell Ltd. November 2018), as already submitted with the planning application and agreed in principle with the local planning authority prior to determination. Prior to the completion of the development hereby approved, details (including locations and specifications in accordance with section 6.4 of the Ecological Assessment dated November 2018) of the fence holes for hedgehogs shall be submitted to and approved in writing by the Local Planning Authority. The approved details will be implemented and thereafter retained.

Reason: In the interests of the local hedgehog population.

17. Prior to the commencement of any above ground works, a scheme for the enhancement of biodiversity on the site shall have been submitted to and approved in writing by the Local Planning Authority. These shall include the installation of bat and bird nesting boxes and the provision of native planting where possible, and incorporation of recommendations as detailed in section 7 of the Ecological Assessment (Bakerwell Ltd November 2018).
The approved details will be implemented and thereafter retained. The provision and installation of enhancements should take place within 6 months of the commencement of works, where appropriate.

Reason: To enhance biodiversity

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

The code shall include:

- Measures to minimise the production of dust on the site
- Measures to minimise the noise (including vibration) generated by the construction process to include the careful selection of plant and machinery and use of noise mitigation barrier(s)
- Design and provision of site hoardings
- The location and design of site office(s) and storage compounds

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

19. No other development shall take place until completion of the access in accordance with the details hereby approved, and the applicant has secured a Section 278 (or Section 38) agreement with the Highway Authority for Highway Works associated with the connection to the adopted Highway. All proposed highway works as shown in Drawing 1810028-03 Rev A will need to be delivered by the applicant via a Section 278/38 agreement with this authority prior to the use of the site commencing.

Reason: in the interests of highway safety.

20. No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:

- a) Routing of construction and delivery vehicles to / from site
- b) Parking and turning areas for construction and delivery vehicles and site personnel
- c) Timing of deliveries and HGV movements (it should be noted that these are likely to be restricted to outside school drop-off/pick-up times)
- d) Provision of wheel washing facilities
- e) Provision of measures to prevent the discharge of surface water onto the highway.
- f) Temporary traffic management / signage, and the location of temporary vehicle access points to the site

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

21. No development beyond the construction of foundations shall take place until details have been submitted to the Local Planning Authority and approved in writing, which set out what measures have been taken to ensure that the development incorporates sustainable construction techniques such as water conservation and recycling, renewable energy production including the inclusion of solar thermal or solar photo voltaic installations, and energy efficiency. Upon approval, the details shall be incorporated into the development in accordance with the approved details prior to the first use of any dwelling.

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

22. No development shall commence until details have been submitted to and approved in writing by the Local Planning Authority setting out and quantifying what measures, or offsetting schemes, are to be included in the development which will reduce the transport

related air pollution of the development during construction and when in occupation. The details shall include 1 electric vehicle charging point for each dwelling and no dwelling shall be occupied until the charging point for that dwelling has been installed.

Reason: To encourage the use of electric vehicles, in the interests of climate change and reducing pollution.

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

Reason: In the interests of water conservation and sustainability.

24. The details submitted pursuant to condition (1) above shall demonstrate how principles relating to minimising the opportunities for crime and anti-social behaviour have been incorporated in the layout, landscaping and building design.

Reason: In the interests of minimising the opportunities for crime and anti-social behaviour.

25. The details submitted pursuant to condition (1) above shall show dwellings extending to no more than 2.5 storeys in height.

Reason: In the interests of complementing the character and appearance of existing development in the vicinity of the site.

26. 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 0800 - 1800 hours, Saturdays 0800 - 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.

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

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

Reason: In the interests of residential amenity.

28. No development beyond the construction of foundations shall take place until details for the installation of fixed telecommunication infrastructure and High Speed Fibre Optic (minimal internal speed of 100mb) connections to multi point destinations and all buildings including residential shall be submitted to and approved in writing by the Local Planning Authority. The details shall provide sufficient capacity, including duct sizing to cater for all future phases of the development with sufficient flexibility to meet the needs of existing and future residents. The agreed details shall be laid out at the same time as other services during the construction process.

Reason: To secure high quality communications infrastructure.

INFORMATIVES

Highways

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.

Planning permission does not convey any approval for construction of the required vehicular crossing, or any other works within the highway for which a statutory licence must be obtained. Applicants should contact Kent County Council - Highways and Transportation (web: www.kent.gov.uk/roads_and_transport.aspx or telephone: 03000 418181) in order to obtain the necessary Application Pack.

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.

Southern Water

A formal application for connection to the public sewerage system is required in order to service this development. Please read Southern Waters New Connections Services Charging Arrangements documents which has now been published and is available to read on the website via the following link <https://beta.southernwater.co.uk/infrastructure-charges>.

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

Public Rights of Way

Public footpath ZR91 passes over the proposed vehicular access to the site. Please note that no furniture may be erected on or across Public Rights of Way without the express consent of the Highway Authority. Furthermore, there must be no disturbance of the surface of the right of way, or obstruction of its use, either during or following any approved development.

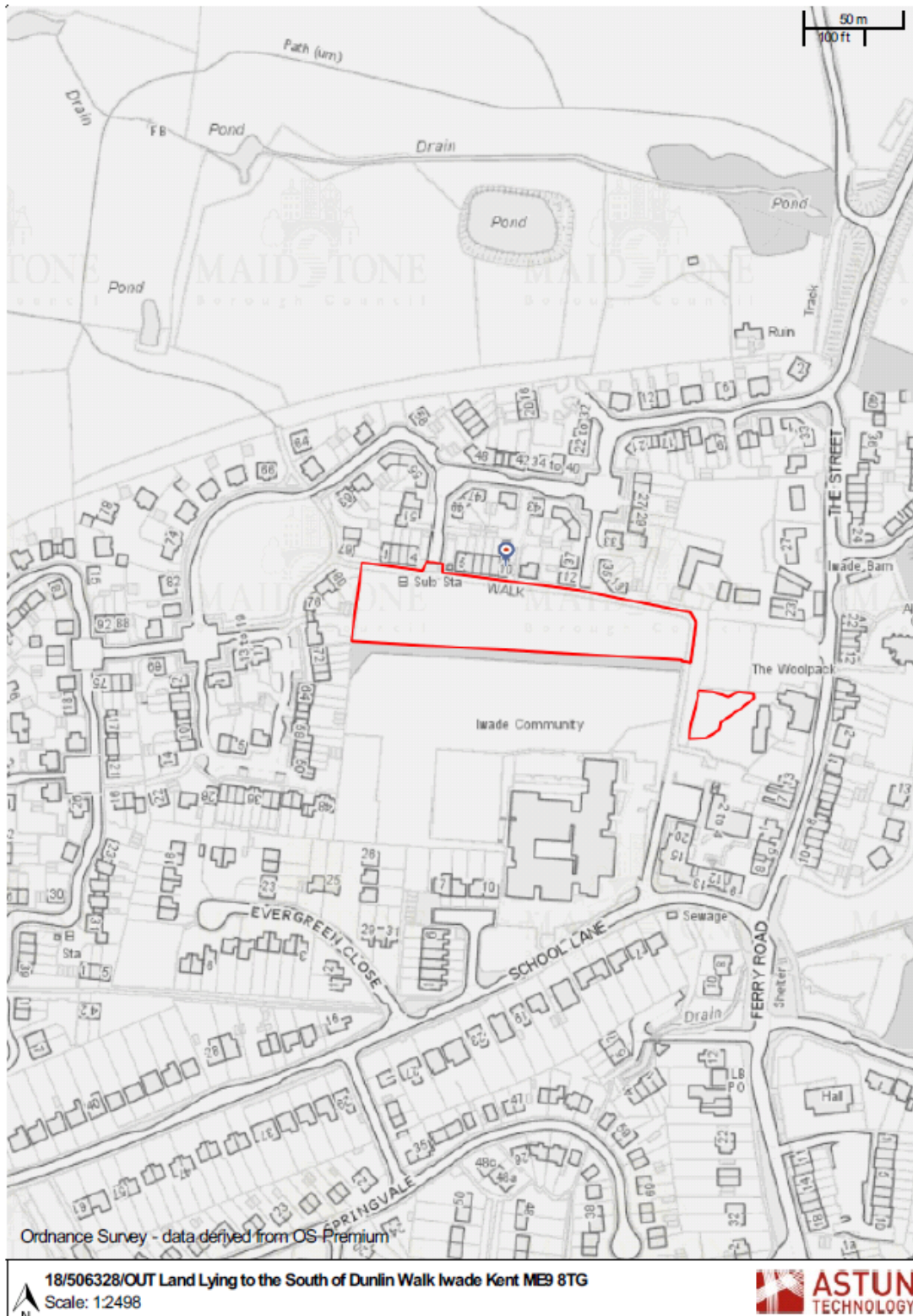
The Council's approach to the application

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.

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

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

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



| | | |
|---|--|--|
| 2.2 REFERENCE NO - 19/504059/FULL | | |
| APPLICATION PROPOSAL Installation of six modular prefabricated 1100 litre bin-stores to the front of Wentworth House (retrospective). | | |
| ADDRESS Wentworth House Wentworth Drive Sittingbourne Kent ME10 1TU | | |
| RECOMMENDATION GRANT | | |
| SUMMARY OF REASONS FOR RECOMMENDATION The proposal will not give rise to unacceptable harm to visual or residential amenities and it is considered that highway safety is maintained. | | |
| REASON FOR REFERRAL TO COMMITTEE Called in by Councillor Baldock. | | |
| WARD Borden And Grove Park | PARISH/TOWN COUNCIL | APPLICANT Mr Shaun Morris AGENT |
| DECISION DUE DATE 06/12/19 | PUBLICITY EXPIRY DATE 04/02/20 | |

Planning History

1. DESCRIPTION OF SITE

- 1.1 The application site consist of a block of flats known as Wentworth House and the surrounding amenity, car parking and landscaping area associated with the flats. The site lies within the built up area boundary in a predominantly residential area.
- 1.2 The flats are located on a corner plot between Wentworth Drive and Kenilworth Court. The flats front onto Wentworth Drive but the parking court to the rear is accessed from Kenilworth Court.
- 1.3 The flats themselves are prominent in the streetscene being of 4 storeys in height and of grey brick. The majority of dwellings in the streetscene are of semi detached two storey or bungalow design with red brickwork. There is an expanse of grassed landscaping which extends along Wentworth Drive and also, at the junction, along Kenilworth Court. There are two established trees on the site.

2. PROPOSAL

- 2.1 This application seeks retrospective planning permission for the erection of 6no. bin stores to the north east side of Wentworth House.
- 2.2 The bin stores measure 1.8m in height, 6.2m in length, and 1.4m in depth.
- 2.3 The bin stores would be constructed of galvanised steel and stained wood. They would be used as general waste and recycling for the residents of Wentworth House.

3. PLANNING CONSTRAINTS

- 3.1 Environment Agency Flood Zone 2

3.2 Environment Agency Flood Zone 3

4. POLICY AND CONSIDERATIONS

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

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

5. LOCAL REPRESENTATIONS

5.1 A site notice was posted adjacent to the site and has since expired.

5.2 6 comments objecting to the proposal were received from local residents. These are summarised below:

- Visually intrusive
- Outside of building line of Wentworth House
- Devalues properties in the area
- Invitation for graffiti
- dog owners are depositing waste
- Drivers vision on approach to junction of Wentworth Drive from Kenilworth Court restricted
- installations are an eyesore
- Why weren't more local residents notified of this right to comment?
- location of the bin store is not very convenient to Wentworth House residents
- Rubbish being stored at the front of properties lowers the standards of the area
- Have not been emptied regularly and on occasion smell.

5.3 A second consultation was sent out on receipt of amended plans and 1 further objection was received. This objection stated that previous comments made still in relation to the bins stand.

5.4 1 comment offering support was received from a local resident. This is summarised below:

- Perfectly happy with dustbins.

5.5 Councillor Baldock asked for the application to be called into committee should Officers be minded to recommend approval. Stating: “I believe locating the bins in this location would be an intrusive detriment to the local amenity value of local residents.”

6. CONSULTATIONS

6.1 KCC Highways: falls outside the remit for KCC to comment.

7. BACKGROUND PAPERS AND PLANS

7.1 Application papers and drawings referring to application reference 19/504059/FULL.

8. APPRAISAL

8.1 Members should bear in mind, as set out above, that bins could be stored in this location without the need for planning permission. Members must therefore restrict their

consideration of the application to the impact of the bin store itself only, and not any issues relating to bins per se being located here.

Visual Impact

- 8.2 The bin stores are located to the north side of Wentworth House and are visible from both Kenilworth Court and Wentworth Drive. It is noted that the bin stores do not correspond to the building line on Kenilworth Court however given the low rise and relatively small scale of the bin stores it is not considered that a harmful loss of openness will occur as a result of their positioning.
- 8.3 There are no similar structures located within the immediate streetscene however when considered in relation to the 4no. storey block of flats it is not considered that the bin stores will represent a harmful incongruous feature in the streetscene. Whilst the design of the bin stores is of little architectural merit, it is not considered that the bin stores would appear overly prominent and it is considered that the overall harm on visual amenity is limited. The bin stores are designed to serve a practical purpose and would in my opinion appear to create a tidier visual appearance than the siting of bins on their own in this location.
- 8.4 Only a small section of soft landscaping will be lost as a result of this proposal. It is not considered that the overall visual appearance of the site will be greatly altered as the soft landscaping still extends along Wentworth Drive and Kenilworth Court.

Residential Amenity

- 8.5 The bin stores are of small scale and are sufficiently far away from any residential dwelling. In terms of odour, as set out above, bins could be sited here without the need for planning permission and it seems likely to me that the provision of a store would reduce any impact from odour in comparison to bins simply being placed here.
- 8.6 It is therefore not considered that there would be a significant impact on residential amenity.

Highways

- 8.7 This application lies outside the remit for KCC Highways to offer comments on, however it is noted that the bin stores would be located approximately 19m from the junction of Wentworth Drive and Kenilworth Court. It is therefore not considered that the bin store will cause any safety concerns at this junction. It is accepted that there will be some loss of visibility when entering and exiting the car parking court to the rear but it is not considered that this will be significant as views heading from Kenilworth Court to Wentworth Drive will remain unobscured. In addition to this the speed of vehicle movements associated with this parking court are expected to be low and it is therefore not considered likely that the siting of the bin stores in this location will cause any detriment to Highways safety.

Other Matters

- 8.8 The majority of comments received from local residents have been addressed above, however some of the comments raised do not constitute planning considerations and therefore cannot be taken into account. These include issues relating to house devaluation, misuse of the bins, inviting graffiti and lack of regular emptying. One

resident raised concerns that not all neighbours had been notified of the development. All adjoining neighbours were written to and a site notice was also posted at the site in accordance with the Council's process for notifying residents of planning applications.

9. CONCLUSION

- 9.1 Taking into account all of the above, I consider the proposal will not give rise to unacceptable harm to visual or residential amenities and consider that highway safety is maintained.

10. RECOMMENDATION

GRANT Subject to the following conditions:

CONDITIONS to include

None.

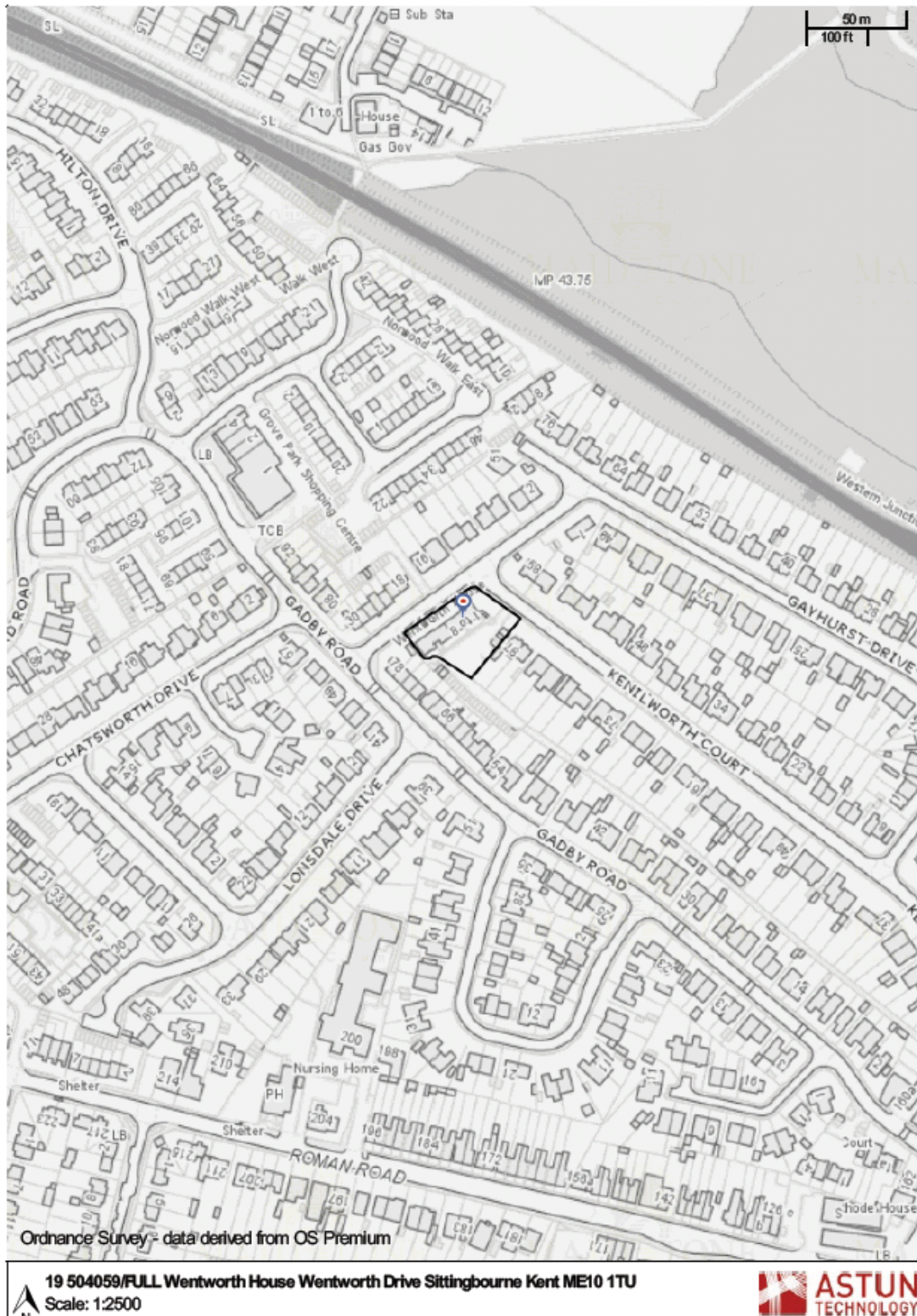
The Council's approach to the application

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.

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

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

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



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|---|--|--|
| 2.3 REFERENCE NO - 19/506038/REM | | |
| APPLICATION PROPOSAL Reserved matters of access, appearance, landscaping, layout and scale, including external lighting and pedestrian crossing following an outline application 18/500041/OUT for erection of a new Community Hall, outside recreational facilities and car parking. | | |
| ADDRESS Land Fronting Painters Forstal Road Ospringe Kent ME13 0EG | | |
| RECOMMENDATION - Grant | | |
| REASON FOR REFERRAL TO COMMITTEE Contrary representations from Ospringe Parish Council | | |
| WARD East Downs | PARISH/TOWN COUNCIL Ospringe | APPLICANT Painters Forstal Community Association AGENT Red House Design |
| DECISION DUE DATE 12/02/20 | PUBLICITY EXPIRY DATE 23/01/20 | |

Planning History

18/500041/OUT

Outline application for the erection of a new Community Hall, outside recreational facilities and car parking (All Matters Reserved).

Approved Decision Date: 17.04.2018

SEE COPY OF DECISION NOTICE AT APPENDIX 1

1. DESCRIPTION OF SITE

- 1.01 The site is an open roadside field situated just to the north of the centre of Painters Forstal. There is an existing access in the form of a five bar gate already in situ. To the north is an existing dwelling at Pawley Farm; to the south are some residential dwellings separated by a small area of open field; to the east, across the road, are a number of residential properties situated in 'Cades Orchard'; whilst there are open fields to the west. The land is approximately 0.5m higher than that at Pawley Farm, which is a matter to be referred to later in this report
- 1.02 The site is situated just outside the Local Plan defined built up area boundary of Painters Forstal, and within the Kent Downs Area of Outstanding Natural Beauty (AONB).
- 1.03 In 2018 outline planning permission with all matters reserved was granted under planning reference 18/500041/OUT for a new community hall, outside recreational facilities and car parking on this site. This permission includes conditions relating to the need for a 5m landscaped buffer along the boundary with Pawley Farm, control of external lighting, the need for a Construction Method Statement, hours of construction, hours of use, parking, cycle parking, sightlines and a pedestrian crossing. A copy of the decision notice is at Appendix 1 to this item, where these conditions can be seen in full. They all continue to apply to this development and those that control hours of construction and hours of use etc. do not need repeating at this reserved matters stage.

2 PROPOSAL

- 2.01 The current application is a reserved matters application for the detailed layout and design of the community hall and site. The principle of this development on the site has already been established by the outline permission, and it is simply issues of access, appearance, landscaping, layout and scale that are to be determined under the current application.
- 2.02 The community hall itself is shown as a low-level timber clad (using locally sourced sweet chestnut) single-storey building of contemporary design and appearance featuring dark grey aluminium windows under a flat roof . It would have a footprint of 20.5m by 12.8m (with a further 3 to 4m overhang on the southern and eastern sides) to include the main hall, a kitchen, store and plant rooms, a lobby/drop in room, and toilets. The roof height would be 3.8m.
- 2.03 The building would be situated approximately 6.3m from the north-eastern boundary with Pawley Farm and approximately 12m further back from the rear of that property with a parking area for twelve cars to the front. An overflow parking area for 17 cars is shown at the southern end of the site. Covered cycle parking also shown under the buildings overhang, together with two electric vehicle charging points.
- 2.04 The north west corner of the site leaves a gap between the end of the building and the boundary, in case any future extension to the building is needed. However, such an extension is not part of the present application.
- 2.05 The building is orientated to face the south west, with a large expanse of grass to the south west, which will include a wildlife garden in the southwestern corner of the site. There would be large glass folding doors facing this area.
- 2.06 The application is accompanied by a Design, Access and Planning Statement; full plans and perspective visual drawings; a landscaping plan; and a Construction Management Plan (see Appendix B of the Design and Planning Statement).
- 2.07 The landscaping plan shows, amongst other features, a 5m planted buffer zone along the boundary with Pawley Farm as required by the outline planning permission.
- 2.08 The Planning statement includes the following information:

'The building has been located as far away from Pawley farmhouse as possible to address the concerns raised by the residents at outline application stage. No part of the proposed building adjoins the farmhouse and, as conditioned by the outline consent (and explained in the officer's report on the outline application), residential amenity will be protected by the provision of a 5m planted landscape buffer. In addition to this, the low-rise design of the building seeks to address the concerns previously raised about overshadowing, overlooking and loss of privacy.

Concerns were also raised about noise and light pollution. Noise arising from the use of the hall will be controlled in accordance with the normal standards and by the hours of operation attached by condition to the outline consent. It is also the case that the building will have a high level of insulation. Also, within the building the hall is located at the front, the furthest point away from the

farmhouse, and so any noise will be further contained by the store room and the kitchen/toilet area which are located to the rear of the building.

With regard to light pollution, the design does not include any proposed floodlighting or highlevel lighting, as explained elsewhere in this statement. Any spillage of lighting from within the building will be ameliorated by the overhanging canopy, though no lighting at all is proposed at the rear of the building.

The statement also refer to the inclusion of air source or ground source heat pumps, low energy LED lighting, electric vehicle charging points and rainwater harvesting for watering and maintenance purposes.

3 PLANNING CONSTRAINTS

3.01 Outside Established built-up area boundary

4 POLICY AND CONSIDERATIONS

4.01 Bearing Fruits 2031: The Swale Borough Local Plan 2017 policies ST7, CP4, CP5, CP6, DM14 and DM19.

5 LOCAL REPRESENTATIONS

5.01 The Faversham Society supports the application, noting that; *'This application should be SUPPORTED because it provides much needed amenity for the village and is a well-designed proposal'*.

5.02 The AKO Foundation (a registered charity and strong supporter of community action) has made two grants to the project and fully supports the new community hall. They say they *"believe that the design/plan proposed is a model of its type that can be copied by others across the country"*.

5.03 A member of the Faversham and Villages Refugee Solidarity Committee has written to support the application, seeing it as a potential meeting place, and welcoming the care taken to consider the environmental impact of the hall

5.04 A representation on behalf of the West Faversham Community Centre supports the application, them having offered advice to the project, and seeing a need for more such facilities with the extensive expansion of Faversham. They see the proposal as well thought out and designed with today's users in mind.

5.05 Four objections to the application have been received, all from the immediate neighbours at Pawley Farm and their relatives. The views contained therein are summarised as follows:

- We have no objection in principle to a village hall being built but we object to the position of the proposed hall within the site which is close to the only property adjoining the site

- *‘The proximity to our property and surrounding amenity areas would have a significant and harmful impact on our use and enjoyment of the same and in particular intrude greatly upon our privacy’*
- Views to the farthest side of our farm would be removed
- Negative impact on value of our property
- Noise and air pollution from adjacent parking area
- It would be more appropriate for the building and permanent car parking area to be located on the far side of the development area and primarily within the area currently identified as ‘Wildlife/Attenuation pond’
- We have undertaken to assist in costs for further drawings to move the building
- Site has a ground level two feet higher than our land so the whole building should be set down, wherever it is located
- Proposed buffer should be 7.5 metres at least
- Not clear on what the proposed buffer landscaping would consist of; we would be opposed to any trees here, especially malus species
- Is the scheme financially viable?
- Increase in traffic by users travelling from outside the village
- Loss of light
- The proposal would impact upon their right to the privacy and peaceful enjoyment of the neighbours’ home (with its windows facing the site) and garden
- Is the proposed parking sufficient?

5.06 I have also received 26 supporting representations, some from Faversham. Their contents may be summarised as follows:

- There is an obvious need for a central community place within the village
- This will reduce the need to travel to Faversham for many events and activities
- Well-thought out, careful low-rise design
- Site is well located and ideal for such a use
- Access is appropriately situated on the site
- Proposed cycle storage is useful
- Painters Forstal has no facilities; *‘a healthy village needs a place where folk can meet for mutual support, particularly the sick and elderly, there being a minimum of public transport available’*
- Will bring life back into the village

- No community hub since use of the Methodist Hall was lost in 2015
- *‘The proposed design, layout and positioning within the site will maximise use of solar benefits in relation to heating and lighting, and accordingly limit the energy use to operate and maintain the facility’*
- *‘Our communities around Painters Forstal have been identified as having significant degrees of both geographical and social isolation for many residents. There is a wealth of evidence from such projects which demonstrate increased social cohesion within communities, alongside resultant improvements in physical and mental health wellbeing of residents and other users of services operating from community halls’*
- A wide consultation exercise to assess local needs was undertaken
- Building is located at the highest point of the field for drainage issues, and to make the maximum potential for outdoor use whilst shielding the neighbouring property
- Will create jobs for local people
- Strong environmental elements to the proposal
- The direction of the plot means any noise will naturally be pushed away from nearby properties towards open fields
- It will not be over obtrusive to neighbours

6 CONSULTATIONS

6.01 Ospringe Parish Council has raised objection to the proposal. Their comments are given in full as follows:

‘The parish council considered this application at its meeting on 8 January. We had the benefit of hearing at some length from representatives of PFCA regarding the application, and also from a representative of the owners of Pawley Farm, being the adjoining property on the northern side. Our comments are as follows.

We commend the architect, and find the design of the hall and the other proposed facilities to be attractive and imaginative, whilst (according to the Design and Planning Statement (“D&PS”)) still taking heed of PFCA’s initial budgetary constraints.

While supportive of the application and the design proposals for the building, our most serious concern relates to the proposed position of the building on the site. Positioning the hall close to the northern boundary is likely to significantly adversely affect the amenity of the adjoining property Pawley Farm. Whilst we were told that the building had been moved modestly further to the north-west and a buffer zone of just in excess of 6m is planned between the rear of the building and the boundary to try and reduce its impact, our strong preference would be for the building and the hardstanding car park area to be moved elsewhere on the site where the overall impact would be reduced.

We have not seen a copy of the Ecological Survey referred to in the D&PS but understand from this and the PFCA representatives that only a badger latrine was found in the western corner of the site, and that it is likely that badgers forage and graze across the whole of the site and further afield. Provided the existence of the latrine does not preclude the western corner of the site being used for the building, we would welcome the applicants reconsidering the location of the building as well as the parking hardstanding. Whilst the western corner would be furthest from Pawley Farm, we considered that positioning the building more centrally north to south towards the rear (west) of the site could also still achieve the applicant's aims and provide a suitable setting for the building and the other facilities planned by PFCA as illustrated by the drawings.

Likewise, the effect on the amenity of Pawley Farm and its occupants of the proposed position of the hardstanding car parking close to the northern boundary concerned us, both as regards noise and fumes

Although not a material planning consideration, we saw a letter from the owners of Pawley Farm in which they offered a contribution to PFCA's costs of preparing revised plans. We are mindful of PFCA's finances and saw this as a means by which the alternative siting of the building and car parking could be investigated without possibly impinging on PFCA's resources, and we would very much welcome this being explored by PFCA and the owners of Pawley Farm.

If re-siting of the building to elsewhere on the plot is not considered necessary or desirable, then we would expect as much mitigation as possible of its impact on the adjoining property. Such measures could include – (1) moving the building further to the north-west and southwest away from the boundary, and extending the buffer zone; (2) conditioning that all windows on the northern elevation should be opaque and non-opening; (3) that no mechanical extraction should be sited in the northern elevation; (4) that the refuse bins be re-located away from the northern or eastern elevation; (5) that the skylights be non-opening and of a type to suppress noise transmission; (6) precluding the planting of trees in the buffer zone and instead providing for a hedge, with height being limited to a specified measurement to prevent overshadowing of the neighbour's property and garden.

We were also mindful that the ground levels of the plot are higher than the adjoining property. To reduce visual impact in all directions, we felt that ground levels should be reduced to those of the adjoining property coupled with a condition prescribing the maximum height of the roof above MSL or other identifiable yardstick.

We would also ask that the mix of hedging should not include malus.

The car parking concerns us. As well as the proposed location of the hardstanding (see above) we are concerned that sufficient onsite parking should be provided to prevent offsite parking in the vicinity and the village. Although we noted that the application provides for parking to KCC standards,

we would wish for additional spaces beyond those proposed to be earmarked to prevent offsite parking problems, with a condition that these be left available for use even if not formal hardstanding.

We considered the sustainability of the building and the comments in the D&PS. Whilst we welcomed the possible sustainability measures described in the Design and Planning statement which would contribute to the building of an environmentally sustainable community hall, we read them as aspirational rather than definite. Our experience suggests that some of the measures mentioned need to be incorporated or allowed for in the original design and construction stages rather than retro-fitted. We are also mindful of the cost implications to the project of implementing such measures, and if it were to be the case that incorporating the measures would make building of the hall financially unviable then we would accept that any unaffordable measures should be excluded. We would wish the applicants to incorporate as much sustainability as their budget allows.

Given problems elsewhere in the parish and nearby, we would ask that the construction management plan ensures provision for sufficient parking onsite for all vehicles including service and (sub)contractor traffic involved in the construction, and that there be a prescribed route for all vehicles coming to and leaving the site.'

- 6.02 The applicants have responded to these comments, and those expressed by the objectors, as follows:

'The Trustees of the Painters Forstal Community Association (PFCA) have reviewed the comments made on the above-mentioned application. We were pleased to note that by the deadline for comments (23 January) 32 comments of support and just one objection had been submitted. We note that Ospringe Parish Council state that they support the application, but wish to see a number of changes. We also note the comments made by KCC Highways, and these have been addressed in amended plans.

In this letter I provide PFCA's response to the changes sought by Ospringe Parish Council and by the objector, Mr & Mrs Macey, which are very similar. We note that since the deadline for comments three further objections have been submitted by other members of the Macey family, but these do not make any additional points.

Positioning of the Building

Both the Parish Council and Mr & Mrs Macey are concerned that the positioning of the building will impact on the amenity of the adjoining Pawley Farm (the home of the objector). They both wish to see the building and the car parking moved to the other side of the site.

PFCA does not consider that the building will have the impacts claimed, and its' relocation would require a complete redesign of the building and of the layout of the whole site. The building has been specifically designed for this

location, which we believe is the most sustainable and beneficial. Condition (4) of the outline planning consent (18/500041/OUT) addresses the issue of impact on the residential amenity of Pawley Farm by requiring the provision of a “landscaped buffer area not less than 5m in width along the entire northern boundary of the site”. We have complied fully with this condition; in fact the building is set 6.35m away from the boundary with Pawley Farm, rather than the minimum 5m required. Furthermore, after discussion with the objector prior to submission, we moved the building a further 5.5m away from Pawley Farm than originally proposed, by moving it as far as possible into the northern corner of the site.

In addition, in designing the building we have been mindful of potential impact on the residents. The building is compact in form, modest in size and single storey with a flat roof. This means that its physical presence is much less than it could have been; certainly less than a traditional pitched roof style village hall and the nearby farm outbuildings. Also, the building has been designed so that any noise arising from the main hall will be further ‘buffered’ from Pawley Farm by the store room and service rooms. The building will be insulated and the appropriate noise standards will need to be adhered to. The operational hours are already the subject of a condition attached to the outline consent. Furthermore, with the building facing to the south-west, away from the farm, rather than to south-east, the activities in the hall will not be visible from the farm and there will be no overlooking. There will be also be no floodlighting.

Further Mitigation

Should their suggestion to re-locate the building not be accepted, the Parish Council and Mr & Mrs Macey seek further mitigation to the building as proposed. To this end they make the following suggestions, to which I set out PFCA’s response:

1. Move the building further to the north-west and south-west away from the boundary, and extend the buffer zone.

PFCA response: It is not possible to move the building any further to the north-west without removing the possibility of an extension to the hall. By moving the building further to the south-west, and thus extending the buffer even further, will mean that it will be more isolated in its position on the site, and thus become intrusive in views. As proposed, the building will be seen as part of the cluster of farm buildings in views from Painters Forstal Road, which we believe is a point of good planning practice.

2. Conditioning that all windows on the northern elevation should be opaque and non-opening.

PFCA response: We are content to accept this as a condition.

3. That no mechanical extraction should be sited in the northern elevation.

PFCA response: As far as possible any mechanical extraction will be placed on the roof of the building. However, it would be unreasonable to exclude all mechanical extraction from the northern elevation of the building as there would be no impact on residential amenity by having extractors along the far end of this side of the building opposite the farm outbuildings.

4. That the refuse bins be re-located away from the northern or eastern elevations.

PFCA response: We are content to accept this as a condition.

5. That the skylights be non-opening and of a type to suppress noise transmission.

PFCA response: We are content to accept that the skylights (light cannons) are non-opening. Together with other measures incorporated into the design this will be more than sufficient to suppress any noise.

6. Preclude the planting of trees in the buffer and instead providing a hedge with height limited to a specified measurement to prevent overshadowing of the neighbour's property and garden.

PFCA response: We are content to accept this as a condition if it is not considered that it would undermine the purpose of the buffer. However, we believe that the protection of residential amenity will be best served by higher planting rather than restricting height.

7. To reduce visual impact in all directions, ground levels should be reduced to those of the adjoining property coupled with a condition prescribing the maximum height of the roof.

PFCA response: The building has been designed so that it is low lying and will not be intrusive in views and so we consider that it is unreasonable to reduce ground levels to the extent suggested and to impose a maximum height of the roof. The part of the site where the building is proposed is slightly higher than the rest of the site so it will be necessary to reduce the ground level to create a level platform for construction.

8. That the mix of hedging should not include malus.

PFCA response: We are content to accept this as a condition.

Other Points

The Parish Council and Mr & Mrs Macey make some further points, as follows:

1. The provision of car parking: Concerns are raised about the prospect of off-site car parking, and the Parish Council considers that additional permanent spaces should be provided on-site.

PFCA response: The proposal meets car parking standards and KCC Highways raise no objection to either the amount of the car parking or its proposed siting and layout. It would be unreasonable therefore for additional permanent parking provision to be required. PFCA share the concerns about potential off-site parking issues and to address this the proposal allows for significant overflow car parking when needed.

2. Sustainability: Whilst welcoming the proposed sustainability measures described in the Design and Planning Statement, the Parish Council see them as aspirational rather than definite. They ask that the applicant incorporates as much sustainability as their budget allows.

PFCA response: It is unclear what the Parish Council is asking the local planning authority to do in this regard. It is the stated intention of PFCA to provide a building that is sustainable, both in its construction and in its use of energy, natural light and other resources as we explain in detail in the Design and Planning Statement. This is not just an aspiration, but a key objective of the development. This will, of course, in part be achieved by its proposed location where maximum solar gain can be achieved, which would not be achievable by a relocation to the western corner of the site as the Parish Council and objector seek.

3. Construction Management Plan: The Parish Council ask that the construction management plan provides sufficient parking onsite for all vehicles involved in the construction, and that there be a prescribed route for all vehicles coming to and leaving the site.

PFCA response: PFCA are happy to amend the construction management plan accordingly.

4. Viability: Mr and Mrs Macey express a concern as to the long term viability of the proposed new hall, suggesting that it could fail and not be self-funding.

PFCA response: This concern is unsubstantiated, and in any event has no bearing on the planning merits of our proposal.

Conclusion

Having reviewed the comments made by the Parish Council and Mr & Mrs Macey, we can see no valid planning reason why our application should be refused.

In preparing our proposals we have complied fully with all the conditions attached to the outline consent. We have designed a building that is modest in size and compact in its functionality, and sensitive to its location; it is not an imposing building and will be unobtrusive. We have given great thought to the positioning of the building in the site, and for the reasons explained in the Design and Planning Statement the location selected is the most sustainable and beneficial. Our plans have been the subject of extensive consultation with the community and have the full backing of residents. This is reflected in the 32

comments of support submitted to the application. The hall will provide a much needed community asset, and we hope very much that planning permission will be granted so that we can make it become a reality as speedily as possible.'

- 6.03 Kent Highways and Transportation (KHT) has confirmed that they are content with the position of the proposed site access and gates. However, KHT originally asked for clarification of parking space and visibility splay dimensions. The applicants have provided revised drawings showing adequate dimensioned parking spaces and visibility splays, and KHT raises no objection to the proposal.
- 6.04 The current KCC parking standard for village halls (using the standard applicable to a D2 Class Use) requires one parking space for every 22sqm of floorspace. This would equate to 12 spaces for this development and there are 12 (plus 17 overflow) spaces proposed. KHT has confirmed that the number of car and cycle parking spaces provided meets their standards and they welcome the electric vehicle charging points.
- 6.05 KHT has recommended certain conditions, and I have included those below where these are not already included on the outline permission.
- 6.06 The Council's Economy and Community Services Manager supports the application, saying:

Community/village halls with good quality internal and external facilities are the beating heart within communities and an integral part of the community infrastructure across Swale providing access to a range of services and facilities at a local level including developing community pride. Does the hall and ancillary facilities adequately reflect the green agenda with adequate provision made for use of renewable energy (solar panels), lock-up for cycles and electric vehicle charging points within the footprint? Happy to support the application.

7 APPRAISAL

- 7.01 The principal issues to consider in this case relate to the reserved matters proposed, not to the question of whether a village hall should be built here. As such matters of layout, scale, appearance, landscaping and access are to be considered.
- 7.02 I note the concerns raised by Ospringe PC, and those raised by the owners of the neighbouring Pawley Farm and their family. I do understand these concerns, and the Case Officer has met with the owners of Pawley Farm on-site to view the application site from their property. However, I note that the application places the proposed building more than the five metres away from the northern boundary required by condition (4) of the outline planning permission. I also note that to address the neighbours' concerns, the nearest elevation of the proposed building to the road would be set well behind the rear of Pawley Farm.
- 7.03 Furthermore, I note that the five metre landscaped buffer required by the outline planning permission is actually shown on the submitted drawings as being over six metres in width. I note that the neighbours and the Parish Council would like a condition on this vegetation to limit its height, and for malus (crab apple type) species not to be included. The applicants have agreed not to include malus in the planting, but they see

small trees as more likely to protect amenity than a low hedge, and I am inclined to agree with them. No coniferous species are planned and as such there should be no excessive shading of the neighbours' property from the planting.

- 7.04 The building has been orientated away from the neighbouring property so that most activity would be shielded by the building itself. The building itself is low-scale, with a roof height of only 3.8 metres and the difference in levels between the sites is small. The planted buffer will dilute any perceived difference in levels and I do not consider it reasonable (bearing in mind the additional costs that would be involved) to require the building to be dug into this relatively flat site. The applicants have indicated that they would be happy to have all windows on the northern elevation fixed and obscure glazed and I have recommended a condition requiring the kitchen window to be fixed. I do not see any need for this ground floor window to be obscure glazed as it faces onto farm buildings and will be screened by the 5m planted buffer. A small toilet window is also proposed on this side at the far end of the building and I see no objection to that being openable. As such, I do not believe that a significant erosion of the neighbours' privacy or amenity would occur, and times of use of the hall are already set out in the outline planning permission at condition (8) in Appendix 1.
- 7.05 Similarly with a car park for only twelve cars serving the front of the village hall, I do not believe that this will produce significant noise disturbance or pollution. I further note that the informal overflow car park is on the opposite side of the site, and bearing in mind its supposed occasional use, this will not impact upon the residential amenity of neighbours.
- 7.06 In relation to other matters raised by the Parish Council, specifically bin storage and routing of construction vehicles my view is that whilst the applicants may be prepared to accept restrictions here, the position of the bins is the only logical place for them, and that they will be unobtrusive and screened from the neighbours by the landscaped buffer zone; whilst construction traffic will be short-lived and that any vehicles involving delivery of locally sourced timber may need to use a variety of local routes that an arbitrary routing restriction may obstruct or result in longer journeys or other unintended consequences
- 7.07 I would contend that the design of the building is acceptable being of a contemporary design which is pleasing to the eye, with the use of sustainable locally sourced cladding materials it should fit in well within the AONB, and I would agree with the Parish Council that the architect is to be commended for his design.

8 CONCLUSION

- 8.01 In conclusion, though I note the concerns raised by the Parish Council and objectors, I would contend that many of these issues have been addressed by the orientation, design and scale of the building, and residential amenity can be further protected by the inclusion of the conditions below. On balance, I am of the opinion that the details proposed are acceptable with minimal erosion of residential amenity and, as such I recommend that the reserved matters should be approved.

9 RECOMMENDATION - GRANT Subject to the following conditions:

CONDITIONS

- (1) The kitchen windows in the northern (rear) elevation to the building shall at all times be obscure glazed to not less than the equivalent of Pilkington Glass Privacy Level 3 and be incapable of being opened.

Reason: To safeguard the amenities of neighbouring occupiers.

- (2) Prior to its installation, details of any mechanical ventilation system that is to be installed shall be submitted to and approved by the Local Planning Authority. Upon approval the system shall be installed, maintained and operated in a manner that prevents the transmission of odours, fumes, noise and vibration to neighbouring premises.

Reason: In the interests of residential amenity.

- (3) The scheme of tree planting and landscaping shown on approved drawing PFCH/2173/PD/04 F shall be carried out within 12 months of the occupation of the building. Any trees or shrubs removed, dying, being severely damaged or becoming seriously diseased within five years of planting shall be replaced with trees or shrubs of such size and species as may first be agreed in writing with the Local Planning Authority.

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

- (4) Prior to the use of the building commencing, the electric vehicle charging points shown on approved drawing PFCH/2173/PD/03 A shall be provided and made available for use by visitors to the site.

Reason: In the interests of encouraging sustainable modes of travel.

- (5) Any gates leading from the highway to the site shall open away from the highway and to be set back a minimum of 5.5 metres from the edge of the carriageway.

Reason: In the interests of highway safety and amenity.

- (6) Prior to the first use of the building the access arrangements shown on approved drawing PFCH/2173/PD/04 F shall be completed.

Reason: In the interests of highway safety and amenity.

- (7) The new access shall incorporate measures sufficient to prevent the discharge of surface water onto the highway.

Reason: In the interests of highway safety and amenity.

- (8) The visibility splays of 2.4 metres x 43 metres x 43 metres to both sides of the new access, and the blind spot visibility splay to the south (all as shown on approved drawing PFCH/2173/PD/04 F), shall be provided with no obstruction over 0.9 metres in height within the splays prior to first occupation of the building and these splays shall subsequently be kept clear of any such obstruction.

Reason: In the interests of highway safety and amenity.

Council's approach to the application

The Council recognises the advice in paragraph 38 of the National Planning Policy Framework (NPPF) February 2019 and seeks to work with applicants in a positive and proactive manner by offering a pre-application advice service; and seeking to find solutions to any obstacles to

approval of applications having due regard to the responses to consultation, where it can reasonably be expected that amendments to an application will result in an approval without resulting in a significant change to the nature of the application and the application can then be amended and determined in accordance with statutory timescales.

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

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



APPENDIX A

Ospringe Parish Council
 Little Palettes
 Painters Forstal
 Faversham
 Kent
 ME13 0DU



17 April 2018

PLANNING DECISION NOTICE

| | |
|-------------------------------|---|
| APPLICANT: | Ospringe Parish Council |
| DEVELOPMENT TYPE: | All other minor development |
| APPLICATION REFERENCE: | 18/500041/OUT |
| PROPOSAL: | Outline application for the erection of a new Community Hall, outside recreational facilities and car parking (All Matters Reserved). |
| ADDRESS: | Land Fronting Painters Forstal Road Ospringe Kent ME13 0EG |

The Council hereby **GRANTS** OUTLINE planning permission subject to the following Condition(s):

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

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

MKPS – Working in Partnership with: Swale Borough Council
 Please Note: All planning related correspondence for SBC should be sent to:
 Mid Kent Planning Support, Maidstone House, King Street, Maidstone ME15 6JQ
 Email: planningsupport@midkent.gov.uk
 Access planning services online at: www.swale.gov.uk or submit an application via
www.planningportal.gov.uk

APPENDIX A

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

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

- (3) The development to which this permission relates must be begun not later than the expiration of two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.

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

- (4) The details submitted in pursuance of condition (1) above shall show a landscaped buffer area not less than 5m in width along the entire northern boundary of the site in which no car parking, fencing or activity area is included.

Reason: In the interests of protecting the residential amenities of Pawley Farm.

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

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

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

APPENDIX A

(6) No development shall take place until a Construction Method Statement has been submitted to, and approved in writing by, the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:

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

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

(7) 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.

(8) The use of the premises hereby permitted shall be restricted to the hours of 7 am to 11 pm, Monday to Thursday, 7am to 11:30pm on Fridays, 7 am to 12 midnight on Saturdays, and 8:30am to 11pm on Sundays or Bank Holidays.

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

(9) No development beyond the construction of foundations shall take place until full details of the method of disposal of foul and surface waters have been submitted to and approved by the Local Planning Authority. The approved details shall be implemented before the first use of the development hereby permitted.

Reason: In order to prevent pollution of water supplies.

APPENDIX A

- (10) The details submitted pursuant to condition (1) above shall show adequate land reserved for the parking of vehicles (in accordance, where appropriate, with the currently adopted Kent County Council Vehicle parking standards for the particular development proposed) and upon approval of the details no permanent development, whether permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking or re-enacting that Order) or not, shall be carried out on the land so shown or in such a position as to preclude vehicular access to this reserved space; such land and access thereto shall be provided prior to the occupation of the building hereby permitted and shall be used for or be available for use for the parking of vehicles at all times when the premises are in use.

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

- (11) The details submitted in pursuance of condition (1) above shall include detailed drawings showing the proposed access and visibility splays of 2.4 metres x 43 metres x 43 metres, with no obstruction over 0.9 metres in height within the splays, and showing an access of at least 4.8 metres in width, shall be 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 and the visibility splays shall be provided clear of any obstruction over 0.9m in height prior to first occupation of the building and they shall subsequently be kept clear of any such obstruction..

Reason: In the interests of highway safety and convenience.

- (12) The details submitted in pursuance of condition (1) shall include drawings showing the provision of covered and secure cycle parking facilities for users of the community facility. When approved, such facilities shall then be provided in complete accordance with the approved details.

Reason: In the interests of highway safety and convenience.

- (13) The building hereby permitted shall not be first used until an uncontrolled pedestrian crossing area across Painters Forstal Road consisting of dropped kerbs and tactile paving has been installed in accordance with details which have first have been submitted to and approved by the Local Planning Authority.

Reason: In the interests of highways safety and convenience.

Please note you must comply with all the conditions attached to this permission. Otherwise the permission may not be valid and any development may be unauthorised.

APPENDIX A

The Council's approach to this application:

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



James Freeman
Head of Planning Services
Swale Borough Council

IMPORTANT - YOUR ATTENTION IS DRAWN TO THE ATTACHED NOTES

APPENDIX A**NOTIFICATION TO APPLICANT FOLLOWING REFUSAL OF PERMISSION OR GRANT OF PERMISSION SUBJECT TO CONDITIONS**

This decision does not give approval or consent that may be required under any act, bylaw, order or regulation other than Section 57 of the Town and Country Planning Act 1990.

Appeals to the Secretary of State

If you are aggrieved by the decision of your local planning authority (LPA) to refuse permission for the proposed development, or to grant it subject to Conditions, then you can appeal to the Secretary of State (SoS) under Section 78 of the Town and Country Planning Act 1990. Please see "Development Type" on page 1 of the decision notice to identify which type of appeal is relevant.

- If this is a decision on a planning application relating to the same or substantially the same land and development as is already the subject of an enforcement notice and if you want to appeal against the LPA's decision on your application, then you must do so within **28 days** of the date of this notice.
- If an enforcement notice is served relating to the same or substantially the same land and development as in your application and if you want to appeal against the LPA's decision on your application, then you must do so within **28 days** of the date of service of the enforcement notice, or within **6 months [12 weeks in the case of a householder or minor commercial application decision]** of the date of this notice, whichever period expires earlier.
- If this is a decision to refuse planning permission for a **Householder** application or a **Minor Commercial** application and you want to appeal the LPA's decision, or any of the conditions imposed, then you must do so within **12 weeks** of the date of this notice.
- In all other cases, you will need to submit your appeal against the LPA's decision, or any of the conditions imposed, within **6 months** of the date of this notice.

Appeals must be made using a form which you can get from the Secretary of State at Temple Quay House, 2 The Square, Temple Quay, Bristol BS1 6PN or online at www.planningportal.gov.uk/pcs.

The SoS can allow a longer period for giving notice of an appeal but will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.

The SoS need not consider an appeal if it seems to the SoS that the LPA could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order.

| | | | |
|--|--|--|--------------------------|
| 2.4 REFERENCE NO - 19/500768/FULL | | | |
| APPLICATION PROPOSAL | | | |
| During the winter months, the stationing, unoccupied, of 1 welfare unit and 15 mobile homes used residentially in the preceding agricultural season to accommodate seasonal workers at Owens Court Farm, as shown on drawing 22259/56/200219V2 (Revised) | | | |
| ADDRESS Owens Court Farm Owens Court Road Selling Faversham Kent ME13 9QN | | | |
| RECOMMENDATION - Grant | | | |
| REASON FOR REFERRAL TO COMMITTEE | | | |
| Called in by Ward Councillor Tim Valentine | | | |
| WARD Boughton And Courtenay | PARISH/TOWN COUNCIL Selling | APPLICANT F W Mansfield & Son AGENT Hobbs Parker Property Consultants | |
| DECISION DUE DATE 18/04/19 | PUBLICITY EXPIRY DATE 08/04/19 | | |
| RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites): | | | |
| App No | Proposal | Decision | Date |
| 16/504494/FULL | Planning permission for erection of cold store | Refused, Appeal allowed | 21/09/2016 29/03/2017 |
| 15/505166/AGRREQ | Prior approval for erection of cold store | Planning permission required | 27/07/2015 |
| 15/503788/AGRIC | Prior notification for erection of cold store | Prior approval required | 27/05/2015 |

1.0 DESCRIPTION OF SITE

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

- 1.03 Of some relevance is that a full planning application for a fairly small new cold store building on the site was refused by the Planning Committee, contrary to officer recommendation, and a refusal notice issued on 21st September 2016. At the subsequent appeal, planning permission was granted and costs were awarded against the Council. The conditions applied by the Inspector have been complied with, and the building is now nearing completion. The position of the current application site is immediately adjacent to this new building and the building would partially screen the site from the road, limiting its visual impact as, from other directions, the site is surrounded by orchards.

2.0 PROPOSAL

- 2.01 The original description of the current application was ***‘Provision of seasonal workers caravans, welfare unit and winter storage’***, and it was this description that the first round of local consultations was based on. However, the stationing of the caravans and welfare unit on agricultural land for use by seasonal workers engaged on the farm during the agricultural season would constitute permitted development. The welfare unit is essentially another caravan. As such, the application was actually seeking planning permission for use of the land to store these caravans in situ over winter, to save the applicant having to take all the caravans off site and storing them elsewhere. Accordingly, the description was then amended to ***‘Winter storage of seasonal workers caravans and welfare unit’***. However, concern was raised locally with regard to this description, and the description was again amended to the latest final version which reads as follows: ***‘During the winter months, the stationing, unoccupied, of 1 welfare unit and 15 mobile homes used residentially in the preceding agricultural season to accommodate seasonal workers at Owens Court Farm, as shown on drawing 22259/56/200219V2 (Revised)’***.
- 2.02 There has also been a change to the proposed layout of the caravans. The original proposed layout showed fifteen caravans situated approximately fifty metres from the boundary with Owens Court Cottages and seventy five metres from Owens Court Road. The caravans were to be placed parallel to the road in five rows of three, and the welfare unit would have been placed behind the caravans, furthest away from the road. The southern two rows of caravans would have been obscured from the road by the new cold store, and it was proposed to plant a screen hedge between the caravans and Owens Court Cottages, to mitigate any further visual impact.
- 2.03 The layout has since been changed (December 2019) in accordance with a preferred layout suggested by a number of local residents. This more compact amended layout turns the caravans end on to the road meaning that they are less prominent and that three rows of caravans are now set behind the new building, which reduces the degree to which the overall group of caravans is visible. Additional screen hedging is also included in the amended layout, and this new layout has been the subject of local re-consultations.
- 2.04 A Planning Statement was submitted with the application, and despite the amendments to the site layout this statement remains unchanged. It includes the following description of the development:

‘The farm needs to accommodate 40 seasonal cherry workers to work in the cherry production and harvest at this site. Due to controls governing accommodation for seasonal workers, the farm must provide suitable accommodation and is restricted on the number of workers per caravan. This therefore results in requirement for the provision of 15 caravans, which the farm intend to provide as three rows of 5 caravans to group them in the best arrangement.

The farm currently buses in workers, on a daily basis, during the cherry season from other locations. This results in a financial cost to the business from the provision of transport and a cost to the environment, from a large number of daily trips to and from the farm to a variety of off-site accommodations. With the seasonal workers accommodated on site, a high level of traffic movements to and from the site can be removed, reducing traffic movements within the area. Accommodation on site also has the additional benefit of ensuring staff are available on site to address any issues that may arise with the crop.

The communal building is to be located close to the proposed caravans, for use as a communal area to serve the seasonal workers.

Whilst there is excellent local screening to the road network, the site is currently visible from the rear of properties at Owen’s Court Cottages. In view of this, it is proposed to plant a screen hedge between the caravans and Owens Court Cottages, to mitigate any visual impact.’

3.0 PLANNING CONSTRAINTS

3.01 Outside established built up area boundaries

3.02 Adjacent to (but not within) AONB

4.0 POLICY AND OTHER CONSIDERATIONS

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

5.0 LOCAL REPRESENTATIONS

5.01 Twenty-three emails and letters of objection were received from local residents prior to the amended site layout being received. The comments contained therein may be summarised as follows:

- *‘Storage of caravans is in itself not agricultural and therefore shouldn't be allowed. This is the countryside and storage is only related to farming and agriculture when seasonal agricultural workers are being housed on the land. When the workers go*

home at the end of the season it then becomes storage of caravans in the countryside and this is unacceptable.'

- Many workers will have their own cars, so traffic will increase
- No parking facilities
- Poor/non-existent public transport links
- No proven agricultural need
- Noise and pollution during occupation
- Harm to visual amenity and the AONB
- Owens Court farm is a small farm consisting of only 65 acres of cherries and 15 caravans to house farm workers on this site seems excessive
- Existing deciduous hedging would not screen the site during the winter months
- *'Mr Mansfield has a reputation of providing substandard accommodation for workers on his farms, and for subletting caravans to other farms to supplement income.'*
- Vehicular access will directly effect us
- *'Why is the site to be operational from March to September when the picking season only extends from June through July? It is my understanding that poly-tunnel erection and maintenance work, pruning etc. on Owens Court Farm undertaken by a number of UK based companies and is not performed by the European workforce described Section 6.3 in the application. Why do the caravans need to be permanent if only 6 week occupancy is required?'*
- This area of the site is prone to flooding
- No mention of the type of hardstanding for the site is given
- Owens Court Road is very narrow
- There are other sites better suited to serving the workers
- Employees can be shipped in as last year which worked quite well
- *'Arranging the caravans in 5 rows of 3 instead of 3 rows of 5 would reduce the lateral spread of the site when viewed from Owens Court Road and the neighbouring houses, and help reduce its visual impact, and increase the number of caravans shielded from those views once the cold store approved is built.'*
- No details of sewage disposal
- *'The application as currently presented conflates and muddles the separate planning considerations by suggesting a permanent change of use for stationing/storage of caravans can be granted on the back of Permitted Development Rights and that the two can somehow operate simultaneously. This cannot be correct as land can normally only have one approved planning use at any time.'*
- Approval will result in a loss of privacy and visual appearance. There would also be excess of noise, smells and disturbance from this site
- This is agricultural land, not a caravan site
- If approved, this will produce a commercial caravan site

5.02 Since publication of the amended site layout, three separate objections (one sent both by a letter and by email) have been received. These raise objections covered by those noted above, but request certain conditions if the Council is minded to approve the application. These conditions include:

- Site layout should including screening hedging and fencing.
- Restrictions to storage period e.g. 1st September to 31st March each year.
- Parking restrictions e.g. no vehicles to be parked on the site during the storage period.
- Sewage and waste disposal methods to be adopted need further investigation.
- Other Damage limitation to an AONB:
- Units to be painted camouflage colour/dark green.
- No external lighting in storage period.
- No lighting poles/wires visible from Owens Court Road,
- No noisy activities after 10pm and before 8am.

5.03 Councillor Valentine asked for the application to be called into committee stating: “I would like to call in the planning application for caravans to be sited at Owens Court to be considered at planning committee”.

6.0 CONSULTATIONS

6.01 Selling Parish Council did not originally comment on the application, but since submission of the amended site layout they say that:

‘The application was discussed at length and the agreed outcome is that the Parish Council, with great reluctance, will not object to the application but to mitigate the negative impact of this application on the area, request that the following enforceable conditions are met:

- *The 15 caravans are restricted to the designated area and that this area remains classified as agricultural land.*
- *The use of the 15 caravans is restricted to the 4 – 6 weeks of the cherry-picking season and are not to be used for the remainder of the year.*
- *There should be no artificial overhead lighting, only safety low level lighting.*
- *The colour of the caravans should be an agricultural colour.*
- *Car parking is kept to the west of the site with enforceable restrictions that no parking is allowed on the hard-standing at the Cold Store where the water tank is.*
- *The area that is used for the parking of vehicles at the front should not be used as being ancillary to the caravan site.*
- *If it is possible to change the entrance from the North-West as shown on the plan, without the need to go back out to consultation, then a move of entrance to the South-East would be preferred.*
- *There should be no disturbance of the Bat Feeding Station at the barn*
- *There should be substantial and effective evergreen screening hedges at height of 2 metres minimum, in front of the caravans.*
- *A fence, at a height of a minimum of 2 metres should be erected to screen the caravans whilst the natural screening grows, taking care not to damage or inhibit the growth of the natural screening*

- *A member of the Parish Council would like to speak at the planning meeting when this application is discussed and decided. I would appreciate it if you could let me know the date of the meeting at your earliest convenience please.'*

- 6.02 Kent Highways and Transportation advises that the proposal does not meet their criteria for a response.
- 6.03 No response has been received from the Council's Environmental Health Manager.
- 6.04 The Council's Rural Planning Consultant raised no objection to the application as originally submitted. His comments were as follows:

'As you are aware F W Mansfield & Son are long-established fruit growers and who now farm about 1200 ha of orchards and soft fruit in the county, their main operational base being Nickle Farm, Chartham, where centralised fruit storage and packing takes place.

Owens Court is a 26.5 ha fruit holding comprised of relatively newly planted cherry orchards, in respect of which planning consent has previously being granted for protective frameworks for seasonal covering with polytunnels. The farm also obtained consent on appeal under planning reference 16/504494 for the erection of a cherry store.

As you are aware, temporary workers' caravan accommodation can be utilised as "permitted" development on a seasonal basis in any event, but planning consent is required if the units concerned are left on site throughout the year, and thus effectively stored there out of season when vacant, or if the accommodation is sought for a worker year-round.

It is common now for fruit and vegetable farms in Kent, who rely heavily upon casual workers (usually from abroad) to seek, and obtain, consent to leave "seasonal" caravans for workers on site all year round, subject to suitable conditions including agreed periods of occupancy/ vacancy in any one year, without continuous year-to-year occupation. This avoids the costs and upheaval (and traffic impact) of having to move such units back and forth off the site.

In this case the proposal appears to be designed to secure a sufficient number of caravans of a suitable standard to attract, and properly accommodate, the required workforce (40 in this case), recognising that following the Brexit vote it has become more difficult to engage such staff.

Notwithstanding the agricultural merits of the proposal, the detailed siting of seasonal workers' mobiles needs to be weighed against the suitability of the particular location in each case, having regard to other Planning considerations; the overall Planning balance in this regard is a matter for the

Borough Council to judge, but please let me know if you require any further advice.'

He has confirmed that the amended layout does not alter his assessment of the application.

7.0 APPRAISAL

- 7.01 When assessing this proposal, it is important to remember that it is the impact of stationing of unoccupied caravans over the winter period which is the main factor to consider in this case. Importantly, the land could still be used for the purposes of agriculture during the farming season as this does not constitute development, and permitted development rights already allow for the provision of caravans for seasonal workers' accommodation over the farming season.
- 7.02 It should be noted that the amended site layout now being considered was suggested by local residents in an effort to reduce the visual impact of the proposal on the general character and appearance of the area, and that the applicant has accepted this suggested layout plan. With regard to this issue, I note that the site for the proposed caravans is approximately one hundred metres outside the Kent Downs AONB, which begins on the opposite side of Owens Court Road, and the caravans would be beyond the new cold store. As such, I believe that any effect upon the AONB itself is fairly limited.
- 7.03 The economics of modern fruit farming dictate that use of caravans to house seasonal workers is now widespread within the Borough and indeed in agricultural areas throughout the country. The applicant has made a sound case for the need to house agricultural workers on the site, and the small number of caravans proposed is commensurate with the scale of this particular farm. In such a situation my view is that it is up to the applicant where they place caravans during the farming season, but that if the applicant also wishes to keep these caravans in the same location over the winter, they should choose a suitable location that the Council considers appropriate. In this case I see no objection to the proposed location for winter storage of caravans as it is partially screened by the new building, which itself sits beside a substantial group of buildings. It is not isolated or particularly prominent location, and it has existing road access.
- 7.04 I also note that there is a tall, albeit deciduous hedge adjacent to Owens Court Road; and that the proposed drawings show the planting of new hedges between the caravans and Owens Court Cottages. As such, and on balance, I consider that the proposal would not have a significantly detrimental effect on visual amenity.
- 7.05 Although the Council is only in a position to control the storage of caravans on the site out of the farming season, the situation may be, to some extent, controlled by conditions to alleviate some of the concerns raised by local residents, with whom I have some sympathy. I acknowledge the list of suggested conditions from Selling Parish Council and, whilst I have been able to include some below, some of the suggested conditions cannot be said to be either reasonable, necessary or enforceable

and I have not been able to recommend them. However, I have recommended conditions below which will ensure that the effect of the proposal on residential and visual amenity would be kept to a minimum. These conditions ensure that caravans can only be stored if the land has been used for agriculture including seasonal workers' accommodation during the preceding season (to prevent the use continuing if the practice of seasonal workers use of the caravans ceases); that the caravans must be unoccupied over the winter; that the site should be laid out precisely as shown on the submitted drawing; and that the new hedge should be planted.

8.0 CONCLUSION

8.01 On balance, I therefore recommend that the proposal be approved, subject to the conditions set out below.

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

CONDITIONS

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

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

(2) No caravan shall be stored on the site at any time unless the site has been used for the purposes of agriculture including the stationing of caravans occupied by seasonal agricultural worker(s) working at Owens Court Farm in the preceding agricultural season.

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

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

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

(4) A new hedge using semi mature and mature native hedging species shall be planted in the position and to the full extent of the green line shown on drawing no. 2259/56/200219V2 prior to the first winter storage of any caravan. This hedge shall be maintained for the entire duration of all winter storage and no caravan may be stored on the site unless this hedge is in place.

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

- (5) Not more than 15 caravans and one welfare unit shall be stored on the site and these shall only be stored in the positions shown on drawing no. 2259/56/200219V2 (Revised).

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

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

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

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

Council's approach to the application

The Council recognises the advice in paragraph 38 of the National Planning Policy Framework (NPPF) February 2019 and seeks to work with applicants in a positive and proactive manner by offering a pre-application advice service; and seeking to find solutions to any obstacles to approval of applications having due regard to the responses to consultation, where it can reasonably be expected that amendments to an application will result in an approval without resulting in a significant change to the nature of the application and the application can then be amended and determined in accordance with statutory timescales.

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

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

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



PLANNING COMMITTEE – 5 MARCH 2020

PART 5

Report of the Head of Planning

PART 5

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

- **Item 5.1 – 106 Scrapsgate Road, Minster**

APPEALS DISMISSED

COMMITTEE REFUSAL

Observations

Full support for the refusal of this unacceptable scheme.

- **Item 5.2 – Blean Cottage, Hickmans Green, Boughton Under Blean**

APPEAL ALLOWED

DELEGATED REFUSAL

Observations

Here the Inspector did not share officers' concerns that the new house would be more prominent, intrusive and harmful to the character of the countryside than the current bungalow is.

- **Item 5.3 – Funton Brickworks Raspberry Hill Lower Halstow**

APPEAL DISMISSED

DELEGATED REFUSAL

Observations

Despite the lack of a five-year housing land supply, the Inspector agreed with the Council that the benefits of the development would be substantially and demonstrably outweighed by the harm, notably in respect of the adverse landscape impact, the lack of adequate provision for affordable housing and the fact that the development would be detached from existing settlements and therefore not likely to help create a strong and healthy community.

- **Item 5.4 – 61 Playstool Road Newington**

APPEAL DISMISSED

DELEGATED REFUSAL

Observations

The Inspector agreed with the Council that this over large extension was unacceptable. The matter has been passed to my enforcement team.

- **Item 5.5 – One Acre Blind Marys Lane**

APPEAL DISMISSED

DELEGATED REFUSAL

Observations

A potential landmark decision which fully supports the Council's approach to the provision and control of gypsy and traveller sites in the Kent Downs Area of Outstanding Natural Beauty; and one that will hopefully bring to an end the long running issue of the occupation of this and the adjoining site.

- **Item 5.6 – Loyterton Farmhouse Tickham Lane Lynsted**

APPEAL ALLOWED

DELEGATED REFUSAL

Observations

A very technical decision on an area of planning law where appeal decisions appear to be inconsistent and based on very detailed criteria, meaning that no two cases are identical and the result will always be unpredictable. In this case the Inspector appears to have limited her assessment of any changes to the use of the property to traffic implications, and given no weight to other changes that the Council relied on in making its own decision.

- **Item 5.7 – The Old School, Dunkirk**

APPEAL ALLOWED

DELEGATED REFUSAL

Observations

The scheme would involve adding another house onto an approved scheme with very small garden sizes on some plots, which officers considered would be an over-intensive development of the site that would adversely affect the setting of the former school which is a grade II listed building. A very site specific and subjective decision.



Appeal Decision

Site visit made on 7 January 2020

by **Jonathan Price BA(Hons) DMS DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 23 January 2020

Appeal Ref: W/4000175

106 Scrapsgate Road, Minster on Sea, Kent ME12 2DJ

- 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 A Brooks against the decision of Swale Borough Council.
 - The application Ref 18/506680/FULL, dated 27 December 2018, was refused by notice dated 19 July 2019.
 - The development proposed is erection of a new detached 2 storey dwelling and garage.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in the appeal are:
 - The effect on the living conditions of occupiers of 104 and 106 Scrapsgate Road, with particular regard to outlook, privacy and natural light.
 - Whether adequate mitigation can be secured over the impacts of the proposal on the Medway Estuary and Marshes Special Protection Area (SPA).
 - Whether the dwelling proposed is appropriate in this location with regard to local and national policies relating to development in areas at risk of flooding.

Reasons

Living conditions

3. The proposal relates to the side garden to the host property; a detached bungalow. No 104, a semi-detached bungalow, lies to the other side of the proposed plot. To avoid the line of a public sewer, the two-storey dwelling proposed would be sited further back within this plot compared to that of a previously approved house¹, with its garage now detached and remaining towards the front.
4. The appeal site is within a stretch of varied frontage housing, backing onto an expansive undeveloped area, where the properties generally observe a quite regular building line. The siting of the proposed house significantly beyond the rear building lines of the adjacent bungalows would impinge harmfully on the living conditions provided to the adjacent occupiers.

¹ Council reference 16/500006/FULL

Appeal Decision W/4000175

5. As appellants, the occupiers of no 106 would tolerate the effects. However, this does not alter my view that poor living conditions would be provided for future occupiers due to the shading of the back garden and the dominant effect the dwelling would have on the presently open rear outlook.
6. The position of the dwelling would also have an unacceptably overbearing impact on the rear outlook and privacy of occupiers at no 104. Although there were no neighbour objections to this proposal, the proposed siting of a house significantly beyond the rear building line of adjacent bungalows would not be an arrangement conducive to preserving acceptable residential living conditions, particularly in regard to issues such as outlook, privacy and natural light.
7. Consequently, I find the proposal would be in conflict with Policy DM 14 of Bearing Fruits 2031: The Swale Borough Local Plan 2017 (LP), insofar as a general development criterion seeks that proposals cause no significant harm to amenity. I have considered the siting of the dwelling at no 70 but do not find this entirely comparable and, in any case, this current proposal should be considered on its individual merits.

SPA mitigation

8. Although a proposal for just a single dwelling, I am unable to rule out that, in combination with other new residential development in the surrounding area, this scheme would have a likely significant effect on the SPA. This is in relation to the impacts of additional development increasing recreational disturbance on the SPA interest features, which are primarily in relation to wintering birds, in particular waders and waterfowl.
9. The Habitats Regulations provide the statutory protection for the SPA and require that I may grant permission only having ascertained this proposal would not adversely affect its integrity. As carried out by the Council, this would require my undertaking of an Appropriate Assessment under the Regulations.
10. However, I accept the Council's evidence that the absence of a developer contribution prevents the necessary means to mitigate for the likely significant effects and to enable a positive Appropriate Assessment to be concluded. Due to my conclusions on the other main issues I have not pursued the mitigation payment any further. As matters stand, this proposal would be contrary to LP Policies CP7 and DM28 which seek to protect natural assets and restrict development that has an adverse effect on the integrity of the SPA.

Flood Risk

11. As set out in the National Planning Policy Framework (the Framework), the Government directs inappropriate development away from areas at the highest risk of flood, but where it is necessary seeks to ensure safety over its lifetime without increasing flood risk elsewhere. This is carried out by the requirement for a sequential test for developments in flood risk locations and then, if necessary, applying the exception test.
12. The aim of the sequential test is to steer new development to areas with the lowest risk of flooding. Development should not be permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding. If it is not possible for development to be located

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in zones with a lower risk of flooding (taking into account wider sustainable development objectives), the exception test may have to be applied.

13. The application site is located within Flood Zone 3, as defined in the Environment Agency flood maps, and is at high risk of both tidal and fluvial flooding. Although in an area benefitting from flood defences, this factor does not avoid the requirement to carry out the sequential test and then, if passed, the exception test. LP Policy DM 21 requires development proposals to accord with such national policy in regard to flooding. The flood risk assessment submitted with the appeal does not satisfy local and national policies relating to development in areas at risk of flooding. For this reason, I conclude the proposal has not been demonstrated to be appropriate in this location.

Conclusion

14. I have taken into account the previous consent for a dwelling on this site. However, current planning policy must apply to this later proposal. The evidence before me is that the earlier consent has expired and so provides no fallback case in support of this appeal.
15. The Council acknowledges it cannot currently demonstrate a five-year housing land supply. However, the application of policies in the Framework that protect the SPA and address flood risk provide clear reasons for refusing the development. Therefore, the presumption in favour of sustainable development in paragraph 11 of the Framework is not applicable and it is unnecessary for me to consider allowing the appeal unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits.
16. The proposal would be of no harm to the character and appearance of the street, have a safe access, adequate parking and could be built to sustainable standards and landscaped to encourage biodiversity. The scheme would provide a self-build opportunity to meet a specific accommodation requirement and contribute also in a small way to Government aims to boost housing supply. However, these modest benefits would be insufficient to outweigh the harm identified in the three main issues.
17. Consequently, having taken into consideration all other matters raised, I conclude that the appeal should not succeed.

Jonathan Price

INSPECTOR

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Appeal Decision

Site visit made on 12 November 2019 by C Brennan BAE (Hons) M.PLAN

Decision by Andrew Owen BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 January 2020

Appeal Ref: APP/V2255/W/19/3236099

Blean Cottage, Hickmans Green, Boughton Under Blean ME13 9NT

- 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 P Robertson against the decision of Swale Borough Council.
 - The application Ref 19/502422/FULL, dated 8 May 2019, was refused by notice dated 9 July 2019.
 - The proposed development is erection of a detached two-storey dwelling following the demolition of existing dwelling.
-

Decision

1. The appeal is allowed and planning permission is granted for erection of a detached two-storey dwelling following the demolition of existing dwelling at Blean Cottage, Hickmans Green, Boughton Under Blean ME13 9NT, in accordance with the terms of the application, Ref 19/502422/FULL, dated 8 May 2019, subject to the conditions set out in the attached schedule.

Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Main Issue

3. The main issue is the effect of the proposed development on the character and appearance of the countryside.

Reasons for the Recommendation

4. The appeal site comprises a chalet bungalow, a garage and an outbuilding on the western side of Horselees Road, a narrow country road which runs south from the village of Boughton Under Blean. Due to the slope of the site, the buildings are set at a lower ground level than Horselees Road. At 0.14 hectares, the appeal site is substantial in size relative to surrounding residential plots. The Thunderhill Business Park lies to the west of the appeal site, which features large buildings of a utilitarian, industrial appearance that can be seen from Horselees Road when standing in front of the existing appeal property. Blean Oast, a detached two-storey property, lies to the southwest of the appeal property. Blean House, a Grade II listed building, lies further to the south. The roof of Blean House can partially be seen when standing on the road to the north of the appeal property.
-

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5. The two-storey element which forms part of the eastern elevation of the proposal would be set back 10m from Horselees Road, whilst the full-height part of the proposal would be set back a further 3.5m. Both the hipped roof of the two-storey element and the principal half-hipped roof form would slope away from the road. While the proposal would have a greater height, mass and size than the existing bungalow, its prominence would be mitigated by its set back from the road frontage, its right-angled siting to the road, its use of hipped roof forms which slope away from the road, and the site's lower ground level relative to Horselees Road. The proposal would have a similar scale to other two-storey buildings within the immediate context of the site and so would not appear disproportionately large when considered within the surrounding pattern of development. The scale of the proposal would also be commensurate with the large size of the appeal site and therefore would make the most effective residential use of the site. Partial views of Blean House when approaching from the north would also be retained due to the extent of the proposal's set back from the road. In consideration of the above, the proposal would not constitute an overtly prominent or intrusive form of development and therefore would not cause unacceptable material harm to the character and appearance of the countryside.
6. In its delegated report, the Council asserts that the proposal would be harmful due to its right-angled siting to the road and continuous roofline. However, the proposal would be sited in a manner similar to Blean Oast. Furthermore, the length of the roofline would be half that of Blean Oast and comparable to that of Blean House to the south and Hickory House to the north. As such, the proposal is considered acceptable in both regards.
7. The Council states that the existing property has a low height and does not appear visually prominent within the surrounding rural landscape. However, the proposal would not be visually prominent from the south as it would be screened by vegetation. While the proposal would be visible within views from the north, these views would only be possible within the immediate context of Hickory House, a similarly scaled two-storey building. The proposal would be most visible directly from the front; however, from this perspective it would obscure views of the industrial-style buildings of Thunderhill Business Park to the west, thereby enhancing the countryside setting of Horselees Road. It is therefore considered that the proposal would not appear overtly prominent within its rural setting.
8. The Council state that the proposal would conflict with Paragraph 79 of the National Planning Policy Framework (2019), which seeks to avoid the development of isolated houses in the countryside. However, as the proposal relates to the replacement of an existing house rather than the creation of a new isolated dwelling on an undeveloped site, it is considered that Paragraph 79 is not especially relevant in this case. Furthermore, as the site already comprises a three-bedroom dwellinghouse, it is not considered that the use of the proposed replacement dwellinghouse would be any less sustainable than the use of the existing bungalow, particularly when there is an opportunity to incorporate sustainable construction techniques and energy efficiency measures by condition. The proposal would also be unlikely to generate more car journeys than the existing dwellinghouse.
9. For the above reasons, I conclude that the proposed development would not cause unacceptable harm to the character and appearance of the countryside.

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The proposed development would therefore comply with Policies ST1, ST3, CP3, DM11, DM14 and DM24 of Bearing Fruits 2031: The Swale Borough Local Plan (2017), which require that housing development should be well-designed and appropriate to the setting of the Borough's countryside and landscapes. The proposal would also comply with Policy DM32 of the Local Plan, which requires that development will need to preserve the special interest of listed buildings. The proposal would also comply with the NPPF (2019), which promotes the effective use of land and high-quality design.

Other Matters

10. In their consultation, neighbouring occupants have queried about the treatment of foul sewage. However I see no reason why the existing dwelling's current arrangements for foul drainage could not be used to serve the proposal.
11. The use of slate tiles, though different to some of the nearby houses, would complement the appearance of the proposal and would therefore be appropriate.
12. Further detail on issues regarding existing trees can be secured by planning conditions.

Conditions

13. The conditions which are imposed are those which have been suggested by the Council, but with some variation in the interest of clarity and precision having regard to the advice on imposing conditions in the Framework and Planning Practice Guidance.
14. In addition to the standard timescale condition, I have imposed a condition requiring that the scheme be built in accordance with the approved plans for the avoidance of doubt. However, I have not attached the separate suggested condition that details of external materials need to be submitted to and approved by the Council before development can take place above slab level, as such detail has already been provided on Drawing Nos. BCB/19/05 and BCB/19/06.
15. In the interests of sustainable development, a condition has been imposed which requires that submission of details demonstrating what sustainable construction techniques and energy efficiency measures can be incorporated. This needs to be complied with before the construction work commences to be effective. A condition has also been attached limiting the amount of water that can be used per person per day, in the interests of water conservation and sustainable development.
16. Two conditions limiting the hours of construction and pile driving have been attached in respect of the living conditions of the occupants of neighbouring dwellings.
17. In the interests of highway safety, I have imposed a condition which requires that details of measures to prevent the deposit of mud and other debris on the highway are submitted to the Council. These measures need to be in place before the commencement of development to be effective.
18. In the interests of biodiversity and preserving the character and appearance of the countryside, I have imposed conditions requiring the submission of details

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of hard and soft landscaping works, including retained trees; the implementation of the landscaping works; and the replacement of any species that are removed, become damaged, diseased or die.

19. The Council have suggested that two conditions should be attached to restrict permitted development rights and to ensure sufficient space is available for parking on site. I consider there is ample room on site to park cars and it is not necessary to control the use of the garage or the space in front of it. Moreover, the Planning Practice Guidance states that conditions withdrawing permitted development rights are unlikely to meet the tests of reasonableness and necessity. I do not consider that the restriction of permitted development rights is necessary or reasonable in this instance.
20. The Council have suggested that a condition should be attached requiring that the vehicular access to the site should be constructed prior to the first use of the proposed dwellinghouse. However, as the access already exists, there is no need to attach such a condition.

Conclusion and Recommendation

21. For the reasons given above and having had regard to all other matters raised, I recommend that the appeal should be allowed.

C Brennan

APPEAL PLANNING OFFICER

Inspector's Decision

22. I have considered all the submitted evidence and the Appeal Planning Officer's report and on that basis the appeal is allowed.

Andrew Owen

INSPECTOR

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Schedule of Conditions

- 1) The development hereby permitted shall begin no later than 3 years from the date of this decision.
- 2) The development shall be carried out in accordance with the approved plans: BCB/19/01, BCB/19/02, BCB/19/03, BCB/19/04, BCB/19/05 and BCB/19/06, including in respect of the materials shown.
- 3) No development shall take place until details have been submitted to and approved in writing by the Local Planning Authority, which set out what measures have been taken to ensure that the development incorporates sustainable construction techniques such as water conservation and recycling, renewable energy production including the possible inclusion of solar thermal or solar photo voltaic installations, and energy efficiency. Upon approval, the details shall be incorporated into the development in accordance with the approved details prior to the first use of the dwelling.
- 4) The development shall be designed to achieve a water consumption rate of no more than 110 litres per person per day, and no dwelling shall be occupied unless the notice for that dwelling of the potential consumption of water per person per day required by the Building Regulations 2015 (as amended) has been given to the Building Control Inspector (internal or external).
- 5) Demolition or construction works shall take place only between 0800 and 1800 from Monday to Friday, between 0800 and 1300 on Saturday, and not at any time on Sundays or on Bank or Public Holidays.
- 6) Impact pile driving in connection with demolition or construction works shall take place only between 0900 and 1700 from Monday to Friday, and not at any time on Saturdays, Sundays or on Bank or Public Holidays.
- 7) No development shall take place, including any works of demolition, until details of measures to prevent the deposit of mud and/or other debris on the public highway have been submitted to and approved in writing by the local planning authority. The approved measures shall be adhered to throughout the construction period for the development.
- 8) No development beyond the construction of foundations shall commence until full details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority. These details shall include: existing trees, shrubs and other features; planting schedules of plants, noting species (which shall be native species and of a type that will encourage wildlife and biodiversity, where possible); plant sizes and numbers where appropriate; means of enclosure; hard surfacing materials; and an implementation programme. The landscaping works shall be carried out in accordance with the approved details before any part of the development is first occupied in accordance with the agreed implementation programme.
- 9) Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

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Appeal Decision

Site visit made on 5 November 2019

by **Beverley Wilders BA (Hons) PgDip MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 7 February 2020

Appeal Ref: APP/V2255/W/19/3234462

**Funton Brickworks, Raspberry Hill Lane/Sheerness Road, Lower Halstow
ME9 7EG**

- 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 Martin Hill (McCulloch Homes) against the decision of Swale Borough Council.
 - The application Ref 18/504110/FULL, dated 2 August 2018, was refused by notice dated 1 February 2019.
 - The development proposed is demolition of all existing buildings and structures on site and erection of 35 dwellings together with associated infrastructure, open space, landscaping and access works.
-

Decision

1. The appeal is dismissed.

Procedural Matter

2. The address of the site is described in various documents as being on either Raspberry Hill Lane or Sheerness Road, with Sheerness Road referred to on the planning application form. However, it appears that Sheerness Road only runs west from the junction with Basser Hill whereas the site is to the east of the junction. For the avoidance of doubt, I have used both road names in the heading for this Decision and Raspberry Hill Lane in the text.

Main Issues

3. The main issues are:
 - the effect of the proposal on the character and appearance of the area;
 - whether the site is a suitable location for housing having regard to local and national policy;
 - whether or not the proposal would make adequate provision for affordable housing.

Reasons

Character and appearance

4. The appeal site comprises part of a former brickworks site largely surrounded by open countryside, with the exception of a pair of semi-detached dwellings

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adjacent to the site at 1 & 2 Funton Cottages. It is to the south of the estuary of the River Medway, close to Barksore Marshes and the tidal mudflats of Funton Creek. The site contains a number of large, disused and somewhat dilapidated buildings and structures together with large areas of hardstanding. The site is confined to the central area of the former brickworks and does not include the former finished brick stockyard area to the west of the site or the former brick earth field to the east. A lawful development certificate was granted for the existing use of land and all buildings thereon for B2 (General Industrial) purposes in 2010 (Ref SW/10/1073).

5. Raspberry Hill Lane runs to the front of the site providing access to it and there are a number of public footpaths nearby including ZR42 to the rear of the site which forms part of the Saxon Shore Way and the byway ZR98 to the east. The open, undeveloped nature and topography of land surrounding the site means that there are views of it from various vantage points along the road and nearby footpaths. The appeal site is within the Iwade, Newington and Iwade Area of High Landscape Value (Swale Level) and it adjoins the North Kent Marshes Area of High Landscape Value (Kent Level).
6. This proposal follows an earlier scheme for housing on the site which was refused by the Council and dismissed at appeal, partly due to concerns regarding its effect on the character and appearance of the area (Ref APP/V2255/W/16/3146393). I have seen the previous Inspector's decision and in reaching my decision I have had regard to it where relevant. The revised proposal before me is an attempt to overcome previous concerns and is supported by a Landscape and Visual Impact Assessment dated July 2018 (LVIA). The LVIA concludes that there would be adverse effects resulting from the proposal on character and views but that the mitigation included within the design combined with the beneficial effects of removing detracting features and replacing them with appropriately designed residential development would reduce these adverse effects in the medium to long term to an acceptable level of minor-moderate adverse or below. The conclusions of the LVIA are not accepted by the Council's appointed landscape consultant who questions some aspects of its methodology and considers that it has underestimated the landscape harm that would result from the proposal.
7. Policy DM24 of Bearing Fruits 2031: The Swale Borough Local Plan adopted July 2017 (SBLP) states that planning permission will be granted in Areas of High Landscape Value (AHLV) subject to, amongst other things, avoidance, minimisation and mitigation of adverse landscape impacts as appropriate and, when significant adverse impacts remain, that the social or economic benefits of the proposal significantly and demonstrably outweigh harm to the AHLV. Paragraph 170 of the National Planning Policy Framework (the Framework) states that planning decisions should, amongst other things, protect and enhance valued landscapes; recognise the intrinsic character and beauty of the countryside and maintain the character of the undeveloped coast.
8. There is no doubt that the current dilapidated appearance of the site is harmful to the character and appearance of the area and that the industrial and utilitarian appearance of the buildings and structures on site, some of which are large in scale, are somewhat at odds with the largely rural character and appearance of the surrounding area. However, I note that the Council considers existing development on site to be of some merit in that it reflects its industrial history, something that was also recognised by the previous

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- Inspector. Consequently, the Council considers the proposal to involve the loss of non-designated heritage assets.
9. The proposal offers some visual benefits when compared with the previous scheme in that it is for fewer dwellings on the smaller, central part of the site, it incorporates a greater setback from Raspberry Hill Lane and incorporates improved landscaping proposals. However, unlike the previous proposal, it only relates to part of the former brickworks site and does not include the land to either side. In addition, none of buildings or structures on site, including the locally distinctive three kiln chimneys, are to be retained and the proposal sees the introduction of 2 replica oast houses of a height of 11 metres. Whilst such features may be locally distinctive, their height would make them prominent and they are not prevalent in the immediate surrounding area nor do they reflect the industrial heritage of the site.
 10. Though it is clear that attempts have been made to address the shortcomings of the previous scheme and to respond to the sites former industrial use and to its rural location, it nevertheless remains a visually prominent proposal for a relatively large residential development wholly out of keeping with the established rural character of the area. Whilst an overall reduction in the amount and height of built form on this part of the former brickworks site and an increase in landscaping is welcomed, the proposal would still be prominent in the landscape from certain vantage points and in particular from users of the Saxon Shore Way footpath which runs very close to the south of the site and is sited at a higher level relative to it. Recreational walkers using the footpath are likely to be particularly sensitive receptors and the site lies between the footpath and the main view, which is towards the estuary and I consider that the impact of the proposal on this viewpoint has been underestimated in the LVIA.
 11. Taking the above matters into consideration, though the proposal would provide some landscape benefits, the layout and appearance of the proposal would have a significant adverse effect on the character and appearance of the area. It would therefore be contrary to policies CP4, DM22 and DM24 of the SBLP and to paragraphs 127 and 170 of the Framework insofar as they relate to character and appearance. These policies seek, amongst other things, development proposals to be of a high quality design that is appropriate to its surroundings including the coast and AHLVs. I note that Policy DM24 states that when there would be significant adverse impacts on an AHLV, that proposals will only be permitted where the social or economic benefits of them significantly and demonstrably outweigh harm to the AHLV. These matters will be considered elsewhere in the decision.

Suitable location for housing

12. The appeal site is located in a relatively isolated position in the open countryside with the nearest settlement being Lower Halstow, approximately 1.5km away. Iwade is located approximately 2.5km away to the east.
13. Policy ST3 of the SBLP sets out the settlement strategy for the area and states that at locations in the open countryside, outside the built up area boundaries shown on the proposals map, development will not be permitted, unless supported by national planning policy and able to demonstrate that it would contribute to protecting and, where appropriate, enhancing the intrinsic value, landscape setting, tranquillity and beauty of the countryside, its buildings and

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the vitality of rural communities. Policy DM14 of the SBLP states, amongst other things, that development proposals should achieve convenient routes and facilities for pedestrians and cyclists. These policies aim to protect the intrinsic value and undeveloped nature of the countryside and to achieve sustainable design and they are consistent with policies in the Framework.

14. The proposal is contrary to the Council's adopted settlement strategy as set out within SBLP Policy ST3. The site is located some distance from the nearest settlements which provide a number of services and facilities. Although part of the pedestrian route to Lower Halstow comprises public footpaths, at least some of the journey would involve the use of narrow and unlit roads without pavements meaning that the proposal could not achieve convenient routes and facilities for pedestrians and cyclists as required by SBLP Policy DM14. The relative position of the site to nearby settlements means that the proposal would not protect or enhance the vitality of rural communities and I have found that it would be significantly harmful to the character and appearance of the area.
15. Taking the above matters into consideration, the proposal would not be a suitable location for housing having regard to local and national policy. It would therefore be contrary to policies ST1, ST3 and ST14 of the SBLP and to relevant paragraphs of the Framework insofar as they relate to development in the open countryside and to accessibility. These policies seek, amongst other things, development to protect the countryside and to be accessible by pedestrians and cyclists.

Affordable Housing

16. Policy DM8 of the SBLP relates to affordable housing and states that in rural areas 40% affordable housing is sought and that in exceptional circumstances, amongst other things, a reduced requirement may be considered where an applicant can demonstrate that providing the full affordable housing provision would result in the scheme becoming unviable.
17. None of the proposed 35 dwellings would be for affordable housing. The appellant states that a viability statement was submitted with the application and that this showed that the site is incapable of delivering any affordable housing due to the abnormal costs of cleaning up contamination on the site. The Planning Statement submitted with the application states that the full details of the viability appraisal were provided to the Council on a private and confidential basis due to it containing commercially sensitive information. I have not been provided with a copy of the viability statement and note that the Council's statement of case suggests that when determining the application, the Council did not receive a copy of it either and that therefore no assessment of the viability statement was carried out.
18. Paragraph 57 of the Framework states that where up-to-date policies have set out the contributions expected from development, planning applications that comply with them should be assumed to be viable. It is up to the applicant to demonstrate whether particular circumstances justify the need for a viability assessment at the application stage and all assessments should reflect the recommended approach in national planning guidance and should be made publicly available. The weight to be given to a viability assessment is a matter for the decision maker and national planning guidance states that the assessment should be prepared on the basis that it will be made publicly

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available other than in exceptional circumstances. Even in those circumstances an executive summary should be made publicly available.

19. In this case I have not been presented with any viability evidence other than what has been stated in the Planning Statement submitted with the application. In the absence of this and having regard to advice on viability in the Framework and in national planning guidance, the appellant has not demonstrated that providing the required affordable housing provision would result in the scheme being unviable. Consequently, the proposal would not make adequate provision for affordable housing.
20. Although a Unilateral Undertaking (UU) was submitted during the course of the appeal, this does not include any provision for affordable housing other than through a viability review mechanism. Whilst this mechanism would seek to ensure that the viability of the scheme was monitored at various points during construction allowing for a review of the provision of affordable housing, it remains the case that I have seen no evidence to justify the proposed starting point of no affordable housing.
21. Taking the above matters into consideration, I conclude that the proposal would not make adequate provision for affordable housing. It is therefore contrary to Policy DM8 of the SBLP and paragraph 62 of the Framework. These policies seek, amongst other things, adequate provision of affordable housing.

Other Matters

22. Both main parties agree that the Council cannot currently demonstrate a five year housing land supply. The Council considers the supply to be 4.6 years whereas the appellant considers it to be 4.3 years with evidence provided by both parties to support their respective positions.
23. Paragraph 11d of the Framework states that under such circumstances, the policies which are most important for determining the application are out of date and that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
24. The proposal would provide 35 additional dwellings and would make a moderate contribution to housing supply in the area at a time when the Council cannot demonstrate a five year supply. It would also provide economic benefits both in the short term through the provision of employment opportunities during construction and in the short to long term through spending in the local economy both during construction and afterwards. The proposal would result in the reuse and redevelopment of a brownfield site. I attach moderate weight to the social, economic and environmental benefits associated with the proposal.
25. Weighed against these benefits is the significant harm that I have identified to a valued landscape that is identified as a AHLV. Although the existing buildings on site are largely in a poor condition and generally large in scale, the visual harm resulting from the proposal would nevertheless be significant. In addition, future residents of the site would, as a result of its relatively isolated location and lack of access to public transport, be largely reliant on car travel as safe and convenient walking and cycling routes would not be available to

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- them. Furthermore, the position of the site relative to nearby settlements means that it would not help to create a strong and healthy community and no affordable housing is being proposed.
26. Taking the above matters into consideration, even if I were to conclude there is a shortfall in the five year housing land supply on the scale suggested by the appellant, the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole, including policies to boost the supply of housing and to meet the need for affordable housing (including (inc) paras 59, 61 & 62); to promote healthy and safe communities (inc para 91); promoting sustainable transport (inc para 102); achieving well-designed places (inc para 127) and protecting and enhancing valued landscapes (inc para 170). The proposal does not therefore benefit from the presumption in favour of sustainable development.
27. In reaching this conclusion I note that the main parties have identified a number of policies that are relevant to the determination of the proposal and that a number have been referred to in the reasons for refusal. Two of these policies ST1 and ST3, seek to control the location of development, including housing, and therefore could be said to have a direct effect on housing supply. In light of the Council's housing land supply position and having regard to paragraph 11 of the Framework I attach limited weight to the conflict with these policies. However, the remainder of the policies referred to in the reasons for refusal relate to more general matters such as design, landscape protection and access and to affordable housing and the coast. Such matters do not directly affect housing supply and as there is no apparent inconsistency between these policies and policies in the Framework, I attach full weight to the conflict with these policies.
28. The site is located near to The Medway Estuary and Marshes Special Protection Area, Ramsar Site and Site of Special Scientific Interest. There is therefore potential for the proposal have a significant effect on the designated site resulting from recreational pressure, increases in light, noise and dust and surface water run-off. The submitted UU includes financial contributions towards the Strategic Access Management and Monitoring Strategy in respect of the SPA as mitigation for any adverse effect on biodiversity resulting from the proposal. I note that in determining the application the Council also referred to the need for conditions to be attached to any permission granted controlling matters such as drainage, lighting, noise and dust. However, as I am dismissing the appeal there is no need for me to consider this matter further or to undertake an appropriate assessment having regard to the Habitat Regulations¹.
29. Similarly, there is no need for me to consider the form or content of the UU insofar as it relates to other matters as it would not alter the outcome of the appeal.

Planning Balance and Conclusion

30. As stated, the proposal is contrary to a number of development plan policies and although the Council's five year housing land supply position means that some of the policies cited in the refusal are considered to be out of date, the

¹ The Conservation of Habitats and Species Regulations 2017

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proposal is nevertheless contrary to the development plan when taken as a whole. There are no material considerations that indicate that the proposal should be determined otherwise in accordance with the development plan.

31. Therefore, for the above reasons and having regard to all matters raised, I conclude that the appeal should be dismissed.

Beverley Wilders

INSPECTOR

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The Planning Inspectorate

Appeal Decision

Site visit made on 13 January 2020

by **A Parkin BA (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 10 February 2020

Appeal Ref: APP/V2255/D/19/3240474

61 Playstool Road, Newington ME9 7NL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mrs Rosaria Rodrigues against the decision of Swale Borough Council.
 - The application Ref 19/502206/FULL, dated 29 April 2019, was refused by notice dated 14 August 2019.
 - The appeal development is the erection of a single storey rear extension, first floor rear extension, loft extension and lean to roof at front and side of dwelling.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appellant's surname on the appeal form is different to the name listed on the application form. I am satisfied that the appellant, Mrs Rosaria Rodrigues, made the planning application and is therefore entitled to make this appeal.
3. The Council previously granted planning permission for a similar although smaller-scale proposal at the appeal site¹. A somewhat different and larger-scale scheme has been constructed and the appellant sought planning permission retrospectively for these works, which was refused by the Council and which is the subject of this appeal.
4. Whilst it is clear from the evidence² that the appeal concerns the development that has been constructed, I am not satisfied that this is fully shown on any of the submitted drawings. There is considerable confusion from the Council regarding the plans that it considered in refusing planning permission, with two inconsistent drawings referenced³. Furthermore, the Council states that it is not certain if either of the drawings show what has been constructed, but that it considers both to be unacceptable.
5. With reference to the issue that is disputed between the main parties, the 3-storey, rear gable extension, the appellant considers drawing Ref. BLC/61 PLAYSTOOL ROAD/03 to be accurate in this respect and the development shown on this drawing is referenced in the Council's officer report.

¹ LPA Ref. 16/503414/FULL

² Including the description of development on both the Application Form and the Council's Decision Notice, and at paragraph 3.1 of the appellant's statement and the Proposal section of the Council's officer report.

³ Drawing Refs. BLC/61 PLAYSTOOL ROAD/03 and BLC/61 PLAYSTOOL ROAD/04

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6. I have therefore determined the appeal on the basis of the development shown on this drawing, which I am satisfied the Council had regard to in refusing planning permission.

Main Issue

7. The main issue is the effect of the appeal development on the living conditions of nearby occupiers, with particular regard to outlook and natural light.

Reasons

8. The appeal building is one of a pair of semi-detached dwellings (Nos 61 and 63) on the western side of Playstool Road, on the edge of Newington. Playstool Road has a generally north-south axis, although No 61 is positioned somewhat further west than No 63. No 61 is also positioned to the south of No 63.
9. The rear gardens of Nos 61 and 63 are separated by a solid timber panel fence, with a trellis structure, some 2.0 metres high. 63 Playstool Road incorporates a number of extensions to its side and rear, including a single-storey, flat-roofed brick extension that projects a similar distance from the main rear elevation as the ground floor, brick extension at the rear of the appeal building. Attached to the end of the rear extension at No 63 is a lightweight, L-shaped, glazed extension, set away from the property boundary with No 61.
10. In 2016, planning permission was granted for various substantial extensions at 61 Playstool Road⁴. The appeal development differs from the approved development in a number of respects.
11. Drawing Ref. BLC/61 PLAYSTOOL ROAD/03 shows the previously approved hip-to-gable extension to the main roof of the appeal building, together with a 3-storey, rear, gable extension. The 3-storey gable extension would project some 3.4 metres from the main rear elevation, the same distance as previously approved and partly above the existing single-storey brick extension. Its ridge height would be level with the ridge height of the main building and its eaves height would be above the original eaves, some 0.7-0.9 metres higher than previously approved.
12. The 3-storey gable extension would be set back from the boundary with No 63 by some 1.3-1.4 metres, as previously approved. This would allow for a sloping tiled roof over the existing rear ground floor extension to the original eaves level of the main building, again higher than previously approved.
13. The height, massing and position of the rear 3-storey, gable extension and the sloping roof next to it, would have an overbearing impact. They would reduce natural light to, and outlook from, the first floor rear habitable window of No 63, closest to the property boundary. Moreover, the position of No 61, to the south and slightly to the west of No 63, would accentuate these impacts in terms of natural light.
14. I note the references to the Council's Supplementary Planning Guidance – *Designing an Extension – A Guide for Householders* February 2011 (SPG), regarding the scope for first floor rear extensions to project 'slightly' more than the distance specified, provided that they are set back from the property

⁴ LPA Ref. 16/503414/FULL

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- boundary. I also note how the Council has applied this part of the SPG in this case.
15. However, the rear gable extension has three storeys not two, with a consequently greater impact that is not directly covered in the SPG. This does not, therefore, cause me to reach a different conclusion with regard to the harm that would be caused by the appeal development, as set out above.
 16. Furthermore, the greater height and massing of the rear sloping roof next to the boundary with No 63, means that I am not satisfied that the '45 degree rule' referred to by the appellant would show an acceptable impact of the appeal development in terms of natural light and outlook. The '45 degree rule' is not contained in the development plan or the SPG, and in any event would not be determinative in itself.
 17. The appellant has provided no substantive evidence to support their statement that because of the 'orientation of the first-floor rear extension to the south east, the additional eaves and ridge height would not cause increased overshadowing'⁵. As set out above, this is not a view that I share.
 18. Whilst the approved scheme would have had some impact in terms of reduced natural light and outlook for the occupiers of No 63, the increased height and massing of the rear gable extension and the rear sloping roof adjacent to it, would worsen this.
 19. For these reasons, the appeal development would adversely affect the living conditions of nearby occupiers with particular regard to outlook and natural light. It would, therefore, conflict with Policies CP4 (requiring good design), DM14 (general development criteria) and DM 16 (alterations and extensions) of Bearing Fruits 2031: The Swale Borough Local Plan, with guidance contained in the SPG and in Chapter 12 – Achieving well-designed places, of the National Planning Policy Framework 2019.

Conclusion

20. For the reasons given above, and taking into account all matters raised, I conclude that the appeal is dismissed.

Andrew Parkin

INSPECTOR

⁵ Paragraph 6.15 of the Appellant's statement

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The Planning Inspectorate

Appeal Decision

Hearing held on 11 December 2019

Site visit made on 11 December 2019

by Tom Gilbert-Wooldridge BA (Hons) MTP MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 12 February 2020

Appeal Ref: APP/V2255/W/18/3213955

One Acre, Blind Mary's Lane, Bredgar ME9 8AR

- 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 Ben Brazil against the decision of Swale Borough Council.
- The application Ref 18/500003/FULL, dated 29 December 2017, was refused by notice dated 1 May 2018.
- The development proposed is described on the application form as "Change of use of land to a residential caravan site, for one Gypsy/Traveller family. The site to contain one static caravan, one touring caravan, a utility shed, parking for two vehicles with associated hardstanding and water treatment plant. This application is part retrospective".

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appeal site at One Acre, which essentially was a field in the countryside, was enclosed by fencing in late 2006. In April 2011, the site and adjacent land at 1 Old Half Acre were occupied by caravans with hard surfacing laid out. An enforcement notice was issued by the Council and was appealed. The appeal¹ was dismissed on 21 February 2012 due to the harm to the character and appearance of the Kent Downs Area of Outstanding Natural Beauty (AONB). A planning application for the change of use was refused in 2014 and was also appealed. On 28 January 2015, the appeal² was allowed and a temporary planning permission was granted for 3 years. The Inspector dealing with the 2015 appeal found that there was harm to the AONB but concluded a temporary permission would be justified based on the failure to demonstrate a 5 year supply of deliverable gypsy and traveller sites in Swale. The time period was considered sufficient for further sites to be identified by the Council and for the appellant to find an alternative location.
3. The appellant submitted a planning application on 29 December 2017 shortly before the expiration of the temporary permission. It sought permission for development similar to the temporary permission but not identical in terms of the description or red line site boundary (as noted at the hearing). Therefore, the appeal has progressed as a refusal of planning permission for the development as a whole rather than as a refusal of permission to vary or remove conditions. All of the features mentioned in the description already

¹ APP/V2255/C/11/2156341

² APP/V2255/A/14/2222135

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exist on site and so I have treated this appeal as seeking planning permission retrospectively in its entirety.

4. The land between the site and Blind Mary's Lane at 1 Old Half Acre has also been subject to an enforcement notice and 2 appeals³ relating to change of use to a caravan site. Both were dismissed and the land is currently unoccupied with only one disused structure next to an area of hard surfacing.
5. It was common ground at the hearing that the appellant Ben Brazil, his wife Kelly Fuller, and sister Patience Brazil, are Romani Gypsies in line with the definition in Annex 1 of the Planning Policy for Traveller Sites (PPTS) published in 2015. I have no reason to disagree. Therefore, the policy context that applies to gypsies and travellers is engaged.

Main Issues

6. The main issues are:
 - The effect of the development on the character and appearance of the area including the Kent Downs AONB; and
 - Whether any harm would be outweighed by other material considerations, such as the need for gypsy and traveller sites and the personal circumstances of the occupiers of the site.

Reasons

Character and appearance

7. The appeal site is situated adjacent to a dog-leg bend on Blind Mary's Lane within the Kent Downs AONB. This part of the AONB is characterised by its open countryside with long views northwards to the estuaries and marshes of the Thames and the Medway. Blind Mary's Lane is a narrow rural lane through agricultural fields with little built development. The exceptions are the appeal site and a residential property to the north, with the remains of the unauthorised caravan site at 1 Old Half Acre. There is a network of public footpaths, including one that crosses the north-west corner of the site (ZR166).
8. Although tall pylons cross the countryside immediately to the west of the site, they do not greatly affect the open views due to their narrow frame design. Likewise, although there are a number of trees in the vicinity, including poplars to the rear of the appeal site and others around residential properties, they do not detract from the overall openness and are mostly deciduous species. Photographic evidence from the Council indicates that the site was largely open in late 2006 to early 2007 except for fencing and was laid to grass as a field or paddock. As such, the site made a positive contribution to the AONB.
9. The site includes a vehicular access off Blind Mary's Lane that leads to an area of hard surfacing and grass in the middle of the site containing a static caravan and a wooden utility block along with space for a touring caravan and car parking. This middle part of the site is enclosed by close boarded fencing with further areas of grass to the front and rear of the site. Compared to the previous appearance of the site in 2006/2007, the land has changed markedly from an open field or paddock to an enclosed yard.

³ APP/V2255/C/11/2156335 dated 21 February 2012 and APP/V2255/D/15/3141240 dated 6 February 2017

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10. A native deciduous hedgerow along the site's eastern boundary largely screens its structures from view heading towards the site from Swanton Street even in winter months. Along the western boundary, a row of conifers provides screening from views to the north-west along the lane and public footpaths. Boundary planting around 1 Old Half Acre screens the site from view around the dog-leg bend apart from at the site access where there is a glimpse of the structures. However, walking through the site on public footpath ZR166, the vegetation planting is recent and has little screening effect.
11. The conifers are an incongruous feature compared to more native and deciduous species in the surrounding area. The 2015 Inspector found that they contributed to much of the harmful effect of the site on the character and appearance of the area. The temporary permission required a landscaping scheme via a planning condition to replace them with more suitable planting. The appellant has removed conifers along the north-west corner of the site and replaced them with native hedgerow planting. Native tree species have been planted along the western boundary but most of the conifers remain which has limited the growth of the native species and makes them harder to spot.
12. There was some debate at the hearing regarding the extent of conifer removal that was required as part of the 2015 appeal decision. The Inspector did not specify the extent, but the Council was required to discharge the landscaping condition. Correspondence between the Council and appellant from 2015/2016 is sufficiently clear that the Council expected all of the conifers to be removed.
13. At the hearing, the appellant outlined his reluctance to remove the western boundary conifers as the site would be more exposed to begin with and it was not considered to be beneficial on a relatively short temporary permission. Nevertheless, the continuation of the conifers does present a dense and heavily enclosed screen not in keeping with the general openness and deciduous planting of the surrounding area, including what can be seen from Blind Mary's Lane as a rural lane.
14. Even with the mitigation effects of a landscaping scheme and more appropriate planting, the 2015 Inspector still found moderate harm. The development has a limited effect on the appearance of the landscape due to its size and extent and the screening effects of vegetation. Tree planting can take place without the need for permission and could remain even after the development itself has gone. Nevertheless, the development detracts from the openness and landscape character of the AONB when compared to the site's previous appearance in 2006/2007, with a variety of structures including solid fencing and hard surfacing. This is particularly apparent from the site access on Blind Mary's Lane and walking through the site on public footpath ZR166. Therefore, I concur with the 2015 Inspector that there is moderate level of harm to the character and appearance of the area including the AONB. Paragraph 172 of the National Planning Policy Framework (NPPF) places great weight on conserving landscape and scenic beauty in the AONB and so the harm is material and significant.
15. I acknowledge that there are other caravans in the surrounding area, including at Westfield Dairy to the north and a large site at Swanton Farm to the south. There is also a variety of dwellings dotted across the countryside. However, as far as I am aware, these are authorised residential sites and I do not know their full planning history. As such, these sites do not justify this development.

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16. As a consequence of the harm I have identified, the development does not accord with Policies ST1, ST3, DM10, DM14, DM24 and DM26 of the Swale Borough Local Plan 2017 (LP). Amongst other things, these policies seek to protect the character of the landscape, countryside and rural lanes, and to conserve the AONB, having regard to matters such as siting, appearance, openness and landscaping. The development also conflicts with the Kent Downs AONB Management Plan 2014-2029 which seeks to conserve the character, quality and distinctiveness of the AONB.
17. In addition, the development conflicts with PPTS paragraph 4 which requires due regard to be given to the protection of local amenity and local environment amongst other things. It does not accord with PPTS paragraph 26 which requires weight to be attached to sites that are soft landscaped in such a way as to enhance the environment and increase its openness. It also conflicts with NPPF paragraph 172 as set out above.

Other considerations

18. The LP seeks the provision of a minimum of 61 gypsy and traveller pitches over the plan period to 2031. 74 pitches had been approved by the time the Council refused the application leading to this appeal and further pitches have been approved since. The LP does not allocate any pitches but instead relies on a windfall based approach using the criteria in Policy DM10. This approach is likely to continue as part of the Local Plan Review.
19. The LP target was based on a 2013 version of the Gypsy and Traveller Accommodation Assessment (GTAA) which has since been updated with a November 2018 version. This update identifies a need of an additional 54 pitches to 2037/2038. The current 5 year pitch need is 13.75 with an annual pitch need of 2.75. At the hearing, it was reported that the current supply of pitches is 17, which equates to a 6.2 years' worth of supply. There may be a regional and national need for pitches, but the situation in Swale is positive.
20. The appellant highlighted concerns with the site at Brotherhood Woodyard where provision of pitches had been found to be substandard in terms of size and layout. However, planning permission was granted in 2018 to remedy the pitch provision, while action has been taken against those occupying the site contrary to planning conditions. Therefore, I am satisfied that there are no significant deliverability issues and that the delivery of 11 pitches at Brotherhood Woodyard as part of the 17 is likely within the 5 year period. The appeal decision at Windmill Farm⁴ dated February 2018 concluded that a supply was lacking, but that predated the more recent permission at Brotherhood Woodyard and the updated GTAA. Thus, I have no reason to doubt that a 5 year supply exists.
21. The appellant pointed towards the most recent Caravan Count figures for Swale (January 2019) which identifies 42 caravans on unauthorised sites either tolerated or not tolerated, along with 14 caravans on sites with temporary permission. Several sites were mentioned explicitly at the hearing, some of which await decisions at planning committee or appeal. I note the Council's response that the number of sites with permanent permission has been increasingly steadily within Swale and that the unauthorised sites may be in the wrong location for whatever reason. The Caravan Count indicates an issue

⁴ APP/V2255/W/17/3176865

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with unauthorised sites, but it is less clear about the degree of unmet need, while the number of caravans on such sites is small compared to the number of authorised sites. With a positive 5 year supply of sites against the GTAA requirement, I can only give moderate weight to the Caravan Count figures.

22. In terms of alternative sites, the appellant is part of a wider Romani Gypsy family based in the local area. He stated at the hearing that no alternatives have come up in recent years. It was noted that the Brotherhood Woodyard site is not available to the appellant as it is intended for Irish Travellers, but it is not clear whether the remaining pitches that make up the 5 year supply are also unrealistic alternative options. The Council underlined its flexibility towards accommodating sites through the planning process and referred to sites that were up for approval in early 2020. Neither main party was able to identify any specific alternative options that were suitable, affordable, available and acceptable, but with a positive 5 year supply of sites and an increase in sites with permanent permission, the weight I afford to this consideration is moderate.
23. The appellant's sister has health issues that requires prescription medicines and limits the amount she can travel. She is registered at a nearby doctor's surgery and has attended consultant appointments at a local hospital. The lack of a settled base would make access to medicines and appointments more difficult and so moderate weight can be attached to this personal circumstance.
24. The appellant's children are of primary school age and are home educated as the family travels regularly. There was no dispute at the hearing that better education for the children of gypsies and travellers improves their life chances including employment opportunities. There is a duty for decision makers to give consideration to the best interests of the child as a primary consideration. The appellant indicated that having a more settled position on a permanent authorised site would allow more integration in terms of schooling. However, given that the family has been on the site since 2011 including 3 years with a temporary permission, this would be a significant change to the practice to date. Therefore, I can only give moderate weight to this personal circumstance.

Other matters

25. Although not mentioned explicitly in the reason for refusal, the Council indicated that the accessibility of services is not ideal and the relative remoteness of the site means that an integrated co-existence between all communities is less likely. PPTS paragraph 25 seeks to very strictly limit new sites in the open countryside away from existing settlements. LP Policies ST3 and DM10 seek to provide gypsy and traveller sites in line with the overall settlement strategy with the open countryside such as this site at the bottom of the hierarchy. Bredgar has a number of services and facilities but from the site the roads to the village are narrow, unlit and without pavements. Footpath links are only a realistic option in suitable weather and lighting and so driving is the most likely option. While the distances involved are not excessive, the site's location within the settlement strategy does not weigh in favour of the development.
26. Intentional unauthorised development has been a material consideration to weigh in the determination of planning applications and appeals received from 31 August 2015 onwards (as set out in the government's policy statement of the same date). However, it is not possible to be certain that the initial

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occupation of the site in April 2011 was intentionally unauthorised. Moreover, the development was authorised for 3 years via a temporary permission and the appellant has sought to authorise it again with the application that has led to this appeal. Thus, I give no weight to this matter in the overall balance.

Overall balance

27. The development results in moderate harm to the AONB even with attempts to mitigate the effects through planting. In line with the NPPF, great weight should be given to conserving and enhancing the landscape and scenic beauty of AONBs and so I give considerable weight to this harm.
28. While the development if approved would provide an additional gypsy and traveller site, there is a positive 5 year supply of sites and permanent permissions are increasing. Thus, I can only give moderate weight to the evidence of unauthorised sites in the Caravan Count and the lack of alternative sites. Moderate weight can be afforded to the appellant's personal circumstances including the best interests of the child. Taken individually or collectively, the other considerations in favour of the development would be insufficient to outweigh the harm to the AONB.
29. The Council clarified at the hearing that enforcement action would be undertaken in the event this appeal is dismissed. This would require the appellant to restore the site to its previous condition. If there are no alternative places to go, there is a reasonable likelihood that the appellant and his family would revert to a roadside existence.
30. As a consequence, there would be an interference with the appellant's home, private and family life having regard to Article 8 of the European Convention on Human Rights as incorporated into UK law by the Human Rights Act 1998. However, these human rights are qualified and need to be balanced against the protection of the public interest which includes in this instance the protection of the AONB. For this appeal, the harm to the AONB outweighs the human rights of the appellant and his family and the best interests of the children. I have also had due regard to the Public Sector Equality Duty contained in the Equality Act 2010 which seeks to eliminate discrimination, advance equality, and foster good relations between those with protected characteristics and those without. However, dismissing this appeal would be justified as I have weighed the harm against the other considerations relating to the appellant's case.
31. The 2015 appeal decision found that a temporary permission would protect the public interest by a means that would be less interfering to the appellant's human rights and thus would be a more proportionate response. There was discussion at the hearing as to whether another temporary permission would be appropriate. This is a material consideration regardless of the positive 5 year supply of sites and the AONB location. Nevertheless, footnote 9 of PPTS paragraph 27 states that there is no presumption that a temporary grant of planning permission should be granted permanently. The Planning Practice Guidance⁵ states that it will rarely be justifiable to grant a second temporary permission and that further permissions should normally be granted permanently or refused if there is clear justification for doing so.

⁵ Reference ID: 21a-014-20140306

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32. The 2015 decision was based on the lack of a 5 year supply of pitches which is not the case now. It was also based on the anticipation of gypsy and traveller site allocations coming forward to provide for more permanent sites. As noted above, the LP now takes a windfall and criteria based approach to the provision of sites and is looking to carry that approach forward into the Local Plan Review. Based on the material before me, there is no clear evidence of unmet need in Swale.
33. While not supportive of a temporary permission, the Council suggested a 2 year limit to allow the appellant sufficient time to find a new location. In contrast, the appellant while seeking a permanent permission, suggested a 5 year limit to assist with health and education needs and to find an alternative site. However, it is not evident that circumstances will change significantly in the next 2 to 5 years. The health and education needs are likely to continue beyond that time period and the current supply situation is positive. As a result, there is little justification for a further temporary permission that would prolong the harm to the AONB and so it would not be a necessary or proportionate response. I recognise that other gypsy and traveller sites have been permitted in the AONB within the same local authority area, but each case needs to be considered on its own merits.
34. In conclusion, the other considerations advanced in this appeal do not outweigh the harm to the AONB and the conflict with LP Policies ST1, ST3, DM10, DM14, DM24 and DM26. There would be no violation of human rights for the appellant or his family. Therefore, the development should not be granted either a permanent or temporary permission.

Conclusion

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

Tom Gilbert-Wooldridge

INSPECTOR

Appeal Decision APP/V2255/W/18/3213955

APPEARANCES

FOR THE APPELLANT

| | |
|----------------|------------------|
| Joseph G Jones | BFSGC |
| Ben Brazil | Appellant |
| Kelly Fuller | Appellant's wife |
| Karen Ransley | |

FOR THE LOCAL PLANNING AUTHORITY

| | |
|--------------------------------------|-----------------------|
| Graham Thomas BSc (Hons) DipTP MRTPI | Swale Borough Council |
|--------------------------------------|-----------------------|

INTERESED PARTIES WHO SPOKE AT HEARING

| | |
|---------------|------------------------|
| Penny Twaites | Bredgar Parish Council |
| Brian Clarke | Bredgar Parish Council |

DOCUMENTS SUBMITTED AT THE HEARING

1. Appeal representation dated 7 December 2019 from Mr and Mrs Ingram, submitted by Bredgar Parish Council.
2. Signed and dated Statement of Common Ground between the appellant and the local planning authority, submitted by the appellant.
3. January 2019 Caravan Count figures for Swale, submitted by the appellant.
4. Health information with private and confidential statement on front page, submitted by the appellant.



Appeal Decision

Unaccompanied site visit made on 5 February 2020

by Sandra Prail MBA, LLB (Hons), Solicitor (non-practising)

an Inspector appointed by the Secretary of State

Decision date: 14th February 2020

Appeal Ref : APP/V2255/X/19/3224363

**Loyterton Farmhouse, Tickham Lane, Lynsted, Sittingbourne, Kent, ME9
OHW**

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against a refusal to grant a certificate of lawful use or development (LDC).
- The appeal is made by Parkview Care against the decision of Swale Borough Council.
- The application reference 18/506067/LAWPRO dated 21 November 2018 was refused by notice dated 23 January 2019.
- The application was made under section 192(1)(a) of the Town and Country Planning Act 1990 as amended.
- The development for which a certificate of lawful use or development is sought is the (proposed) change of use from C3 to C2.

Summary of Decision: the appeal is allowed and a certificate of lawful use or development is issued in the terms set out in the Formal Decision.

Preliminary Matter

1. I should explain that the planning merits of the development are not relevant to this appeal which relates to an application for a lawful development certificate (LDC). My decision rests on the facts of the case and the interpretation of any relevant planning law or judicial authority. The burden of proving relevant facts rests on the Appellant and the test of evidence is made on the balance of probability.
2. The description of use quoted above is that stated in the application and first schedule of the refusal notice. An application for an LDC should describe precisely what is being applied for and not rely solely on reference to a Use Class. The statement supporting the application describes the proposed use as a children's home and I shall consider whether that proposal would be lawful.

Main Issue

3. I consider that the main issue is whether the Council's decision to refuse to grant a LDC was well-founded.

Reasons

4. The appeal site is a detached house, formerly a farmhouse. It sits within a farm complex in a relatively isolated location in a rural area. The property is large with seven bedrooms.

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5. The statement accompanying the application explains that the proposal is to use the property for residential care for children and young people. The intention is that the property offers short to medium term placements for five children between the ages of 8 to 17.
6. There is no dispute between the parties that the lawful use of the property as a dwellinghouse falls within Use Class C3 of the Town and Country (Use Classes) Order 1987 (as amended) (the UCO) and I have no reason to conclude otherwise. Use Class C3(b) is use as a dwellinghouse (whether or not as a sole or main residence) by not more than six residents living together as a single household (including where care is provided to residents). Care is defined as use for the provision of residential accommodation and care to people in need of care (other than a use within a class C3 (dwelling house)).
7. There is no dispute between the parties that the proposed use would fall within Use Class C2 – use for the provision of residential accommodation and care to people in need of care (other than a use within C3 (dwellinghouse)). This is consistent with the North Devon¹ decisions drawn to my attention. I have no reason to disagree.
8. The issue in dispute between the parties is whether, as a matter of fact and degree, the proposal would be likely to result in a material change of use whereby there is some significant difference in the character of activities undertaken from what has gone on previously.
9. My attention is drawn to various planning appeal decisions. I do not know the particular facts of these cases and shall determine this appeal on its own particular facts. I shall consider whether a material change of use is likely to occur in this case.
10. The proposal is for a maximum of five children and two non-resident carers. The adult staff will work on a rota system with on-site presence at all times but no carer would live at the property as their main residence. It is likely given the location of the site that most if not all journeys by staff to the property will be by car. Similarly, journeys with the children for their entertainment and to access local facilities for day to day living are likely to be by car.
11. A house of this size could accommodate a relatively large family with numerous cars. I do not find the opportunities to minimise trips, for example, by car sharing or making multi-purpose trips to be any more likely by carers than would be the case for a large family living as a single household. The vehicular movements to and from school, work, social and recreational events are not likely to be significantly different for a children's home compared to a large family. Whilst I recognise that during shift changes there are likely to be up to four carers on site during handovers and therefore potentially four cars this is not likely to be atypical for a large family in a house of this size. Any difference would not in my view be likely to be of a scale that would result in an intensification of use that would change the character of the land and give rise to planning concerns.
12. In this case I find as a matter of fact and degree that the proposed use is not likely to generate a significantly different pattern and/or volume of vehicular

¹ North Devon DC v FFS and Southern Childcare Ltd [2002]QBD; North Devon DC v First Secretary of State [2004](1P&CR38)

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movements than could be the case in a single family household. I would not expect a residential institution to generate more traffic than a dwelling of this size occupied by a single family household. There is no other planning harm suggested. On the balance of probabilities I conclude that the proposal to use the property as a children's home for a maximum of five children with two adult carers would not comprise a material change of use for which planning permission is required.

13. I conclude for the reasons given above, on the evidence now available, that the proposed change of use from C3 to C2 would be lawful as it would not comprise a material change of use. I consider that the Council's decision to refuse to grant the LDC was not well founded and that the appeal should succeed. I will exercise the powers transferred to me under section 195(2) of the 1990 Act as amended.

Formal Decision

14. The appeal is allowed and attached to this decision is a certificate of lawful use or development describing the proposed use which is considered to be lawful.

S. Prail

Inspector

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LAWFUL DEVELOPMENT CERTIFICATE

THE TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (ENGLAND)
ORDER 2015: ARTICLE 39

TOWN AND COUNTRY PLANNING ACT 1990: SECTION 192 (as amended by the Planning and
Compensation Act 1991)

IT IS HEREBY CERTIFIED that on 21 November 2018 the use described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and marked in red on the plan attached to this certificate would have been lawful within the meaning of section 192 of the Town and Country Planning Act 1990 as amended, for the following reason:

The use, whilst falling within Class C2 of the Town and Country Planning (Use Classes) Order 1987 (as amended) (UCO) would not represent a material change from the authorised use of the site as a Class C3 dwellinghouse.

The development does not contravene the requirements of any enforcement notice in force.

S. Prail

INSPECTOR

Date: 14th February 2020

Reference: APP/V2255/X/19/3224363

First Schedule

The use of the dwellinghouse within Class C2 of the UCO for occupation by no more than 5 children and 2 non-resident adults at any one time as set out in the supporting statement accompanying the application reference 18/506067/LAWPRO dated 21 November 2018.

Second Schedule

Loyterton Farmhouse, Tickham Lane, Lynsted, Sittingbourne, Kent, ME9 OHW

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NOTES

This certificate is issued solely for the purpose of section 192 of the Town and Country Planning Act 1990 as amended.

It certifies that the uses/operations described in the First Schedule taking place on the land specified in the Second Schedule would have been lawful, on the certified date and, thus, would not have been liable to enforcement action, under section 172 of the 1990 Act, on that date.

This certificate applies only to the extent of the uses/operations described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any operation which is materially different from that described, or which relates to any other land, may result in a breach of planning control which is liable to enforcement action by the local planning authority.

The effect of the certificate is subject to the provisions in section 192(4) of the 1990 Act, as amended, which state that the lawfulness of a specified operation is only conclusively presumed where there has been no material change, before the operations begun, in any of the matters which were relevant to the decision about lawfulness.

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Plan

This is the plan referred to in the Lawful Development Certificate dated: 14th February 2020

by **Sandra Prail MBA, LLB (Hons), Solicitor (non-practising)**

Land at Loyterton Farmhouse, Tickham Lane, Lynsted, Sittingbourne, Kent, ME9 OHW

Appeal ref: APP/V2255/X/19/3224363

Not to Scale





Appeal Decision

Site visit made on 26 November 2019

by **J Ayres BA Hons, Solicitor**

an Inspector appointed by the Secretary of State

Decision date: 11 February 2020

Appeal Ref: W/4000151

Land adj to The Old School, London Road, Dunkirk ME13 9LF

- 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 Woodchurch Property Developments (Dunkirk) Ltd against the decision of Swale Borough Council.
 - The application Ref 19/501668/FULL, dated 28 March 2019, was refused by notice dated 26 June 2019.
 - The development proposed is residential development of 6no. units with associated parking and external works.
-

Decision

1. The appeal is allowed, and planning permission is granted for residential development of 6no. units with associated parking and external works at Land adj to The Old School, London Road, Dunkirk ME13 9LF in accordance with the terms of the application, Ref 19/501668/FULL, dated 28 March 2019, subject to the conditions in the attached schedule.

Preliminary issue

2. Works have commenced on site in relation to a previous permission granted by the planning authority. The scheme before me would provide an additional dwelling to that previously approved. I am aware of the works that have been carried out, however I have determined this appeal on the basis of this scheme.

Main Issues

3. The main issues are;
 - (i) the effect of the proposal on the character and appearance of the area having particular regard to the setting of listed buildings;
 - (ii) whether the proposal would provide adequate living conditions for future occupiers; and
 - (iii) the effect on European designated sites.

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Reasons

Character and appearance

4. The appeal site forms part of the ground surrounding the old village school which is a Grade II listed building converted into residential use, and is near to a World War II Radar mast which is a scheduled monument. This part of the village sits around the school, church and vicarage which established the settlement in the mid nineteenth century. The development currently under construction has reinforced the residential aspect of the setting of the school house and the range of listed buildings in the vicinity, and they are experienced as part of a village setting which is in keeping with their historical function.
5. At present the site is currently being developed pursuant to an extant permission allowing 3 two storey terraced buildings and 2 two storey semi-detached buildings. Since that permission was granted an additional piece of land has been included as part of the site, widening the rear to include an adjacent garage. The proposal would therefore result in an additional dwelling to those currently under construction located on the edge of the site, which I shall refer to as Plot 6 for clarity.
6. The proposal to incorporate six dwellings on the site before me would create two parallel rows of development which would reflect the pattern of the adjacent site and not appear out of character with the area. The removal of the garage, which does little to enhance the setting of the listed building would improve the visual appearance of the scheme when considered in its entirety. Plot 6 would be detached and set a slight distance from the neighbouring Plot 1 on site, which in turn would be set away from the two semi-detached properties at Plots 2 and 3. Overall a good level of space around the built form would be retained, with the view from the public realm retaining long reaching views of the woodland to the rear of the site and preserving the open character of the area of High Landscape Value.
7. The design would reinforce the slightly neo-gothic style of the school building to incorporate traditional materials. The proposal would be some distance from the listed building, and this in addition to the sympathetic design and materials pallet would mean that the proposal would not be visually harmful to the setting of the listed building.
8. With regards to density, whilst I acknowledge that the proposal would increase the density of the site slightly, there is an existing permission of the site for five dwellings. I do not consider that a moderate increase in density as the result of this scheme would conflict with the council's development plan to an extent that would be harmful or warrant refusal of the appeal on those grounds.
9. I find that the proposal would conserve the setting of the listed buildings and ancient monument, through being of a high quality design appropriate to its surroundings which would reflect the characteristics and features of the site and locality. It would therefore comply with Policies ST7, CP4 and DM14 of the Swale Borough Local Plan – Bearing Fruits 2031 (the Local Plan) which collectively require development to enhance the qualities of the existing, historic and natural environment through schemes that are of a scale, design and appearance that is sympathetic to the location.

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10. The proposal would preserve the setting and historic interest of the nearby listed buildings, and as such would comply with Policy DM32 of the Local Plan which requires that special attention is paid to design, and desirability of removing unsightly or negative features. In reaching this conclusion I have given special regard to the desirability of preserving the listed building and its setting, along with features of special architectural and historic interest.

Living conditions

11. The rear gardens of Plots 1, 2, 3 and 6 would be relatively short. I am aware that there is additional land to the rear, however the appeal site incorporates the red line as set out in the plans. In any event, the gardens would be relatively wide, with plot 3 benefitting from space to the side of the dwelling.
12. On the basis of the likely level of occupancy and the space within the site I am satisfied that the proposal would provide adequate amenity space for future occupiers. I find that the proposal would comply with Policies CP4 and DM14 of the Local Plan which, amongst other things, seek to ensure development would not cause significant harm to amenity and create comfortable places.

European designated sites

13. The appeal site is located in the proximity of the Swale Special Protection Area which is designated due to the international significance of the area for wintering birds, in particular waders and waterfowl. The proposal before me would result in six additional dwellings, and due to the proximity of the appeal site to the SPA it is possible that residents would access the SPA for recreational purposes. Therefore, I find that the appeal proposal would be likely to have a significant effect on the integrity of the SPA due to the increased recreational use generated by the development.
14. In accordance with the Conservation of Habitats and Species Regulations 2017 (the Regulations) I have conducted an Appropriate assessment. I have consulted Natural England and have taken account of the views supplied by it as the Statutory National Conservation Body. The proposal includes a financial contribution, secured by way of unilateral undertaking, that would deliver a payment towards the Thames, Medway and Swale Estuaries Strategic Access Management and Monitoring Scheme (the SAMM).
15. Works to mitigate the pressure caused by the proposed development would be carried out by Birdwise, the name of the North Kent SAMM Board, which is a partnership of local authorities, developers and environmental organisations. The Bird Wise North Kent – Mitigation Strategy demonstrates how the payments are calculated, and the nature of the mitigation provided, along with a record of its effectiveness.
16. Having regard to the consultation I am satisfied that, subject to the measure set out in the SAMM, the proposal would not result in harm to the integrity of the SPA.

Other matters

17. I have considered the issues raised in relation to highway safety. The appeal site is located on a 30mph road at a section where visibility can be provided in either direction when exiting the site. I am satisfied that subject to compliance with visibility splays the proposal would not pose a risk to highway safety.

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Conclusion and conditions

18. I have found that the proposal would comply with the development plan when taken as a whole, and therefore the appeal should succeed.
19. I have specified the plans for certainty. I have included conditions relating to landscaping, materials, and joinery work to protect the character of the area and preserve the setting of the listed building. Conditions relating to sustainable construction techniques, water consumption, drainage and cycle storage are necessary to ensure the development is sustainable. Conditions relating to hours of construction and a method statement are necessary to protect amenities of residents during the construction phase. Conditions relating to parking and the retention of visibility splays are necessary to ensure that the proposal does not have an adverse impact on highway safety. Conditions relating to the retention of trees and ecology measures are necessary to protect the ecology value of the site and surrounding area.
20. I have not included conditions relating to electrical services and permitted development as, on the basis of the evidence, I am not satisfied that such conditions are necessary.
21. As works have commenced on site in respect of a similar extant permission, it would not be appropriate in this particular case to require that the details are agreed prior to commencement of any development and I have amended the wording accordingly.
22. For the reasons above, and having regard to all other matters raised, I conclude that the appeal is allowed.

J Ayres

INSPECTOR

SCHEDULE OF 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.
- 2) The development hereby permitted shall be carried out in complete accordance with the following plans:

Drawing numbers 18_0588_1000; 18_0588_1001; 18_0588_1002; 18_0588_1003; 18_0588_1004; 18_0588_1005; 18_0588_1006; 18_0588_1007; and 18_0588_1008.
- 3) No development beyond the construction of foundations of Plot 6 shall take place until details have been submitted to the Local Planning Authority and approved in writing, which set out what measures have been taken to ensure that the development incorporates sustainable construction techniques such as water conservation and recycling, renewable energy production including the inclusion of solar thermal or solar photo voltaic

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installations, and energy efficiency. Upon approval, the details shall be incorporated into the development as approved.

- 4) No development beyond the construction of foundations of Plot 6 shall take place until details in the form of samples of external finishing materials to be used in the construction of the development hereby approved shall have been submitted to and approved in writing by the Local Planning Authority and works shall be implemented in accordance with the approved details.
- 5) Detailed drawings at a suggested scale of 1:5 of all new external joinery work, (which shall be of timber construction) and fittings together with sections through glazing bars, frames and mouldings shall be submitted to and approved in writing by the Local Planning Authority before any development beyond the construction of foundations of Plot 6 takes place. The development shall be carried out in accordance with the approved details.
- 6) No development beyond the construction of foundations of Plot 6 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, where possible), plant sizes and numbers where appropriate, means of enclosure, hard surfacing materials, and an implementation programme.
- 7) 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.
- 8) Upon completion of the approved landscaping scheme, any trees or shrubs that are removed, dying, being severely damaged or becoming seriously diseased within five years of planting shall be replaced with trees or shrubs of such size and species as may be agreed in writing with the Local Planning Authority, and within whatever planting season is agreed.
- 9) 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.
- 10) The areas shown on the approved drawings as car parking space shall be kept available for such use at all times and no permanent development, whether permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking or re-enacting

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that Order) or not, shall be carried out on the land so shown or in such a position as to preclude vehicular access thereto; such land and access thereto shall be provided prior to the occupation of the dwelling hereby permitted.

- 11) The development shall be designed to achieve a water consumption rate of no more than 110 litres per person per day, and the dwellings shall not be occupied unless the notice for the dwellings of the potential consumption of water per person per day required by the Building Regulations 2015 (As amended) has been given to the Building Control Inspector (internal or external).
- 12) No development beyond the construction of foundations of Plot 6 shall take place until full details of the method of disposal of foul and surface waters have been submitted to and approved by the Local Planning Authority. The approved details shall be implemented before the first use of the development hereby permitted.
- 13) Unless otherwise agreed in writing with the Local Planning Authority no trees shall be removed from the site.
- 14) The sight lines shown on drawing DSGD/14/H01A shall be provided prior to the occupation of the properties hereby permitted and thereafter maintained clear of any structure, tree, plant or other obstruction which exceed 0.6 metres above carriageway level within the approved sightlines.
- 15) No development beyond the construction of foundations of Plot 6 shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
 - i. The parking of vehicles of site operatives and visitors.
 - ii. Loading and unloading of plant and materials.
 - iii. Storage of plant and materials used in constructing the development.
 - iv. The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate.
 - v. Wheel washing facilities.
 - vi. Measures to control the emission of dust and dirt during construction
 - vii. A scheme for recycling/disposing of waste resulting from demolition and construction works.
- 16) No development beyond the construction of foundations of Plot 6 shall take place before details of cycle storage (2 cycles per dwelling) 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.

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- 17) The first five metres of the access leading from the public highway to the development hereby permitted shall be of a bound material.
- 18) No development shall take place in relation to Plot 6 (including any demolition, ground works, site clearance) until an Ecological Design and Management Strategy (EDMS) for the development site has been submitted to and approved in writing by the Local Planning Authority. Upon approval, the details submitted shall be implemented in full accordance with these approved details.

END OF SCHEDULE

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