

AGENDA

PLANNING COMMITTEE MEETING

Date: Thursday, 10 February 2022

Time: 7.00 pm

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

Membership:

Councillors Cameron Beart, Monique Bonney, Simon Clark, Richard Darby, Mike Dendor, Oliver Eakin, Tim Gibson (Chairman), James Hall, James Hunt, Carole Jackson, Elliott Jayes (Vice-Chairman), Peter Marchington, Ben J Martin, David Simmons, Paul Stephen, Tim Valentine and Tony Winckless.

Quorum = 6

Pages

Information for the Public

*Members of the press and public can listen to this meeting live. Details of how to join the meeting will be added to the website on 9 February 2022.

Privacy Statement

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1. Apologies for Absence and Confirmation of Substitutes
2. Minutes

To approve the [Minutes](#) of the Meeting held on 13 January 2022 (Minute Nos. 532 - 536) as a correct record.

3. 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 meeting 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

4. Report of the Head of Planning Services

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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 9 February 2022.

Issued on Tuesday, 1 February 2022

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

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SWALE BOROUGH COUNCIL

PLANNING SERVICES

Planning Items to be submitted to the Planning Committee

10 FEBRUARY 2022

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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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INDEX OF ITEMS FOR PLANNING COMMITTEE – 10 FEBRUARY 2022

- Minutes of last Planning Committee Meeting
- Deferred Items
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PART 2

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2.4	21/505878/FULL	MINSTER	Danedale Stables Chequers Road
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5.9	20/503542/PNPA & 20/503545/PNPA	OSPRINGE	Churchmans Farm Stalisfield Road

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PLANNING COMMITTEE – 10 FEBRUARY 2022**PART 2**

Report of the Head of Planning

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

2.1 REFERENCE NO - 21/501908/REM		
APPLICATION PROPOSAL Approval of Reserved Matters for 62 dwellings (appearance, landscaping, layout and scale being sought), pursuant of 16/508117/OUT.		
ADDRESS The Slips Scocles Road Minster-on-sea Kent ME12 3SN		
RECOMMENDATION Grant subject to the conditions below.		
SUMMARY OF REASONS FOR RECOMMENDATION The reserved matters would be in accordance with the terms of the outline planning permission and the appearance, landscaping, layout and scale of the residential scheme is acceptable and in accordance with the requirements of the Local Plan.		
REASON FOR REFERRAL TO COMMITTEE Parish Council Objection		
WARD Sheppey Central	PARISH/TOWN COUNCIL Minster-On-Sea	APPLICANT Matthew Homes Limited AGENT Thrive Architects
DECISION DUE DATE 17/01/22 – Further Extension of Time to be agreed with agent.		PUBLICITY EXPIRY DATE 03/01/22

Planning History

16/508117/OUT

Outline application (with access being sought) for up to 62 dwellings including details of vehicular access

Approved Decision Date: 14.08.2018 – The decision notice is appended to this report.

21/503348/SUB

Submission of details pursuant to conditions 23 and 24 (Biodiversity Mitigation and Enhancement Plan) in relation to planning permission 16/508117/OUT.

Pending Consideration

21/503878/SUB

Submission of details pursuant to condition 14 (i) (archaeological field evaluation works) of application 16/508117/OUT (part discharge).

Approved Decision Date: 27.07.2021

21/504305/REM

Approval of Reserved Matters for 62 dwellings (appearance, landscaping, layout and scale being sought), pursuant of 16/508117/OUT (see Covering Letter, dated 12/08/2021).

Pending Consideration

1. DESCRIPTION OF SITE

- 1.1 The application site measures 2.778 hectares in area and is comprised of undeveloped land. Scocles Road bounds the western edge of the site with Elm Lane running adjacent to the southern boundary of the site. A row of detached houses and bungalows front onto Scocles Road and lie on the opposite side of the application site. To the north are predominately detached and semi-detached bungalows and houses fronting onto Drake Avenue. To the east lies land used for the grazing of horses whilst agricultural fields lie further to the south. The Thistle Hill housing estate lies to the southwest of the application site.
- 1.2 There are no distinct level changes on the site, although the land does slope gently to the south. The site sits approximately 15 metres Above Ordnance Datum (AOD). Well established planting is located along the southern and eastern boundaries of the site. The site also includes a limited number of low grade trees.
- 1.3 A public footpath (ZS6) crosses the application in the north eastern corner. This footpath links the application site to Scocles Road, Nelson Avenue, Drake Avenue and Elm Lane. An open water ditch is located along the eastern boundary of the site which connects into a ditch running along Elm Lane.

2. PROPOSAL

- 2.1 As set out above, outline planning permission for up to 62 dwellings was granted on 14th August 2018 and the decision notice is appended. The access to the site also benefits from planning permission and therefore this application now seeks approval of the matters reserved – appearance, landscaping, layout and scale - for 62 dwellings.
- 2.2 In respect of the height of the dwellings, 51 are proposed to be two storey in height with the remaining 11 dwellings at 2.5 storey. The dwellings are provided in the form of detached, semi-detached and terraces made up of three units.
- 2.3 The dwellings are proposed to be provided as per the following mix:

3 bed - 34

4 bed - 28
- 2.4 The design approach for the dwellings follows a relatively traditional style with brick, weather boarded and rendered elevations sitting beneath tiled pitched roofs. The roofs are provided in a variety of styles including barn hips, and side and front facing gables. The proposal includes a variety of house types and architectural features including brick detailing above the windows, projecting bay windows, canopies and staggered elevations.

- 2.5 In terms of vehicular access, this is provided via two access points taken directly from Scocles Road. Access was considered in detail as part of the outline planning application and as a result of planning permission being granted, benefits from this consent. Six of the proposed properties would also take their access directly from Scocles Road.
- 2.6 The public footpath (ZS6) which passes through the north-eastern part of the site is retained and will sit adjacent to a piece of open space. A number of dwellings would face the public footpath. In addition to this piece of open space, a small pond is retained towards the north eastern part of the development. A drainage pond is proposed to sit within an additional piece of open space in the south western corner of the site. Two drainage ditches are also retained on the northern boundary. A foul water pumping station is proposed in the southern part of the development with a height of 2.1m.
- 2.7 Existing planting along the southern boundary of the site (in the form of a substantial largely native species hedge), adjacent to Elm Lane will be retained in addition to planting along the eastern boundary of the site. The scheme proposes a range of planting in the form of trees, shrubs and grassland of various varieties.

3. PLANNING CONSTRAINTS

- 3.1 Potential Archaeological Importance – a relevant condition is imposed on the planning permission, which is appended to the report.

4. POLICY AND CONSIDERATIONS

- 4.1 Policies ST 1 Delivering sustainable development in Swale; ST 2 Development targets for jobs and homes 2014-2031; ST 3 The Swale settlement strategy; ST 4 Meeting the Local Plan development targets; ST 6 The Isle of Sheppey area strategy; CP 3 Delivering a wide choice of high quality homes; CP 4 Requiring good design; CP 7 Conserving and enhancing the natural environment - providing for green infrastructure; A 21 Smaller allocations as extensions to settlements; DM 6 Managing transport demand and impact; DM 7 Vehicle parking; DM 8 Affordable housing; DM 14 General development criteria; DM 17 Open space, sports and recreation provision; DM 21 Water, flooding and drainage; DM 28 Biodiversity and geological conservation; and DM29 (Woodlands, trees and hedges).

Policy A 21, as referred to above, includes specific reference to this site, and states the following:

- *“Maintain and enhance boundary vegetation.*
- *Undertake ecological assessments to determine interest and mitigation necessary.*
- *Consider widening of Scocles Road frontage across the site.*
- *Consider a proportion of plots for self-builders.*
- *Potential contribution to A2500 Lower Road improvements, health and primary school provision”*

- 4.2 The National Planning Policy Framework (NPPF): Paras 7, 8, 11 (sustainable development); 67 (identifying land for homes); 73 (maintaining a supply of housing sites); 102 (transport); 127 (achieving well designed places); 165 (sustainable drainage systems); 170 (local and natural environment); 175 (biodiversity).
- 4.3 National Planning Practice Guidance (NPPG): Consultation and pre-decision matters; Design: process and tools; Natural environment; Open space, sports and recreation facilities, public rights of way and local green space; Use of planning conditions.
- 4.4 Supplementary Planning Documents (SPD): Parking Standards (2020).

5. LOCAL REPRESENTATIONS

- 5.1 The application has been publicised via a site notice, press advert and neighbour notification letters. In response, 11 letters of objection were received. I also note that 3 letters of objection have been posted on the file relating to the outline planning permission (ref 16/508117/OUT) close to the timeframe when the public consultation was being undertaken on this current application (1 of these respondents has also commented on the reserved matters). Therefore I am of the view that these 3 letters are likely to be responses to this reserved matters application being advertised and have included the concerns raised in these letters in the following summary:

- Roads adjacent to the site and in the surrounding areas cannot support any additional housing due to capacity issues and the restrictive widths of the carriageways;
- The development will give rise to highway safety concerns;
- The lack of footpaths in the surrounding area create a safety issue for pedestrians;
- The developers have purchased a property in Nelson Avenue to create an access into land 'North East of Nelson Avenue' with no regard for highway safety [n.b. this would appear to relate to a planning application on a separate site, submitted under ref. 21/502256/OUT and which is currently undetermined];
- The site includes a number of protected species, trees and hedgerows;
- The site has an existing barn inhabited by bats – this was reported to the Council but no action was taken. A building which has bats within it is unable to be removed;
- The soft landscaping proposals will not in any way replace or negate the removal of the trees and hedgerows which are critical for both the well-being of existing residents and the wildlife that inhabits them;
- The developers have no regard for the wildlife living on the site;
- The proposals will lead to the death of animals;
- Brownfield sites / alternative sites should be considered in the first instance;
- The development will give rise to a loss of privacy, loss of light and overshadowing;
- The infrastructure – education, healthcare, shops, highways - is unable to cope;

- Development will give rise to additional pollution and noise;
- Proposals will give rise to a loss of grazing land;
- The site and its surrounds is currently unable to cope with surface water, therefore additional surface water from this development will add further pressure;
- The development and its impact, including in terms of highway impact, must be considered in the context of the other developments in the local area;
- The hedgerow fronting Scocles Road will have to be greatly reduced to allow access into the site and may be protected by other legislation;
- The site is Grade I agricultural land;
- Due to the variety of properties in the surrounding area, the design of the dwellings as proposed is not in keeping with the character of the area;
- The site is not conveniently located for access to surrounding services and facilities and public transport does not serve the site;
- Objections to the previous application should still be taken into account;
- Neighbours have been overwhelmed by the amount of planning applications and therefore have been unable to take part in the consultation process fully;
- The developers did not want to pay for Lower Road improvements;
- KCC have not requested contributions, which needs to be chased up;
- There has been no traffic survey completed;
- This is an over intensive development for the site;
- There is a strong equestrian community that currently enjoy horse riding in countryside surroundings benefitting the whole community via job creation, tourism and well being;
- Other developments have been refused for severe harm to highway safety, which would be the case here;
- This part of Minster has a rural character which is in jeopardy due to this housing development;
- There are already too many houses along this road;
- Proposals in the 1980s have been refused in this area;

6. CONSULTATIONS

6.1 Minster-on-Sea Parish Council “strongly objects to this proposal on the following grounds:-

- i. *The proposal presents as over- intensive development of the site. It is not in keeping with the semi-rural character and appearance of a part of Minster that is well established.*
- ii. *Transportation issues will result from the development of this site. Access cannot be gained from Elm Lane due to restrictions imposed by the width and character. In addition, Scocles Road will not cope with increased traffic resulting in restricted access to the A2500 to the south.*

Although Kent Highways and Transportation confirmation of the release of its land as a new footway is welcome and there is discussion about the widening of a pinch point along Scocles Road to allow traffic to pass unimpeded in both directions there is no mention of a reduced speed limit or consideration given to the increased adverse impact on traffic and congestion on local roads which will be substantial. Traffic generation levels resulting from this development simply cannot be accommodated on the local roads.

- iii. *Approval contradicts Swale Borough Council's Local Plan policy E1 (General Development Criteria) [this reference is incorrect; as set out above, general development criteria are dealt with at Policy DM14 of the adopted Local Plan] regarding the standards applicable to all development, saying that it should be well sited appropriate in scale, design and appearance with a high standard of landscaping, and have safe pedestrian and vehicular access whilst avoiding unacceptable consequences in highway terms.*

This development scores poorly in sustainability terms as it is not well related to existing services and facilities at Minster and even less well located to more major services at Sheerness and Queenborough.

- Other relevant information: Minster-on-Sea Parish Council must make it clear that in submitting this response, it does so under duress. The current Government restrictions on Covid means that there has been no time to properly consult with the public. To resolve this, more time is required to present any additional information that comes forward.”

6.2 KCC Highways & Transportation – Initially commented as follows:

“As you are aware, the principle of this scale of development and details of its access have already been permitted under outline planning approval 16/508117/OUT, and I understand from my colleagues in the Agreements Team that they are currently processing the associated Section 278 Highway Agreement with the developer for them to carry out the highway improvements that were agreed at that time. You will recall that these elements include the provision of a footway on both sides of Scocles Road to connect the development to the existing footways opposite the development and Harps Avenue, widening of Scocles Road along the site frontage, extending the 30 mph speed

limit to a new gateway feature near its junction with Elm Lane, and the formation of the two new junctions on Scocles Road to serve the application site.

I note that the southern junction shown on the current proposals is not in the same position that was originally indicated on the scheme approved under the outline application. The image below shows the proposed development with the approved location of the southern vehicular access, derived from the Outline planning application position, overlaid:



Whilst this position is different, I am content that it is still suitable, and I am aware that the current S278 submission to the Highway Authority has been based on this revised position. The associated sightlines relocated for the new position will therefore also be secured through that process, and I note that these will be contained within the proposed footway in any case.

In general, the road layout of the development is satisfactory, as the geometry accords with the national and local design standards in terms of roadwidths, footway provision, swept path analysis and speed restraint features. However, further information will need to be submitted to detail street lighting positions, so that these can be assessed with the tree positions. The Site Layout Plan, drawing number SL01 Rev B, and the Soft Landscaping plan MAT23017-11C Sheet 2 indicate 5 No Acer Campestre street trees within the adoptable grass verge opposite plots 1 to 3, and these may impact the street lighting design. In order for the lighting to meet the uniformity design standards for illumination, this may require the trees to be omitted to prevent dark patches within the highway.

Visitor parking is lacking in some areas, so where there are long sections of residential street frontage and the visitor spaces are too remote, it is likely that vehicles will park closer in more inappropriate locations. Given that an on-street visitor provision of 0.2 spaces per dwelling is required, this would equate to 1 space for every 5 dwellings, and it is expected that they should be sensibly located for each group of 5. No such provision has been designed into the layout for the 6 dwellings with direct pedestrian access onto Scocles Road, the northern spine road between plots 1 and 18, or the loop road between

plots 51 to 54 and plots 55 to 59. In the case of plots 1 to 3 and 51 to 53, this may result in vehicles parking close to the junctions with Scocles Road.

Swale Borough Council has now adopted its own parking standards, and I note that these would locate this development within the Suburban criteria where 4 bed dwellings require 3+ parking spaces. The 4 bed units have only been provided with 2 spaces plus a garage, but garages are not counted towards the provision unless in town centre locations with controls to prevent on-street parking.

Similarly, 3 bed dwellings seek 2 to 3 spaces per unit, and I note that plots 39 to 41 only have 1 parking space, excluding their garages.

No details have been provided to confirm cycle parking provision. I note, notwithstanding the above comments, this can be provided within appropriately sized garages. Two different garage lengths have been detailed, and only the 7m length garages would be deemed suitable in accordance with the dimensions specified in the parking standards.

In addition, each dwelling should be provided with an EV Charging unit as required by the adopted parking standards. All Electric Vehicle chargers must be provided to Mode 3 standard (providing up to 7kw). Approved models are shown on the Office for Low Emission Vehicles Homecharge Scheme approved chargepoint model list: <https://www.gov.uk/government/publications/electric-vehicle-homecharge-scheme-approvedchargepoint-model-list>

Upon providing the above comments to the agent amended details were submitted and KCC Highways & Transportation were re-consulted. In response the following comments were made:

“As previously advised, it had been noted that the proposed junction positions onto Scocles Road did not adhere to the same positions that had been approved through the Outline planning consent for this development. I can confirm that the amended plans do now accord with the approved junction locations, so I am satisfied that the proposal does comply with the access matters determined by application reference 16/508117/OUT.

Following my previous comments regarding the parking provision, the 4-bed dwellings are now provided with 3 parking spaces each to meet the requirements specified in the Swale Borough Council Parking Standards. Similarly, the provision for the 3-bed dwellings previously known as plots 39 to 41 (now 40 to 42) has also been increased to 2 spaces in order to meet the appropriate requirement.

However, I note that in providing the additional spaces for plots 13, 21, 22, 45 to 47, on-street visitor spaces have been sacrificed to accommodate this, and no replacement visitor spaces created nearby to serve those areas. It is appreciated that two new laybys have been created just inside the Scocles Road junctions, to address my comments regarding provision for the properties there, but other areas closer to the affected plots and where a previously indicted layby outside plot 60 has now also been removed. There is therefore no provision indicated along the lengthy section of spine road between plots 55 and 60, and the east/west spine from plot 41.

Cycle parking details are still required to demonstrate that sufficient provision will be made on the development. As previously advised, only garages measuring 7m in length will be accepted as being able to accommodate cycle storage.

The earlier submitted Site Layout drawing, SL01 Rev B needs to be updated to reflect the latest amended drawings, as it is not clear what surface treatments are now proposed, particularly in respect to the form of traffic calming measures proposed. Revision B indicates table junctions along the East/West spine road, keeping the maximum distance between features below 60m, but the current SK07 Rev I Highway Design may indicate something different with distances exceeding 60m. These features will be required at 60m to design to a 20mph target speed in accordance with Kent Design Guide.

Street lighting details are still outstanding, as these will need to be assessed against the soft landscaping plans to ensure the two do not compromise one another, as trees will affect the light spread and the required illuminance levels for adoption purposes may not be achieved.”

Upon receipt of the above comments I again liaised with the agent and as a result amended details were provided. I re-consulted KCC Highways & Transportation on this basis and received the following comments:

“Additional on-street parking is noted, and this will provide a better distribution of visitor and unallocated parking around the development in accordance with the adopted standards, which should help reduce the likelihood of vehicles being parked inappropriately. All lengths of street frontage do now include visitor parking at regular intervals on the amended plans, so provision will be located evenly where demand is envisaged.

Further speed restraint measures have been incorporated into the layout, and these appear to comply with the Kent Design Guide requirements of a minimum 60m spacing in order to achieve a 20mph design speed. This has resolved the particular issue that was raised previously regarding lengthy distances of straight carriageways that contained no deflection to limit vehicle speeds appropriately.

Following the request to provide street lighting information, I am satisfied that the drawing now submitted indicates that the position of the proposed trees within the adoptable highway layout should not interfere with the illuminance levels of the carriageway. It is therefore considered that the subsequent Section 38 approval process for adopting the highway will be able to proceed without the likely need to amend any tree positions in order to resolve obstruction of light spread.

Consequently, I would have no objections to the proposals in respect of highway matters subject to the following conditions being attached to any permission granted.” Conditions related to parking spaces to be retained as such; details of electric vehicle charging points; space to be provided for cycle parking; pedestrian visibility splays to be maintained; and works between the dwellings and the highway to be completed.

6.3 KCC Ecology – Initially commented as follows:

“Summary – Additional Information Required.

We have reviewed the ecological information submitted in respect of this application and we advise that additional information is sought prior to determination of the planning application.

- Further surveys along with any necessary mitigation measures for great crested newts;*
- Further surveys along with any necessary mitigation measures for reptiles;*
- Further surveys along with any necessary mitigation measures for bats;*

Any further necessary surveys, and mitigation measures, will need to be submitted prior to determination of the planning application. This is in accordance with paragraph 99 of the ODPM 06/2005 which states: “it is essential that the presence or otherwise of protected species and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision”.

Amphibians

*We noted from the submitted Updated Ecological Appraisal a recommendation (sections 4.26 and 4.27) to undertake surveys for great crested newt (GCN) since the two waterbodies on site had potential to support this legally protected species. However, we note from our records that a survey of the application site for GCN was undertaken by Native Ecology in 2016 and returned no findings of GCN. It did however return findings of Smooth newt (*Triturus vulgaris*) within WB 1 the on site pond (peak count 29) and WB 2 the water filled ditch on the southern boundary of the application site (peak count 3). We also note that the layout of the proposed development as currently submitted differs in some key respects to that which was granted outline planning permission. From an ecological perspective we especially note that the on site pond (WB1) is proposed to be infilled and built on and that there are no proposals to provide an alternative pond.*

We agree with the recommendations in the Updated Ecological Appraisal that updated surveys for amphibians are therefore required since it is now 5 years since the last surveys and required urgently as the survey season is rapidly approaching its end. The application site lies within an Amber Risk Zone as identified by Natural England and defined as areas that contain main population centres, habitats and dispersal routes for GCN. Development with a significant land take in these zones would be expected to have a high impact on GCN. The approved outline planning applications was not entered into the District Level Licensing scheme (DLL) for GCN which was probably not in operation at the time. However, we understand that retrospective applications will be considered by Natural England but before any site preparation or development has commenced. Developers can, before applying for Planning Permission (and at any stage thereafter), obtain an indication from Natural England of whether their development proposal is eligible to use DLL. Natural England will determine the impact of the proposed development on GCN, assess the cost of addressing the impact through DLL and issue a provisional certificate.

The applicants may therefore wish to consider going down this route and therefore avoiding the need for further surveys for GCN.

However, this still leaves the matter of the fate of the large population of smooth newts on the site. No mitigation measures have been proposed with the current application and the on site pond will be lost to development. Therefore mitigation measures are required to be submitted and agreed before any reserved matters (including the layout and design) are approved.

Reptiles

*The Updated Ecological Appraisal notes the presence of suitable habitats for reptiles on the application site and recommends further surveys (section 4.29) to establish the presence or absence of reptiles and the size of the population(s) if present. From our records we note that a reptile survey of the application site was undertaken by Native Ecology in 2016 and did record a population of slow worm (*Anguis fragilis*). Again we therefore agree that an updated survey for reptiles is required since it is 5 years since the last survey. This survey should be used to estimate the current reptile population(s) on the application site and to inform updated mitigation measures. These mitigation measures are required to be submitted and agreed before any reserved matters (including the layout and design) are approved.*

Bats

The updated Ecological Appraisal recommends (at section 4.14) that further surveys should be undertaken to establish the presence or likely absence of roosting bats within building B1 (the old barn) within the application site which would be demolished under the current submitted proposals. These further surveys should be undertaken and any necessary mitigation measures submitted for approval again before any reserved matters (including the layout and design) are approved.”

Upon providing these comments to the agent, additional details were provided and KCC Ecology were re-consulted. It is important to note that running alongside this reserved matters application is the consideration of conditions 23 (Method Statement for Ecological Mitigation) and 24 (Ecological Design Strategy) of the planning permission which has an impact on the layout being considered. Therefore, the comments in respect of the application to discharge conditions 23 and 24 (under ref 21/503348/SUB) and this reserved matters application were considered concurrently by KCC Ecology who provided the following comments under the relevant sub-headings:

“21/503348/SUB

This revised application is made to discharge conditions 23 and 24 (Biodiversity Mitigation and Enhancement Plan) in relation to planning permission 16/508117/OUT. Following our previous comments (dated 9th July and 3rd September 2021) we met with the applicants ecological consultants Southern Ecological Solutions. We are pleased to advise that following that meeting the submitted Amended Biodiversity Mitigation and Enhancement Plan (September 2021) addresses all of the matters raised in our previous advice.

Therefore, the Amended Biodiversity Mitigation and Enhancement Plan (September 2021) provides a satisfactory basis for the discharge of Conditions 23 and 24 subject to confirmation on the following details:

1. *The Amended BMEP states that: 3.1 The pond will be retained in its current size and location. The pond will be managed and enhanced from its current state in which it is currently overgrown with bullrush. The enhancement will open up the pond to increase the botanical diversity and enable greater utilization of the pond by aquatic invertebrates. The pond cannot be retained in its location due to its current elevated location in the site. I presume that the last sentence is an error and that the pond is being retained in its current position;*
2. *The Amended BMEP states that:*
 - 3.12 *According to current plans, the pond will be retained at its current size. As such the pond will be enhanced to improve its suitability for invertebrates and amphibians including the installation of hibernacula. Chiefly this will be achieved through clearing the overgrown vegetation by hand and planting of suitable aquatic vegetation. The pond will be encircled with newt fencing to ensure the local smooth newt population does not spread to the surrounding area. The newt fencing will be protected with tree protection fencing to avoid unintentional damage.*
 - 3.13 *Clearance of suitable terrestrial habitat will be undertaken using the same methods listed below pertaining to safe mitigation of reptiles, which will mitigate the risk of killing and injury of any smooth newts present.*
 - 3.14 *If the pond enhancements require the pond to be reshaped/ excavated then the pond should be drained down using methods described in Appendix 11*

The timing of any works relating to the pond and the smooth newt population needs to be made absolutely clear. The following therefore needs to be agreed in writing:

- *No works to the pond that may result in the killing or injury of newts (and other amphibians) should take place during the active period for amphibians between March and September inclusive;*
- *The erection of exclusion fencing around the pond should only take place during the breeding period for amphibians between March and June inclusive and when all the amphibians are in the pond or surrounding vegetation. Otherwise there is the risk that amphibians returning to breed in the pond will be excluded from doing so by the exclusion fencing and will be trapped outside the pond and within the construction zone;*
- *The exclusion fencing should be located so that it encompasses surrounding terrestrial habitats and including hibernacula for amphibians so that all the habitat requirements of the amphibians can be met within the fenced and excluded area;*
- *If any amphibians are captured during the trapping and translocation of reptiles, these should be relocated to the pond area to be protected;*

- *The exclusion fencing should be retained and maintained in a good state of repair throughout the whole construction period;*
 - *Once the exclusion fencing is erected and the amphibians are effectively corralled, no works to the pond or adjacent habitat can take place as this would risk the killing or injury of animals which have nowhere to escape to. Therefore, if works to the pond are required these should either be undertaken in the winter preceding the erection of the exclusion fencing or the amphibians will need to be captured and moved to a suitable temporary receptor area.*
3. *We discussed in our recent meeting the need to avoid the pond becoming an 'island' of habitat surrounded by built development. Such isolated areas make populations vulnerable to disease, predation, and critical events e.g. fires, pollution etc. It also prevents the interchange of genes because the breeding population can become genetically isolated. However, the submitted plans do not include the necessary habitat linkages between the pond area and the areas of tussocky grassland that is to be retained around the site boundaries for reptiles. Therefore, we advise that such a linkage should be made. This could for example be achieved by re-arranging/re-orientating parking spaces for units 7,8 and 9 (e.g. so that they are parallel with those opposite for units 10,11 and 12) and thus creating sufficient space to create a 2 metre wide strip of wildflower verge connecting from the pond to the tussocky grassland to the north.*
4. *The Amended BMEP states that: 3.20 The following timeline summarises the sequence of events:*
1. *Reptile Mitigation in the north of site in the below order:*
 - a. *Vegetation clearance (where required) to install fencing etc.*
 - b. *Receptor area setup: including installation of exclusion fencing with Heras fencing and hibernacula;*
 - c. *Translocation of reptiles to receptor area;*
 - d. *Implementation of SUDs drainage followed by boundary habitat enhancement*
 - e. *Destructive Search*
 - f. *Removal of exclusion fencing opening receptor to enhanced boundary habitat*
 - g. *Removal of exclusion fencing (at the end of all construction works)*
 2. *Precautionary Measures for reptiles, hedgehogs and toads: April - September (depending on weather conditions for reptiles).*

Further to our advice above on the timing of operations in relation to impacts on amphibians, we would like to have an agreed timetable for all mitigation measures for all species in the form of a simple table/calendar showing when it is/is not acceptable to undertake certain works.

5. *The Amended BMEP states that: Reptiles*

3.15 Due to the risk of death and/or injury, reptiles will require translocation away from the works area to an in-situ receptor area. To enable works to commence and minimize the handling of reptiles the north-western area of the site, where the reptiles were found, will be isolated from the rest of the site. This will allow work to commence in the rest of the site...

This proposed approach is acceptable given that all the most suitable reptile habitat is within the north-west of the application site. However, it needs to be made clear how this area is to be isolated from the rest of the site. Is this to be achieved by the erection of temporary exclusion fencing?

Subject to the agreement and incorporation of the above amendments into the BMEP, the submitted BMEP is satisfactory for the discharge of Conditions 23 and 24.

21/501908/REM

Further to our advice above, providing that the layout and landscape plans are given a minor amendment to ensure that a habitat strip connection is provided between the retained pond and the retained tussocky grassland margins of the site, then we advise that the submitted details are satisfactory from an ecological perspective to enable the approval of the Reserved Matters."

Further to the above I liaised with the agent who again provided additional details. On this basis I re-consulted with KCC Ecology and again, due to the issues which cross over the application to discharge conditions and this reserved matters application, I have included the combined response below:

"21/503348/SUB Condition Discharge – Sufficient Information

We have reviewed the amended submitted documents in relation to condition 23 and 24 and advise that sufficient information has been provided to discharge these conditions.

We do advise one additional minor amendment to the submitted plans to enable reptiles and amphibians to pass safely between the retained wildlife pond and the wider network of habitat that is to be retained within the proposed development. As currently designed, amphibians and reptiles are at risk from killing by vehicles when crossing the driveway access to the north of the pond on their annual migrations to and from the pond before and after breeding or to find suitable hibernacula for over-wintering as can be seen in the plan extract below. We therefore advise that an amphibian tunnel be created across the entrance to this driveway, linking the pond area to the wider open space network to the north. The company ACO produces a suitable product (<https://www.aco.co.uk/wildlife>) that has been independently tested and found to be effective (<https://www.amphibians.org/news/under-road-tunnels-help-great-crested-newts/> <https://www.froglife.org/2019/02/27/protected-great-crested-newt-populations-expand-due-to-under-road-tunnels/>).



21/501908/REM

Further to our advice above, providing that the layout and landscape plans are given a minor amendment to ensure that an amphibian tunnel connection is provided between the retained pond and the retained tussocky grassland margins of the site, then we advise that the submitted details are satisfactory from an ecological perspective to enable the approval of the Reserved Matters.”

6.4 Lead Local Flood Authority (KCC) – Initially commented as follows:

“We have reviewed the Conceptual Drainage Strategy drawing 21456 - SK01 - Rev G by JPP and the supporting information which proposes to attenuate the surface water prior to discharge to a ditch at 9.7 l/s as approved application 16/508117/OUT and have the following comments.

1. We would expect to see the drainage system modelled using 2013 FeH rainfall data in any appropriate modelling or simulation software. Where 2013 FeH data is not available, 26.25mm should be manually input for the M5-60 value, as per the requirements of our latest drainage and planning policy statement (November 2019); the FSR dataset should not be used:

http://www.kent.gov.uk/__data/assets/pdf_file/0003/49665/Drainage-and-Planning-policy-statement.pdf

The Ciria SuDS Manual (2015) states that the FEH methods should be the preferred approach for developing runoff estimates within surface water management design (Chapter 24.3). The manual acknowledges that this is dependent upon the access to FEH documentation.

We would recommend a holding objection to the application until the above requested information is provided to support the proposed drainage strategy as using the correct

rainfall data will create additional volumes of surface water for on site attenuation which will require demonstration that this surface water can be accommodated within the site boundaries with the Flood Risk Assessment and calculations updated to include the above.”

Upon providing these comments to the agent amended details were provided and I re-consulted with the Lead Local Flood Authority, who subsequently commented as follows:

“Kent County Council as Lead Local Flood Authority have reviewed the email response from JPP Consulting dated 16 June 2021 and have the following comments:

Although the outline application 16/508117/OUT was approved in line with the FRA by RMB Consultants the rainfall data used shall be as stated in Kent County Councils Drainage and Planning Policy dated November 2019 which is detailed below.

At the detailed design stage The Ciria SuDS Manual (2015) states that the FEH methods should be the preferred approach for developing runoff estimates within surface water management design (Chapter 24.3). The manual acknowledges that this is dependent upon the access to FEH documentation.

The EA report, “Rainfall runoff management for developments” Report SC030219 (2013), mapped the variation of the rainfall depth relationship between FSR and FEH with both return period and duration. For 1 year events, FSR :FEH ratio is greater than 1; however for greater return intervals, the FSR:FEH ratio is generally less than 1 therefore indicating that FSR is under-predicting rainfall depths when compared to FEH for longer duration and greater return interval events.

Our calculation of 26.25 mm/hr was a pragmatic application of the EA report across Kent. It is based on utilising the ratio FSR:FEH for the 100 year 6 hour event, which shows that FSR values are 70 to 90% of FEH values. Taking a precautionary approach we have assessed the ratio as 0.8, therefore applied to average Kent M5-60 value of 21mm/hr produces a rainfall depth of 26.25 mm/hr.

If you do not agree with the calculated FSR value then we recommend either:

(a) utilising FEH; or,

(b) utilising the methodology proposed with “Rainfall runoff management for developments” Report SC030219 (2013) which includes the appropriate FEH rainfall factor.

We will not accept an unadjusted FSR value of 19.1 mm/hr.

We will lift our holding objection in relation to the Reserved Matters submission provided the Full and Discharge of Conditions submissions adhere to the above.”

The above comments were provided to the agent who provided amended details. I re-consulted with the Lead Local Flood Authority who commented as follows:

“Information has been re-submitted with the correct rainfall data which has shown that the drainage strategy will accommodate the surface water within the proposed attenuation basin prior to discharge into the watercourse.

The matters raised in our earlier consultation response have been addressed. We would therefore recommend that the reserved matters for application 16/508117/OUT may be approved.”

- 6.5 KCC Public Rights of Way – “Public footpath ZS6 passes through the proposed development. A copy of the current Public Rights of Way Network Map showing the line of this path is enclosed.

The application acknowledges the existence of the footpath and proposes to enhance the whole of the route from Elm Lane to Drake Avenue. I believe that there is a S106 agreement in place in relation to outline application 16/508117/OUT requiring a developer contribution to improvement works to the footpath beyond the site boundaries.”

- 6.6 Southern Water – “no objections for the above reserved matters application.” Southern Water make further comments regarding wider network reinforcement and adoption of the foul sewerage infrastructure [n.b. these two matters fall outside the planning process].

- 6.7 KCC Archaeology – “Thank you for consulting on the above reserved matters application for 62 dwellings at The Slips, Scocles Road, Minster. I provided advice on the outline application recommending the following condition be attached for archaeological evaluation to be followed by measures to preserve or investigate significant remains that may be identified.

AR5 No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of

i) archaeological field evaluation works in accordance with a specification and written timetable which has been submitted to and approved by the Local Planning Authority; and

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

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

I did advise in my response in 2016 that it would be preferable for the archaeological evaluation to be undertaken in advance of a detailed application in order that any preservation measures, if required, can be more readily accommodated in the design of the scheme. That remains my advice. We have recently received an acceptable WSI for evaluation from RPS Group and I note that this has been recently submitted as 21/503878/SUB and I have written today to advise its approval. I understand that the evaluation is to be undertaken in early August [2021] and the results of this should be used to inform the present application and any modification of the proposed condition that may be appropriate.”

Due to the above comments I subsequently received an update from the agent in respect of the works that had been undertaken as referred to. I re-consulted with KCC Archaeology who commented as follows:

"I can confirm that the work has moved on since the response to the application [as set out above]. Evaluation has been carried out over the majority of the site though the area highlighted (12 and 13) and another area (2 and 10) on the attached plan were not achievable due to ecology constraints and remained to do. An area of further investigation has been agreed and has been undertaken and is going through the reporting process at present I believe.

I am happy that the further trenching awaits the ecology release and am confident that there is not likely to be an issue that prevents agreement of layout now. If the further trenching encounters archaeology it is likely to warrant investigation and recording rather than preservation."

- 6.8 SBC Environmental Protection Team – *"Conditions on the outline permission relating to a requirement for submission of a contaminated land assessment and a code of construction practice remain valid.*

In view of the passage of time since approval of the outline application I must suggest inclusion of the following additional condition" [for electric vehicle charging points].

Further to the above comments I have liaised with the Environmental Protection Team regarding construction hours as no conditions have been attached to the outline planning permission. On this basis, conditions relating to hours of construction, and separately pile driving have been recommended.

- 6.9 SBC Climate Change Officer – *"Generally I am fine with this. The Energy Statement is thorough and gives robust arguments re which technologies to use.*

I note that waste water heat recovery will be used - as far as I aware this is a first in Swale. My only concern is that in both the D and A statement and the Parking Strategy (not really a strategy, just a plan) there is no mention of EV charge points - I would expect one per house with a garage or dedicated parking, and at least 1 per 10 visitor/shared parking spaces as per our Parking SPD.

- 6.10 SBC Greenspaces Manager – Commented that the development provides the required amount of open space but some of it is not 'usable' due to the need to retain boundary vegetation and the areas of small amenity / verge areas. The inclusion of a pond was queried if this did not serve a drainage purpose as it is separated from any biodiversity opportunities. Confirmed acceptance of the soft landscaping details and that the Council would not be adopting the open space and therefore arrangements for future maintenance would be required.

In terms of the play space, it is accepted that this is appropriate on this size of development. Requested some amendments in respect of 'padded' areas to immediately surround play equipment and the bench, to mitigate the wear of these areas and the inclusion of a gate / fence to prevent access by dogs.

Further to the above I liaised with both the Greenspaces Manager on the matter of the retained planting and the impact this had on related 'usable space'. The Greenspaces Manager confirmed that it was recognised that the boundary vegetation is valued and a priority.

I subsequently liaised with the agent regarding the amendments that were sought, details of which have been forthcoming and accord with the Council's Greenspaces Manager's requirements.

- 6.11 Lower Medway Internal Drainage Board (LMIDB) – Initially commented "*We have received applications for Land Drainage Consent for this site, specifically for consent to discharge surface water to a watercourse (Byelaw 3) and for works within 8 metres of the Board adopted watercourse (Byelaw 10) that bounds the site to the east, as shown in drawing SK01 Rev G.*

The Board has reviewed the proposals and is minded to approve the discharge of surface water pending the acceptance of conditions and the payment of a surface water development contribution based on the Board's charging policy (available here: <http://www.medwayidb.co.uk/development/>).

The works within 8 metres of the Board's high priority adopted watercourse LM3A however are not acceptable to the Board under the terms of their Byelaws (<http://www.medwayidb.co.uk/consents/byelaws/>). This is due to the fact that access must always be available to the Board's operatives with heavy machinery to ensure maintenance can be carried to in order for the watercourse to offer effective flood protection to the local area.

I have contacted the agent to request the plans are altered to remove the private drives from the 8m easement on the west side of LM3A. We are happy to discuss to come to a mutually beneficial resolution."

Due to the above comments relating to the private drives within 8m of the adopted watercourse I have liaised with both the agent and the LMIDB. The LMIDB have confirmed to me that the applicant has now been issued with 'a notice of intention to grant consent' which includes a number of conditions. The LMIDB have also confirmed that these have been agreed to with one outstanding condition related to a restrictive covenant being required to be applied to each property within 8m of the watercourse to allow the LMIDB to have rights of access.

- 6.12 Kent Police – Have raised a number of points in respect of surveillance of open space / footpath; separation of cars and pedestrians; boundary treatments; lighting; the play area to be fenced; and the standard of doors and windows. A condition has been recommended related to the development according with 'Secure by Design' guidance.
- 6.13 Environment Agency – No comments to make.

7. BACKGROUND PAPERS AND PLANS

- 7.1 The application has been supported by the following information: Site Layout Drawings; Elevations; Floorplans; Planning Statement; Arboricultural Impact Assessment and Method Statement; Biodiversity Mitigation and Enhancement Plan; Soft Landscaping

Details; Planting Schedule; Drainage Plans; Energy Statement; Design & Access Statement; Landscape Management and Maintenance Plan.

8. APPRAISAL

Principle of Development

- 8.1 The site benefits from an outline planning permission as set out in the history section above for up to 62 dwellings, granted under reference 16/508117/OUT. The decision notice is appended. This site is also allocated for housing under policy A 21 (Smaller allocations as extensions to settlements) of the adopted Local Plan. As a result of the grant of outline planning permission and the allocation of the site within the adopted Local Plan, the principle of residential development is established.
- 8.2 This application is seeking approval of the reserved matters, namely, appearance, landscaping, layout and scale for 62 dwellings. Due to the outline planning permission allowing for up to 62 dwellings on this site, this proposal is compliant with the terms of the planning permission in respect of unit numbers.
- 8.3 Due to the above position, 'in principle' matters such as the impact of the development upon the highway network, the impact upon services and facilities such as education and healthcare, the payment of developer contributions, the need for a Transport Assessment and the potential for the site to be agricultural land have already been considered acceptable by virtue of the granting of planning permission. Therefore, although these matters have been raised by neighbours and the Parish Council, they are not subject to consideration as part of this reserved matters application.

Mix of Units

- 8.4 The application proposes the following mix of units:

3 bed - 34

4 bed - 28

- 8.5 Policy CP 3 (Delivering a wide choice of high-quality homes) of the adopted Local Plan sets out the housing needs for the Borough as a whole and subsequently splits the Borough into various Local Market Housing Areas. The supporting text to the policy specifies that in the Borough in general, the greatest need is for 3-bedroom properties, and specifically in Minster, the demand for family housing is greatest and should be encouraged. In terms of both the wider Borough need for 3-bedroom properties, considered along with the more specific localised need I am of the view that the above mix meets the requirement for additional family housing in the area.

Layout

- 8.6 The layout of the development is primarily based around perimeter blocks with dwellings facing onto the streetscene and rear gardens backing onto each other. In a number of instances parking spaces have been provided to the side of dwellings which reduces their impact on the streetscene. The outline planning permission fixed the two access points from Scocles Road from which the internal roads provide access to the dwellings

within the site. The site includes a drainage basin in the south-western corner, a retained pond towards the northern part of the site and an area of open space in the eastern part of the site, which includes an area of 'natural' play. The existing well-established planting located along the southern and eastern boundary is shown as being retained. Based upon the requirements of the outline planning permission and the outward facing dwellings in perimeter blocks, I consider that overall this is an appropriate way to lay out the site.

- 8.7 In terms of the open space, the outline planning permission requires that the details submitted pursuant to the reserved matters include an area equal to 10% to be reserved for public open space. A drawing has been provided which demonstrates how this requirement has been met. Although some of this is linear and close to the margins of the site, I am satisfied that along with the area of open space in the east of the site, which includes the play area, that there is an acceptable variety of open space to cater for different needs and in percentage terms the relevant condition has been complied with. The Council's Greenspaces Manager has also confirmed that the precise details of the play equipment are acceptable. A small pond has also been retained within the central part of the site, which will provide habitat for amphibians whilst at the same time enhancing the visual appearance of this part of the site.
- 8.8 The existing route of a public footpath (ZS6) passes through the north-eastern corner of the site. The footpath has been retained in the proposed layout and passes along the margin of the open space in the eastern part of the site. The KCC Public Rights of Way Officer has been consulted on the application and comments that the development acknowledges the existence of the footpath and references that the S.106 agreement pursuant to the outline planning permission includes a contribution for improvement works to this public footpath (the contribution secured is £13,640).
- 8.9 There is a pumping station located in the southern part of the development (adjacent to the proposed SUDs pond). Having assessed this I am of the view that it is located in one of the less prominent parts of the site and along with the screening provided by the existing planting along the Elm Lane boundary, is also proposed to be screened by further planting. Details have been provided of the elevations, which show the pumping station to be 2.1m high and that it will be finished in brick. On this basis I am of the view that locating it in this part of the development is acceptable.
- 8.10 There was a discussion with the agent regarding connecting the vehicular routes adjacent to units 34 and 36 in the southern / south-eastern part of the site. The agent provided a response to this point, setting out that the intention on the edge of the development was to respond to the rural edge of the scheme, by having less lighting and a less formal appearance than a standard estate road. Having considered the details, I believe this to be a reasonable approach and will allow for these parts of the site to have a more rural character. It is important to note that this relates to two small parts of the site and they are connected by pedestrian routes, as such I consider this part of the layout to be acceptable.
- 8.11 In summary I am of the view that the layout has been well designed and includes a number of good planning principles, particularly in terms of the use of perimeter blocks, dwellings engaging with the streetscene and the rear private amenity spaces backing

onto each other. On this basis and as per the matters discussed above I believe that the layout is acceptable.

Appearance

- 8.12 Condition 27 of the outline planning permission requires a development brief to be submitted in support of the reserved matters application. This document has been provided and shows that the proposal includes a number of different house types with a variety of features, including brickwork detailing above the windows, canopies, projecting bay windows and staggered elevations. In overall terms, the dwellings would in my opinion be described as traditional with brick, render, tile hung and weatherboarded walls sitting beneath pitched tiled roofs. The dwellings in the surrounding area are a mix of styles and therefore I do not believe that there is prevailing design which should be sought to be replicated in this scheme. Having said this regarding the variety of property styles, on the opposite side of Scocles Road, facing the application site lie a row of uniformly designed properties.
- 8.13 Upon receipt of the application it was considered that further work should be carried out in respect of increasing the quality of detailing on the properties. I liaised with the agent on this basis and have received amended details which shows chimneys added to certain units, increased the pitch of the roofs and added hips, lowered the eaves of the roof, introduced exposed rafter feet and increased the use of weatherboarding. In my view the house types in their amended form are acceptable. As this site sits adjacent to open countryside I particularly welcome the introduction of features such as exposed rafter feet, the hipped roofs and the more extensive use of weatherboarding which uplift the design of the properties.
- 8.14 As set out above, facing the site on the opposite side of Scocles Road is a row of properties, a number of which are very similar in appearance and scale. In response, the amount of variety in the appearance of the proposed dwellings which will front onto Scocles Road has been limited. I am of the view that on the basis of the existing uniform appearance of a number of the existing dwellings in the streetscene that this is the appropriate approach to take.
- 8.15 As with any residential scheme, an important aspect in respect of the success of the scheme lies in the careful selection of external finishing materials. In this case, a palette of materials has been put forward which I have assessed. Although I am of the view that the majority of the materials are acceptable, I believe that a higher quality could be achieved particularly in relation to roof tiles. As a result, I have recommended a condition which requires alternative details to be submitted.
- 8.16 In addition to the external finishing materials of the dwellings themselves, the appropriate use of boundary treatments is also of importance in ensuring an acceptable appearance. Upon receipt of the original drawings I was of the view that in the majority of instances, brick walls had been used for boundaries which were visible from public vantage points and therefore more prominent, with close boarded fencing used where private gardens back onto one another. I did however note that there were two locations where I believed the use of close boarding fencing should be altered to a brick wall. I raised this with the agent and have received amended drawings which now show fully

acceptable details. Finally, I do have details in respect of precise hard landscaping details, including the finish of the carriageways and footpaths. As such I have imposed a condition requiring these details. On the basis of the above I am of the view that the appearance of the development is acceptable.

Scale

- 8.17 Condition 27 of the outline planning permission states that the development brief (as referred to in paragraph 8.12 above) will also include details of the maximum and minimum building heights. A drawing has been provided showing that in respect of the newly proposed built form, the garages on the site will be one storey, 11 of the dwellings will be 2 ½ storey with the remaining 51 dwellings 2 stories in height. The height of the dwellings range between approximately 8.6m and 9.9m.
- 8.18 The dwellings in the surrounding area are a mixture of heights, and includes 1, 1 ½ storey and 2 storey units. As referred to above in the discussion regarding the appearance of the development, on the opposite side of Scocles Road facing the application site lies a row of properties predominately two storey in height. This application has responded to this by proposing a row of two storey properties fronting Scocles Road which in my view is a sensible way of approaching this and will create a coherent streetscene.
- 8.19 In respect of the development as a whole, along with the variation in height between the properties, the variation in storey heights will in my opinion provide sufficient visual interest. In overall terms on the basis of the above assessment I am of the view that the scale of the development is acceptable.

Landscaping

- 8.20 The site is characterised by the mature hedgerow which sits along much of its western, southern and eastern boundaries. The outline planning permission requires under condition 18 details to be submitted with this reserved matters application of the retention and reinforcement of vegetation along the southern and eastern boundaries of the site. In general terms the layout of the development has included the retention of this existing planting. I do also note the comment that has been received by a neighbour in respect of the removal of the existing boundary planting along the Scocles Road frontage of the site. On the basis that there are two access points onto Scocles Road which benefit from planning permission, which would also require sufficient visibility splays, I am of the view that the removal of this hedgerow has been accepted.
- 8.21 Condition 25 of the outline planning permission requires that this reserved matters application is supported by details of existing planting and how the planting that is to be retained can be done so in a satisfactory manner. These details have been submitted and assessed and considered acceptable. To ensure that the retained planting is appropriately protected, I have recommended a condition requiring the Tree Protection Plan to be adhered to during the construction period.
- 8.22 In respect of the proposed landscaping, after considering the originally submitted details I was of the view that the inclusion of further street trees was not only possible but highly desirable, and I also liaised with the agent regarding amending the details of the

proposed tree species to ensure that any non-native species proposed were amended to native species, in order to provide the maximum biodiversity benefits. As a result, amended landscaping details have been provided which show additional street trees and demonstrate that all the trees (85 in total) are to be native species. I am of the view that this is acceptable and along with the mix of planting that is proposed, in the form of trees, shrubs, hedges, bulbs and various grasses that the proposed landscaping will give rise to both visual and biodiversity benefits. It is also noted that a number of the trees are 'heavy standard' or 'extra heavy standard' which will assist in having a positive visual impact in the short term. In addition, a number of the trees are planted in roadside verges and to ensure that they are able to properly establish and mature have imposed a condition requiring details of root barriers and soil volumes. On the basis of the above discussion, I am of the view that the soft landscaping details are acceptable.

Ecology

- 8.23 As set out in the consultation section above, KCC Ecology have been heavily involved in the application process and have arrived at a position whereby they consider the ecological matters have been acceptably dealt with. The surveys as required have been undertaken and the site layout details have been amended so that a pond has been retained to provide further habitat for a population of amphibians. It is noted that KCC Ecology have agreed to the details subject to a tunnel being provided for these amphibians. This will allow the amphibians to safely navigate their way to the area of tussocky grassland which is being provided in the north of the site. Amended details have now been provided in line with these comments and on the basis of KCC Ecology's detailed assessment I am of the view that these matters have been acceptably dealt with.
- 8.24 It important to note that a number of biodiversity enhancements have been included as per the details required by condition 24 of the outline planning permission. These include hedgehog highways, bird and bat boxes and hibernacula which will also be included in the development. I note that neighbours have raised concern regarding wildlife, including protected species which inhabit the site, however, I give very significant weight to the comments of KCC Ecology who consider the matters to have been acceptably addressed.

Residential Amenity

- 8.25 Concern has been raised from neighbouring occupiers regarding the impact of the development upon residential amenities, namely loss of privacy, loss of light, overshadowing, pollution and noise. The application site sits to the east of existing properties on Scocles Road and to the south of properties on Drake Avenue, as a result the impact upon residential amenities will need to be carefully considered.
- 8.26 Having assessed the scheme, it is noted that the existing properties on Scocles Road are separated from this development by both the carriageway and the large frontages that a number of these properties benefit from. As a result, the vast majority of these existing and proposed properties are separated by a distance in excess of 30m and therefore will not give rise to any serious harm in respect of the impact upon neighbouring amenities in my view. There is one proposed property, in the north-west

of the application site, which is separated from the existing property on the opposite side of Scocles Road by a distance of approximately 18m. I would consider this arrangement to be wholly typical of a number of streets in the Borough, with properties facing each other on the opposite side of the carriageway, as a result I am of the view that this is acceptable.

8.27 In respect of the existing properties in Drake Avenue, a number of these back onto the site. In terms of the three closest proposed units (plots 9, 10 and 19) to Drake Avenue, it is firstly important to consider that due to their orientation, none of these properties have direct views from habitable room windows towards the rear private amenity space of the closest existing properties. There would be some angled views available, but having assessed the distances these would all be in excess of the 21m minimum separation distance that the Council requires. There are windows in the flank elevation of plots 9 and 10 at first floor level, facing towards the rear gardens and elevations of existing properties in Drake Avenue. However, these two windows are obscure glazed and in any case, are comfortably in excess of the minimum 21m separation distance from the closest existing properties. Therefore they will not in my view give rise to a loss of privacy for occupants of existing properties. There is also a property (known as Wedge Green) which has its amenity space adjacent to the dwelling it serves and also abuts the site. Having also assessed this, there would be parts of the existing garden in excess of 30m from the proposed dwelling(s). As a result I do not believe that the proposal would give rise to any significant harm in respect of loss of privacy, loss of light or overshadowing of existing properties.

8.28 I have also assessed the impact of the development upon the future occupants. In respect of this, the dwellings have been laid out to comply with the Council's minimum requirements for separation distances in this respect (21m rear to rear and 11m flank to rear). There are some very limited instances where the proposed dwellings have been orientated in such a way as the closest proposed dwelling would fall below the minimum rear to rear distance, however, on the basis that this wouldn't be the direct view afforded to the occupants I believe that the impact upon the amenities of future occupants would be acceptable.

8.29 I also note the concern raised regarding additional pollution and noise. Although the type of pollution has not been expanded upon, it is important to note that matters of air quality have already been considered acceptable by virtue of the grant of planning permission. In respect of noise, the outline planning permission includes a condition (11) requiring a Code of Construction Practice. As part of this, details will need to be provided regarding expected noise levels. I have also noted that the outline planning permission does not include a condition restricting construction hours. Having discussed this with the Council's Environmental Protection Team, I have therefore recommended conditions related to hours of construction, and separately hours that pile driving is permissible. On this basis I am of the view that the noise impact of the development will not give rise to significant harm to neighbouring occupiers.

Highways and Parking

8.30 As set out above, the two access points from Scocles Road benefit from detailed consent. However, matters such as the suitability of the internal road network within the

development, the access to the individual properties proposed along Scocles Road and the parking arrangements are to be considered under this reserved matters application.

- 8.31 As set out in the consultation section above, KCC Highways & Transportation have been very heavily involved in the consideration of this scheme and have provided a number of detailed comments. It is important to note that national and local design standards in terms of roadwidths, footway provision, swept path analysis and speed restraint features within the development have been adhered to. In addition, amended details have been provided to demonstrate that the layout accommodates the level of parking as required by the adopted Parking Standards SPD. On this basis I am of the view that these aspects of the development are acceptable.
- 8.32 I also note that the point regarding the lack of footpaths in the area has been raised by neighbours. In respect of this, although they are not issues to be reassessed as part of this reserved matters application, it is of importance that the outline planning permission secures via condition 4 (and 29 and 30) provision of a footway on both sides of Scocles Road to connect the development to the existing footways opposite the development and Harps Avenue; widening of Scocles Road along the site frontage; and extending the 30 mph speed limit to a new gateway feature near its junction with Elm Lane. I consider that these highway works will provide wider benefits in respect of improving pedestrian access in the local area.
- 8.33 As part of this reserved matters application KCC Highways & Transportation have recommended a number of conditions related to parking spaces to be retained as such; details of electric vehicle charging points; space to be provided for cycle parking; pedestrian visibility splays to be maintained; and works between the dwellings and the highway to be completed. The first of these conditions has already been imposed on the outline planning permission (and as such it is not necessary to repeat). I am also of the view that as all the units are houses with reasonable sized gardens that there is ample room for cycle parking and therefore do not believe that further details are required. I have however recommended that the remainder of the conditions be attached to an approval of reserved matters and have included them below. On this basis I am of the view that the highway related elements of the scheme are acceptable.

Drainage

- 8.34 In respect of drainage, Southern Water, the Lead Local Flood Authority (KCC) and the Lower Medway Internal Drainage Board (LMIDB) have been consulted. In terms of foul drainage, a pumping station is proposed in the southern part of the site and Southern Water have raised no objection to the application. Separately, condition 13 of the outline planning permission will be required to be complied with in respect of foul drainage.
- 8.35 In terms of surface water, there are a number of existing ditches on the margins of the site which are being retained, along with a newly created SUDs pond in the south western corner of the development. The Lead Local Flood Authority, as per the consultation section above, have confirmed that the details provided are acceptable. I also welcome the retention of the ditches, along with the drainage pond which will also likely give rise to biodiversity benefits. The LMIDB have also been involved in the application process due to the ditches as mentioned above. Initial comments were

received in respect of some of the private drives in the eastern part of the site being within 8m of the watercourses. This was seen as being unacceptable due to the easement usually required for maintenance. I have continued to liaise with both the LMIDB and the agent on this matter (and there has also been on-going discussions between the LMIDB and the agent separately). As a result of this, the LMIDB have issued a Notice to Grant Consent for these works to take place within 8m of the watercourse. I have been informed that there is one remaining condition for the developer to satisfy before the LMIDB can grant consent for these works, which essentially relates to a restrictive covenant on the conveyance of the shared driveways within 8m of the watercourse. However, this could only be dealt with fully when the properties actually exist. On this basis, I am of the view that there is as sufficient agreement to this as is possible at this point. It is also important to note that the LMIDB's consenting process is separate to the planning process and as such I take the view that this matter is acceptable from the perspective of this reserved matters application.

Sustainability

- 8.36 Condition 22 of the outline planning permission requires this reserved matters application to be supported by details which set out which measures have been taken to ensure that the development incorporates sustainable construction techniques.
- 8.37 The application has been supported by a Energy Statement which in summary concludes that a 50.94% carbon reduction against the Buildings Regs requirement can be achieved. The measures which will be taken to achieve this is via solar PV panels; waste water heat recovery and fabric and building efficiencies. I have consulted with the Council's Climate Change Officer who is of the view that the details are acceptable. In my opinion the details provided are very welcome and go beyond any currently adopted local or national policy, the benefits of which I believe should be given significant weight. To ensure that the development is carried out in accordance with the details as submitted I have recommended a relevant condition.
- 8.38 I also note that the Council's Climate Change Officer has requested a condition requiring the properties have electric vehicle charging points. KCC Highways & Transportation have also made reference to this. As this is a requirement of the Council's adopted Parking Standards SPD I have recommended this condition.

Other Matters

- 8.39 Although a number of the matters included in the neighbour objection letters have been discussed via the appraisal carried out above, of those that remain I comment as follows. Firstly, matters of whether brownfield sites should be developed first and that the site would give rise to a loss of grazing land have all been dealt with on the basis that planning permission has been granted, and as a result the principle of development has been accepted.
- 8.40 In terms of whether objections to the previous application should still be taken into account I comment as follows. Firstly, there have been instances whereby comments submitted in response to this application have been placed upon the file for the outline planning permission. As set out in the 'Local Representations' section above these have been taken into account. However, comments which were made in response to the

outline planning application before its determination would have been assessed at that point. It is also important to note that the outline planning application and this reserved matters application are assessing different elements of the scheme. In terms of neighbours being unable to take part in the consultation process due to the number of applications in the area, it should be noted that the applications have all been advertised, in accordance (and in this particular case in excess of) the Council's statutory requirements. As a result, I conclude that no party has been disadvantaged in being able to provide their views. I also see no obvious reason why this development would unacceptably harm any equestrian related activities on other nearby sites. Finally, I do not believe that historical refusals of planning permission would mean that development should be resisted now, particularly on the basis that planning permission has already been granted and as the site is allocated for housing in the adopted Local Plan.

9. CONCLUSION

- 9.1 Overall, I am of the view that the details submitted demonstrate that the site can accommodate 62 dwellings as approved under the outline planning permission. I believe that the development includes a number of good planning principles in the form of perimeter blocks and dwellings facing onto the street. I also take the view that the design / architectural treatment of the individual dwellings has been amended to a point which means they will make a positive impact upon the local area in general. The details set out how existing structural planting along the southern and eastern boundary will be retained and I am also of the view that the proposed planting within the confines of the site is acceptable.
- 9.2 I do recognise the concerns of the Parish Council and the neighbours that have been raised. However, it is of fundamental importance to note that any comments in respect of the principle of the site coming forward for housing and the impact of this on the highway network, local services and infrastructure in general have already been considered acceptable by virtue of the grant of planning permission.
- 9.3 On the basis of the above, I am of the view that the reserved matters of appearance, landscaping, layout and scale of the development proposed are acceptable.

10. RECOMMENDATION

That reserved matters approval should be GRANTED, subject to the conditions as set out below:

CONDITIONS

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

MATT191012 SL.01 E
HT-1102.e B
HT-1102.p B
HT-1148 MID.e A
HT-1148 MID.p A
HT-1148.e C

HT-1148.p C
 HT-1319-B-1.e C
 HT-1319-B-2.e C
 HT-1319-B.p C
 HT-1319.e C
 HT-1319.p C
 HT-1424.e C
 HT-1424.p C
 HT-1557.e D
 HT-1557.p D
 HT-966 MID.e A
 HT-966 MID.p A
 HT-966.e A
 HT-966.p A
 HT.1136-A.e B
 HT.1136-A.p B
 HT.1136.e C
 HT.1136.p C
 SHED.01.pe A
 GAR.01.pe C
 GAR.02.pe C
 MAT23017-11L Sheet 1
 MAT23017-11L Sheet 2
 MAT23017-11L Sheet 3
 MAT23017-11L Sheet 4
 MAT23017-20D
 2724-D-01
 MATT191012 BDML01 E
 SUB.01.pe A

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

- 2) Notwithstanding the details shown on drawing MATT191012 BDML01 E no development beyond the construction of foundations shall take place until details of the external finishing materials of the dwellings has been submitted to and agreed in writing by the Local Planning Authority. The details as approved shall thereafter be implemented.

Reason: In the interests of visual amenities.

- 3) Pedestrian visibility splays 2m x 2m with no obstruction over 0.6m above the access footway level shall be provided at each private vehicular access prior to it being brought into use and shall be subsequently maintained.

Reason: In the interests of highway safety.

- 4) Before the first occupation of a dwelling the following works between that dwelling and the adopted highway shall be completed as follows:
 - (A) Footways and/or footpaths shall be completed, with the exception of the wearing course;
 - (B) Carriageways completed, with the exception of the wearing course, including the provision of a turning facility beyond the dwelling together with related:
 - (1) highway drainage, including off-site works,

- (2) junction visibility splays,
- (3) street lighting, street nameplates and highway structures if any.

Reason: In the interests of highway safety.

- 5) The development hereby approved shall be carried out in accordance with the Energy Strategy Statement, dated March 2021.

Reason: In the interests of sustainable construction.

- 6) No development beyond the construction of foundations shall take place until details of root barriers and soil volumes for any tree planted within a road side verge has been submitted to and approved in writing by the Local Planning Authority. The details thereafter shall be implemented as approved.

Reason: In the interests of visual amenities and biodiversity.

- 7) Each dwelling shall be provided with 1 electric vehicle charging point and no dwelling shall be occupied until the charging point for that dwelling has been installed. All Electric Vehicle chargers provided must be to Mode 3 standard (providing a minimum of 7kw) and SMART (enabling Wifi connection). Approved models are shown on the Office for Low Emission Vehicles Homecharge Scheme approved chargepoint model list: <https://www.gov.uk/government/publications/electric-vehicle-homecharge-scheme-approved-chargepoint-model-list>

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

- 8) Prior to the occupation of units 5-12 inclusive, the 'amphibian tunnel', as shown on drawing MAT23017-11L Sheet 2 shall be installed in accordance with the specification as set out in the response from KCC Ecology, dated 13/1/2022.

Reason: In the interest of protected species and biodiversity.

- 9) No development beyond the construction of foundations shall take place until details have been submitted to and approved in writing demonstrating how the development meets the principles of 'secure by design'.

Reason: In the interests of crime reduction and safety.

- 10) 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.

Reasons: In the interests of residential amenity.

- 11) 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.

Reasons: In the interests of residential amenity.

- 12) The details as set out in the Landscape Maintenance and Management Plan (dated 31/3/2021) shall be adhered to in perpetuity.

Reason: In the interest of biodiversity and visual amenities.

- 13) No development beyond the construction of foundations shall take place until hard landscaping details (including the finish of the carriageways and footpaths) have been submitted to and approved in writing by the Local Planning Authority. The details thereafter shall be implemented as approved.

Reason: In the interests of crime reduction and safety.

- 14) During the construction period of the development hereby approved, the measures as outlined in the Tree Protection Plan (drawing ref MAT23017-03 Rev B) shall be adhered to.

Reason: In the interest of biodiversity and visual amenities.

The Council's approach to the application

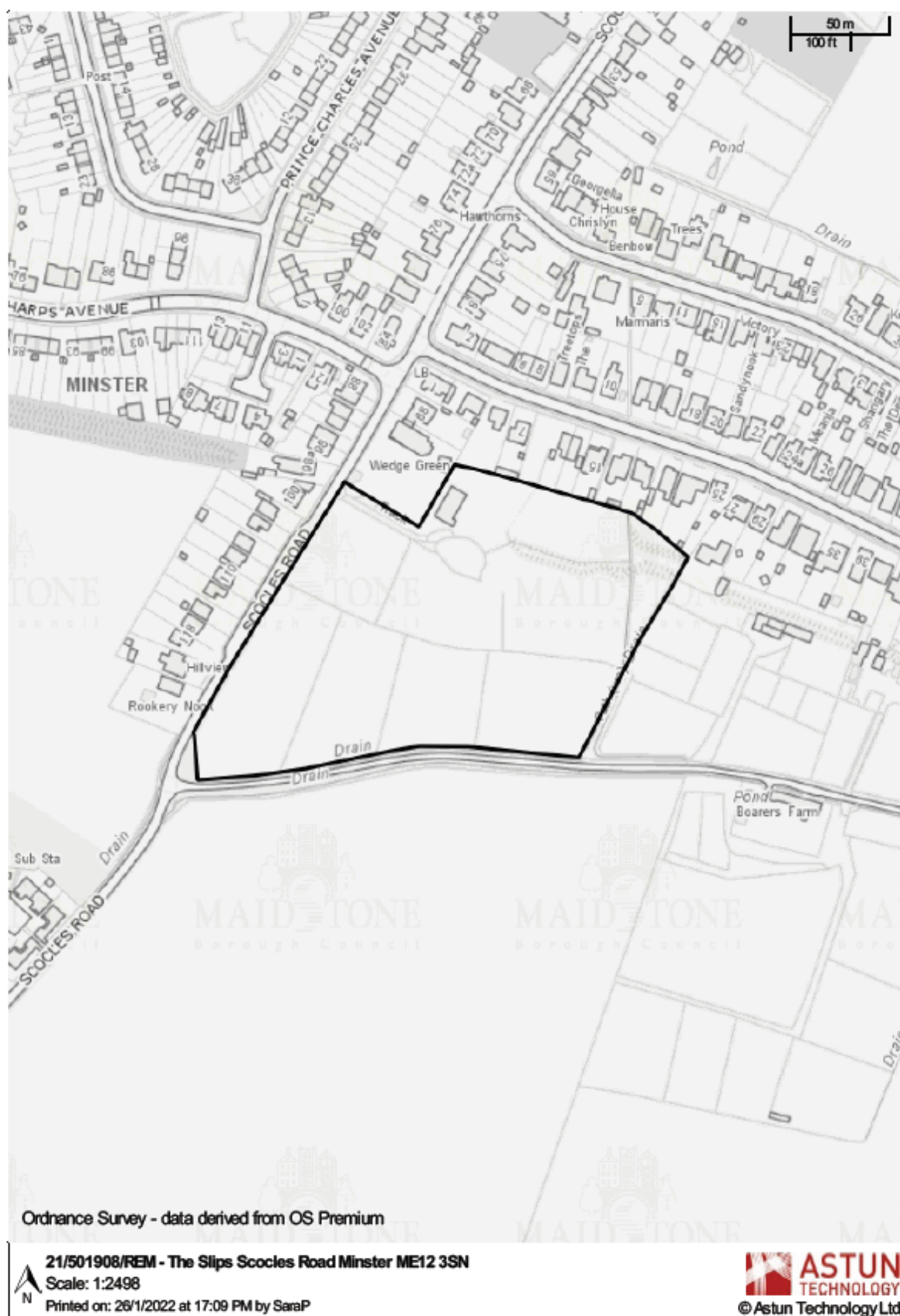
In accordance with paragraph 38 of the National Planning Policy Framework (NPPF), July 2021 the Council takes a positive and proactive approach to development proposals focused on solutions. We work with applicants/agents in a positive and creative way by offering a pre-application advice service, where possible, suggesting solutions to secure a successful outcome and as appropriate, updating applicants / agents of any issues that may arise in the processing of their application.

In this instance:

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

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

Parker
C/O BDB Design LLP
Church Barn
Milton Manor Farm
Ashford Road
Canterbury
Kent
CT4 7PP



14 August 2018

PLANNING DECISION NOTICE

APPLICANT:	Parker
DEVELOPMENT TYPE:	Large Maj Dwellings
APPLICATION REFERENCE:	16/508117/OUT
PROPOSAL:	Outline application (with access being sought) for up to 62 dwellings including details of vehicular access
ADDRESS:	The Slips Scocles Road Minster-on-sea Kent ME12 3SN

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

(1)

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

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

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

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

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

3. The development to which this permission relates must be begun not later than the expiration of five years from the date of the grant of outline planning permission; or 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 development hereby approved shall be carried out in accordance with the following approved drawings: 619/206A, 619/205A, 619/204B, 619/201 A, 619/209A.

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

5. The details submitted pursuant to condition (1) above shall include an area equal to 10% of the net site area shall be reserved for public open space. Play spaces shall be surfaced and equipped with play equipment, in accordance with a schedule agreed by the Local Planning Authority before development is commenced and shall be provided before the 50th dwelling is occupied; no permanent development whether permitted by the Town and Country Planning (General Permitted Development) Order 2015 or not shall be carried out in the areas so shown without the prior written approval of the Local Planning Authority.

Reason: To ensure that these areas are made available in the interests of the residential amenities of the area in pursuance of policies E1 and C3 of the Swale Borough Local Plan 2008.

6. No development approved by this permission shall be commenced prior to a contaminated land assessment (and associated remediation strategy if relevant), being submitted to and approved in writing by the Local Planning Authority, comprising:

- a) A desk study and conceptual model, based on the historical uses of the site and proposed end-uses, and professional opinion as to whether further investigative works are required. A site investigation strategy, based on the results of the desk study, shall be approved by the Local Planning Authority prior to any intrusive investigations commencing on site.
- b) An investigation, including relevant soil, soil gas, surface and groundwater sampling, carried out by a suitably qualified and accredited consultant/contractor in accordance with a Quality Assured sampling and analysis methodology.
- c) A site investigation report detailing all investigative works and sampling on site, together with the results of analyses, risk assessment to any receptors and a proposed remediation strategy which shall be of such a nature as to render harmless the identified contamination given the proposed end-use of the site and surrounding environment, including any controlled waters.

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

7. Before any part or agreed phase of the development is occupied, all remediation works identified in the contaminated land assessment and approved by the Local

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Planning Authority shall be carried out in full (or in phases as agreed in writing by the Local Planning Authority) on site under a quality assured scheme to demonstrate compliance with the proposed methodology and best practice guidance. If, during the works, contamination is encountered which has not previously been identified, then the additional contamination shall be fully assessed and an appropriate remediation scheme agreed with the Local Planning Authority.

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

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

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

9. Development shall not begin until a detailed sustainable surface water drainage scheme for the site has been submitted to (and approved in writing by) the Local Planning Authority. The detailed drainage scheme shall be based on the recommendations within the report prepared by RMB consulting (August 2016), and shall demonstrate that the surface water generated by this development (for all rainfall durations and intensities up to and including the climate change adjusted, critical, 100yr storm) can be accommodated on site before being discharged at an agreed rate to the receiving watercourse network; this rate shall not exceed 7l/s/ha and shall be agreed in writing prior to the submission of any related discharge of conditions application. The development shall be carried out in accordance with the approved details.

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

10. Development shall not begin until details of the implementation, maintenance and management of the sustainable drainage scheme have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

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

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

The code shall include:

- o An indicative programme for carrying out the works

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

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

12. The details submitted pursuant to condition (1) above shall show adequate land, reserved for the parking or garaging of cars and such land shall be kept available for this purpose at all times and no permanent development, whether permitted by the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking or re-enacting that Order) or not shall be carried out on such land or in a position as to preclude vehicular access thereto; such land and access thereto shall be provided prior to the occupation of the dwelling(s) hereby permitted.

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

13. Development shall not commence until a drainage strategy detailing the proposed means of foul disposal (including such infrastructure - on and off site - as may be required) and an implementation timetable, has been submitted to and approved in writing by, the local planning authority. The development shall be carried out in accordance with the approved scheme and timetable.

Reason: In the interests of ensuring that the site is adequately drained.

14. No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of:

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

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

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

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

16. The vehicular accesses to the site as shown on the approved drawings shall be constructed and completed prior to the commencement of the first use of the development hereby permitted. The gradient of the accesses shall be no steeper than 1 in 10 for the first 1.5 metres from the highway boundary and no steeper than 1 in 8 thereafter.

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

17. The details submitted pursuant to condition (1) above shall include details of a covered secure cycle parking facility shall be submitted to the Local Planning Authority for approval in writing and thereafter provided prior to the occupation of dwellings hereby approved, and retained in perpetuity.

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

18. 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.

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

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

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

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

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

21. 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.

22. The details submitted pursuant to condition (1) above shall include details 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 as approved.

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

23. No development shall take place (including any ground works, site or vegetation clearance) until a method statement for ecological mitigation has been submitted to and approved in writing by the local planning authority. The content of the method statement shall include the:

- a) Purpose and objectives for the proposed works;
- b) Detailed design(s) and/or working method(s) necessary to achieve stated objectives including reptile mitigation strategy;
- c) Extent and location of proposed works, including the reptile receptor site, shown on appropriate scale maps and plans;
- d) Timetable for implementation, demonstrating that works are aligned with the proposed phasing of construction;
- e) Use of protective fences, exclusion barriers and warning signs;
- f) Initial aftercare and long-term maintenance (where relevant);

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.

24. Prior to the occupation of the dwellings hereby approved, an Ecological Design Strategy (EDS) addressing ecological enhancement of the site shall be submitted to and approved in writing by the local planning authority. The EDS shall include the following:

- a) Purpose and conservation objectives for the proposed works;
- b) Review of site potential and constraints;

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- c) Detailed design(s) and/or working method(s) to achieve stated objectives including installation of bat and bird nesting spaces and generous native planting;
- 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) Persons responsible for implementing the works;
- h) Details of initial aftercare and long term maintenance;
- i) Details for monitoring and remedial measures;

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

Reason: To enhance biodiversity.

25. The landscaping details to be submitted in accordance with condition (1) above shall include:

- (a) a plan showing the location of, and allocating a reference number to each existing tree on the site to be retained and indicating the crown spread of each tree.
- (b) details of the size, species, diameter, approximate height and an assessment of the general state of health and stability of each retained tree.
- (c) details of any proposed arboricultural works to any retained tree, which shall be carried out in accordance with British Standard 3998 (tree work).
- (d) details of any alterations in ground levels and of the position of any excavation or other engineering works within the crown spread of any retained tree.
- (e) details of the specification and position of fencing and of any other measures to be taken for the protection of any retained tree from damage before or during the course of development

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

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

26. The details submitted pursuant to condition (1) above shall include measures to minimise the risk of crime via measures, according to the principles and physical security requirements of Crime Prevention through Environmental Design (CPTED). The approved measures shall be implemented before the development is occupied and thereafter retained.

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

27. The details submitted pursuant to condition (1) shall include the submission of a development brief to include a design strategy for the overall site and any self-build plots to be provided on site. This strategy shall include details of the finishing materials, palette of colours, elevational treatment and architectural approach as well as maximum and minimum building heights.

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Reason: In the interests of visual amenities.

28. Visibility splays of 43 metres at the proposed northern access and 120 metres at the southern access into the site, set back 2.4 metres from the edge of the carriageway, at the access with no obstructions over 0.9 metres above carriageway level within the splays shall be provided and maintained prior to use of the site commencing.

Reason: In the interests of highway safety and amenity.

29. The footways to be provided along the eastern side of Scocles Road and within the development, should be a minimum of 1.8 metres wide to meet standards outlined in the Kent Design Guide.

Reason: In the interests of highway safety and amenity.

30. No development shall take place until the footpath shown on drawing no. 619/204B along the west side of Scocles Road has been implemented in full in accordance with details that shall have been submitted to the Local Planning Authority for approval in writing.

Reason: In the interests of ensuring good quality pedestrian access to and from the site.

31. The development shall be carried out in accordance with an agreed phasing plan detailing the delivery of the housing so that occupation of no more than 22 dwellings takes place prior to the Lower Road/Barton Hill Drive roundabout becoming operational.

Reason: In the interests of ensuring that the necessary highway infrastructure is in place prior to the full traffic impact of the housing development occurs

32. None of the dwellings hereby approved shall be first occupied until a Sustainable Travel Plan, setting out measures to encourage the use of sustainable transport and modes of travel - and which shall incorporate an annual review mechanism and measures to update the plan as required - has been submitted to and approved in writing by the Local Planning Authority. The agreed Plan shall then be implemented and monitored annually for the first five years from the date on which it is agreed by the Local Planning Authority.

Reason: In the interests of encouraging non-car modes of travel

Informative(s):

- (1) 1. The applicant should be reminded that planning consent does not confer a right to disturb or divert any public right of way at any time without the express permission of the Highway Authority, in this case Kent County Council's PROW and Access Service.
2. The applicant/developer should enter into a formal agreement with Southern Water to provide the necessary sewerage infrastructure required to service this development. The applicant/developer should contact Southern Water, Sparrowgrove House, Sparrowgrove, Otterbourne, Hampshire SO21 2SW (Tel: 0330 303 0119) or www.southernwater.co.uk in order to progress the required infrastructure.

APPENDIX A

3. 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 Next Generation Access Broadband is a fundamental part of the project. Access to superfast broadband should be thought of as 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 connection point to high speed broadband. We understand that major telecommunication providers are now offering Next Generation Access Broadband connections free of charge to the developer. For advice on how to proceed with providing access to superfast broadband please contact broadband@kent.gov.uk

4. The applicant is advised that the only approved accesses under this outline permission are the two main accesses into the site shown with visibility splays on drawing numbers 619/205A & 619/204B and not those indicated indicatively on the drawings to serve private drives. Any driveway access onto Scocles Road would need to ensure that vehicles can exit in forward gear.

5. This development is also subject to an agreement under Section 106 of the Town and Country Planning Act 1990.

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

The Council's approach to this application:

The Council's approach to this application:

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

Offering pre-application advice.

Where possible, suggesting solutions to secure a successful outcome.

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

In this instance:

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

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



James Freeman
Head of Planning Services
Swale Borough Council

IMPORTANT - YOUR ATTENTION IS DRAWN TO THE ATTACHED NOTES

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2.2 REFERENCE NO – 20/505921/OUT			
APPLICATION PROPOSAL: Outline application for the development of up to 16 dwellings and all necessary supporting infrastructure including internal access roads, footpaths and parking, open space and landscaping, drainage, utilities and service infrastructure works. All detailed matters are reserved for subsequent approval except for access to Highfield Road.			
ADDRESS: Land at Highfield Road, Minster-on-sea, Kent			
RECOMMENDATION: Grant subject to conditions and a suitably worded Section 106 agreement, and with authority to amend conditions and s106 clauses as may reasonably be required.			
SUMMARY OF REASONS FOR RECOMMENDATION: The proposal is considered to be a sustainable form of development, making a modest contribution to the housing supply. Whilst it is notable that the site is within an important countryside gap, it is considered that the scheme has sought to minimize the impacts and it is notable that the Council is unable to demonstrate a five-year housing supply. The provision of open space and a community orchard are considered benefits of the scheme. Notwithstanding this, it is considered that the parameter plans allow for a high-quality scheme to be delivered and suitable conditions and obligations are recommended so at to ensure the impacts of the development are appropriately mitigated. On balance, the proposal is considered to be acceptable and is recommended for approval.			
REASON FOR REFERRAL TO COMMITTEE: Councillor call in			
WARD Queenborough and Halfway		PARISH/TOWN COUNCIL	APPLICANT New Homes and Land AGENT JB Planning
DECISION DUE DATE 06/04/21		PUBLICITY EXPIRY DATE 29/09/21	OFFICER SITE VISIT DATE
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):			
App No	Proposal	Decision	Date
18/502685/FULL	Erection of a stable block with change of use of agricultural land for horse recreation. Together with alteration of current access gate.	Approved	20.08.2018

1.0 DESCRIPTION OF SITE

- 1.1 The site occupies a total area of 1.47 hectares, split roughly in half with the northern half intended to provide new residential accommodation and the remaining consisting of open landscaping and a proposed orchard.
- 1.2 The site is located on Highfield Road which forms a steep hill measuring 32.60 AOD at the access point, rising to the west (full details of the land levels can be found on drawing 14378/20). The street is characterised by primarily detached residential dwellings of varying sizes. The access point to the site is located near to the top of the hill. The site itself is located behind the residential properties of Numbers 31, 33, 35, 37, and 47 Highfield Road, with properties at 37 and 47 Highfield Road sitting either side of the access point.
- 1.3 Oasis Academy on the Isle of Sheppey is located east of the application site. To the south of the site is further grazing paddocks and a covered reservoir.

- 1.4 The site was granted consent for the erection of a stable block and the change of use of agricultural land for horse recreation. Horses were observed when the site visit was undertaken. The application form states that the site is '*Part of a residential garden and grazing paddocks*'.

PROPOSAL

- 1.5 The proposal seeks outline planning consent, all matters reserved aside from access, for a total of 16 units. The scheme also includes approximately 0.7ha of open space including public open space and a community orchard.
- 1.6 The application proposes a maximum of 50 car parking spaces to serve the residential units and visitor car parking space, which shall include blue badge parking and electric vehicle charging points. The scheme shall also be served by cycle parking facilities.
- 1.7 The proposal includes a parameter plan which along with the location of development, also sets the heights. The maximum heights range of 7m-9m and depending on location shall be a maximum of 1.5 or 2 storeys. The final scale and massing of the buildings shall be subject to further consideration at detailed design stage should consent be granted.
- 1.8 The proposal also includes all necessary supporting infrastructure including internal access roads, footpaths and parking, open space and landscaping, drainage, utilities and service infrastructure works.

2.0 SUMMARY INFORMATION

	Existing	Proposed	Change (+/-)
Site Area (ha)	1.47ha	14.7ha	No change
Approximate Ridge Height (m)	0	Max. 9m	+9m
Approximate Eaves Height (m)	0	Not yet determined	Not yet determined
Approximate Depth (m)	0	Not yet determined	Not yet determined
Approximate Width (m)	0	Not yet determined	Not yet determined
No. of Storeys	0	1.5-2 storeys	1.5-2 storeys
Parking Spaces	0	50	+50
No. of Residential Units	0	16	+16
No. of Affordable Units	0	0	No change

3.0 PLANNING CONSTRAINTS

- Adjacent to, but outside, the built-up settlement boundary
- Area of High Landscape Value (Swale Level) is approximately 0.3m to the north of the site (DM24)
- Within the Important Local Countryside Gap (DM25)
- Flood Zone 1 (low flood risk)

4.0 POLICY AND OTHER CONSIDERATIONS

4.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires applications for planning permissions to be determined in accordance with the development plan unless material considerations indicate otherwise. As such, the following are relevant:

- National Planning Policy Framework (NPPF) and associated national planning guidance documents.
- Bearing Fruits 2031: The Swale Borough Local Plan 2017
- Swale Landscape Character and Biodiversity Appraisal SPD (2011)
- Parking Standards SPD (2020)
- Planting on New Developments: A Guide for Developers
- Air Quality Technical Guidance (2019)
- Guidance for complying with the climate change planning condition to reduce operational carbon of new dwellings in Swale by 50%

4.2 The relevant policies are listed under each section below.

5.0 LOCAL REPRESENTATIONS

	COMMENTS RECEIVED	OFFICER RESPONSE
Residential Objections Number received: 9	<ol style="list-style-type: none"> 1. Concerns with the impact on highway safety and traffic flow 2. Concern with impact from parking on Highfield Road affecting movement on the street. 3. Social Infrastructure will be unable to support the additional residents 4. Concern with carbon emissions from the proposal 5. Questions have been raised in respect to the pumping station and where it will pump water to. 6. The proposed application is shown to be outside of the built-up area boundary and as such is not part of the adopted Local Plan. 7. There is a concern that vehicular accidents may occur during the construction process. 8. Concern is raised that this proposal may give rise to other connecting development. 9. Loss of green field and natural wild life habitat. 	<ol style="list-style-type: none"> 1. The application is supported by a Transport Assessment and KCC Highways have been consulted. The impact is considered to be acceptable. More details on the highway impacts can be found within the assessment section of this report. 2. The illustrative plan shows sufficient parking for each residential property and visitor parking fully contained within the site and there should be no need for vehicles to park on Highfield Road. The specific parking provision will be agreed at the reserved matters stage if this application is approved. 3. If consented, it is recommended that financial contributions are secured for provisions such as school and healthcare. These are detailed within the heads of terms. 4. A condition is recommended requiring a reduction against building regulations in line with the Council's guidance on carbon emissions. 5. The pumping station [see southern water comments].Southern Water have been consulted on the application and it is understood that the applicant has also been in direct discussion to address concerns raised. Southern Water have reviewed the proposal and raised no objection.

	<p>10. The land should remain as green belt.</p> <p>11. The site should be kept for use as a grazing field for private use.</p> <p>12. The loss of my privacy to the rear of Highfield Road</p>	<p>6. This is addressed within the 'Principle' section of the assessment section of the report.</p> <p>7. It is recommended that a condition requiring a construction method statement be imposed should consent be granted.</p> <p>8. Consideration must only be given to the proposed development and speculative future development is not a material planning consideration. Notwithstanding this, the proposal includes an area of open space and an orchard which prevents urbanisation of the southern portion of the site, restricting the built form to the northern end adjacent to the existing properties and therefore would not form a natural extension to any further development beyond the redline boundary.</p> <p>9. The application is supported by an ecological appraisal with further information requested by condition. A condition is also recommended securing a biodiversity net gain.</p> <p>10. The site is not classified as being green belt (though it is within the defined Important Countryside Gap) in accordance with the NPPF</p> <p>11. The current use of the site is for private use only and offers a very limited provision for grazing horses. The benefits of the proposed scheme are considered to demonstrably outweigh the loss of the grazing and shelter for horses.</p> <p>12. The parameter plan includes a planting buffer to the rear of the properties on Highfield Road, it is recommended that a condition be attached that prohibits the inclusion of windows at first floor overlooking the gardens of Highfield Road and full details of the design and layout shall come forward at reserved matters stage which will allow further assessment of any overlooking impacts. The recommended conditions also include the requirement for a statement addressing the impact on privacy to be submitted. This will ensure that the future design takes account of privacy requirements. It is considered that the proposal will safeguard the privacy of residential properties.</p>
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Residential Support	N/A	N/A
Number received: 0		

6.0 CONSULTATION RESPONSES

Internal

	COMMENTS RECEIVED	OFFICER RESPONSE
Environmental Health	<p><i>Contamination</i> There is no contaminated land history at the site or close to the boundary of the site.</p> <p><i>Air Quality</i> Air quality at the Halfway Road is showing some exceedances in our NO2 diffusion tubes. However, due to the size and location of the site no additional air quality conditions have been included.</p> <p><i>Noise</i> Adjacent to the development site is the Oasis Academy which should be considered as part of the application. A noise assessment has been completed by Cass Alen issued on the 11th of Nov 2021. The report provides a comprehensive assessment and review of the current noise levels at the development site. The details in the report are in accordance with current guidelines. The report identifies the existing noise sources predominantly from the school, as well as a phone mast and generator. The assessment has shown that addition acoustic upgrades are not required relative to the monitored noise levels at the site which is acceptable.</p> <p>A number of recommended conditions have also been included</p>	<p>The conditions have been included in the recommended conditions list</p>
Greenspaces Manager	<p>The planned quantity of greenspace appears adequate for the number of dwellings, more than meeting the standards that we seek to achieve allied to new development and while we would generally prefer a central usable greenspace the location maintains a building line and appropriate buffer to the urban area.</p> <p>The detailed planning will provide opportunity to ensure a reasonable level of</p>	<p>The comments are duly noted, and the recommended contributions have been included in the Heads of Terms to be secured in the S106.</p>

	<p>biodiversity and habitat improvements can be achieved.</p> <p>The Council would not adopt the open space provision and as such appropriate arrangements should be made for its future management and maintenance.</p> <p>We would seek contributions toward increasing capacity of local off site play and formal sport provision as identified in the Open Space and Play Strategy 2018-2022 at a level of £593.00 per dwelling toward formal sport and £446.00 per dwelling toward play provision.</p>	
Affordable Housing Enablement Manager	<p>As this application is for a development of homes on the Isle of Sheppey (Minister) in accordance with affordable housing policy DM8 there is no requirement to provide affordable homes here and I further I note from the application documents that the developer has chosen to not provide any either.</p>	Noted

External

	COMMENTS RECEIVED	OFFICER RESPONSE
Southern Water	<p>Advised no objection subject to condition. Further information is provided in the response letter for the benefit of the applicant</p>	<p>The conditions have been included in the recommended conditions list and the additional information is included as an informative.</p>
KCC Ecology	<p>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. Conditions recommended</p>	<p>An appropriate assessment has been carried out, the SAMMS tariff is included in the recommended heads of terms and the conditions requested are also included.</p>
Natural England	<p>Requests that a contribution be secured in respect of the SAMMS Tariff and notes that no objection is raised following receipt of the appropriate assessment.</p>	<p>The obligation is included in the Heads of Terms.</p>
Kent Police	<p>Requests that a number of measures are provided within the scheme.</p>	<p>A condition relating to secure by design has been included and the applicant will be required to address the points raised by Kent Police accordingly. The full list shall be provided as an informative so that the applicant is aware of the specific requirements.</p>

Lower Medway IDB	<p>In order to avoid conflict between the planning process and the Board's regulatory regime and consenting process please be aware of the following:</p> <ul style="list-style-type: none"> • I note that the applicant intends to discharge surface water to a sewer. I recommend that you satisfy yourselves that this proposal is in line with the drainage hierarchy (as per best practice) and is viable in this location. • I am not aware of any riparian owned/maintained watercourses within or adjacent to the site boundary. However, this should be confirmed by the applicant. If the proposals do involve the alteration of a watercourse, consent would be required under the Land Drainage Act 1991 (and Byelaw 4). <p>Whilst the consenting process as set out under the Land Drainage Act 1991 and the aforementioned Bye laws are separate from planning, the ability to implement a planning permission may be dependent on the granting of these consents. As such I strongly recommend that the required consent is sought prior to determination of the planning application.</p>	Southern Water have been consulted and are satisfied with the information provided to date. The applicant will need to comply with any further legislative requirements outside any necessary planning requirements.
KCC Highways and Transportation	<p>KCC Highways raise the following comments in relation to the proposed access for this application:</p> <ul style="list-style-type: none"> • I am satisfied that the level of vehicular activity associated with the proposed development of 19 dwellings, would not be considered to have a significant impact on the highway network. • The proposed access road to the site is wide enough for two vehicles to safely pass one another and the access design complies with the requirements set out within Kent Design Guide. It is also noted that the proposed access is similar in scale to other nearby junctions and is what we would expect for a housing development of this size. • I am pleased to note that a pedestrian footway has been provided, which will link the site with the existing footway on Highfield Road. • Tracking has been provided for a large refuse vehicle and I am satisfied that the site would be able to accommodate appropriate access for service and emergency vehicles. 	Noted. The requested conditions have been included in the recommended conditions list.

	<ul style="list-style-type: none"> • Visibility splays of 2.4m x 43m in both directions have been shown on the proposed site access drawing, which are acceptable. <p>It is appreciated that the detailed layout, including parking provision, will need to be assessed through a subsequent reserved matters application, as access is the only matter being sought at this time for approval. When further plans are submitted, they should also include adequate parking provision for number 37 Highfield Road. This will ensure vehicles do not need to reverse off the driveway, which will be reduced in order to form the access road for this development.</p> <p>Confirmed no objection subject to condition.</p>	
KCC Archaeology	The proposed development lies in an area where archaeological remains could potentially be found and affected by the groundworks for the new development. Iron Age and Roman remains have previously been found nearby on the Oasis Academy site. As such, conditions have been recommended.	The requested conditions have been included in the recommended conditions list.
KCC Developer Contributions	A number of contributions and conditions have been sought.	The conditions have been included in the recommended conditions list. The contributions sought have been included in the heads of terms. It is noted that the response is valid for 3 months and was received on 19 January 2021. The KCC Officer confirmed on the 16/12/2021 that they remain applicable; however. Updated figures will need to be sought for the purposes of finalising the S106.
KCC Flood and Water Management	No objection subject to condition	The requested conditions have been included in the recommended conditions list.

7.0 APPRAISAL

7.1 The main planning considerations are as follows:

- Principle
- Important Countryside Gap
- Density
- Design/Visual Impact

- Landscaping and Wider Impacts
- Housing
- Residential Amenity
- Highways/Transport
- Biodiversity
- Archaeology
- Flood Risk/Drainage
- Environmental Matters (including Noise, Air quality and Contamination)
- Sustainability / Energy
- The Conservation of Habitats and Species Regulations 2017
- Other (including Legal Agreement)

Principle of Development

- 7.2 The application site is predominantly located adjacent to, but outside, the built-up area boundary of Halfway, with only the narrow strip of land between numbers 37 and 47, Highfield Road located within the built-up area boundary. The proposal involves the removal of the existing dilapidated structures which are currently used for the purpose of horse grazing.
- 7.3 Policy ST1 of the Local Plan seeks to deliver sustainable development that accords with the settlement strategy for the Borough. The Council's spatial strategy is set out in Policy ST3 which identifies a hierarchy of 5 types of settlement. The site is not designated under ST4 (meeting Local Plan development targets).
- 7.4 The site is classified as open countryside and therefore Policy ST3(5) is relevant. The policy directs refusal of new development proposals unless supported by national planning policy and able to demonstrate that it would contribute to protecting and, where appropriate, enhancing the intrinsic value, landscape setting, tranquillity and beauty of the countryside, its buildings and the vitality of rural communities.
- 7.5 The site falls within the 'West Sheppey Triangle' area as it forms part of the Sheerness, Queenborough, Rushenden, Minster and Halfway areas. The West Sheppey Triangle is a Tier 3 'other Urban Centre' settlement in Swale's settlement hierarchy. Policy ST6 is relevant as it sets out the Council's objectives for this part of the Borough.
- 7.6 Paragraph 80 of the Framework seeks to avoid the development of isolated homes in the countryside unless one or more of the criteria listed within the paragraph are met. Moreover, paragraph 119 of the Framework seeks to ensure planning decisions promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions.
- 7.7 Being adjacent to the built-up settlement of Halfway, the site does not represent an isolated countryside location in the truest of forms and this was also the view taken by the Inspector in appeal reference W/4001086 (paragraph 7), which relates to an outline planning permission for 17 units at the nearby site on Bartletts Close (planning reference 19/503810/OUT). The sustainability of that site was considered by the Inspector in the aforementioned appeal decision – which is appended - at Paragraphs 8 and 9. To that end, the Inspector made reference to the ability for future residents to access amenity facilities and services in the area noting that access to services, facilities and employment could be accessed via public transport and that residents would not be reliant on private vehicles.

- 7.8 The application site being considered here is slightly further from the amenities and services referenced in the appeal. However, it is still considered that future residents would have reasonable access to amenities and facilities via both walking and cycling as well as reasonable public transport links. The site is also closer than the appeal scheme to a number of the shops and community facilities in the locality. The Transport Statement submitted in support of the application further sets out which of the local amenities can be accessed by sustainable means of travel. On balance, the site is considered to be a reasonably sustainable location for development of housing.
- 7.9 Notwithstanding this, the Council is currently unable to demonstrate a five-year housing land supply. Instead, the Council currently has a land supply equivalent to 4.6 years. As such, Paragraph 11 of the NPPF is relevant. Paragraph 11 introduces the tilted balance in favour of granting consent whereby policies are out of date. It should also be noted that the site falls within 6km of the Swale Special Protection Area (SPA) and Ramsar sites which are European designated sites afforded protection under the Conservation of Habitats and Species Regulations 2017 as amended (the Habitat Regulations). This is classified as a habitat site as per footnote 7 of Paragraph 11 in accordance with Paragraph 181 of the NPPF. As such, Paragraph 11d(i) applies in this instance.
- 7.10 Paragraph 182 of the NPPF makes clear that the presumption in favour of sustainable development does not apply where the plan or project is likely to have a significant effect on a habitats site (either alone or in combination with other plans or projects), unless an appropriate assessment has concluded that the plan or project will not adversely affect the integrity of the habitats site.
- 7.11 To mitigate the impacts, the payment of the standard Strategic Access Management and Monitoring Strategy (SAMMS) tariff would be required. The agent has confirmed that they agree to the imposition of this obligation. Moreover, due to a recent court judgement, (*People Over Wind v Coillte Teoranta*, ref. C-323/17), the Court of Justice of the European Union ruled that the payment of the SAMMS tariff does not on its own screen the development out of the need to provide an Appropriate Assessment (AA) to determine whether there would be an adverse impact upon the protected sites. An AA has been undertaken for the site and issued to Natural England. The AA did not highlight any issue with the scheme subject to the SAMMS tariff being secured. Natural England have confirmed that they raise no objection following receipt of the AA. There would therefore be no clear reason for refusing the development proposed due to its siting within 6km of the Swale Special Protection Area (SPA) and Ramsar sites
- 7.12 Whilst the above is noted in regard to the application of Paragraph 11, the applicant has set out in the supporting documents what they consider to be the benefits of the scheme that should weigh in the balance of determination. These are set out below with officer comments in italics against each:
- Social Objectives: Delivery of housing which makes an important contribution to the housing supply shortfall. *The application site makes a modest contribution to the housing shortfall to which significant weight is attached. The application does not propose any affordable housing which would have further weighted in favour of the social benefits of the scheme.*
 - Economic Objectives: Provision of jobs during construction and future occupants would contribute to the viability of local shops and services. *The jobs during construction would be temporary and therefore limited weight is applied. Moderate weight is attached to the future contribution to local shops and services given the fact that the application is for 16 units which will only ever result in a limited contribution.*
 - Environmental Objectives: Opportunity for future residents to benefit from sustainable transport methods; provision of public open space, communal orchard and informal

play; enhance biodiversity through extensive landscaping; and use of sustainable construction methods and additional provision of features such as electric vehicle charging point. *Moderate weight is given to the provision of sustainable elements of the proposal and the provision of open space and biodiversity enhancement.*

- 7.13 Whilst the proposal does result in development outside the built-up area of Halfway, taking account of the fact that the site is considered to be in a reasonably sustainable location, the fact that the scheme offers some benefits including a modest contribution to the housing shortfall and noting the outcome of the nearby appeal; on balance, the proposal is considered acceptable in principle.

Important Countryside Gap

- 7.14 The site is also located in an important countryside gap as defined by Policy DM25. Policy ST6 states that development on the Isle of Sheppey will maintain the individual character and separation of important local countryside gaps between the settlements of Minster, Halfway, Queenborough and Sheerness in accordance with Policy DM25. Policy DM25 goes on to state that planning permission shall be refused whereby the countryside gap between Queenborough, Sheerness, Minster and Halfway would be undermined.
- 7.15 Again, the appeal at Bartletts Close (appeal ref: W/4001086, planning ref: 19/503810/OUT) is relevant here as this scheme also fell within the Important Countryside Gap. On this point, the Inspector noted that the site was ‘visibly contained from the surrounding area and given the residential development close to its boundaries, the development proposal would appear as a natural extension to the existing settlement boundary’ (paragraph 12). The decision goes on to note that there was no evidence before the Inspector in that instance to demonstrate the proposal would result in the coalescence of settlements and goes on to state that ‘the modest scale of the development proposed would have a reasonably cohesive relationship with the adjacent urban area and would maintain the separation of settlements. There would be no significant reduction to the value, landscape setting and beauty of the countryside, such that it would result in significant erosion of the countryside gap’.
- 7.16 The application hereby proposed is of a similar scale to the appeal scheme, the appeal scheme being for 17 units and the current proposal being for a total of 16. The siting of the appeal scheme did however form a natural extension by virtue of the projection of properties on Belgrave Road which extended further than Bartletts Close and in that respect the proposal stands to square off the settlement boundary at that point. The application site does not fill such a natural gap and the proposal does extend beyond the settlement boundary, extending into the countryside. However, when considering the surroundings, it is notable that the built form of Oasis Academy projects further from the residential properties into the countryside compared to the units hereby proposed. Moreover, whilst the proposal would project slightly further, the site forms a similar line of development to the properties on Southdown Road and the site immediately to the west of the application site is a raised reservoir and is therefore not open countryside.
- 7.17 The application also proposes built form on the northern part of the site, with the southern end being given over to landscaping. This helps create a landscaped boundary between the built form and the open countryside ensuring development does not continue to project into the countryside and a separation is maintained. This will be secured via the conditioning of the parameter plans should consent be granted. Later sections of this report go on to consider the wider landscaping impacts which are also relevant here. It is noted that the wider impacts are considered acceptable.

- 7.18 Given the scale of the development, the nature of the surrounding area and impact of the proposal as well as the layout of the parameter plan and taking note of the Inspector's comments on a nearby appeal, it is considered that the proposal will not undermine the character and separation of the settlements and, on balance, the proposal is considered acceptable in this regard.

Density

- 7.19 In respect of density, Policy CP3 (wide choice of high-quality homes) of the Local Plan requires density should be determined by the context and the defining characteristics of the area. This is in line with the NPPF's objectives to make efficient use of land as set out in Chapter 11. Paragraphs 124 and 125 are particularly relevant with paragraph 124 requiring decisions to support development that makes efficient use of land taking account of the requirements in parts a)-e) of the paragraph. The application proposes a total of 16 units. The total site area is 1.47 hectare (ha) but the net developable area is 0.63ha. This results in a density of 25 dwellings per hectare.
- 7.20 The application site provides a substantive area of open space for future residents to use; the illustrative scheme shows that the site layout can configure the units with appropriate spacing and the units will not be crammed; the layout is consistent with the character of the surrounding area; each unit benefits from appropriate amenity standards and swept path analysis has been undertaken to demonstrate vehicular movement will not compromise highways safety. As such, the density of the scheme is considered to be appropriate and ensures efficient use of the land without compromise to the scheme or the character of the surrounding area.

Design / Visual Impact

- 7.21 Chapter 12 of the NPPF sets out the overarching principles for achieving well-designed places. Paragraph 126 of the NPPF sets out that the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Paragraph 130 lists the criteria that developments should achieve. Paragraph 134 directs refusal of poorly designed development that fails to reflect local design policies and guidance. The paragraph further states that significant weight should be given to developments that do reflect local design policies and relevant guidance and/or outstanding or innovative designs which promote a high level of sustainability.
- 7.22 Policy CP4 sets out the requirements for requiring good design and necessitates that all development proposals will be of a high-quality design that is appropriate to its surroundings. The policy goes on to list the ways in which this shall be achieved.
- 7.23 Policy DM14 of the Local Plan sets out the General Development Criteria for development proposals. This includes a number of requirements including the requirement that proposals be both well sited and of a scale, design, appearance and detail that is sympathetic and appropriate to the location; that proposals provide for an integrated landscape strategy that will achieve a high standard landscaping scheme and that proposals reflect the positive characteristics and features of the site and locality.
- 7.24 The applicant has submitted a parameter plan which does establish parameters for the future development and gives an indication of layout. The maximum building height is set at 2 storeys, across the site this shall vary from 7m to the front end of the site nearest the properties on Highfield Road, to 9m across the centre of the site, and 8m to the rear furthest from Highfield Road. The minimum building height is 1.5 storeys (7m ridge height) and this height restriction is located to the rear of the residential properties on

Highfield Road. With a variation of only 2m the differentiation across the site will be limited. However, given the fact that the site consists of 16 units and is set within the context of Halfway, a sense of consistency across the proposed site is considered acceptable.

- 7.25 The built form is concentrated to the northern end of the site with the southern end forming an area of landscaping, consisting of an orchard and public open space. A landscape buffer of at least 1.5m is also proposed to the rear of the properties at Highfield Road.
- 7.26 There is a 3m easement along the western boundary of the site that prohibits development in this area. There is also a proposed drainage and attenuation feature included on the parameter plan which shall be further detailed at reserved matters stage.
- 7.27 The Urban Design Officer has been consulted on the application and raised a number of comments. The applicant has sought to address these, and a revised parameter plan has been submitted. One of the key points that has been raised by the Urban Design Officer is the orientation of the properties with the officer asking that consideration be given to a perimeter block. The applicant has noted that a perimeter block would mean future units would face outwards onto the raised reservoir and this may not give rise to an appropriate outlook from the properties. Moreover, the applicant notes that a perimeter block may not be suitable given the size of the site and the 3m Southern Water easement that runs along the western boundary. However, the applicant has committed to exploring these points further at reserved matters stage and the parameter plan has been updated to give flexibility to this as a potential arrangement. To this end, it is recommended that the applicant engage with the Council prior to the submission of a reserved matters application should outline consent be granted. It is not possible to require the applicant to engage prior to submission; however, this shall be included as an informative to give notice to the applicant that this is recommended.
- 7.28 The applicant has committed to ensuring building frontages open out onto the open space at the rear of the site as requested by the Urban Design Officer. This has been marked up on the parameter plan accordingly and any reserved matters application will be required to be designed in accordance with this requirement.
- 7.29 The proposal is submitted in outline only (with all matters other than access reserved for future consideration) at this stage. A full assessment of the design of the units, the streetscape and other detailed design elements will take place at reserved matters stage. It is recommended that the parameter plan be conditioned as part of any outline consent which shall secure the location of built form, the areas of landscaping/orchard, the maximum heights of the buildings and the planting buffer adjacent to the gardens of the properties on Highfield Road. As per the above, an informative is recommended to encourage the applicant to further engage with the LPA prior to the submission of the reserved matters to allow for further discussions with the Urban Design Officer to be had. Moreover, conditions are also recommended to require full details of landscaping/planting and materials at the appropriate trigger point to ensure the scheme is of a high quality.
- 7.30 Overall, it is considered that the outline scheme has been designed to ensure high quality development is delivered at the future stages of the development. Subject to the imposition of conditions, it is therefore considered that the design is acceptable.

Landscaping and wider visual impacts

- 7.31 Policy CP7 requires developments to conserve and enhance the natural environment. The policy lists the ways in which that shall be achieved and includes the requirement for developments to make the enhancement of biodiversity and landscape as their primary purpose. The policy further requires a net gain in biodiversity in line with the NPPF's requirements. This is further supported by Policy DM 28 which further requires proposals to be accompanied by appropriate surveys undertaken to clarify constraints or requirements that may apply to development.
- 7.32 Paragraph 131 sets out that new streets are tree-lined and that appropriate measures are in place to secure the long-term maintenance of newly planted trees, and that existing trees are retained wherever possible.
- 7.33 Policy DM14 requires development to provide for an integrated landscape strategy that will achieve a high standard landscaping scheme that informs the earliest stages of a development proposal.
- 7.34 The NPPF further requires development to provide provision and use of community facilities which includes open space. The benefits of open space and recreation are highlighted in paragraph 98 which sets out that access to a network of high-quality open spaces and opportunities for sport and physical activity is important for the health and well-being of communities and can deliver wider benefits for nature and support efforts to address climate change.
- 7.35 Policy DM24 further requires that the value, character, amenity and tranquillity of the Borough's landscapes will be protected, enhanced and, where appropriate, managed and that the scale, layout, build and landscape design of development will be informed by landscape and visual impact assessment.
- 7.36 Swale's Landscape Character and Biodiversity Appraisal is also relevant as it provides a framework for Development Management decisions on matters of landscape character. The application site lies within Swale's Landscape Character Area 13 (Central Sheppey Farmlands). Some of the key characteristics of the area are described as ridge of London clay rising steeply to north and large-scale open predominantly arable landscape, with infrequent isolated orchards.
- 7.37 Policy DM29 supports the provision of woodlands, orchard trees and hedges, noting that proposals should explore all reasonable opportunities to provide for new woodland orchard, tree and hedge planting at a sufficient scale (with provision made for appropriate long-term management) to maintain and enhance the character of the locality and provide for an attractive living and working environment.
- 7.38 The site is located on the southern edge of Halfway on the north-eastern facing slope of an unnamed ridge. The site is characterised by a rural character and appearance with very limited built form on site to date. The application site is relatively contained by its topography and existing landscaping, becoming more open and exposed towards the southern and western portions of the site. The site is not located within any national or local designations but is, as noted above, within an Important Local Countryside Gap as identified elsewhere in the report (Policy DM25) and lies within Landscape Character Area 13 (Central Sheppey Farmlands), which covers a large area on the Isle of Sheppey and is an area identified as having moderate sensitivity to development with the guidelines seeking to restore and create in this region. The Landscape Character Area (LCA) sets out a number of guidelines for development in this area, including measures such as: Maintain remaining landscape features and look for opportunities to restore or

create a stronger landscape structure (trees, shelterbelts, hedgerows, drains, ponds, traditional orchards and woodlands) within denuded areas and avoid proposals that would be unduly prominent in highly visible locations, such as undeveloped south, east and west facing slopes and limit ribbon development.

- 7.39 The application is supported by a Landscape and Visual Appraisal report along with a subsequent addendum LVIA. These have been submitted to assess the impact of the proposed development in this regard. The report makes an analysis of the sites setting, the potential impacts of development and then describes the impact of the proposal. The report describes how the parameter plans have been designed to set the maximum heights and to ensure built form is located behind the ridge, whereby the development is less visible due to the topography of the area. Moreover, by restricting the development to the northern element of the site, and not extending into the western section of the site, the proposal will not be visible from Furze Hill. The existing vegetation along the southern section of the site is to be maintained and duly enhanced as part of the landscaping scheme to be delivered with the detailed design. This stands to further screen the development from wider views.
- 7.40 It is noted that one of the guidelines in the LCA in respect of development in this area is to restore or create a stronger landscape structure, including provision of traditional orchards. The outline scheme identifies an area for an orchard and is therefore in accordance with the relevant guidelines and a promoted feature in the area.
- 7.41 As part of the LVIA, a Zone of Theoretical Analysis was established and is further detailed in the supporting statement. It should be noted that the analysis is based on a Digital Surface Model (DSM) created from 1m LiDAR data (2017). The analysis therefore accounts for the screening potential of above ground elements such as buildings and vegetation. In some locations visibility is shown on top of the above ground elements and therefore a greater overall area of visibility is presented than would occur for a person at ground level. The analysis does not indicate how much of the building would be visible.
- 7.42 The results of the ZTA show that the proposed development would potentially be visible in longer distance views, most notably those from the north and south of the site. When viewing the proposal from a distance, the development will be set within the backdrop of the existing development in the area. This includes the settlements of Halfway and Minster further to the east. Moreover, additional development at Barton Hill Drive will also be visible and the Oasis Academy is also a prominent feature in the wider landscape.
- 7.43 The proposed development will have an additional impact on the wider landscape by virtue of the introduction of built form whereby none exists currently (aside from the small outbuildings on site which are of such a height and scale to have no impact). The height and location of development has been carefully considered so as to ensure that the impact of the proposal is limited. Moreover, the final layout and massing of the units is not established at this stage and further analysis will be undertaken when the detailed element is worked up. The restrictions imposed via the parameter plan, in terms of heights and the location of the built form reflect the outcome of the LVIA. Moreover, the proposal seeks to introduce additional screening to further mitigate the impact of the proposal. It is recommended that a condition be imposed requiring an LVIA to be submitted at reserved matters stage to ensure that the impacts are no greater than that which has been hereby assessed and to ensure that the detailed design duly accounts for the potential impact.

- 7.44 On balance, it is considered that the proposal is acceptable in this regard and compliant with the relevant policies.

Trees

- 7.45 The application is supported by an Arboricultural report. This shows that there are a total of 17 individual trees, 11 groups and 1 hedgerow which are categorised as follows:

Tree Category	Tree	Group	Hedgerow
A	-	-	-
B	5	5	-
C	10	6	1
U	2	-	-
Totals	17	11	1

- 7.46 At this stage, the scheme is in outline form and therefore the exact siting and layout of the proposed development is not yet established. The arboricultural report notes that all trees in the southern portion of the site will be retained in the areas proposed as open landscaping and the orchard. It is likely that some of the trees in the northern portion of the site will need to be removed to accommodate the development. For instance, T18 is a mature eucalypt in the centre of the site which is roughly 15m in height making it one of the larger trees on site. The tree is not a native species however and therefore its replacement with native planting may stand to enhance the ecological value of the site. The final details of which trees will need to be removed will be explored at reserved matters application stage and the conditions shall be worded to ensure that the development seeks to retain as many of the existing trees as possible.
- 7.47 The proposal will also include a new orchard which will deliver additional tree planting on site. Although not detailed at this stage, it is notable that the illustrative plan shows provision of an addition 21 trees in this area. In line with the NPPF, a condition is proposed which will require any new streets to be tree lined. It is recommended that additional arboricultural assessments and tree protection reports be required at reserved matters stage once the detailed design of the scheme has been established. It is further recommended that a condition be imposed in respect to biodiversity net gain, which should also require additional tree planting along with other biodiversity enhancements. On this basis, it is considered that the arboricultural impacts are acceptable at this stage subject to further information being provided at the relevant next stages.

Housing

- 7.48 The application proposes a total of 16 residential units, 11 of which are 2-bed properties and 5 of which are 3-bed properties. The application proposes no affordable housing or off-site contribution. The quantum of wheelchair units is not specified at this stage; however, this shall be appropriately conditioned to be dealt with at reserved matters stage.

Unit Mix

- 7.49 Paragraph 62 of the NPPF establishes that the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies. Policy CP3 of the Local Plan requires new development to achieve a mix of housing types, reflecting the findings of the current Strategic Housing Market Assessment or similar needs assessment along with meeting the housing requirements

of specific groups, including families, older persons, or disabled and other vulnerable persons.

- 7.50 Figure 5.3.1 in the Local Plan forms the starting point for negotiations on the percentages sought in respect to housing mix. This establishes the following ratio:

Unit Size	Percentage requirement
1 bed	7%
2 bed	36%
3 bed	42%
4+ bed	15%

- 7.51 The application proposes a total of 16 units of which 11 are proposed as 2 beds and 5 are proposed as 3 beds. Whilst the illustrative scheme does not provide any 1 or 4 bed units, the proposal does represent the greatest need by providing a range of 2 and 3 bed units. This is illustrative only at this stage and the final mix shall be established at reserved matters stage. Given the fact that the scheme relates to only 16 units, and it provides units in line with the Council's greatest needs, the illustrative mix is considered acceptable on balance. Should outline permission be granted, it is recommended that a condition be imposed to secure the unit mix.

Affordable Housing

- 7.52 NPPF Paragraph established that the requirement for affordable housing provision should be reflected in planning policy. The Framework goes on to require that affordable housing should be provided on site unless specific circumstances are met (Paragraph 63). Paragraph 65 of the NPPF establishes that where major development involving the provision of housing is proposed, planning policies and decisions should expect at least 10% of the total number of homes to be available for affordable home ownership, 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.
- 7.53 In accordance with the NPPF, the local plan sets the requirement for affordable housing across the Council at Policy DM 8 which establishes the requirements for new development proposals of eleven or more dwellings. It establishes that in such schemes or where a need to provide affordable housing has been determined as appropriate, Affordable Housing is required in accordance with Table 7.3.1. The application site is located on the Isle of Sheppey. As such Policy DM8 of the Local Plan does not trigger any affordable housing provision for new development proposals on the Isle of Sheppey.
- 7.54 Paragraph 65 of the NPPF requires 10% of homes to be available for affordable home ownership unless this would exceed the level of affordable housing required in the area. Given that the Local Plan sets the affordable housing requirement at 0%, 10% would therefore exceed the level of affordable housing required in the area and therefore this requirement is not triggered.

Wheelchair Units

- 7.55 Policy CP3 requires developments to meet the housing requirements of specific groups, including housing for disabled and other vulnerable persons. This is in line with paragraphs 62 and 112 of the NPPF.

- 7.56 Planning Practice Guidance makes clear that the provision of appropriate housing for people with disabilities, including specialist and supported housing, is crucial in helping them to live safe and independent lives.
- 7.57 The requirement for appropriate housing for people with disabilities shall be conditioned if consent is granted.

Residential Amenity

- 7.58 Paragraph 130(f) of the NPPF requires planning decisions to create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.
- 7.59 Policy DM 14 of the Local Plan requires all development, as appropriate, to cause no significant harm to amenity and other sensitive uses or areas. It also requires developments to ensure impacts on residential amenity are minimised and to mitigate any impacts to an acceptable level in respect of safety, including noise, air quality, tranquillity and transport
- 7.60 The application site is located just over 90m to the nearest rear garden of the properties on Southdown Road. As such, there is no concern in regard to overlooking, loss of amenity from overshadowing or the proposal having an overbearing impact on these properties.
- 7.61 The rear gardens of Numbers 31, 33, 35, 37, and 47 Highfield Road all have rear gardens that abut the application site. Number 47 Highfield is located to the east of the access, the remaining are to the west. As was evident on the site visit, the rear of some of these properties are very exposed to the application site. The parameter plan restricts the development to no more than 1.5 storeys (7m to ridge height) along the boundary of these properties. Moreover, the dwellings on Highfield Road have good sized gardens (typically well over 10 metres in depth) and that therefore a separation of greater than 21 metres between them and the new houses can be achieved, depending on layout. This is in line with the Council's normal approach and will be fully assessed at reserved matters stage to ensure amenity is safeguarded.
- 7.62 A portion of the residential garden of number 37 Highfield Road will be given over to create the new access point. The property maintains a good-sized garden and the loss is not considered to impact on the amenity of this property. The movement of vehicles adjacent to No. 37 is not expected to give rise to an adverse impact as at peak times, the movement is expected to be around 8 vehicles for both the AM peak (08:00-09:00) and the PM peak (17:00-18:00). No 47 will also be adjacent to the access road however the property is separated by the side garden and access road and therefore the impact will be even less.
- 7.63 It is recommended that a condition be imposed stating that no windows shall be included on the first floor of the new units facing onto the residential properties along Highfield Road to ensure the proposal does not give rise to overlooking. Moreover, the parameter plan has been updated to include a 1.5m screening planting strip to create a buffer between the application site and the adjacent properties. This will be secured via conditioning of the parameter plan. Furthermore, it is recommended that a condition be imposed requiring full details of any boundary treatment along this edge to ensure it is of an appropriate height to safeguard overlooking on the ground floor. Due to the distance of the properties and the inclusion of a planting buffer, it is not considered that the proposal will give rise to an overbearing impact.

- 7.64 The built form proposed sits to the south of the properties and therefore there is potential for the development to give rise to overshadowing impacts. This will need to be appropriately assessed at reserved matters stage once the design and location of the proposed units are established. To safeguard amenity, it is recommended that the outline permission include a condition requiring the submission of a daylight, sunlight and overshadowing report demonstrating that the amenity of these residents is unaffected by the proposal.
- 7.65 Details of the amenity of the future units within the proposed site will need to be assessed at reserved matters stage as the exact layout and design of the properties is not to be fixed at this stage.
- 7.66 Overall, it is noted that the proposed separation between new dwellings and the dwellings on Highfield Road will be greater than 21 metres, which is the minimum standard the Council typically requires. To safeguard the adjacent residential properties, it is recommended that conditions be imposed to restrict the location of windows and require the submission of a daylight, sunlight and overshadowing report to demonstrate compliance. With such measures in place, it is considered that the amenity of neighbouring properties will be safeguarded and that the amenity of the future properties shall be duly assessed at reserved matters stage. It is therefore considered that the proposal is acceptable in this regard.

Highways

- 7.67 Paragraph 111 of the NPPF sets out that development should only be refused on highways grounds when an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. Paragraph 92 promotes healthy, inclusive and safe places through a number of measures including ensuring streets are designed to allow easy pedestrian and cycle connections within and between neighbourhoods. This is further emphasised in Paragraph 104.
- 7.68 Policy DM6 sets out the requirements for managing transport demand and impact. The policy requires development proposals involving intensification of any existing access onto a strategic, primary or other route will need to demonstrate that it is of a suitable capacity and safety standard or can be improved to achieve such a standard. Policy DM 7 requires compliance with the Swale Vehicle Parking SPD. The policy further requires cycle parking facilities on new developments to be of an appropriate design and in a convenient, safe, secure and sheltered location.
- 7.69 Policy DM26 directs refusal of applications that either physically, or as a result of traffic levels, significantly harm the character of rural lanes. The road running along the southern boundary is classified as a rural lane.
- 7.70 The application is supported by a Transport Statement, which sets out both the walking catchment and the cycling catchment area. This demonstrates that there are a number of amenities which are accessible within a 25/30-minute radius. The report further assesses the local bus and rail provision, with both Queensborough and Sheerness Station being within 30 minutes from the application site if cycling.
- 7.71 The Transport Statement was submitted based on the original scheme which proposed a total of 19 units. The quantum has since been revised; however, an updated Transport Statement has not been provided. The Statement has assessed the anticipated trip generation based on 19 dwellings and deemed the impact to be nominal and will not

materially impact the surrounding highways. The reduction to 16 units therefore will be even less. This is confirmed in the addendum statement which notes that the vehicle trips during both the AM and PM peak hours is now 8 vehicle trips compared to the previous 10.

- 7.72 There is only one access point allowing entry and exit from the site for both vehicles and pedestrians. The Transport Statement confirms the access point has been designed in accordance with KCC's Manual for Streets. One road forms the main spine to the development which splinters to the base of the development to give access to the public open space and to the six units at the rear. Pavements are proposed for pedestrian movement within the development.
- 7.73 Each property is, according to the illustrative details, served by two car parking spaces. The illustrative scheme also shows the bays as being located as designated parking spaces across the site layout. An additional 10 bays are proposed as visitor bays. The illustrative scheme shows these as being located at the entrance to the site and along the access route throughout. For a rural site, the Parking SPD recommends 2 spaces per unit for 2 beds and 3 spaces per unit for 3 bed properties. In a suburban environment, the SPD sets a lower recommendation at 1-2 spaces per 2 bed and 2-3 spaces per 3 beds. Given the proximity to the suburban area of Halfway, it is recognised that a blended approach is acceptable. As such, the fact that the 3 bed properties are served by 2 car parking spaces each is considered acceptable. Notwithstanding this, the site is served by 10 visitors bays. The SPD recommends 0.2 spaces per unit, which based on 16 units would be 3.2 bays. As such, the site is well served by additional car parking spaces albeit unallocated. The application proposes the provision of an active charging spaces per unit, which accords with the Parking SPD. This shall be secured by condition.
- 7.74 In respect of cycle parking, the SPD requires a minimum of 1 space per bedroom, which the detailed design will need to show.
- 7.75 On balance, the transport impacts and access arrangements are considered acceptable.
- 7.76 As set out above, KCC Highways raise no objection subject to conditions. These are recommended below.

Biodiversity

- 7.77 Policy DM14 requires development to provide for an integrated landscape strategy that will achieve a high standard landscaping scheme that informs the earliest stages of a development proposal. The NPPF further requires development to provide provision and use of community facilities, which includes open space.
- 7.78 Policy CP7 requires developments to conserve and enhance the natural environment. The policy lists the ways in which that shall be achieved and includes the requirement for developments to make the enhancement of biodiversity and landscape as their primary purpose. The policy further requires a net gain in biodiversity in line with the NPPF's requirements. This is further supported by Policy DM 28 which further requires proposals to be accompanied by appropriate surveys undertaken to clarify constraints or requirements that may apply to development. Paragraph 180 of the NPPF sets out the principles by which planning applications should be considered against in respect to habitats and biodiversity.

- 7.79 The application site is located within 6km of the following:
- The Swale (SPA) and Ramsar site, approximately 1.6km south;
 - Medway Estuary & Marshes Special Protection Area (SPA) and Ramsar site, approximately 1.7km south;
 - Thames Estuary & Marshes SPA and Ramsar, approximately 4.7km north-west;
- 7.80 These 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 appropriate steps to be taken 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.
- 7.81 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 (£253.83 per dwelling as ultimately agreed by the North Kent Environmental Planning Group and Natural England, at the time of writing) – these mitigation measures are considered to be ecologically sound.
- 7.82 However, the 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. An AA has been undertaken and sent to Natural England, who have raised no objection.
- 7.83 The application is also supported by a Preliminary Ecological Appraisal prepared by the Ecology Partnership. This has been undertaken to understand any ecological constraints, any mitigation measures that may be required, any additional survey work that may be required and to identify opportunities for ecological enhancement.
- 7.84 The site primarily consists of horse-grazed fields bordered by scrub. Three small stable buildings were located along the eastern boundary of the site, and an area of mature hawthorn scrub was present within the south-east of the site. Numerous mature and semi-mature scattered trees were present throughout the site. These include horse chestnut, silver birch, ash, pedunculate oak, and sycamore.
- 7.85 The supporting report sets out that whilst the site was considered unsuitable for roosting bats, the habitat was considered suitable to support commuting and foraging bats. The site provides suitable foraging habitat for badgers in the local area. The site is considered to have low potential to support dormice due to the habitats present and the lack of records of dormice in the data searches. The scrub habitat along the edges of the site are linked to the habitat surrounding ponds where GCN have been identified. Most of the site is unsuitable to support reptiles; however, there are records of reptiles in the wider surrounding area as such the site has a low potential for reptiles. The trees, and scrub on site provide suitable nesting habitat for bird and the scrub on site is suitable to support hedgehog.

- 7.86 The report details the potential impacts of the proposed development on statutory designated sites, offsite ancient woodland/priority habitats, on-site habitats, protected species, and other species. Within this the report sets out a series of recommendations including provision such as bat friendly lighting, lowland deciduous woodland to be suitably buffered from the proposed development, edge habitats are retained and enhanced where possible, and bird boxes to be installed at least 2.5m from ground level, for example.
- 7.87 Moreover, the supporting document goes on to discuss options for ecological enhancements, including measures such as creation of log piles and reptile hibernacula, small holes at the base of any proposed garden fencing to facilitate access to gardens for hedgehogs, and the creation of new high distinctiveness habitats, such as orchards.
- 7.88 The site will also need to ensure a biodiversity net gain. This is recognised in the supporting report, and it is recommended that this be secured by condition if Members are minded to permit the scheme.
- 7.89 The assessment concludes that with the necessary mitigation and compensation measures, there are no significant residual effects on the relevant ecological features.
- 7.90 KCC Ecology and Natural England have both been consulted and raise no objection subject to the necessary restrictions being imposed on the consent.
- 7.91 The application is in outline at this stage; however, the supporting document suggests that the scheme will not have an adverse impact on biodiversity or ecology subject to mitigation. It is recommended that the conditions imposed require further evidence at reserved matters stage and via submission of details applications to demonstrate compliance with the relevant mitigation and enhancement measures. Moreover, it is recommended that the SAMMs tariff also be secured via legal agreement.

Archaeology

- 7.92 Paragraph 194 of the NPPF requires that where a site on which development is proposed includes, or has the potential to include, heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation.
- 7.93 Policy CP7(8)(d) promotes the expansion of Swale's natural assets and green infrastructure by a number of factors, including contributing to the protection, conservation and management of archaeological assets. Policy DM34 sets out that there will be a preference to preserve important archaeological sites in-situ and to protect their settings and directs refusal of schemes that fail to appropriately mitigate any adverse impacts.
- 7.94 The application is not supported by an archaeological assessment at this stage. The application has been subject to consultation with KKC Archaeologist who have confirmed that the site lies in an area where archaeological remains could potentially be found and affected by the groundworks for the new development. To safeguard any potential archaeological assets, a condition has been recommended.

Flood Risk and Drainage

- 7.95 Policy DM21 of the local plan sets out the requirements for water, flooding and drainage. The policy sets out a series of 10 criteria by which developments should adhere to. The

Local Plan is consistent with the requirements of the NPPF which directs development away from areas of highest flood risk.

- 7.96 Using the Environment Agency flood risk map, it can be seen that the application site is located within Flood Zone 1, meaning it is an area with a low probability of river or sea flooding. Planning Practice Guidance confirms that the aim is to steer new development to Flood Zone 1. In respect of the Flood Risk Vulnerability Classification residential dwellings are classified as 'more vulnerable'. Within Flood Zone 1, Table 3 of the Planning Practice Guidance confirms that 'more vulnerable' uses in Flood Zone 1 are appropriate and an exception test is not required.
- 7.97 As the application site is greater than 1 ha a Flood Risk Assessment (FRA) is required. Such an assessment has been carried out by the applicant and the submission is supported by an FRA. The proposed surface water drainage strategy is set out in paragraphs 1.4.3-1.4.8 and the Foul Water Drainage strategy is set out in 1.4.9-1.4.11 of the FRA. It is noted that foul drainage is dealt with under separate legislation and therefore it is not generally reasonable to impose a foul drainage condition; however, a condition requiring compliance with the flood risk assessment along with conditions relating to surface water drainage are recommended.
- 7.98 KCC Flood and Water Management have been consulted on the proposal and confirm that following the revisions to the FRA to include pumping chamber discharging to a Southern Water sewer at 2l/s they raise no objection to the proposal subject to the imposition of conditions. Southern Water have also been consulted and confirmed that the proposal is acceptable subject to the imposition of conditions.
- 7.99 The principle of residential dwellings in Flood Zone 1 is considered acceptable. The application is supported by the necessary assessments and has been subject to relevant consultation which has found the proposal to be acceptable. If Members are minded to permit the application, the recommended conditions have been set out later in this report.

Environmental Matters

Noise and Vibration

- 7.100 NPPF Paragraph 174 requires planning decisions to contribute to and enhance the natural and local environment. The paragraph requires a number of measures to achieve this including by preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of environmental impacts including noise pollution.
- 7.101 Paragraph 185 requires that planning decisions ensure new development is appropriate for its location taking account of the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. The paragraph notes that this includes a requirement to mitigate and reduce to a minimum any potential adverse impacts resulting from noise from new development and avoid noise giving rise to significant adverse impacts on health and the quality of life.
- 7.102 Paragraph 187 further states that planning decisions should ensure that new development can be integrated effectively with existing businesses and community facilities. Further stating that existing businesses and facilities should not have unreasonable restrictions placed on them because of development permitted after they were established. Where the operation of an existing business or community facility

could have a significant adverse effect on new development (including changes of use) in its vicinity, the applicant (or 'agent of change') should be required to provide suitable mitigation before the development has been completed.

7.103 The application is supported by a noise assessment which has been undertaken to establish the suitability of existing noise levels at the site for the proposed development and where required, identify appropriate measures to optimise the acoustic design of the development and achieve appropriate noise levels in habitable areas. The report notes that the noise levels are generally low, with noise sources including noise from birds on site, occasional aircraft, occasional noise from the adjacent school, occasional road traffic on Highfield Road and occasional noise from farming activities in the distance. The report further notes that the noise from the school was most prominent from around 12:00 to 14:00, during the lunch break, as a result of use of the outdoor space and school announcement system. The report finds that the internal noise levels are expected to be compliant with the relevant criteria and the noise levels in gardens and the public open space will comply with the relevant criteria also. There is a small portion of the community orchard which marginally exceeds the criteria due to the phone mast generator.

7.104 Overall, based on the fact that the units, their private amenity space and the majority of the open space provision is expected to comply with the relevant criteria, it is considered that the proposal is acceptable. A condition shall be imposed requiring the units to be delivered in accordance with BS8233/WHO Noise Criteria. Members will have noted above that the Environmental Health Team raise no objection subject to conditions.

Air Quality

7.105 Applications within or likely to impact on Air Quality Management Areas are required by Policy DM 6 to demonstrate that the proposal has integrated air quality management into the design to ensure proposals do not worsen air quality to an unacceptable degree. This is consistent with Paragraph 186 of the NPPF.

7.106 The application site is not located in or near an Air Quality Management Areas and therefore measures discussed in DM6 are not required. Moreover, the Environmental Health team have been consulted on the application and note that air quality at the Halfway Road is showing some exceedances in our NO₂ diffusion tubes. However, due to the size and location of the site no additional air quality conditions have been included. Other conditions, such as a demolition and construction management plan requiring measures such as dust suppression will be imposed which will further reduce air quality impacts.

Contamination

7.107 Paragraph 183 of the NPPF requires sites to ensure they are suitable for the proposed use, including consideration of contamination. Paragraph 184 places the responsibility onto the developer and/or landowner for ensuring the site is safe.

7.108 To ensure the application site is safe for its intended use, it is recommended that the applicant be required to submit a contamination report prior to the commencement of development and a contamination verification report prior to occupation to ensure the works have been carried out in accordance with the approved method statement. It is also recommended that a further condition be imposed to deal with any unexpected contamination that is not foreseen as part of the initial contamination report.

- 7.109 Members will note the Environmental Protection Team raise no objection to the application subject to the imposition of the recommended conditions.

Waste

- 7.110 Swept path analysis has been undertaken to demonstrate that refuse vehicles can appropriately serve the development. Should development be approved, it is recommended that conditions be attached to ensure each property is served by appropriate refuse provision.

Sustainability / Energy

- 7.111 The NPPF supports proposals for improvements to environmental sustainability, placing sustainability at the heart of the framework. Paragraph 152 requires the planning system to support the transition to a low carbon future in a changing climate, including the requirement to help shape places in ways that contribute to radical reductions in greenhouse gas emissions. Paragraph 154 goes on to require new development to reduce greenhouse gas emissions, such as through its location, orientation, and design. This is further iterated in Paragraph 157 which sets out that in determining planning applications, new development should take account of landform, layout, building orientation, massing, and landscaping to minimise energy consumption.
- 7.112 Policy DM19 of the Local Plan requires development proposals will include measures to address and adapt to climate change. The ways in which this shall be achieved are then further detailed in the policy; including measures such as use of materials and construction techniques which increase energy efficiency and thermal performance; promotion of waste reduction, re-use, recycling and composting; and design of buildings which will be adaptable to change and reuse over the long term and which include features which enable energy efficient ways of living, for example.
- 7.113 Policy DM21 also requires that new residential development, all homes to be designed to achieve a minimum water efficiency of 110 litres per person per day.
- 7.114 In addition to the above, the Council has declared a Climate Change and Ecological Emergency and all applications for new housing are expected to demonstrate how they incorporate all reasonable sustainable design and construction measures within the scheme in order to minimise environmental impacts. This can include measures such as electric vehicle charging points (provision of one per dwelling); solar panels; passive energy measures; low NOx boilers as examples. Regarding the dwellings, it is the expectation that a reduction in CO2 emissions of 50% above the requirements of the Building Regulations be achieved.
- 7.115 The outline scheme is not supported by an energy and sustainability statement at this stage. It is recommended that should consent be granted, such a report be required with the reserved matters application to demonstrate that the layout, orientation, and design has been considered to minimise energy consumption. It is considered that the parameter plans have been designed with sufficient flexibility to ensure that the detailed design can accord with the relevant policies. It is also recommended that a condition be imposed requiring details of the reduction in CO2 emissions beyond the requirements of the Building Regulations. The % reduction will be established at reserved matters stage. It is also recommended that a minimum water efficiency of 110 litres per person per day is also secured by condition.

Other Matters

Legal Agreement

7.116 Regulation 122 of the Community Infrastructure Levy Regulations 2010 states that a S106 planning obligation may only constitute a reason for granting planning permission for the development if the obligation is necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development. These are statutory tests.

7.117 The NPPF (paragraph 54) states that “local planning authorities should consider whether otherwise unacceptable development could be made acceptable using conditions or planning obligations. Planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition.”

7.118 Pursuant to the consideration within the previous sections of this report, the consultation responses, and in line with the policy context set out above, officers propose to secure planning obligations to appropriately mitigate the impact of this development, which are set out below Heads of Terms:

KCC Developer Contributions

The KCC Developer Contributions Officer has requested the following contributions per dwelling:

- Secondary Education - £4,540.00 per dwelling
- Community Learning - £16.42 per dwelling
- Youth Services – £65.50 per dwelling
- Library Bookstock – £55.45 per dwelling
- Social Care – £146.88 per dwelling

SAMMS Tariff

Given the site's location within 6 km of the SPA, a payment is required that will fund measures to mitigate the increase in recreational activity on the coast. This is charged at £253.83 per dwelling.

Off-Site Play and Formal Sport Provision

As identified in the Open Space and Play Strategy 2018-2022, a contribution of £593.00 per dwelling toward formal sport and £446.00 per dwelling toward play provision is required.

Orchard and Open Space

The orchard and open space shown on Drawing 1602.002(E) shall be made available for community use prior to first occupation and maintained as a community facility at all times thereafter. The orchard and open space shall be maintained and operated by the developer in perpetuity in accordance with the Landscaping and Ecological Management Plan as required by condition 27.

Monitoring and Legal Fees

The legal agreement shall also secure the Council's reasonable monitoring, review, legal and professional fees connected to the completion of the legal agreement.

8.0 CONCLUSION

- 8.1 The application site is located in open countryside and in an Important Countryside Gap. As such, policies ordinarily direct refusal of such schemes. However, the proposal is not considered to be isolated development in the countryside and is located in a reasonably sustainable location and the proposal makes a modest contribution to the housing supply, which is an important consideration given the Council's current inability to demonstrate a five-year housing land supply. It is further considered that the countryside gap will not be eroded due to the strong landscaped buffer to the south of the site that shall ensure that impact on the countryside will be minimised.
- 8.2 The final layout and design of the scheme is yet to be determined. However, the outline scheme shall secure a perimeter plan that ensures the scheme delivers two large areas of landscaping, one providing an area of open space and the other providing a new orchard which is considered to be a positive element of the scheme. As is usual, further design work will be required for the reserved matters stage. The landscaping shall also provide biodiversity net gain and shall ensure that biodiversity/ecology on-site is protected and enhanced.
- 8.3 The conditions imposed seek to ensure that an appropriate range of housing types are provided in the scheme, including wheelchair accessible units. Moreover, the conditions seek to ensure high standard accommodation including measures for carbon reduction in line with the Council's guidance. The conditions also seek to ensure privacy of neighbouring properties is maintained and this shall also be further examined at the next stage once the detailed design is known.
- 8.4 The application has taken account of the environmental factors effecting the site and has been found to be acceptable, this has included ensuring that the noise from the adjacent school shall not give rise to adverse noise conditions for future residents. Moreover, the impact of the proposal on the highways has been duly assessed and found to be acceptable with detailed design information to be provided at reserved matters stage.
- 8.5 The proposal is considered to be a sustainable form of development and, as stated above, makes a modest contribution to the housing supply. The impacts of the development have been duly assessed, in consultation with relevant third parties, and found to be acceptable. It is recommended that if consent is granted, appropriate conditions are attached to ensure the detailed design delivers a high-quality scheme. Moreover, further obligations are recommended which shall seek to mitigate the impact of additional residents on infrastructure and on the SPA for instance, and this is detailed in the heads of terms, and it is recommended that this be secured via legal agreement.
- 8.6 On balance, the scheme is considered acceptable and is therefore recommended for approval.

9.0 RECOMMENDATION

GRANT – Subject to a S106 agreement and the following conditions, and with authority to amend conditions and s106 clauses as may reasonably be required.

Conditions List:

Related to outline nature and requirements of the RMA

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

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

- (2) Applications for approval of all reserved matters pursuant to condition (1) must be made not later than the expiration of three (3) years from the date of this 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) Implementation of a Reserved Matters Approval shall commence no later than two (2) years from the date of the final approval of reserved matters.

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

- (4) The development hereby permitted shall be carried out in accordance with the following approved drawings, documents and mitigation set out within:

Site Location Plan (1602.001 Rev A); Existing Site Plan (1602.004); Proposed Site Access (205427-A0 Rev D); Parameter Plan (1602.002 Rev E); Transport Statement (dated 01/12/2020) and Addendum (dated 19.01.2022); Landscape and Visual Appraisal (dated December 2020) and Addendum (dated January 2022); Planning, Design & Access Statement (dated December 2020) and Addendum (dated January 2022); Preliminary Ecological Appraisal (dated December 2020); Noise Assessment (dated 11/11/21, Ref: RP01-21530-R0); Flood Risk Assessment (dated July 2021, CS/15001).

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

- (5) The development hereby permitted shall consist of no more than 16 residential units (Use Class C3) and the detailed design shall strictly accord with the following Parameter Plan 1602.002(E)

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

- (6) The reserved matters application shall include the following reports along with all other drawings and documents as required for validation purposes:
- Arboricultural Impact Assessment
 - Tree Protection Plan
 - Tree Survey
 - Impact on Privacy Statement
 - Design and Access Statement
 - Landscaping Design Statement
 - Landscaping and Visual Impact Assessment; and
 - Energy and Sustainability Statement

Reason: In order that the Council is satisfied with the details of the proposed development and in the interest of proper planning

- (7) An accommodation schedule shall be provided with the reserved matters application. The accommodation schedule shall demonstrate a range of housing types are provided which reflects the findings of the current Strategic Housing Market Assessment or similar needs assessment (or most recent standard) as well as making provision for wheelchair adaptable dwellings and wheelchair user dwellings as part of the housing mix.

Reason: To ensure there is a mix and size of dwellings to meet the future needs of households

- (8) The details submitted pursuant to condition 1 shall show adequate land, reserved for the parking or garaging of cars; suitable storage for cycle parking; and electric vehicle charging provision (in accordance with the currently adopted Kent County Council Vehicle Parking Standards and Swale Parking SPD or most recent relevant 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. All Electric Vehicle chargers provided must be to Mode 3 standard (providing a minimum of 7kw) and SMART (enabling Wifi connection). Approved models are shown on the Office for Low Emission Vehicles Homecharge Scheme approved chargepoint model list: <https://www.gov.uk/government/publications/electric-vehicle-homecharge-scheme-approved-chargepoint-model-list>

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

- (9) The development shall be completed strictly in accordance with details in the form of cross-sectional drawings through the site showing proposed site levels and finished floor levels which shall have been submitted to and approved in writing by the Local Planning Authority as part of the reserved matters application.

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

- (10) With the first reserved matters application, details of how the development will enhance biodiversity will be submitted to, and approved in writing by, the Local Planning Authority. This will be in general accordance with the recommendations in section 4.36 of the Preliminary Ecological Appraisal (The Ecology Partnership December 2020) unless otherwise agreed in writing by the Local Planning Authority. The scheme shall achieve a biodiversity net gain of at least 10% against the existing site conditions. The approved details will be implemented and thereafter retained in perpetuity.

Reason: to ensure appropriate ecological protection and enhancement is undertaken along with ensuring that biodiversity gains are delivered for the enhancement and improvements of habitats.

- (11) No habitable windows which permit overlooking of Numbers 31, 33, 35, 37 and 47 Highfield Road shall be included on the first floor of any properties along the boundary with those properties.

Reason: in the interest of safeguarding residential amenity

- (12) The areas shown on drawing 1602.002(E) as Community Orchard and Public Open Space shall be reserved for the general amenity of the area. No permanent development whether permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) or not shall be carried out in the areas so shown without the prior written approval of the Local Planning Authority.

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

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

Reason: In the interests of residential amenity

- (14) 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: To safeguard the amenities of neighbouring properties and the area generally

- (15) 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.

- (16) All removal of trees, hedgerows, shrubs, scrub or tall herbaceous vegetation shall be undertaken between September and February inclusive. If this is not possible then a suitably qualified ecologist shall check the areas concerned immediately prior to the clearance works to ensure that no nesting or nest-building birds are present. If any nesting birds are present then the vegetation shall not be removed until the fledglings have left the nest.

Reason: All wild birds, their nests and young are protected during the nesting period under The Wildlife and Countryside Act 1981.

- (17) 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.

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

- (18) Before development commences details shall be submitted for the installation of fixed telecommunication infrastructure and High-Speed Fibre Optic (minimal internal speed of 1000mb) connections to multi point destinations and all buildings including residential, commercial and community. The infrastructure installed in accordance with the approved details during the construction of the development, capable of connection to commercial broadband providers and maintained in accordance with approved details.

Reason: To provide high quality digital infrastructure in new developments as required by paragraph 112 NPPF.

- (19) The details submitted pursuant to condition (1) above shall show a community orchard as identified on Drawing 1602.002(E) and shall provide a minimum of 21 trees, in accordance with details to be agreed, and shall be made available for community use in perpetuity.

Reason: to ensure the community benefit is provided and in the interest of biodiversity.

- (20) Prior to the construction of any dwelling in any phase details of the materials and measures to be used to increase energy efficiency and thermal performance and reduce carbon emissions and construction waste shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved materials and measures.

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

- (21) 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.

- (22) The access details shown on the approved plans (ref 205427-A01 Rev D) shall be completed prior to the commencement of any other works authorised by this permission, the occupation of any buildings hereby approved, the use of the site being commenced, and the access shall thereafter be maintained. A bound surface for the first 5 metres of each access from the edge of the highway shall be used.

Reasons: In the interests of highway safety.

- (23) The visibility splays shall be provided and maintained strictly in accordance with the details shown on the submitted plans (ref 205427-A01 Rev D) with no

obstructions over 0.9 metres above carriageway level within the splays. They shall be provided in full prior to the use of the site commencing and maintained thereafter for the lifetime of the development.

Reasons: In the interests of highway safety.

- (24) The development shall include provision of measures to prevent the discharge of surface water onto the public highway at all times. The development shall not be occupied until such details are operational and the measures shall be maintained thereafter for the lifetime of the development.

Reasons: In the interests of highway safety.

- (25) No gas boilers shall be fitted in the dwellings hereby permitted other than a low emission boiler of a minimum standard of <40mgNO_x/kWh. No dwellings shall be occupied until details of the boilers to be installed have been submitted to and approved in writing by the Local Planning Authority, and the development shall be carried out in accordance with such details.

Reason: For the benefit of air quality

- (26) No development shall take place, including any works of demolition, until a Demolition/Construction Method Statement has been submitted to, and approved in writing by, the Local Planning Authority. The Statement shall provide details of:
- a) Routing of construction and delivery vehicles to / from site
 - b) Parking and turning areas for construction and delivery vehicles and site personnel and visitors
 - c) Timing of deliveries
 - d) loading and unloading of plant and materials
 - e) storage of plant and materials used in constructing the development
 - f) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
 - g) Temporary traffic management / signage
 - h) wheel washing facilities
 - i) measures to control the emission of dust, particulates and dirt during construction
 - j) a scheme for recycling/disposing of waste resulting from demolition and construction works
 - k) Bonfire policy;
 - l) Proposals for monitoring, reporting and mitigation of vibration levels at surrounding residential properties where they are likely to exceed 1mm/s measures peak particle velocity.
 - m) Proposed contact details and method for dealing with complaints from neighbours

The details of the Demolition/Construction Method Statement shall be strictly adhered to throughout the entirety of the demolition and construction period until completion of the development.

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

- (27) No development approved by this permission shall be commenced prior to a contaminated land assessment (and associated remediation strategy if relevant), being submitted to and approved in writing by the Local Planning Authority, comprising:
- a) A desk study and conceptual model, based on the historical uses of the site and proposed end-uses, and professional opinion as to whether further investigative works are required. A site investigation strategy, based on the results of the desk study, shall be approved by the Local Planning Authority prior to any intrusive investigations commencing on site.
 - b) An investigation, including relevant soil, soil gas, surface and groundwater sampling, carried out by a suitably qualified and accredited consultant/contractor in accordance with a Quality Assured sampling and analysis methodology.
 - c) A site investigation report detailing all investigative works and sampling on site, together with the results of analyses, risk assessment to any receptors and a proposed remediation strategy which shall be of such a nature as to render harmless the identified contamination given the proposed end-use of the site and surrounding environment, including any controlled waters.
 - d) If during development, contamination not previously identified is found to be present at the site, then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted and obtained written approval from the Local Planning Authority, details of how this unsuspected contamination shall be dealt with.
 - e) all remediation works identified in the contaminated land assessment and approved by the Local Planning Authority shall be carried out in full (or in phases as agreed in writing by the Local Planning Authority) on site under a quality assured scheme to demonstrate compliance with the proposed methodology and best practice guidance.

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

- (28) Prior to the commencement of the relevant part of the development, an ecological and landscape management plan, including mitigation measures during demolition and construction, long-term design objectives, management responsibilities and maintenance schedules for all landscaped areas, shall be submitted to and approved in writing by the Local Planning Authority.

The submitted report shall include:

- a) Preliminary Ecological Appraisal demonstrating the details of all features of ecological value on the site and setting out measures for their protection during construction works.
- b) Detailed phase II roosting bats' and nesting birds' surveys
- c) A detailed method statement for the removal or long-term management /eradication of invasive species on the site.
- d) Details to protect the established vegetation from any damage that could be caused during demolition and construction. All works should be undertaken by a suitably qualified and experienced specialist contractor and should conform to current industry best practice, i.e. BS 3998: 2010 'Tree Work - Recommendations'. The details should ensure that existing commuting/foraging routes currently utilised by bats and other wildlife are maintained.

- e) If more than one year passes between the most recent bat survey and the commencement of demolition and/or tree works, an update bat survey must be undertaken immediately prior to demolition or tree works by a licensed bat worker. Evidence that the survey has been undertaken shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of demolition and/or tree works.
- f) Details from a suitably qualified ecologist specifying how the landscape features have been developed for biodiversity and ecological enhancement.
- g) Details of management and maintenance regimes to ensure biodiversity and ecology is protected, including a schedule for seasonal maintenance of the landscaping with appropriate support systems and health checking of planting to ensure it is performing as intended;
- h) The mitigation and enhancement should include, but is not limited to, the following:
 - i. Native species
 - ii. Bird and bat sensitive lighting
 - iii. Artificial nesting and roosting sites (including bird and bat boxes)

Evidence that the ecological measures approved have been installed in accordance with the approved details should be submitted to and approved by the local planning authority prior to occupation of the relevant part of the development.

The development shall be carried out in accordance with the approved details and retained for the lifetime of the development.

Reason: To contribute to protecting and enhancing biodiversity, protect aviation and improving the aesthetic value of the development as well as resident's well-being.

- (29) a) No tree works shall take place until methods of work, position of site offices, material storage, compounds, parking and tree protection and impact mitigation measures prior to commencement of the relevant part of the development and the associated clearance work have been agreed in writing by the Local Planning Authority.
- b) Prior to the commencement of any works affecting trees an arboricultural impact assessment shall be submitted to and approved in writing by the Local Planning Authority. The recommended measures for arboricultural management shall be carried out in full and thereafter retained.
- c) All permitted or approved tree work will be carried out in accordance with the British Standard BS3998:2010 (or prevailing standard), an Arboricultural Association Approved Contractor or an ISA Certified Arborist/Tree Worker suitably insured and experienced to carry out the tree works.
- d) All tree works are to be carried out between July and September or November and February. Tree works should also avoid the season for nesting birds.
- e) No tree works shall be undertaken until permission is given, or a programme of recommendations is received in writing as a result of a bat survey conducted by a suitably qualified ecologist.
- f) All tree works and tree surgery works will be carried out prior to the development of the site, and erection of protective fencing.
- g) All protective measures; including fencing, shall be implemented prior to any demolition or construction works and remain in situ and intact throughout the duration of the relevant part of the development. Written approval by the Local

Planning Authority shall be obtained prior to any temporary removal of protective measures during the relevant part of the development period.

h) Should additional tree works other than those identified in the arboricultural impact assessment approved in part (b) above become apparent during the construction process, written consent will be required from the Local Planning Authority prior to these additional works being undertaken.

i) Any trees or plants which form part of the approved landscaping scheme which die within a period of 5 years from the date of planting, are removed or become seriously damaged or diseased shall be replaced in the next planting season with other of similar size and species, unless otherwise agreed in writing by the Local Planning Authority.

Reason: In order to improve the character and amenities of the area.

- (30) No development beyond the construction of foundations shall take place until details of the external finishing materials, including samples or sample panels, to be used on the development hereby permitted have been submitted to and approved in writing by the Local Planning Authority. The development shall be constructed and retained for the lifetime of the development in full accordance with the approved details.

Reason: In order that the Local Planning Authority may be satisfied with the external appearance of the buildings and the development

- (31) No development beyond the construction of foundations shall take place until details have been submitted to and approved in writing demonstrating how the development meets the principles of 'secure by design'.

Reason: To ensure that Secured by Design principles are implemented into the development

- (32) Construction of the development shall not commence until details of the proposed means of surface water drainage have been submitted to, and approved in writing 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 and to prevent flooding.

- (33) No development beyond the construction of foundations shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the Local Planning Authority. The details shall demonstrate the biodiversity net gains in as per Condition 13. 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, lighting, bollards, street furniture (including waste bins), cycle linkages, wayfinding, permeability of all hard surfaces, materials, use of planting to provide privacy and defensible areas and an implementation programme. All new streets must be tree lined.

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 submitted to and agreed in writing with the Local Planning Authority.

The scheme of tree planting and landscaping shown on the submitted plans shall be carried out within 12 months of the completion of the development. Any trees or shrubs removed, dying, being severely damaged or becoming seriously diseased within five years of planting shall be replaced with trees or shrubs of such size and species as may be agreed in writing with the Local Planning Authority.

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

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

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

- (35) Upon completion of the works identified in the contaminated land assessment approved under Condition 26, and before any part of the development is occupied, a verification report shall be submitted which shall include details of the proposed remediation works with quality assurance certificates to show that the works have been carried out in accordance with the approved methodology. Details of any post-remediation sampling and analysis to show the site has reached the required clean-up criteria shall be included in the closure report together with the necessary documentation detailing what waste materials have been removed from the site.

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

- (36) Full details of a refuse and recycling strategy including collection arrangements for all uses shall be submitted to and approved in writing by the Local Planning Authority prior to the first occupation of the relevant part of the development.

The storage and recycling facilities shall in all respects be constructed in accordance with the approved details, before the relevant part of the development is first occupied and maintained for the lifetime of the development.

Reason: In order that the Council may be satisfied with the details of the proposal

Informative

The applicant is reminded that, under the Wildlife and Countryside Act 1981, as amended (section 1), it is an offence to remove, damage or destroy the nest of any wild bird while that nest is in use or being built. Planning consent for a development does not provide a defence against prosecution under this Act. Breeding bird habitat is present on the application site and assumed to contain nesting birds between 1st March and 31st August, unless a recent survey has been undertaken by a competent ecologist and has shown that nesting birds are not present.

The applicant is strongly encouraged to seek pre-application advice prior to the submission of a reserved matters application for the residential units and site layout. The

applicant is also encouraged to present the reserved matters submission to the Design Review Panel.

Information pursuant to Condition 38 (Secure by Design):

- Cul-de-sacs that are short in length and not “open or leaky” by being linked to other areas by cycle routes or footpaths for example, can be very safe environments where residents can benefit from lower crime.
- As the rear of the area is planned for community use, we recommend vehicle mitigation to reduce Anti-Social motorbike/cycling that can create nuisance, fear of crime and conflict. There are plenty of ways to provide this, bollards, walls, planters or appropriate planting consisting of prickly shrubs, densely planted.
- Boundary Treatments: The perimeter boundary treatment to be a min of 1.8m to provide security, 1.5m with trellis to meet 1.8m is acceptable if preferred.
- Rear gardens and divisional fencing between rear gardens to be a min of 1.8m in height to help provide security and privacy. Front garden areas could benefit from a boundary treatment to reduce the opportunity for desire lines that can cause Fear of Crime, Nuisance and Conflict, particularly corner properties.
- We recommend security is provided for Motorbikes, Mopeds, E bikes and similar. SBD and Sold Secure standard certified Ground or wall anchors can provide this.
- Surveillance over parking should be maximised to minimise vehicle crime. We strongly advise ground floor “active room” windows e.g. lounge or kitchen but not bathroom, hall or bedroom overlooking the parking areas, side elevations should also include active windows.
- To minimise the opportunity for vehicle crime, vehicles should be parked on plot, or in locked garages. Residents should be able to see their vehicle from an “active” window. Car barns can provide a secluded space for criminality and ASB so require careful siting with plenty of natural surveillance.
- Any lighting plan should be approved by a professional lighting engineer e.g. a Member of the ILP or the SLL to help avoid conflict and light pollution that can occur when residents install their own security lighting.
- All external, residential doorsets and any sliding, folding or patio doors to ground floors to meet PAS 24: 2016 UKAS certified standard, STS 201 or LPS 2081 Security Rating B+. Please Note, PAS 24: 2012 tested for ADQ (Building Regs) has been superseded and is not suitable for this development.
- Windows on the ground floor or potentially vulnerable e.g. from flat roofs should also meet PAS 24: 2016 UKAS certified standard, STS 204 Issue 6:2016, LPS 1175 Issue 8:2018 Security Rating 1/A1, STS 202 Issue 7:2016 Burglary Rating 1 or LPS 2081 Issue 1.1:2016 Security Rating A. Glazing to be laminated as toughened glass alone is not suitable for security purposes.

Council's Approach to the Application

In accordance with paragraph 38 of the National Planning Policy Framework (NPPF) the Council takes a positive and proactive approach to development proposals focused on solutions. We work with applicants/agents in a positive and creative way by offering a pre-application advice service, where possible, suggesting solutions to secure a successful outcome and as appropriate, updating applicants / agents of any issues that may arise in the processing of their application. In this instance, further supporting information was required and revisions were required; following which the application was considered acceptable and approved without delay.

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

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

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

The application site is located within 6km of The Swale Special Protection Area (SPA) which is a European designated sites afforded protection under the Conservation of Habitats and Species Regulations 2017 as amended (the Habitat Regulations).

SPAs are protected sites classified in accordance with Article 4 of the EC Birds Directive. They are classified for rare and vulnerable birds and for regularly occurring migratory species. Article 4(4) of the Birds Directive (2009/147/EC) requires Member States to take appropriate steps to avoid pollution or deterioration of habitats or any disturbances affecting the birds, in so far as these would be significant having regard to the objectives of this Article.

The proposal therefore has potential to affect said site's features of interest, and an Appropriate Assessment is required to establish the likely impacts of the development.

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

The recent (April 2018) judgement (People Over Wind v Coillte Teoranta, ref. C-323/17) handed down by the Court of Justice of the European Union ruled that, when determining the impacts of a development on protected area, "it is not appropriate, at the screening stage, to take account of the measures intended to avoid or reduce the harmful effects of the plan or project on that site." The development therefore cannot be screened out of the need to provide an Appropriate Assessment solely on the basis of the mitigation measures agreed between Natural England and the North Kent Environmental Planning Group.

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

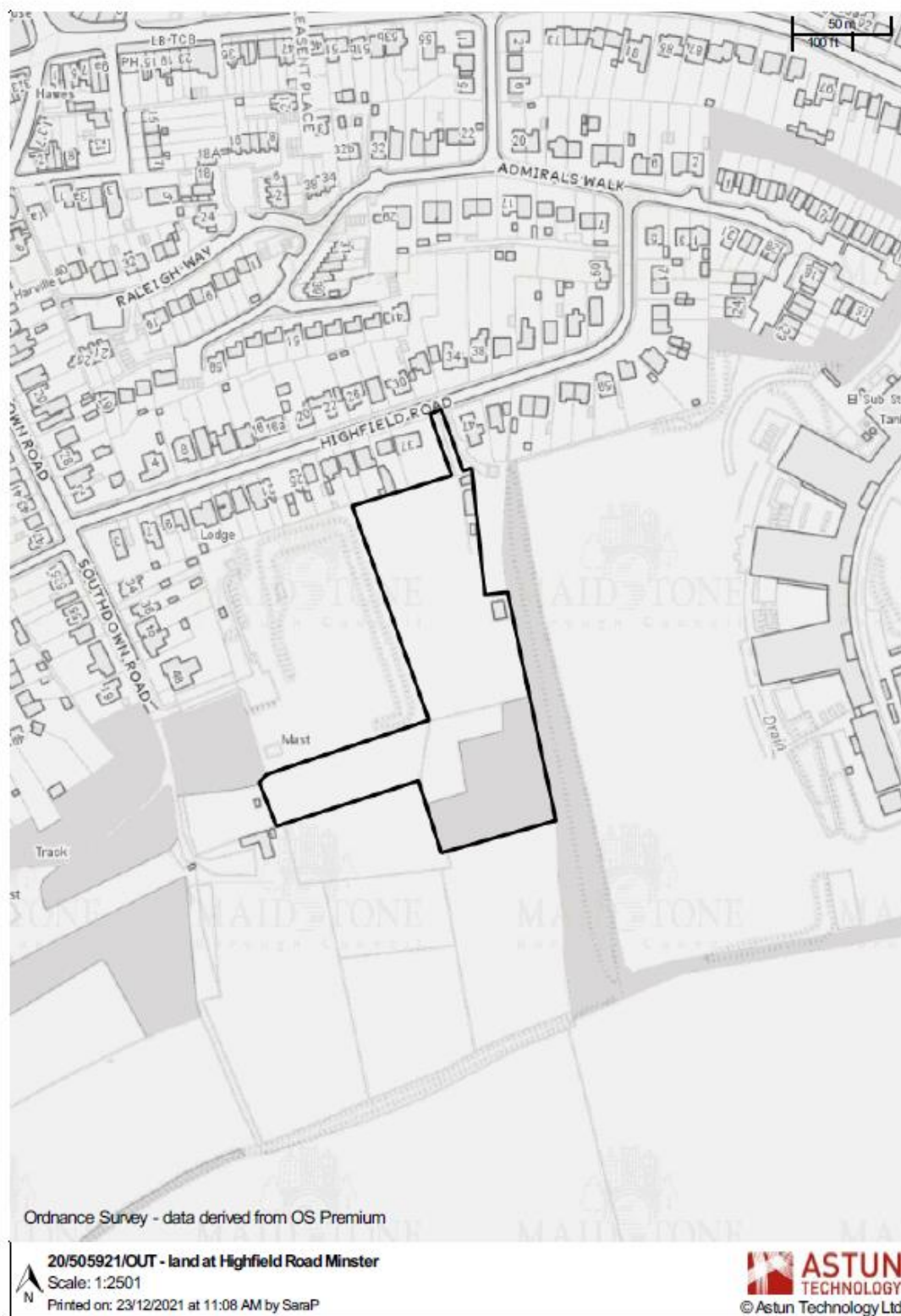
Due to the scale of development there is no scope to provide on site mitigation such as an on-site dog walking area or signage to prevent the primary causes of bird disturbance, which are recreational disturbance including walking, dog walking (particularly off the lead), and predation of birds by cats.

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

In this regard, whilst there are likely to be impacts upon the SPA arising from this development, the mitigation measures to be implemented within the SPA from collection of the standard SAMMS tariff (to be secured prior to the determination of this application) will ensure that these impacts will not be significant or long-term. I therefore consider that, subject to mitigation, there will be no adverse effect on the integrity of the SPA.

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

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



Appeal Decision

Site visit made on 11 August 2020

by P Wookey BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9th October 2020

Appeal Ref: W/4001086

Land on the south east side of Bartletts Close, Halfway, Sheerness, Kent, ME12 3EG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr Stephen Potter against the decision of Swale Borough Council.
 - The application Ref 19/503810/OUT, dated 24 July 2019, was refused by notice dated 13 March 2020.
 - The development proposed is described as 'erection of 17 dwellings, new access road, associated parking and landscaping'.
-

Decision

1. The appeal is allowed and planning permission is granted for the erection of 17 dwellings, new access road, associated parking and landscaping at Land on the south east side of Bartletts Close, Halfway, Sheerness, Kent, ME12 3EG, in accordance with the terms of the application Ref 19/503810/OUT, dated 24 July 2019, subject to the conditions in the attached schedule.

Application for costs

2. An application for costs was made by Mr Stephen Potter against Swale Borough Council. This application will be the subject of a separate Decision.

Procedural Matters

3. The application was submitted in outline form with all matters reserved except access. The plans submitted are for illustrative purposes only and my decision has been made on that basis.

Main Issues

4. The main issues are the effect of the development on:
 - Whether the site would be an appropriate location for housing having regard to local and national policies concerning housing in the countryside; and,
 - The character and appearance of the open countryside; and,
 - Highways safety with regards the site access road; and,
 - The integrity of the Swale and Medway Special Protection Areas (SPA)

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Reasons*Location*

5. The appeal site is located on open land which is adjacent to and slightly higher than the existing residential development on the cul de sac of Bartletts Close. The site is rectangular in shape and rises gently away from the boundary of the residential development on Bartletts Close. There is existing mature hedge planting along the boundaries with adjacent open fields and a mix of hedgerow and close board fencing on the boundaries with the adjacent residential dwellings on Bartletts Close.
6. For the purposes of the adopted development plan, Bearing Fruits 2031: The Swale Borough Local Plan (2017) (LP), the appeal site is on the edge of, but outside the built-up boundary of Halfway. As the appeal site is located outside the settlement boundary it would represent development in the open countryside.
7. Paragraph 79 of The National Planning Policy Framework (2019) (the Framework) seeks to avoid the development of isolated homes in the countryside. Given the close proximity of the adjacent residential development on Bartletts Close and the surrounding area, the development proposed would not constitute isolated development, in the truest meaning of the term.
8. Based on my site visit, the future occupiers of the development proposed would have good accessibility to the local facilities and services at Halfway, which the Council states forms part of the West Sheppey Triangle and which is identified as a Tier 3 'other Urban Centre' settlement in Swale's settlement hierarchy. These facilities, which include shops, services, education and healthcare facilities, would be within reasonable walking distance of the proposed new housing and would also be accessible by cycling or the use of public transport, given the close proximity of nearby bus stops on Queenborough Road. In addition, the future occupiers of the proposed housing would be within reasonable walking or cycling distance of the nearest train station and bus services, which would provide access to the employment centres locally on the Isle of Sheppey or further afield in Sittingbourne and beyond.
9. Overall, given the close proximity of Halfway and the availability of nearby public transport links, the future occupiers would have good access to local services, facilities and employment opportunities. I am satisfied, based on my site visit and on the evidence before me that these could be reached by sustainable transport means and the future occupiers of the development proposed would not be reliant on the use of a private vehicle.
10. I therefore conclude that when assessed against the development plan as a whole, the development proposed would be in a suitable location and would not be contrary to policies ST1, ST3, ST6 and CP3 of the LP or Paragraphs 8 and 11 of the Framework, which when read together seek to ensure that development takes place in suitable locations which have good access to local services and facilities and public transport links and future occupiers would not be reliant on the use of a private vehicle.

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Character and Appearance of the countryside

11. Part 3 of Policy DM25 of the LP identifies the appeal site as being within an area defined as an Important Local Countryside Gap, which seeks to maintain the separation of settlements.
12. Based on my site visit, the appeal site which has an area of approximately 0.55 hectares, is visibly contained from the surrounding area and given the residential development close to its boundaries, the development proposed would appear as a natural extension to the existing settlement boundary. The topography of the appeal site is such that any visibility of the development proposed would be limited from distant views and it would not appear as a prominent addition to the landscape.
13. Whilst the Council is concerned that the development proposed would erode the intrinsic character of the area, it has not submitted any substantive evidence which would indicate that it would result in the coalescence of settlements or have any negative impact on the limited views of the site from further afield. Based on my site visit, and having regard to paragraph 7.7.30 of the LP, the modest scale of the development proposed would have a reasonably cohesive relationship with the adjacent urban area and would maintain the separation of settlements. There would be no significant reduction to the value, landscape setting and beauty of the countryside, such that it would result in significant erosion of the countryside gap.
14. I note that reference has been made to the planning history of the neighbouring site at Belgrade Road. Whilst limited details of the scheme at Belgrade Road were submitted as evidence, when combined with the development proposed there would be a clearly self-contained contiguous edge to the settlement boundary of Halfway, mitigating a hard, prominent edge being formed by the Belgrade Road scheme.
15. I conclude that there would be no significant harmful effect on the countryside gap and the development proposed would not be contrary to policies ST3, ST6, DM24 and DM25 of the LP, which when taken together seek to ensure that the individual character and setting of settlements is maintained and there is no erosion of the identified countryside gaps.

Highways

16. Access to the development proposed would be via Bartletts Close, which is a private unmade road. The appellant does not propose to upgrade the linkages through Bartletts Close to adoptable standards and the new estate road is not being offered for adoption by the Highways Authority. The Council and interested parties have concerns that this would prejudice the safety and suitability of the access for all users and would deter pedestrian, cyclists and those in wheelchairs and would fail to promote sustainable transport modes.
17. Based on my site visit, the private road of Bartletts Close was not in a condition that would deter its use by pedestrians, cyclists or wheelchair users. Whilst I have had regard to photographic evidence submitted by interested parties showing the condition of the road in bad weather, there is no technical evidence submitted to demonstrate that in such circumstances the private road of Bartletts Close would be unsafe or would not be suitable for use by any mode of transport other than a private vehicle.

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18. I have had regard to the technical evidence submitted by the appellants transport consultant and the details of right of access over Bartletts Close available to the appellant. I have also noted that the Council does not have a policy in its LP which requires existing unmade roads to be made up to adoptable standards.
19. Further, I note that the Highways Authority, whilst not commenting on the condition of the private road, do not consider work to upgrade the unadopted access route would be necessary to support the development proposed. Also, there would be no significant traffic impacts on the local highway network as a result of the development proposed, when combined with other development planned for the surrounding area. Therefore, the development proposed would not conflict with Paragraphs 108 and 109 of the Framework which states that development should only be prevented if there would be an unacceptable impact on highway safety or the combined impact on the highway would be severe when combined with other development.
20. Whilst I have regard to the concerns of the Council and interested parties, a condition requiring the upgrading of the unmade private road would fail to meet the tests set out in Paragraph 55 of the Framework and as the link through Bartletts Close would not be upgraded to an adoptable standard it would not be possible for the Highways Authority to enter a Section 38 of the Highways Act 1980.
21. The matter of upgrading the private unmade road would therefore remain a civil matter and would not, based on the evidence before me, provide justification for dismissing the appeal on its own. I also note that the proposed access arrangements would provide some limited benefit to the occupiers of Bartletts Close, as service vehicles would be able to turn within the development proposed and would be able to enter and leave in forward gear, thus improving highway safety.
22. I conclude that the proposed access road to the development proposed would comply with policies DM6 and CP2 of the LP, which amongst other things seek to promote the use of sustainable transport and a safe route is provided for all future users.

SPA

23. The Council has brought to my attention that the appeal site is within the 6km buffer zone of the Swale and Medway Special Protection Areas (SPA) which is a European designated site, afforded protection under the Conservation of Habitats and Species Regulations 2017 as amended. Following the recent judgement¹, handed down by the Court of Justice of the European Union, it was ruled that when determining the impacts of development on a protected area it cannot be screened out of the need to undertake an Appropriate Assessment (AA) solely on the basis of agreed mitigation measures.
24. As a result, as the competent authority, I am required to undertake an Appropriate Assessment, to assess on a precautionary basis, the effect of the development proposed on the integrity of the SPA. Whilst the development proposed is not directly connected with or is necessary to the management of the protected site, the future occupiers of the proposed dwellings have the

¹ People over Wind v Coillte Teoranta ref C-323/17

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potential, in combination with other developments in the area to cause negative impacts on the SPA by reason of increased public access and recreational use.

25. The Council states that the effects resulting from 17 dwellings and the proposed mitigation measures to be implemented within the SPA could be managed by the collection of a Strategic Access Management and Monitoring System (SAMMS) tariff. During the appeal process, I have re-consulted Natural England (NE) to ensure that the proposed mitigation measures via a tariff payment would be appropriate and proportionate given the scale of the development proposed. NE has confirmed that the effects identified in the AA could be appropriately mitigated via the proposed SAMMS tariff payment. Further, a copy of the completed Unilateral Undertaking confirming the appellants agreement to pay the SAMMS tariff has been submitted as evidence.
26. On the basis of the Appropriate Assessment undertaken, I am satisfied that the completed UU would secure adequate mitigation measures for any negative impact on the SPA and as a result, there would be no conflict with Paragraph 11 d) i) of the Framework in this case.

Other Matters

27. I have had regard to all of the concerns raised by interested parties, which have in part been considered under the main issues, but also include amongst other things: harm to the living conditions of occupiers of neighbouring residents due to loss of light, and privacy due to overlooking; lack of green space; air quality; disturbance and damage to the unmade road during the construction phase; poor drainage in the area and effect on property values on Bartletts Close.
28. Matters which relate to detailed design and layout of the development are reserved matters and will be considered at a later stage. I have no substantive evidence before me to indicate that there would be any adverse effects on air quality as a result of the development and whilst there would be some disturbance during the construction phase a condition would be imposed to minimise the short term effects on neighbouring residents. In addition, a condition would be imposed to require a sustainable surface water drainage scheme to mitigate any effects on the surrounding drainage system. As planning primarily relates to land use, the effect on property values is outside the scope of this appeal.
29. The appellant has submitted a completed Section 106 Agreement with regards financial contributions towards the additional demand on local infrastructure of primary and secondary education; community learning; youth service; library services; social care; Swale CCG (NHS); refuse bins; formal sports; play contribution and administration and monitoring fee. I am satisfied, based on the evidence submitted, the financial contributions meet the relevant tests set out in Paragraph 56 of the Framework.

Planning Balance

30. The Council accepts that it is not able to demonstrate that it has a five-year supply of housing and states that it has only a 4.6 years supply. In such situations Paragraph 11 d) of the Framework states that decision makers should apply a presumption in favour of development as the most relevant

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development plan policies for determining the applications are out of date and the tilted balance would be engaged.

31. The development proposed would deliver 17 housing units of various sizes and types which would contribute to the choice and needs of different groups of the community and would be a social benefit making an important contribution to the Councils' housing shortfall, to which I attach moderate weight. Further, with regards the economic benefits, the development would provide jobs during the construction phase and the additional expenditure of the future occupiers would support local shops and services. I attach moderate weight to these benefits.
32. With regards the environmental benefits, the development would be in a location which has good access to local services, facilities, employment opportunities and public transport links, and would therefore promote sustainable transport methods. I attach moderate weight to these benefits. The development would be on undeveloped land which would be an adverse impact to which I attach limited weight.
33. Therefore, any adverse impacts would not significantly and demonstrably outweigh the benefits in this case and Paragraph 11 d) of the Framework makes it clear that the presumption in favour of sustainable development will weigh in favour of the proposal.

Conditions

34. The Council has proposed a number of conditions, which I have considered against the advice given in the Planning Practice Guidance and where necessary have amended.
35. Condition 1, 2 and 3 are in pursuance of Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004. Condition 4 is to ensure that there is adequate provision for the parking or garaging of cars. Condition 5 and 6 is in the interests of the visual amenities of the area and encouraging biodiversity.
36. Condition 7 is to ensure that 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. Condition 8 is to ensure that flood risks from development to the future users of the land and neighbouring land are minimised. Condition 9 is to ensure that foul and surface water are adequately disposed of.
37. Condition 10 is to protect habitats and species identified in the ecological surveys from adverse impacts during the construction phase and Condition 11 is to enhance biodiversity.
38. Conditions 12 and 13 are in the interest of the amenities of the area and highways safety. Condition 14 is in the interest of promoting energy efficiency and sustainable development and Condition 15 is in the interest of promoting the use of electric vehicles and climate change and reducing pollution. Condition 16 is in the interests of water conservation.
39. Condition 17 is in the interests of minimising opportunities for crime and anti-social behaviour. Condition 18 is in the interests of complementing the character and appearance of the surrounding area. Condition 19 is in the

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interest of the visual amenities of the area and encouraging wildlife and Conditions 20 and 21 are in the interests of residential amenity. Condition 22 is to ensure that features of archaeological interest are properly examined and recorded.

40. Condition 23 is to ensure that a satisfactory means of access is provided to the site.

Conclusions

41. For the reasons set out above, the appeal is allowed.

Paul Wookey

INSPECTOR

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Schedule of Conditions

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.
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.
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.
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.
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.
6. Upon completion of the approved landscaping scheme, any trees or shrubs that are removed, dying, being severely damaged or becoming seriously diseased within five years of planting shall be replaced with trees or shrubs of such size and species as may be agreed in writing with the Local Planning Authority, and within whatever planting season is agreed.
7. 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

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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.

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.

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.

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.

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.

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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

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.

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.

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.

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).

17. 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.

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

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.

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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.

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.

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.

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.

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Costs Decision

Site visit made on 11 August 2020

by **P Wookey BA (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 9th October 2020

Costs application in relation to Appeal Ref: W/4001086

Land on the south east side of Bartletts Close, Halfway, Sheerness, Kent, ME12 3EG

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr Stephen Potter for a full award of costs against Swale Borough Council.
 - The appeal was against the refusal of outline planning permission for the erection of 17 dwellings, new access road, associated parking and landscaping
-

Decision

1. The application for an award of costs is partially allowed in the terms set out below.
2. The Planning Practice Guidance (PPG) advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. The applicant states that the Council acted unreasonably by seeking to strengthen its decision to refuse permission by the inclusion of Reason for Refusal 1 (RR1,) and Reason for Refusal 2 (RR2). Further, the appellant states that there was a lack of balanced judgement in the Council's decision-making process on Reason for Refusal 3 (RR3). On these matters the applicant states that the Council failed to submit any substantive evidence to support its reasons for refusal and as a result unnecessary costs in preparing and submitting appeal documents have been incurred.
4. The Council does not accept that it acted unreasonably and that its decision was justified on planning policy terms and whilst Council Members determined the application contrary to the Officer recommendation, they are within their rights to do so and have local knowledge to support their decision.

Reasons

5. In this case I have had regard to the evidence presented by the Council's Planning Committee and whilst I was not present at the meetings, the minutes which have been submitted as evidence provide a clear account of the deliberations of all those present.
6. With regards RR1 and RR2, the Planning Committee Council was presented with the Officers assessment of whether the development was in a sustainable location and its effect on the gap between settlements. Whilst the appellant

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- states that the RR1 was added to bolster the Council's decision to refuse permission, the Planning Committee would have been aware of the relevant policies as its grounds for refusal for both RR1 and RR2.
7. As advised by the Head of Planning Services, the site was outside of the settlement boundary and would conflict with the relevant policies, even though the Officers report found the proposals to constitute a sustainable location for the development proposed. Ultimately it was reasonable for the Planning Committee Council to make an assessment of whether the development would be in a sustainable location or would have an adverse effect on the importance of the countryside gap, based on its assessment of the Officers report and local knowledge. I am satisfied that the Council's Statement of Case provides further justification for RR1 and RR2, which provide valid reasons for refusal and accordingly, the Council did not act unreasonably.
 8. With regards RR3, the Planning Committee would have been aware of the concerns of interested parties and sought to find valid planning reasons in order to safeguard their interests, which led to the deferral of the application to the second Planning Committee meeting. Having regard to the Officers report and minutes of the Planning Committee on 5 March 2020, the main focus of discussion was on the suitability of the private road as a means of access to the development proposed. The Officer's reports and the Technical Notes submitted by the appellant provided a comprehensive assessment as to whether or not, the appellant would be required to contribute to the costs of its upgrade to adoptable standards.
 9. The correspondence between the Highways Authority and the parties shows that there was no requirement for the link roads or the estate roads to be of adoptable standards and that it would not be possible for the Highways Authority to enter into a Section 38 Agreement. It was also clear in the Officer's report on 5 March 2020, that the Council had no policy requiring the adoption of unmade roads and that a condition requiring improvements to the road would not meet the tests, set out in Paragraph 55 of the National Planning Policy Framework (2019).
 10. The Planning Committee was advised by Officer's that the Highways Authority had not commented on the suitability of the access road, only on matters relating to it being upgraded to adoptable standards and that there was no clear policy basis to refuse the scheme on highways grounds and no technical evidence to support it as a reason for refusal. During the appeal process the Council did not submit any further technical evidence to support the RR3, even though I note that it had been proposed by a member of the Planning Committee that independent highways advice should be obtained, but this was not pursued.
 11. On RR3, in my view the Council acted unreasonably, as it did not take into account all of the information that had been presented to it and as a result, did not make a balanced assessment of the highway matters as they related to the unmade road. Further, the Council did not provide adequate justification based on any technical evidence for its reason for refusal RR3, during the appeal process.
 12. For the reasons given above, I find that the Council acted unreasonably with regards RR3, as described in the PPG and as a result the applicant has incurred unnecessary and wasted expenditure in lodging the appeal and application of

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

2

APPENDIX 1

Costs Decision W/4001086

costs. I therefore conclude that a partial award of costs is justified in this respect.

Costs Order

13. In exercise of the powers under Section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Swale Borough Council shall pay to Mr Stephen Potter, the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred in the appeal process with regards those costs incurred in reviewing the documentation and preparing documents to be submitted as highways evidence for the appeal; such costs to be assessed in the Senior Courts Costs Office if not agreed.
14. The applicant is now invited to submit to Swale Borough Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement to the amount.

Paul Wookey

INSPECTOR

2.3 REFERENCE NO - 21/506426/FULL		
APPLICATION PROPOSAL		
Section 73 - Application for variation of condition 2 (occupancy restriction) pursuant to application SW/11/1284, to allow the caravan park to open/occupied for additional 2 months in 2022 (January and February) on a temporary basis.		
ADDRESS Seafields Caravan Park First Avenue Eastchurch Sheerness Kent ME12 4JN		
RECOMMENDATION Grant subject to conditions		
SUMMARY OF REASONS FOR RECOMMENDATION		
The proposed temporary relaxation of the occupancy condition associated with the site from January to February 2022 reflects the government guidance in response to the Covid-19 recovery. Whilst this would ordinarily be contrary to the local plan, namely Policy DM5, the publication of the Written Ministerial Statement that encourages LPAs to consider such applications favourably and discourages enforcement action during this time, forms a material consideration to which significant weight is attached. On this basis the temporary consent would be considered acceptable subject to appropriately worded conditions being attached ensuring the occupation period reverts back to the standard 10-months.		
REASON FOR REFERRAL TO COMMITTEE		
Parish Council objection		
WARD Sheppey East	PARISH/TOWN COUNCIL Eastchurch	APPLICANT Mrs Karen Handebeaux AGENT N/A
DECISION DUE DATE 28/01/22		PUBLICITY EXPIRY DATE 04/01/22

RELEVANT PLANNING HISTORY

SW/11/1284 - Variation of Condition 2 of planning permission SW/99/1158 to allow 10-month occupancy - Granted Decision Date: 03.02.2012

SW/99/1158 - Renewal of Planning Permission SW/94/443 for change of use of land to static holiday caravan park- Granted Decision Date: 07.01.2000

SW/94/0443 – Use of land as static holiday caravan park – occupation between 1st March and 31st October in each year - Refused
Decision Date: 20.07.1994

SW/05/0003 - Renewal of Planning permission SW/99/1158 for change of use of land to static holiday caravan park- Granted Decision Date: 01.03.2005

APPEAL HISTORY

SW/94/0443 – Use of land as static holiday caravan park – occupation between 1st March and 31st October in each year - Appeal Allowed
Decision Date: 12.07.1995

1. DESCRIPTION OF SITE

- 1.1 Seafields Caravan Park is an established holiday park within the context of the larger Eastchurch holiday park area, which is a designated Holiday Park under Policy DM5 of the Local Plan. The site measures approximately 0.36 hectares in size and it accommodates approximately 13 static holiday caravans. The site is landscaped and each plot is accessible via an internal estate road which runs through the middle of the site to the entrance gates.

2. PROPOSAL

- 2.1 This application is made under Section 73 of the Town and Country Planning Act 1990 for an amendment to condition 2 of application ref: SW/11/1284. This condition restricts occupancy of the holiday park to a ten-month period and does not permit occupation during the months of January and February – typical of the conditions applied to most holiday parks on the Island. The condition states:

“No caravan shall be occupied except between 1st March and 2nd January in the following calendar year and only where there is a signed agreement between the owners or operators of the Park and all chalet/caravan owners within the application site, stating that:

- a) The caravan is to be used for holiday and recreational use only and shall not be occupied as a sole or main residence, or in any manner which might lead any person to believe that it is being used as a sole or main residence; and*
- b) The caravan shall not be used as a postal address; and*
- c) The address shall not be used for registering, claiming or for the receipt of state benefit; and*
- d) The caravan shall not be occupied in any manner which shall or may cause the occupation thereof to be or become a protected tenancy within the meaning of the Rent Acts 1968 and 1974; and*
- e) If any caravan owner is in breach of the above, their agreement will be terminated and/or not renewed upon the next expiry of their current lease or licence.*

On request, copies of the signed agreement shall be provided to the Local Planning Authority.’

- 2.2 The applicant seeks permission to allow the holiday park to remain open for the months of January and February of 2022 on a temporary basis. The temporary alteration to the occupancy restriction is being sought for 2022 only as a result of the Covid-19 pandemic. I am advised that several of the residents are in ill health and do not want to risk visiting younger family members during the months of January and February to reduce their risk of contracting Covid-19.
- 2.3 Owing to the nature of the application, the only matter relevant is the acceptability of altering the condition in the manner suggested and no other elements of the existing permission are for consideration.

- 2.4 The application has been made on the basis of the guidance issued by the Government in July 2020 (as amended), and which remains in place until 31st December 2022. This effectively offers encouragement to holiday park owners to submit Section 73 applications to allow parks to remain open in the closed season for this year only. It recommends that the Local Planning Authority should prioritise such applications and make early decisions and should consider the benefits of longer opening season times for a temporary period to the local economy as it recovers from the impact of Covid.

3. PLANNING CONSTRAINTS

- 3.1 The site constraints are as follows:

- The site is located within the SPA Buffer Zone
- The site is a Designated Holiday Park (DM5)
- The site falls outside of a built-up settlement boundary (ST3)

4. POLICY AND CONSIDERATIONS

- 4.1 S.73 Town and Country Planning Act 1990 (as amended)
- 4.2 National Planning Policy Framework 2021
- 4.3 Bearing Fruits 2031: The Swale Borough Local Plan 2017:

- ST1 Delivering sustainable development in Swale
- ST3 The Swale Settlement Strategy
- ST6 The Isle of Sheppey Area Strategy
- DM4 New holiday parks or extensions to existing parks
- DM5 The occupancy of holiday parks
- DM14 General development criteria
- DM19 Sustainable design and construction
- DM28 Biodiversity and Geological Conservation

- 4.4 Written Ministerial statement and guidance issued by Robert Jenrick on 14th July 2020

5. LOCAL REPRESENTATIONS

- 5.1 No representations have been received.

6. CONSULTATIONS

- 6.1 **Eastchurch Parish Council** – Object to the proposal on the following grounds (summarised):

- A directive from Planning last year stated that the temporary suspension of enforcement for occupiers in caravan parks was not a grant of 12-month occupancy and was only due to the extenuating circumstances of Covid 19. It highlighted that this would not set a precedent for future years.
- The recent applications from caravan parks seeks to use this as a means of providing 12-month occupancy.
- Conflict with Appendix 2 of the Local Plan which states that there must be a signed agreement between the park and all caravan/chalet owners controlling occupancy.

- The addition of an extra two months will permit permanent occupation of holiday homes and in effect turn the sites into residential housing estates.
- Lack of control / enforcement to verifying that the owners are complying with conditions.
- Wider impact of allowing holiday parks to be used as permanent residential sites, the precedent this would set and resultant unacceptable impacts on rural areas.
- Poor location of the site for access to services / facilities and reliance on cars for journeys.
- Pressure on local infrastructure – e.g. schools and doctors.
- Impact on tourism offer.
- Additional highway impacts in winter months.
- Change of use from holiday status to residential is at the expense of other well established planning policies and should be resisted.
- Whilst there was every sympathy last year for the extreme circumstances that Covid-19 brought upon the National population, it was only on the understanding that this permitted extension was not permanent. Caravan Holiday Park users are aware of their responsibilities during the closed season which has already been extended to 10 months plus Christmas and New Year. There is a responsibility on these owners to ensure that they can return to their primary address during this period.
- Last year was unprecedented, but this year is not. There should be no need for the previous unprecedented situation to be extended to holiday parks this year.
- The economic benefits are tenuous at best.
- Sheppey has a unique position as an island in Swale, and also with regard to holiday parks. This relaxation of the rules is unwarranted and, in not understanding the nature of the island's vulnerability, this extension could see the loss of Sheppey as a rural respite.

6.2 **Natural England** – No objection, subject to the appropriate financial contribution being secured.

7. APPRAISAL

7.1 Policy ST3 of the Swale Local Plan 2017 sets out the settlement strategy for the borough. The application site is located in the countryside, and Policy ST3 states that development will not be permitted on countryside land which falls outside of the defined built-up area boundaries unless the development proposal is supported by national policy and the development would contribute to protecting and enhancing the intrinsic value, landscape setting, tranquillity and beauty of the countryside, its buildings, and the vitality of rural communities.

7.2 The National Planning Policy Framework supports and recognises the importance of economic growth through sustainable development. Holiday parks which are located on designated sites within the borough are considered to make a significant contribution to economic growth by bringing employment to the area and the existing sites are considered to have positive impacts upon trade and hospitality within Swale by encouraging local tourism to the area – as reflected under Policy CP1 of the Local Plan. Policy DM4 of the Local Plan promotes the use and the upgrading, improvement and extension of the existing designated holiday park sites in the countryside, subject to the occupancy restrictions set out in Policy DM5 of the Swale Local Plan 2017.

7.3 In this case, whilst Seafields Caravan Park is located in the countryside, as one of the existing designated holiday park sites, its use, retention and improvement is supported under Policy DM4. However, in line with all of the holiday parks in the borough, its use is subject to the occupancy restrictions set out in Policy DM5. Members will be aware that

the Council has consistently applied and defended these seasonal restrictions to prevent the ability for holiday parks to operate over a 12 month period, to reduce the likelihood that the parks would be used as main residences, to protect the tourist offer on the Island, and to provide a period of tranquillity in rural areas where most parks are located.

- 7.4 This application seeks to allow the park to remain open during January and February 2022. This would ordinarily be contrary to local plan policy and would not be acceptable in policy terms. However, due to the change in circumstances brought about by the Covid-19 pandemic, the government has issued a Ministerial Statement which encourages Local Authorities to support the extension of holiday park operating periods to allow them to operate beyond the usual holiday season on a temporary basis, in spite of any planning conditions which may limit their periods of opening. The temporary relaxation of the planning restrictions is identified as playing a vital role in helping local businesses to recover from the periods of economic hardship experienced when the parks were not allowed to operate.
- 7.5 The statement says that where local planning authorities are considering an application to vary relevant planning conditions to allow a holiday park to operate outside of the normal opening season, they should consider the benefits of the longer opening season on the local economy as it recovers from the impact of Covid-19. With regards to taking enforcement action against any breach of condition, the statement says that, given the current situation, whilst local planning authorities must have regard to their legal obligations, they should not seek to undertake planning enforcement action which would unnecessarily restrict the ability of caravan and holiday parks to extend their open season. The statement further advises that careful consideration should be given to some circumstances, such as where sites are subject to winter flood risk. However, Seafields is not located in an area of such risk.
- 7.6 In light of the government guidance, which is a material consideration and should be afforded significant weight, it is necessary to weigh up the economic benefits of the proposal against the potential negative impacts of temporarily extending the holiday park's opening season.
- 7.7 With regards to the potential benefits of the proposal to the local economy, the two-month extension to the opening season will result in a greater footfall to the local area which has the potential to benefit local businesses, including shops and restaurants within nearby towns and villages. The proposal is also likely to aid the economic recovery of the park following a period of uncertainty owing to the various lockdowns and restrictions on travel, which will have impacted annual income levels.
- 7.8 With regards to the potential negative impacts of the proposal, I note the comments of the parish council regarding their concerns as to the potential pressure on local medical facilities, schools and roads. I also note the concerns regarding the potential for the caravans to become permanent residential housing – and that this is already occurring on some parks. The issue of the occupancy of some parks in breach of planning conditions is a wider planning matter that the Council has the ability to control through enforcement action. I do not consider that the additional two-month period for this year only would cause any unacceptable neighbouring amenity impacts, not any unacceptable highways impacts. As such, and taking into account the very short-term nature of the application and the clear encouragement given by the Ministerial Statement, I consider that the variation proposed is acceptable.
- 7.9 Members will also be aware that by the time this application is considered by the Planning Committee, much of the additional occupancy period sought will in fact have

passed. Although the application was submitted in early December, due to the timing of the application submission and the lead-in timescales to report this to Planning Committee following receipt of the parish council comments, it has not been possible to report this to an earlier committee.

The Conservation of Habitats and Species Regulations 2017:

- 7.10 The application site is located approximately 3.5km from the Swale Special Protection Area (SPA) and Ramsar sites. The SPA provides habitat for wintering birds, which suffers from recreational disturbance from visitors. As a result of this, applications for residential development, including holiday park proposals and the increase to occupancy periods would ordinarily be required to make a financial contribution to manage these impacts through the Council's established SAMMS strategy.
- 7.11 In this case, Natural England has provided comments and refer to need for a financial contribution to manage the impacts. The comments also set out that it is for the LPA to determine whether significant effects would occur. As a result, an assessment under the Habitats Regulations has been conducted below.
- 7.12 The coastline of North Kent encompasses three Special Protection Areas (SPAs): the Thames Estuary and Marshes SPA, the Medway Estuary and Marshes SPA and the Swale SPA. They are classified in accordance with the European Birds Directive which requires Member States to classify sites that are important for bird species listed on Annex 1 of the European Directive, which are rare and / or vulnerable in a European context, and also sites that form a critically important network for birds on migration.
- 7.13 All three sites listed above are also listed as Wetlands of International Importance under the Ramsar Convention (Ramsar Sites). For clarity, and the purpose of this assessment, 'European Sites' refers to both the SPA(s) and Ramsar Site(s). Studies have shown marked declines in key bird species, particularly in areas that are busiest with recreational activity.
- 7.14 Research conducted in 2011 found that additional dwellings were likely to result in additional recreational activity, causing disturbance to protected bird species that over-winter or breed on the SPA and Ramsar Site. The studies found that 75% of recreational visitors to the North Kent coast originate from within 6km of the SPA boundary and Ramsar Site. The impacts of recreational disturbance can be such that they affect the status and distribution of key bird species and therefore act against the stated conservation objectives of the European sites. Further studies suggest that similar impacts are likely from caravan / holiday park sites.
- 7.15 The site is an established holiday park that operates under a 10-month opening / occupancy season. The application seeks temporary permission to allow occupancy of the holiday park for an additional 2-month period for this year only, and not on a permanent basis. The application is specifically in response to Government guidance to assist holiday parks in light of the Covid pandemic.
- 7.16 The applicant has not provided any evidence to demonstrate whether the proposal is likely to result in significant effects on these sites. However, the site is located approx. 3.5km from the SPA and given that this application only seeks an extension to the occupancy of the park for a 2-month period for this year only, it is not considered that the proposal would result in any likely significant effects on the European sites, and mitigation is not required (which would require an Appropriate Assessment). Further, the guidance provided in light of the Written Ministerial Statement discourages enforcement action relating to such sites in the wintering months of 2022.

- 7.17 On this basis, the application can be screened out under the HRA process and a financial contribution is not sought as mitigation.

8. CONCLUSION

- 8.1 Although the principle of the proposal to extend the occupancy period of the holiday park beyond the usual 10-month restriction would ordinarily be contrary to policy DM5 of the Swale Local Plan 2017, the consent which is being sought is of a temporary nature and would be in accordance with current ministerial guidance. On this basis the temporary consent is considered acceptable subject to appropriately worded conditions being attached. These are set out below.

9. RECOMMENDATION

GRANT Subject to the following conditions:

CONDITIONS to include

- 1) The occupation of the caravans at Seafields Caravan Park during the period between 3rd January 2022 and 28th February 2022 shall be for this specified temporary period only, and this planning permission shall cease to have effect on 1st March 2022. With effect from 1st March 2022, the occupancy of the caravans shall be subject to the conditions imposed upon planning permission ref: SW/11/1284. No caravan shall be occupied unless there is a signed agreement between the owners or operators of the Park and all caravan owners within the application site stating that:
 - a) The caravan is to be used for holiday and recreational use only and shall not be occupied as a sole or main residence, or in any manner which might lead any person to believe that it is being used as a sole or main residence; and
 - b) The caravan shall not be used as a postal address; and
 - c) The address shall not be used for registering, claiming or for the receipt of state benefit; and
 - d) The caravan shall not be occupied in any manner which shall or may cause the occupation thereof to be or become a protected tenancy within the meaning of the Rent Acts 1968 and 1974; and
 - e) If any caravan owner is in breach of the above, their agreement will be terminated and/or not renewed upon the next expiry of their current lease or licence.

On request, copies of the signed agreement shall be provided to the Local Planning Authority.

Reason: To prevent the permanent year-round occupation of the park, which would be contrary to Policy DM5 of the Swale Borough Local Plan 2017.

- 2) Any caravan that is not the subject of a signed agreement pursuant to condition 1 shall not be occupied at any time.

Reason: In order to prevent the caravans from being used as a permanent place of residence.

- 3) The owners or operators of the Seafields Caravan Park shall at all times operate the Park strictly in accordance with the terms of the Schedule attached to the decision notice of application SW/11/1284.

Reason: In order to prevent the caravans from being used as a permanent place of residence.

INFORMATIVES

N/A

The Council's approach to the application

In accordance with paragraph 38 of the National Planning Policy Framework (NPPF), July 2021 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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2.4 REFERENCE NO - 21/505878/FULL		
APPLICATION PROPOSAL Erection of 5 no. three bedroom bungalows with associated garages, parking spaces and private amenity space. (Resubmission of 19/505353/FULL)		
ADDRESS Danedale Stables Chequers Road Minster-on-sea Sheerness Kent ME12 3SJ		
RECOMMENDATION Grant subject to conditions and SAMMS payment		
SUMMARY OF REASONS FOR RECOMMENDATION The site is located in a sustainable location, and overcomes the recent appeal decision by replacing two-storey dwellings with bungalows.		
REASON FOR REFERRAL TO COMMITTEE Parish Council objection		
WARD Sheppey Central	PARISH/TOWN COUNCIL Minster-On-Sea	APPLICANT Mr Robert Sted-Smith AGENT Kent Design Partnership
DECISION DUE DATE 14/02/22		PUBLICITY EXPIRY DATE 31/01/22

Planning History

19/505353/FULL

Erection of 5no. four bedroom detached dwellings with associated garages, parking spaces and private amenity space.

Refused Decision Date: 16.11.2020 Dismissed on appeal

SW/02/0971

Outline application for erection of 4 dwellings.

Refused Decision Date: 09.10.2002 Dismissed on appeal

SW/84/0423

Outline application for one house

Refused Decision Date: 22.06.1984

SW/83/0540

Outline application for one dwelling

Refused Decision Date: 26.07.1983

SW/81/0181

Siting of caravan for a temporary period of 2 years

Refused Decision Date: 01.06.1981

SW/79/1473

Outline application for residential development

Refused Decision Date: 05.03.1980

1. DESCRIPTION OF SITE

- 1.1 The application site is roughly rectangular in shape, and extends to approximately 0.45 ha in area. It was previously in use as a stables, but is currently vacant. Established trees are located to the front of the northern boundary of the site, shielding some views of the site from Chequers Road. The site is largely covered in grass and rough scrub. Access to the site is provided from Chequers Road via a track that runs along the western boundary of the site. A stable block is located in the north western corner of the site, close to the access. Land levels change across the site quite dramatically, with land rising from north to south on the western side of the site. On the eastern side of the site is a drop in land levels, and land levels here are roughly at the same level as Chequers Road.
 - 1.2 Immediately to the west of the site is a development site for nine dwellings approved under application 16/505623/FULL, which are currently under construction. To the south of that site is an undeveloped field which benefits from outline planning permission (20/500400/OUT) allowed on appeal for the erection of five dwellings. This site is also subject to a current planning application for nine dwellings (reference 21/505769/FULL) which is under consideration. To the rear (southern) boundary are open fields. There are a number of residential properties opposite the site, and No. 189 Chequers Road lies to the east.
 - 1.3 The site lies opposite and adjacent to the built-up area boundary of Minster (the built up area boundary runs along the western and northern boundaries of the site), but falls within land designated as open countryside.
 - 1.4 Members may recall that a previous application (19/505353/FULL) for development of 5 two storey dwellings on this site was refused by the Planning Committee in November 2020. The application was refused for the following two reasons:
 - 1) *The development is outside of the built up area boundary and the site's location within the open countryside would cause demonstrable harm to the value, landscape setting and beauty of the countryside, contrary to policies ST1, ST3, ST6, and DM24 of the Swale Borough Local Plan 2017.*
 - 2) *The site lies in a prominent location and the design and layout of the proposed development fails to respect the topography of the site or its countryside location. As such, the development would cause significant harm to the character and appearance of the streetscene, the countryside and the wider area, in a manner contrary to Policies ST1, CP4 and DM14 of the Swale Borough Local Plan 2017.*
 - 1.5 An appeal was made against this refusal and this was dismissed in a very recent appeal decision. A copy of this is included in part 5 of this agenda (item 5.7). In summary, the Inspector considered the site to be well located in relation to services and in a sustainable location. However, the Inspector considered that the two storey dwellings would be sizeable and prominent, with ridge heights that would exceed the adjacent development under construction to the west. He ultimately concluded that the scale and massing would introduce a discordant built form to the locality that would be harmful to the character and appearance of the surrounding area.
2. **PROPOSAL**
- 2.1 This application was submitted prior to the outcome of the planning appeal and seeks planning permission for the erection of five detached bungalows on the site.
 - 2.2 The proposed buildings will be arranged in a linear fashion, and consist of two house types, with minor differences in external treatment to each unit. The ridge height of the

dwellings ranges between 5.8m to 6.5m, and all of the units feature hipped roofs and projecting gable features on the frontage elevations. All of the bungalows would incorporate 3 ground floor bedrooms, whilst plots 2, 4 and 5 also incorporate an integral garage. Proposed external materials are red/yellow brick and white render, and grey slates. The floor plans indicate generously proportioned rooms with space for wheelchair storage.

- 2.3 The existing access to the site will be removed, and a more centrally located access is proposed, which will result in the removal of two trees on the grass verge to the front of the site. The proposed access incorporates sight lines in each direction on Chequers Road. The existing footpath that runs along the northern side of Chequers Road will be extended to ensure pedestrian access to the site is provided, and a footpath is also proposed in the north western corner of the site which will provide access to the footpath to be provided along the southern side of Chequers Road as part of the adjacent residential development. A shared access road running across the northern part of the site will provide access to the proposed dwellings. Parking will be provided to the front of the buildings at a rate of 3 spaces per dwelling at plots 1, 3 and 5, and 2 spaces per dwelling at plots 2 and 4 (in addition to the adequately sized garage at each property) with an additional visitor parking space being provided on the access road.
- 2.4 Each property will benefit from a rear garden ranging in depth from 9.5m (plots 1 and 5) to approximately 33m deep (plot 4), and all of the gardens are wide and provide generous and useable space for each property.

3. **PLANNING CONSTRAINTS**

- 3.1 Potential Archaeological Importance

4. **POLICY AND CONSIDERATIONS**

- 4.1 The National Planning Policy Framework (NPPF): Paras 7, 8, 11 (sustainable development); 59-76 (delivering a sufficient supply of homes); 77-79 (rural housing); 170 (local and natural environment); 175 (biodiversity) and National Planning Practice Guidance (NPPG)
- 4.2 Development Plan: ST3, CP3, CP4, DM7, DM14 and DM19 of Bearing Fruits 2031: The Swale Borough Local Plan 2017

5. **LOCAL REPRESENTATIONS**

- 5.1 Five letters of objection have been received. Their contents are summarised below:
- Increased traffic and pollution will be created by the extra housing, due to inadequate public transport links and poor pedestrian access.
 - Poor infrastructure across the area - very limited schooling, employment and the worse patient to GP ratio in the United Kingdom.
 - To build in this area which is linked directly to an area of wildlife and waterway could cause contamination to the water source and the flood risk is too high.
 - The task for government and local authorities should first to address the poor housing that people are being forced to live in fix those first.
 - Historical applications at the site for housing have always been refused, including an application for stables. An application for housing was also dismissed at appeal.
 - Loss of equestrian land.
 - Developer has already cut down a large tree on the site.

- Only change between applications at the site is reduction from four bed dwellings to three beds.
- In order to create the new access, various Highways trees will need to be cut down, which form part of streetscene.
- Site is outside the built up area boundary – development is contrary to policy ST3.
- Site is in the countryside and will cause demonstrable harm to the value, landscape setting and beauty of the countryside.
- Fails to respect the topography of the site or countryside location.

5.2 One comment in support of the application has been received. Its contents are summarised below:

- Beautiful location for disabled bungalows to be built - would make a lovely retirement location for elderly or disabled occupants.
- Nice to see a builder thinking of what is required for an aging community.

6. CONSULTATIONS

6.1 Minster Parish Council object to the application, providing the following comments:

“This proposal is contrary to the Swale Borough Policy ST3 [the Swale settlement strategy} which aims to protect the character of the surrounding countryside and maintain the separation of existing settlements. The site is set in the open countryside outside the designated built-up area boundary. Minster-on-Sea Parish Council is adamant that this open land should be retained as such. If development is allowed, the area becomes pure ribbon development. Furthermore, the Parish Council is not impressed by the applicant's so called pragmatic approach to tree conservation and similarly unimpressed with the view that the impact of the proposal on the coastal Marine Protected Area (MPA) and RAMSAR Site can be mitigated by a cash contribution. Put simply, there is insufficient community infrastructure in this rural locality to warrant this development. One example is the lack of footpath provision. Additional concerns include the risk to any archaeology on the site.”

6.2 Environmental Health – No objections subject to standard air quality condition relating to electric vehicle charging points. Contamination condition to ensure that if any contamination is encountered it is addressed. Standard conditions during the construction phase to protect the amenity of neighbouring residential properties.

6.3 KCC Ecology – Raise no objections to the scheme subject to conditions.

6.4 Natural England – The proposal will result in a net increase in residential accommodation, and therefore mitigation is required.

6.5 Southern Water – Request informative relating to the need for a formal application for a connection to the public foul and surface water sewer.

6.6 KCC Archaeology – *“The site lies on undeveloped elevated land on the isle of Sheppey which has considerable potential for early remains and in particular those of prehistoric date. This has been well illustrated by discoveries to the east of the present site at Kingsborough Farm where remains of two Neolithic camps, a bronze Age enclosure and several iron age enclosures were found amongst other remains. Investigations in Minster and at the Norwood landfill site have also revealed significant prehistoric and Saxon remains. Given the potential to impact on archaeology I would recommend that in any forthcoming consent provision is made for a programme of archaeological works.”*

- 6.7 KCC Highways – *“I therefore remain satisfied that the proposed vehicular access into the site is acceptable, and the provision of the footways on each side of Chequers Road are appropriate to provide links to the existing facilities on Danedale Avenue to the north. The scheme also retains the additional pedestrian connection from the northwest corner of the site to link onto the adjacent developer funded footway. This would negate the need for pedestrians accessing the development to cross Chequers Road twice in order to reach Elm Lane.*

As before, KCC Highways Soft Landscape Team would accept the removal of the two established trees to make way for the vehicular access, on the basis that sufficient compensation is paid to cover the deficit to our asset following removal. This value will be calculated using the industry standard CAVAT (Capital Asset Value of Amenity Trees) method, and progressed through the subsequent technical approval processes and legal agreements with the Highway Authority that are required to permit works on the public highway.

The parking provision proposed for the revised house-types is in accordance with the Borough Council’s adopted parking standards, as these 3-bed dwellings would be provided with a minimum of 2 spaces, and I note that plots 1, 3 and 5 have in excess of this. Visitor parking also meets the required amount. Three of the plots also have garages in addition to the parking provision, and whilst these don’t count towards the overall parking numbers, they will be accepted as accommodating cycle storage. Plots 1 and 3 will therefore require alternative facilities to store cycles, as these plots do not include garages. Details for approval of cycle storage can be secured by planning condition in the normal manner, together with EV charging provision for each dwelling. Consequently, I would have no objections to the proposals in respect of highway matters subject to the following conditions...”

7. **BACKGROUND PAPERS AND PLANS**

- 7.1 Plans and documents relating to 21/505878/FULL and 19/505353/FULL, including the recent appeal decision.

8. **APPRAISAL**

Principle of Development

- 8.1 The development site lies outside the built-up area boundary where policies of rural restraint generally apply. Policy ST3 of the Local Plan 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. The impact of housing development in such locations does, in most circumstances, run contrary to this policy.
- 8.2 Members will be aware that Council cannot currently demonstrate a five-year housing land supply, and that on this basis paragraph 11 (d) of the NPPF advises that the local plan policies most important for determining the application should be considered out-of-date, and that a presumption in favour of sustainable development should apply – meaning that development should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the NPPF as a whole. Para 8 of the NPPF explains that achieving sustainable development comprises three overarching objectives (economic, social and

environmental), which are interdependent and need to be pursued in mutually supportive ways.

8.3 The recent appeal decision for 19/505353/FULL is highly relevant and is a material consideration that carries significant weight. In this respect, the following points from the decision are important –

- That in locational terms, despite being outside of the settlement boundary the site is well located in terms of proximity to services, of a scale appropriate to the settlement and lies within a sustainable location (para 21).
- That the erection of five dwellings would provide a limited contribution to housing supply but would nonetheless provide social benefits arising from this contribution (para 20).
- Access and parking arrangement would be satisfactory (para 21)
- The development would provide some economic benefits during construction and limited support to local services (para 21),
- The adverse impacts in respect of character and appearance would significantly and demonstrably outweigh the benefits, when assessed against the NPPF and are unacceptable (para 23).

8.4 Taking this into account, the key issue is whether this revised scheme has reduced the impacts on the character and appearance of the area to an acceptable degree. This is considered in further detail below.

Character and Appearance

8.5 The site is currently a largely undeveloped field, and the proposal will introduce a substantial built form within the site, which would significantly alter its character and appearance. In the appeal decision for the scheme under 19/505353, the Inspector noted that the proposal would be seen against the backdrop of adjoining development and the presence of this would enable the landscape to accommodate a degree of change. The Inspector also stated that the scheme would appear part of the linear development which extends along Chequers Road (Para 12). However the Inspector ultimately raised significant concern that that the two storey dwellings were sizeable buildings in footprint and scale, prominent from Chequers Road, and he drew attention to the proposed ridge heights compared to the adjacent development under construction (para 13). The Inspector concluded that the development would not respond positively to the character and appearance of the area, would be more visually intrusive than the stable block, and due to its scale and massing compete visually with the neighbouring dwellings under construction to the west, and was harmful for this reason and the wider rural landscape setting (paras 14 and 15)

8.6 I consider that the appeal decision does not rule out any form of residential development, but was critical in particular of the scale and massing of that scheme. This current application proposes 5 bungalows rather than two storey dwellings which are between 2.3m to 3m lower in ridge height when compared to the refused scheme, and this change naturally reduces the scale and massing of the development compared to the previous two storey scheme. The bungalows are suitably set back from Chequers Road and although the topography of the site and wider area means that levels are raised above the adjoining new development, the single storey development now proposed provides a much better visual relationship with this development. In my opinion this forms a more natural transition in building heights along Chequers Road rather than the more abrupt change in building height and scale between the refused scheme and the adjoining development which the Inspector criticised. On this basis I do

not consider that the development subject to the current application. would be overly prominent or compete with the overall scale and height of the adjoining development under construction to the west. The site is screened by the existing hedgerow and trees along the front boundary and conditions will require further landscaping to soften the development.

- 8.7 Taking all of the above into account, I believe the proposed bungalows are of more appropriate scale, mass and height, which pay greater regard to adjacent built form and its wider rural landscaped setting to the south. Whilst the development would still unavoidably change the immediate character of the site, I consider this to be in a less harmful way than the previous scheme and in a manner that has less impact on the surrounding rural landscape.

Residential Amenity

- 8.8 The proposed dwellings would provide a good standard of amenity for future occupants. Internal layouts are sensible and practical, and garden areas are generous. The positioning of the units in a linear design results in any residential amenity impacts between plots being minimal in my view. I note that plot 3 does project further rearwards of plots 2 and 4 by roughly 5.8m. However, taking into account the gap between properties and the limited height of the bungalows, I do not consider any overshadowing or overbearing impacts will be significantly harmful.
- 8.9 The properties will be located roughly 50m from No. 176 Chequers Road, to the north of the site. Due to this distance, I do not envisage there will be any material impacts to amenity at this neighbouring property. Similarly, due to the distances between the development and the closest dwellings to the east and west (30m and 20m respectively), I take the view the development will not cause unacceptable harm to the amenity of the occupiers of any existing dwellings in the vicinity.

Highways

- 8.10 The creation of the access in the centre of the site does result in the loss of two highway trees located on the grass verge to the front of the site. The applicant will be required to financially reimburse KCC Highways for the loss of the two trees, and the proposed landscaping scheme will also ensure replacement trees are planted within the site. KCC Highways are nonetheless satisfied with the access and its associated sightlines, and have no objections to the scheme, subject to conditions imposed below.
- 8.11 The two footpaths will provide pedestrian access to the site from both the northern and southern sides of Chequers Road. In order to protect the existing trees along the northern boundary of the site, the footpath will be extended along the northern side of Chequers Road, with an uncontrolled crossing point installed to provide pedestrian access to the site. A further footpath link is proposed in the north western corner which will link onto the adjacent developer funded footway. I am satisfied with this arrangement and include a condition below to ensure details of the footpaths and crossing are submitted to the Council.
- 8.12 Regarding parking provision at the site, the recently adopted SBC Vehicle Parking Standards SPD recommends three parking spaces are provided for a three bedroom house in this location. Plots 1, 3 and 5 provides three parking spaces on the driveway. Plots 2 and 4 provides two parking spaces on the driveway, as well as a single garage. Whilst garages are not always counted towards parking provision, I consider the parking provision at each property is adequate. In line with the SPD, 0.2 visitor spaces should be

provided per dwelling at the site. One visitor space has been provided and as such I am satisfied with this aspect of the proposal.

Landscaping

- 8.13 As set out above, two trees to the front of the site will be removed to create the access. KCC Highways will be compensated for the loss of these trees and taking into account the access has been carefully positioned to ensure that the existing trees of higher amenity value are retained, I do not consider the loss of two trees unacceptable. The council's tree consultant is satisfied with the amended Arboricultural Method Statement and considers that the trees to the front of the site will be adequately protected during the construction of the development. I include a condition below ensuring the methods outlined in this document are implemented on site. The plans show some indicative landscaping to the front of the site. Full details of the hard and soft landscaping at the site (which pays particular attention to the boundary treatment and lost trees at the front of the site) would be secured through the conditions set out below.

SPA Payment

- 8.14 Since this application will result in a net increase in residential accommodation on the site, impacts to the SPA and Ramsar sites may occur from increased recreational disturbance. Due to the scale of the development there is no scope to provide on-site mitigation and therefore off site mitigation is required by means of developer contributions at the rate of £253.83 per dwelling. The agent has provided written confirmation that the applicant would be willing to pay this mitigation fee in principle. I have set out an Appropriate Assessment below.

Other Matters

- 8.15 KCC Ecology has no objection subject to the conditions set out below to ensure a precautionary mitigation strategy for Great Crested Newts, biodiversity enhancements and details of hedgehog holes are provided, as well as appropriate bat-sensitive lighting scheme within the wider site. These measures are secured via conditions.
- 8.16 The site lies within an area of potential archaeological importance, and KCC Archaeology have requested a condition is imposed requiring the submission of a programme of archaeological work. I consider this condition will address this matter and impose it below.

9. CONCLUSION AND BALANCING

- 9.1 The recent appeal decision is highly material to the consideration of this application. Although outside of the settlement boundary, the Inspector found the site to be in a sustainable location. The proposal will change the character of the site, although the bungalows now proposed are of a much reduced scale and massing, which in turn reduces the adverse impacts on character, appearance and rural setting that the Inspector identified. Whilst there would still be some harm to rural character by virtue of development of a predominantly open and undeveloped site, I consider this to be limited. Likewise the benefits are limited (as identified in paragraph 8.3 above). However, in applying paragraph 11(d) of the NPPF I consider that such harm would not significantly and demonstrably outweigh these benefits.
- 9.2 The proposed access is acceptable and will not cause harm to highway safety and convenience, and no other planning harm is identified.. As such I recommend this application is approved.

10. **RECOMMENDATION** – That planning permission is GRANTED Subject to payment of the SAMMS contribution to mitigate impacts upon the SPA and 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.

- a. The development hereby permitted shall be carried out in accordance with the following approved plans: 21.59.PL01, 21.59.PL1002, 21.59.PL02, 21.59.PL03, 21.59.PL04, 21.59.PL05, 21.59.PL06, 21.59.PL07 and 21.59.PL08.

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

2. No development shall take place until a programme for the control and suppression of dust during the construction & demolition phase has been submitted to and approved in writing by the Local Planning Authority. The programme shall include monitoring & mitigation details in accordance with the Institute of Air Quality Management (IAQM) Guidance on the Assessment of Dust from Demolition & Construction. The measures approved shall be employed throughout the period of demolition and construction unless any variation has been approved by the Local Planning Authority.

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

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

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

4. The dwellings hereby approved shall be constructed and tested to achieve the following measure:
At least a 50% reduction in Dwelling Emission Rate compared to the Target Emission Rates as required under Part L1A of the Building Regulations 2013 (as amended);

No development shall take place until details of the measures to be undertaken to secure compliance with this condition have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

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

5. No development shall take place until a precautionary mitigation strategy for Great

Crested Newts has been submitted to and approved in writing by the Local Planning Authority. The works must be implemented during the construction works as detailed within the approved plan.

Reason: In the interests of biodiversity.

6. No development shall take place until details of operatives' and construction vehicles loading, off-loading or turning on the site has been submitted to and approved by the Local Planning Authority and thereafter shall be provided and retained throughout the construction of the development.

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

7. No development shall take place until details of parking for site personnel / operatives / visitors has been submitted to and approved by the Local Planning Authority and thereafter shall be provided and retained throughout the construction of the development. The approved parking shall be provided prior to the commencement of the development.

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

8. No development shall take place until details of disposal of surface water so as to prevent its discharge onto the highway has been submitted to and approved by the Local Planning Authority.

Reason: In the interests of highway safety and convenience.

9. No development shall take place until a proposal to guard against the deposit of mud and similar substances on the public highway has been submitted to and approved by the Local Planning Authority. Such proposals shall include washing facilities by which vehicles will have their wheels, chassis and bodywork effectively cleaned and washed free of mud and similar substances.

Reason: In the interests of amenity and road safety.

10. If works commence in or later than June 2022, an updated preliminary ecological appraisal and bat emergence survey must be carried out. The recommendations within the preliminary ecological appraisal and the bat survey(s) must be implemented as detailed within the reports prior to any works commencing.

Reason: In the interests of biodiversity.

11. No development beyond the construction of foundations shall take place until details of how the development will enhance biodiversity 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 hedgehog highways and provision of generous native planting where possible. The approved details shall be implemented prior to first occupation of the development and thereafter retained.

Reason: In the interests of biodiversity.

12. No development beyond the construction of foundations shall take place until details of the external finishing materials to be used on the development hereby

permitted have been submitted to and approved in writing by the Local Planning Authority, and works shall be implemented in accordance with the approved details.

Reason: In the interest of visual amenity.

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

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

14. If during construction/demolition works evidence of potential contamination is encountered, works shall cease and the site fully assessed to enable an appropriate remediation plan to be developed. Works shall not re-commence until an appropriate remediation scheme has been submitted to, and approved in writing by, the Local Planning Authority and the remediation has been completed. Upon completion of the building works, this condition shall not be discharged until a closure report has been submitted to and approved in writing by the Local Planning Authority. The closure report shall include details of;
 - a) Details of any sampling and remediation works conducted and quality assurance certificates to show that the works have been carried out in full in accordance with the approved methodology.
 - b) Details of any post-remedial sampling and analysis to show the site has reached the required clean-up criteria shall be included in the closure report together with the necessary documentation detailing what waste materials have been removed from the site.
 - c) If no contamination has been discovered during the build then evidence (e.g. photos or letters from site manager) to show that no contamination was discovered should be included.

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

15. 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 interest of residential amenity.

16. Prior to the occupation of the dwellings hereby permitted, details of secure, covered cycle storage for each residential dwelling shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented in full prior to the first occupation of the development hereby approved.

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

17. The area shown on the submitted layout as vehicle parking and turning space shall be provided, surfaced and drained to the satisfaction of the Local Planning Authority before the development hereby approved is first occupied, and shall be retained for the use of the occupiers of, and visitors to, the dwellings, and no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order), shall be carried out on that area of land so shown or in such a position as to preclude vehicular access to this reserved parking space.

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

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

Reason: In the interests of highway safety.

19. Prior to the occupation of the dwellings hereby permitted, details of the electric vehicle charging shall be submitted to and approved in writing by the Local Planning Authority. The agreed details shall then be implemented for each house before the dwelling in question is first occupied. All Electric Vehicle chargers must be provided to Mode 3 standard (providing up to 7kw). Approved models are shown on the Office for Low Emission Vehicles Homecharge Scheme approved chargepoint model list:
<https://www.gov.uk/government/publications/electric-vehicle-homecharge-scheme-approved-chargepoint-model-list>

Reason: In the interests of encouraging sustainable modes of transport and minimising the carbon footprint of the development.

20. No dwelling hereby approved shall be occupied until the off-site works to provide footways along Chequers Road indicated on drawing 21.59.PL1002 have been carried out in accordance with a design and specification to be approved in writing with the Local Planning Authority and to be fully implemented to the satisfaction of the Local Planning Authority.

Reason: In the interests of highway safety and pedestrian amenity.

21. Prior to the occupation of the development, a "lighting design strategy for biodiversity" for the site shall be submitted to and approved in writing by the Local Planning Authority.

The lighting strategy will:

- a) Identify those areas/features on site that are particularly important for bats;
- b) Show how and where external lighting will be installed in accordance with 'Guidance Note 8 Bats and Artificial Lighting' (Bat Conservation Trust and Institute of Lighting Professionals).

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

Reason: In the interests of biodiversity.

22. Prior to the occupation of the development, details of a scheme to provide fence holes for hedgehogs shall be submitted to and approved in writing by the Local Planning Authority. The approved details will be implemented prior to first occupation and thereafter retained.

Reason: In the interests of biodiversity.

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

Reason: In the interests of residential amenity.

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

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

25. 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.

26. The development must be carried out in accordance with the working methodology and tree protection measures recommended in the submitted Arboricultural Method Statement by Fellgrove (ref. 1796.01/FELLGORVE, updated 05/01/2022).

Reason: In the interests of visual amenity.

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

Reason: In the interests of water conservation and sustainability.

28. Notwithstanding the provisions of Class A, Part 2, Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) no gates, fences, walls or other means of enclosure shall be erected or provided in advance of the front walls of any dwelling.

Reason: In the interests of visual amenity.

INFORMATIVES

- (1) The applicant is reminded that, under the Wildlife and Countryside Act 1981, as amended (section 1), it is an offence to remove, damage or destroy the nest of any wild bird while that nest is in use or being built. Planning consent for a development does not provide a defense against prosecution under this act. Trees, hedges and buildings are likely to contain nesting birds between 1st March and 31st August inclusive. Trees, hedges and buildings are present on the application site and are to be assumed to contain nesting birds between the above dates, unless a recent survey has been undertaken by a competent ecologist to assess the nesting bird activity on site during this period and has shown it is absolutely certain that nesting birds are not present.
- (2) A formal application for connection to the public sewerage system is required in order to service this development. Please read our New Connections Services Charging Arrangements documents which has now been published and is available to read on our website via the following link:
<https://beta.southernwater.co.uk/infrastructure-charges>
- (3) It is the responsibility of the applicant to ensure, before the development hereby approved is commenced, that all necessary highway approvals and consents where required are obtained and that the limits of highway boundary are clearly established in order to avoid any enforcement action being taken by the Highway Authority. Across the county there are pieces of land next to private homes and gardens that do not look like roads or pavements but are actually part of the road. This is called 'highway land'. Some of this land is owned by The Kent County Council (KCC) whilst some are owned by third party owners. Irrespective of the ownership, this land may have 'highway rights' over the topsoil. Information about how to clarify the highway boundary can be found at
<https://www.kent.gov.uk/roads-and-travel/what-we-look-after/highway-land/highway-boundary-enquiries>

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

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

The application site is located within 6km of The Medway Estuary and Marshes Special Protection Area (SPA) which is a European designated sites afforded protection under the Conservation of Habitats and Species Regulations 2017 as amended (the Habitat Regulations).

SPAs are protected sites classified in accordance with Article 4 of the EC Birds Directive. They are classified for rare and vulnerable birds and for regularly occurring migratory species. Article 4(4) of the Birds Directive (2009/147/EC) requires Member States to take appropriate steps to avoid pollution or deterioration of habitats or any disturbances affecting the birds, in so far as these would be significant having regard to the objectives of this Article.

The proposal therefore has potential to affect said site's features of interest, and an Appropriate Assessment is required to establish the likely impacts of the development.

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

The recent (April 2018) judgement (*People Over Wind v Coillte Teoranta*, ref. C-323/17) handed down by the Court of Justice of the European Union ruled that, when determining the impacts of a development on protected area, *"it is not appropriate, at the screening stage, to take account of the measures intended to avoid or reduce the harmful effects of the plan or project on that site."* The development therefore cannot be screened out of the need to provide an Appropriate Assessment solely on the basis of the mitigation measures agreed between Natural England and the North Kent Environmental Planning Group.

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

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

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

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

In this regard, whilst there are likely to be impacts upon the SPA arising from this development, the mitigation measures to be implemented within the SPA from collection of the standard SAMMS tariff (which will be secured prior to the determination of this application) will ensure that these impacts will not be significant or long-term. I therefore consider that, subject to mitigation, there will be no adverse effect on the integrity of the SPA.

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

The Council's approach to the application

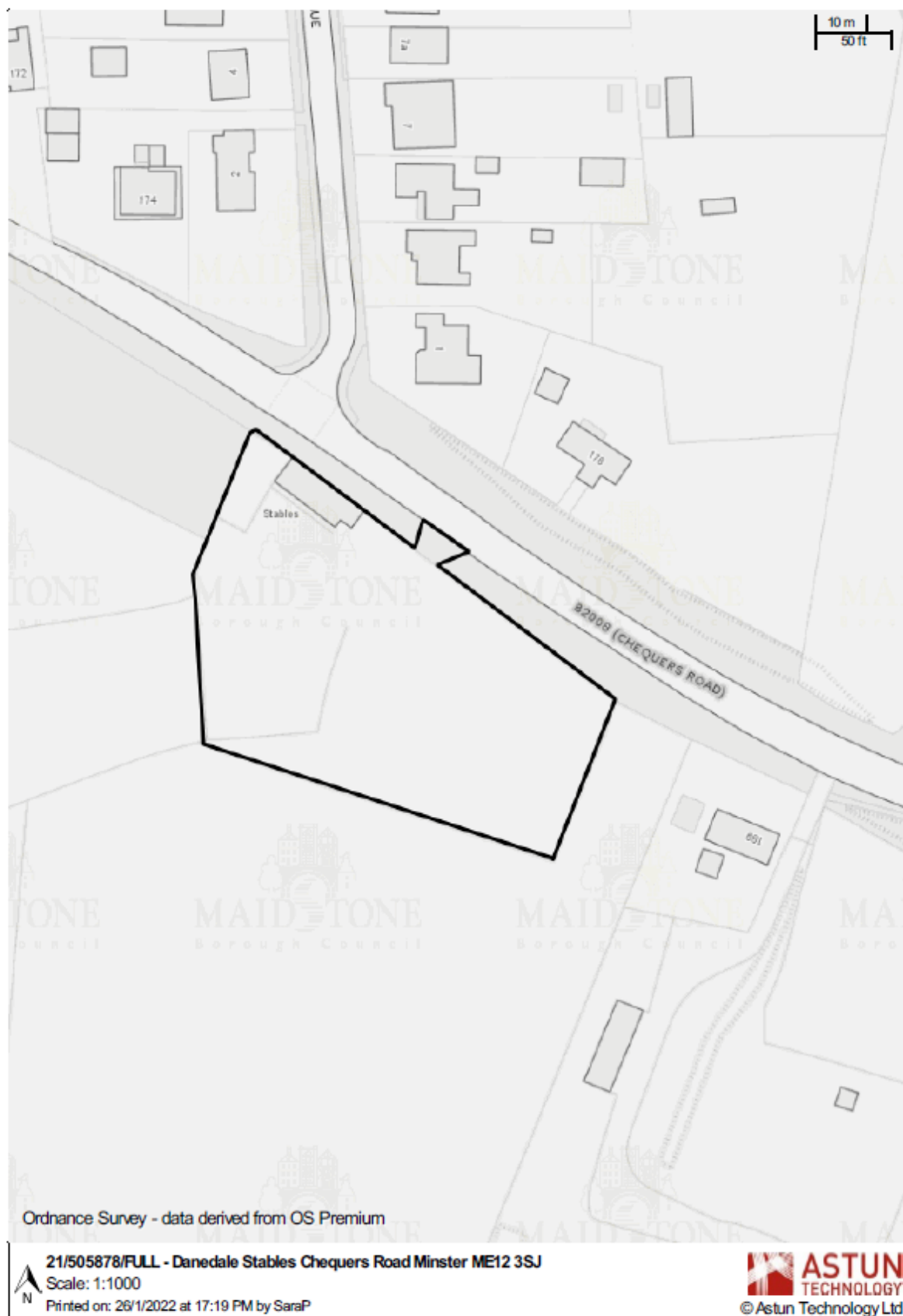
In accordance with paragraph 38 of the National Planning Policy Framework (NPPF), July 2021 the Council takes a positive and proactive approach to development proposals focused on solutions. We work with applicants/agents in a positive and creative way by offering a pre-application advice service, where 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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2.5 REFERENCE NO - 21/502609/OUT		
APPLICATION PROPOSAL		
Outline application for the erection of up to 10no. residential dwellings with associated landscaping, road layout and parking. (Access being sought).		
ADDRESS Land To The East Of Lynsted Lane, Lynsted, Kent, ME9 9QN		
RECOMMENDATION		
Grant planning permission subject to an additional plan (showing works to Lynsted Lane, further Highways comments) the conditions listed below and the signing of a suitably worded Section 106 agreement to secure the required mitigation.		
Authority is also sought to amend the wording of the Section 106 agreement and the wording of conditions as may reasonably be required.		
SUMMARY OF REASONS FOR RECOMMENDATION		
The proposal will provide residential accommodation, at a time when the Council does not currently have five years of housing land supply. The delivery of this scheme (subject to conditions and the appropriate S106 Agreement being signed) would be consistent with the broad aims of the NPPF and its presumption in favour of sustainable development.		
The applicants have agreed the total amount of s106 contribution being sought by the Council.		
REASON FOR REFERRAL TO COMMITTEE		
Lynsted and Kingsdown Parish Council and Teynham Parish Council have both objected to the proposal		
WARD Teynham And Lynsted	PARISH/TOWN COUNCIL: Lynsted with Kingsdown	APPLICANT Eden Real Estate Group Ltd And FPC Income And Growth PLC AGENT ECE Planning Limited
DECISION DUE DATE EOT 25 February 2022		PUBLICITY EXPIRY DATE 05/10/21

Planning History

No Planning history associated with this site.

Of interest is the outline application on Land South of London Road, namely:

19/505036/OUT

Outline application for the erection of up to 86no. residential dwellings, including 50% affordable housing (Access being Sought), as amended by drawings received 28th May 2020 and further amended by drawings information and drawings received 18/11/2020 and 26/01/2021.

Decision: Not yet determined

1. DESCRIPTION OF SITE

- 1.1 The site comprises a long rectangular piece of vacant agricultural land to the east of Lynsted Lane. The site displays an attractive rural character which distinguishes it from the busier, more urban character of the A2 London Road, which runs through the centre of Teynham.
- 1.2 The western boundary of the site is framed by a tall hedgerow that extends upwards from a simple earth bank to the road. Directly opposite the hedgerow, on the other side of Lynsted Lane, there is a line of buildings which are varied in appearance. They are all attractive in character, with the majority dating from the mid to late C19. This group of C19 ribbon-form development does not contain any listed buildings, but at its approximate centre, contains a chapel and an associated former Sunday School building: this building displays a particularly strong and distinctive architectural character. Although not listed or in a Conservation Area, these buildings arguably have some heritage value.
- 1.3 The land levels on both sides of Lynsted Lane are elevated above the road itself (the site sits at between 18.63m – 18.75m AOD whilst the adjoining stretch of Lynsted Lane is 18.03m AOD) with the houses all being set back to some degree from the footway running along that side of the lane. The gardens slope upwards from the edge of the footway and/or the properties are accessed by steps up to them, needed to address the change in levels.
- 1.4 The combination of this topography with an architecturally pleasing and distinctive character, helps to retain some of the village character of Teynham. Furthermore, there are a group of listed, and older, buildings on the A2 London Road, including New House Farm (which backs on to the proposed development area (PDA)).
- 1.5 Orchard House forms a distinctive bookend to the group of buildings on Lynsted Lane at its southernmost end, where it sits on ground slightly elevated above the buildings to its north. There are attractive views of this building together with the roofscape of buildings to its north, across the open land from the rear of buildings fronting onto the A2 London Road
- 1.6 The site is not subject to, or adjoining, a local or national landscape designation.
- 1.7 The site is in close proximity to the village centre of Teynham and is approximately the following walking distances from a number of amenities:
 - A 1-minute walk from the centre of Teynham, a well-served high street with pubs, shops (including a Co-Op), take-aways, a veterinary practice and bus stops
 - An 8-minute walk to Teynham Parochial C of E Primary School
 - A 12-minute walk to Teynham Train Station
 - A 1-minute walk to Teynham Doctors Surgery on London Road
 - A 2-minute walk to Teynham Playing Fields

2. PROPOSAL

- 2.1 Outline Planning Consent is sought for up to 10 x residential units with associated landscaping and parking. All matters are reserved apart from access.
- 2.2 An illustrative plan has been provided to demonstrate how 10 residential units could be accommodated on site, taking in orientation, private garden amenity, footprint, landscaping, and car parking spaces.
- 2.3 The illustrative plan shows an indicative housing mix as follows:
- 4No. 4 bed/7 person houses
 - 1No. 2 bed/4 person houses
 - 1No. 3 bed/5 person houses
 - 4No. 3 bed/5 person houses
- 2.4 The submission includes the following illustrative car parking arrangement :
- 20 car parking spaces for the 10 residential units (2 for each dwelling)
 - 2 would be visitor spaces
 - 3 would be for existing residents of Lynsted Lane to remove on-street parking and help with the traffic flow
 - There would be 1 electric charging point per dwelling.
- 2.5 The access arrangements would comprise
- A new vehicular access point would be created along the western boundary;
 - Part of the hedgerow (forecast to be approximately 45m – 50m but may be less depending on the precise location of tree stems) would be lost to accommodate this new access point; but
 - Additional planting (approximately 55m) will be provided to the remaining hedgerow
 - Use of the footpath to the north east of the site, past the F J Williams joinery workshop, connecting the site to A2(London Road) Teynham.
- 2.6 The illustrative plans include a strategic landscaping plan, which include:
- A 5m buffer of trees and shrubs along the northern boundary of the site.
 - A communal open area on the north western part of the site, framed by single species native hedge
 - Strategic trees located throughout the site
 - A mixed native hedge along the southern boundary, four rows deep
 - A mixed native hedge (Hawthorn, Spindle, Yew, and Hazel) along the eastern boundary, four rows deep.
 - Four lockable gates (two along the northern boundary and two along the southern boundary).

3. PLANNING CONSTRAINTS

- 3.1 The site is unallocated land in the open countryside.
- 3.2 It is not inside a Conservation Area. However, it does lie on lower ground to the west and south west of the Cellar Hill & Green Street Conservation Area in Teynham, and which is on the national and local heritage at risk registers. The application is approximately 50m metres from the Conservation Area at its closest point. There are, as noted above, three Listed Buildings near the site, along London Road.

- 3.3 Teynham Air Quality Management Area (AQMA) is located just to the north of the site. The minimum separation between the AQMA and the vehicular access to the site is 80m metres.

4. POLICY AND CONSIDERATIONS

- 4.1 Bearing Fruits 2031: The Swale Borough Local Plan 2017: ST1 Delivering sustainable development in Swale; ST2 Development targets for jobs and homes 2014-2031; ST4 Meeting the Local Plan development targets; ST5 The Sittingbourne Area Strategy; CP3 Delivering a wide choice of high quality homes; CP4 Requiring good design; CP6 Community facilities and services to meet local needs; CP8 Conserving and enhancing the historic environment; DM7 Vehicle parking; DM8 Affordable Housing; DM14 General development criteria; DM19 Sustainable design and construction; DM20 Renewable and low carbon energy ; DM21 Water, flooding and drainage; DM24 Landscape; DM28 Biodiversity and geological conservation ; DM29 Woodlands, trees and hedges; Policy DM31 (Agricultural Land) ; DM32 Development involving listed buildings; and DM33 Conservation Areas.
- 4.2 The National Planning Policy Framework (NPPF): Paras 7, 8, 11 (sustainable development); 34 (developer contributions); 67 (identifying land for homes); 73 (maintaining a supply of housing sites); 102 (transport); 127 (achieving well designed places); 165 (sustainable drainage systems); 170 (local and natural environment); 175 (biodiversity).
- 4.3 National Planning Practice Guidance (NPPG): Air quality; Appropriate assessment; Climate change; Consultation and pre decision matters; Determining a planning application; Historic environment; Housing supply and delivery; Natural environment; Noise; Open space, sports and recreation facilities, public rights of way and local green space; Planning obligations; Transport evidence bases in plan making and decision taking; Travel Plans, Transport Assessments and Statements; Use of planning conditions’.
- 4.4 Supplementary Planning Documents: Developer Contributions (2009); Parking Standards (2020); Landscape Character and Biodiversity Appraisal (2011).
- 4.5 According to the Landscape Character and Biodiversity Appraisal (2011), the application site is located inside Lynstead Enclosed Farmlands. The condition of the landscape is good and overall, this landscape area is identified as a moderately sensitive area.
- 4.6 There is also the Lynsted Parish Design Statement (2002). This Statement was published in 2002 and refers to policies of the 2000 Swale Local Plan, so is, technically, out of date. It describes the Parish and provides general design guidance for new development both at the village itself and on London Road (Teynham) which is within the Parish. Whilst much of the guidance relates to use of appropriate materials (not engaged here on an outline application) it contains two village specific policies. One is a desire to protect so-called “*sensitive edges*” at London Road and to the east of the village centre. The other is to maintain a “one building deep” pattern of frontage development throughout the village saying;
“Where the dominant pattern in the locality is for houses to be built adjacent to highways, this pattern should be respected.”

5. LOCAL REPRESENTATIONS

5.1 Letters of objection from 60 separate addresses have been received, each raising a number of concerns, which have been summarised below:

- The proposal is dangerous and inappropriate as to highway conditions, scale, location and threatens coalescence.
- The proposal would fracture the essential rural and historic patterns of development in Lynsted with Kingsdown Parish as defined in SPG (Lynsted with Kingsdown Parish Design Statement, adopted by SBC) and is contrary to this planning document.
- The proposal is also inappropriate for its cumulative impact on AQMA5.
- It is not an allocated site
- Lynsted Lane suffers from excessive traffic and cannot absorb more
- Safety for children as footpath is not continuous
- The proposal site is immediately adjacent to three listed buildings dating from the 18th Century: numbers 70,72 and 74 London Road. The settings of these important heritage buildings would inevitably be severely damaged,
- The proposal site is just part of a much larger area intended by the applicant for housing in the future.
- The objection letter from KCC Highways to a housing proposal on the opposite side of Lynsted Lane (19/505036) highlights the inadequacy of the Lynsted Lane's ability to accommodate more traffic
- Inadequate traffic and parking surveys
- The proposed access point is dangerous
- In Fig 7 of the Design and Access Statement, dated 12/5/21, it shows two existing access points from the site to Lynsted Lane. These have never existed; the reason being the height of the bank at these points ranges from over 3' to over 5' making any access either by vehicle or foot impossible.
- The loss of a very attractive hedgerow and wildlife with it
- The site is on higher ground than the existing houses giving an overlooked feeling to the houses in Lynsted Lane.
- Within SBC's own agricultural land classification review 2011/133/9414, land to the south of the A2 it rated the land to be Grade 1 and almost all grade 2. Therefore, any development would result in loss of good agricultural land at a time when the use of good agricultural land is paramount.
- The application should be refused on grounds of prematurity
- Will set a precedent
- Pressure on local infrastructure
- Lynsted Lane, by reason of its restricted width, poor alignment, and sub-standard junction with London Road

- Road Safety Audit Data is not correct
 - To use the school holidays to carry out traffic flow surveys is not a fair reflection of traffic levels
 - The proposed priority system would only seek to increase the danger levels to both pedestrians and cars, as would decreasing the width of the road. In reality, there just is not the room on the Lane to achieve what the applicant requires to ensure safe ingress and egress, plus maintaining safe passage for all traffic and pedestrians in the area.
- 5.2 The owner of the adjacent joinery business (F J Williams) has also objected, on the following grounds:
- Large articulated lorries and delivery vehicles would provide health and safety issues if people were able to use their yard/driveway as a pedestrian route into the centre.
 - There are also industrial waste skips, dipping tanks and external material stacked stores, providing the opportunity for theft, if they could not lock the gates at night.
 - They have also referenced clause 15 of the Highway Act section 119 where a public right of way shall not pass-through commercial areas where privacy, safety and security are an issue -of which there would be all three
- 5.3 In addition to the neighbours' concerns, CPRE have written in, objecting to the scheme on the following grounds:
- The five-year land supply is more favourable than it has been.
 - The proposal falls foul of emerging policy A01 [NB: This was a policy in the regulation 19 plan previously produced and as the Council has now decided to go back to the Regulation 18 stage, this policy is no longer relevant.]
 - The traffic survey is inadequate
 - Extra parking would produce disproportionate problems to the lower part of Lynsted Lane and the junction with the A2.
 - The proposal threatens to lead to an increase the coalescence of the community along the A2,Vigo and Batteries to the south and eastward to the Conservation Area of Cellar which has its own distinct identity and concentration of listed buildings.
 - It would intrude on listed buildings 42, 52 and 54-56 London Road
 - Is contrary to the Lynsted Parish Design Statement
 - A coherent approach to air quality and traffic mitigation measures is required

6. CONSULTATIONS

- 6.1 Lynsted with Kingsdown Parish Council: "As the proposal currently stands, this is an application from ECE Planning for approval of access associated with a plot for up to ten homes. But the applicants have made clear this is only the northern section of a larger plot they are promoting, in response to Swale Borough Council's Local Plan Review, for 40-50 homes in total stretching southwards along the margin of Lynsted Lane from New

House Farmhouse at the corner of Lynsted Lane/A2 to Fir Tree Cottage (355 metres South of the A2). The below map refers, and the application must therefore be determined in this context.

6.2 The site is not included in the current Local Plan (Bearing Fruits) nor is it part of the Regulation 19 Draft Local Plan. For that reason alone, the proposal should be rejected on grounds of prematurity. The developers cannot argue that the Draft Local Plan has not delivered until it has failed. It is therefore not appropriate to bring forward significant proposals when the formal Local Plan is still under review.

6.3 Our specific objections are itemised below.

6.4 1. Highways: The KCC Highways judgement on planning application 19/505036/OUT for the site immediately opposite this proposal is equally applicable here. KCC concluded: *“I would still recommend that the application be refused on the following highway grounds:*

a) Lynsted Lane by reason of its restricted width, poor alignment and sub-standard junction with London Road is considered unsuitable to serve as a means of access to the proposed development.

b) The existing road network in the vicinity of the site has insufficient capacity to accommodate the material increase in traffic likely to be generated by the proposed development.

c) The proposed development will increase traffic on a highway lacking adequate footways with consequent additional hazards to all users of the road.”

The developers' traffic 'survey' is wholly inadequate, relying on monitoring for parked cars on just two days during Covid lockdown - Tuesday 23rd February and Sunday, 28th February. The pattern of obstructions on Lynsted Lane varies throughout each day. At best, the A2 end of Lynsted Lane has poor lines of sight, made worse by being effectively single file most of the time. The entrance to the development, set just 65 metres south of the A2, will add further levels of complexity and danger to road-users and pedestrians alike. Having an entry-point so close to an already complex and congested junction with the A2 is dangerous. With the lack of car parking in Teynham/Lynsted, many residents park throughout the day for visits to the Co-operative Stores, Post Office, Pharmacy, Doctor, Dentist, Veterinary Practice etc. In addition to parking on the road at the bottom of Lynsted Lane, residents and visitors also park in, and/or use as a turning point, the car park of The George Public House. That pub is up for sale and any new owner may not tolerate this practice, thereby exacerbating the problem. The image below is a typical representation of traffic on Lynsted Lane near to the proposed access road into the new development.

2. Setting: Lynsted Lane at the A2 junction is physically limited by two listed buildings - The George Public House and 74 London Road. Because the lane is so narrow, the junction is a clear danger to pedestrians without any alternative means of approaching the services on the London Road, most particularly for wheelchairs and pushchairs. The lack of safe pedestrian access along this stretch also means that “active travel” options for the proposal, even for the short distance of 65 metres between the

development and the A2, cannot be achieved. The proposal site also backs directly onto three listed buildings that would lose their historic setting and openness to the south of the A2 - namely 70, 72 and 74 London Road (all Grade II). The Site will also intrude on nearby listed buildings on the south of the A2 - namely, 42, 52, 54-56 London Road.

3. AQMA5: The proposed site is adjacent to AQMA5 and would add seriously to congestion along this narrow lane, onto the junction with the A2 without any possibility of mitigation. A 'citizen science' survey on the A2 London Road in this area gives continuous measurements of four harmful pollutants identified by Government. That data measure bands of Very High and High pollution exceedances that diffusion tubes fail to capture. Air pollution is a matter of major concern and continuing research demonstrates its adverse impact. NPPF Guidance obliges SBC, when looking at development proposals, to make sure pollution inputs are reduced. In AQMA5, any significant housing development will inject additional traffic pollution.
- 6.5 4. Coalescence: This proposal, taken together with the larger site, threatens coalescence between the A2, as far as Vigo and Batteries to the south and eastward towards the Conservation Area of Cellar Hill that has its own distinct identity and concentration of Listed Buildings. This coalescence is contrary to the recommendations in the report commissioned by SBC and published in January 2021 which identified an "Important Local Countryside Gap" between the Parishes of Teynham and Lynsted.
5. Inconsistent with NPPF: The proposal is not compliant with the policies in the NPPF, including the importance of using Lower Grade land first, rather than BMV land. The proposed site is greenfield and rural, which would have a disproportionate impact on the make-up, size, and geography of the Parish. See Defra map below which shows the site coloured blue.
6. Contrary to SPG: This proposal conflicts with adopted Supplementary Planning Guidance - the Lynsted Parish Design Statement. In particular, the important historic pattern of development along the A2 and its rural lanes at "one building deep" leading to the identification of a Sensitive Edge immediately behind homes in Lynsted with Kingsdown Parish on the south side of the A2.
- 6.6 In view of the representations above, the Parish Council recommends that this application be REJECTED."
- 6.7 *In response to the revised plans showing Options 1 and Options 2 of the Public Right of Way:*
- 6.8 "We have reviewed the response from F J Williams, who we understand to be the owners of the land proposed for pedestrian access to the A2 [and which lies between the northern edge of the site and the A2, London Road]. We note the letter from the applicants' lawyers regarding the public right of way. However, our understanding of the primary purpose of public rights of way is to allow walkers to enjoy access to the open countryside over private land. They are not intended to create the main pedestrian access in and out of a new housing estate because the vehicular access is unsuitable due to lack of pavements.

- 6.9 We understand that the Highways Act 1980 states that a public right of way may not pass through Commercial areas where privacy, safety and security are an issue. This is clearly the case here. As they have explained, they have large articulated lorries delivering at all times with forklifts in their driveway. This is a safety hazard to the public. Who would be responsible in the event of an injury or fatality? Further, they have industrial waste skips, external material stacked stores and dipping tanks which are all accessible externally. This would again be a safety issue, and also a security issue as regards potential theft. We doubt that F J Williams would be able to obtain insurance cover for these risks, certainly not on competitive terms.
- 6.10 We would also suggest, given this pre-existing situation, that the pedestrian access to the London Road for shopping and public transport links etc would not be satisfactory for the residents of the proposed new properties, being an unsuitable route across commercial premises.”
- 6.11 Teynham Parish Council: “Whilst the proposed residential development is within Lynsted with Kingsdown Parish, the increased traffic that it will create may impact upon Teynham Parish. The primary access road for this development is from Lynsted Lane whose restricted junction with the A2 London Road already creates major vehicular access problems. Not only is Lynsted Lane narrow at its junction with a minimal footway, but there is also a multitude of parked vehicles to contend with. Being primarily a rural area, this is problematical to farm vehicles and large lorries. Most of the vehicular parking for the shops, surgeries and businesses along the A2 London Road is in Teynham Parish. Apart from a small car park, managed by Teynham Parish Council, it is mainly on-street parking.
- 6.12 Air quality along the A2 London Road is already poor and it has been declared an Air Quality Management Area (AQMA). Increase delays to traffic at the Lynsted Lane/A2 London Road junction can only make matters worse. Traffic has already been impacted by a residential development of 130 houses east of Station Road, Teynham, whose access road is from the A2 London Road via Station Road. Outline planning permission has also been given to another development of up to 300 dwellings and an employment area on land between Frognal Lane and Orchard View, Lower Road Teynham, whose access is again from the A2 London Road. There are also large residential developments west of Faversham and also at Bapchild accessing the A2.
- 6.13 It concerns this Parish Council that these various developments are being permitted but there does not appear to be an integrated traffic plan to address the related increases in vehicular movements and parking. The present situation can only get far worst.”
- 6.14 KCC Archaeology: “While there are no known archaeological remains on the site, the area is generally rich in archaeology with multi-period remains of archaeological significance having been found on the Claxfield Farm quarry site to the west of Lynsted Lane and it also lies close to the main Roman road corridor along present A2.

The site lies on Brickearth which in this area has good potential for early prehistoric remains of both Palaeolithic and Mesolithic date. Investigations on nearby sites at Bapchild have highlighted this potential and found remains of both earlier and later Palaeolithic date especially in lower levels of the Brickearth. Archaeological works in

connection with the recent quarrying at Claxfield Farm have recorded multi-period remains dating from the Bronze Age, Iron Age, Roman, Medieval, and post medieval periods. The complex remains included a ring ditch being the remains of Bronze Age funerary monument.

The reporting of these works is presently ongoing and is not fully reflected in the Historic Environment Record. The A2 to the north is the route of the main roman road between the coast and London. Elsewhere in Swale the road has been seen to run to the south of the present route and it is possible that it may fall close to the present site. The road itself was attractive for subsequent settlement and other activities such as burial.

I note that archaeology was not considered in the submitted heritage assessment for the site. I would recommend that in any forthcoming permission provision is made for archaeological evaluation and appropriate mitigation that may include preservation of important remains. The evaluation should take place in advance of the submission of a detailed application so that archaeology can be taken account of in final design measures". (NB: Condition 18 has been imposed to ensure this evaluation takes place and to establish what mitigation measures would be needed).

- 6.15 The Environmental Protection Team Leader comments as follows: "Looking at the ishare map it seems there is no contaminated land history at the site or close to the boundary of the site.

I have reviewed the Air Quality Assessment prepared by MLM Consulting Engineers Ltd. The consultant has completed a site suitability assessment which is acceptable relative to the size of the development and its proximity to SBCs Air Quality Management area. The assessment has evaluated both the construction and operational phase relative to the impacts of NO₂ and PM on receptors and the AQMA, all of which are acceptable and in line with best practice guidance. As shown in the AQA the air quality results in this area fall below the National Air Quality Objectives, therefore I have no objection in principle to the outline of this application.

The junction off Lynsted Lane comes directly out onto the A2 which may contribute to further congestion along this route. For this application and number of trips leaving the site the impacts in TS suggest negligible. KCC are reviewing issues relative to the junctions and impact to the road network.

Air Quality

Looking at the site layout there are trees that will be placed along the boundary of the site adjacent to Lynsted Lane. The problem with trees and hedges being so close to a road is that, if not maintained, this relationship can contribute to a canyon effect which can increase air pollution concentrations. However, the trees can also provide some screening from pollution for residents closest to the road. Can the applicant confirm that there is a maintenance plan to ensure the tree canopy is managed to ensure tree growth does not become overgrown (NB: See Condition 19 which secures a tree maintenance plan)?

Separate to the standard measures, I would recommend a welcome pack is provided to new residents to advise sustainable/ alternative travel options (NB: this is secured under Condition 20)

Noise

The front houses [on the illustrative layout] are set back from the road at Lynsted Lane with back gardens closest to the road. Noise from the school could be an issue for residents closest to it. However, the school is on the opposite side of the road and no gardens are aligned with school grounds.

A potential noise source is the joinery workshop to the north of the site. However, a noise assessment was completed for that building through planning permission (19/502088/FULL). In the assessment, points were raised about the doors being open at the workshop to which there would be an adverse effect to receptors. I can see that restricted hours were conditioned on the 04/07/2019 by Environmental Health Officer for 19/502088/FULL. This was to reduce any adverse noise effects and protect the amenity of neighbouring properties. The conditions included a restriction in hours and doors to be kept close. These conditions should still be active and will continue throughout the Lifecycle of workshop. “

6.16 Historic England: No comments received.

6.17 Kent Police: “We confirm that if the requirements listed below are formally secured by Planning Condition then we, on behalf of Kent Police, have no objection to its approval:

1. We recommend the use of SBD Homes 2019.
2. Perimeter, boundary, and divisional treatments to be 1.8m in height, including any gates providing a service alleyway to the rear of the building. Gates must also be lockable from both sides and flush to the building line to retain surveillance opportunities. The landscape plan shows lockable maintenance gates, these are essential to the development to prevent the creation of areas with limited surveillance, as well as prevent the area being used for fly tipping and disposal of garden waste. We also note the use of post and rail fencing to the side boundary of plots 1, 6, 7 and 10 with an accompanying hedge. If the post and rail fencing is to remain, it should have wire stock-type fencing installed along the lower sections along with thick hedging planted as an added security layer and to prevent/ deter intrusion by pets and other animals. Temporarily fencing should be installed until the hedging is fully established.
3. Parking Inc. visitor. To help address vehicle crime, security should be provided for Motorbikes, Mopeds, Electric bikes and similar. All parking areas must be well lit and have natural surveillance from an active ground floor window i.e., living room or kitchen. SBD or sold secure ground or wall anchors can help provide this. In addition, we request appropriate signage for visitor bays to avoid conflict and misuse.
4. All doorsets including any sliding, folding or patio doors to on the ground floor to meet PAS24:2016 UKAS certified standard, STS 201 or LPS 2081 Security Rating

B+. Please Note, PAS24:2012 tested for ADQ (Building Regs) has been superseded and is not suitable for this development.

5. Windows on the ground floor or potentially vulnerable e.g., from flat roofs or balconies should also meet PAS24:2016 UKAS certified standard, STS 204 Issue 6:2016, LPS 1175 Issue 8:2018 Security Rating 1/A1, STS 202 Issue 7:2016 Burglary Rating 1 or LPS 2081 Issue 1.1:2016 Security Rating A. Glazing to be laminated. Toughened glass alone is not suitable for security purposes. Windows on side elevations and active windows on the Kent Police: Form No. 3058c rev 12/05
v2C:\Users\46060991\AppData\Local\Microsoft\Windows\I\NetCache\Content.Outlook\5D15JN1L\DOCO response.doc
6. Corner properties require defensible spaces to avoid desire lines that can cause conflict. This can be achieved via the proposed planting on the landscape strategy plan.
7. New trees should help protect and enhance security without reducing the opportunity for surveillance or the effectiveness of lighting. Tall slender trees with a crown of above 2m rather than low crowned species are more suitable than “round shaped” trees with a low crown. New trees should not be planted within parking areas or too close to street lighting.
8. New shrubs should be maintained at no higher than 1m unless planted to create a densely planted defensive perimeter treatment. There are many prickly non-toxic, native species that if densely planted with long term management can aid security.
9. If sheds are to be used for cycle storage we advise on the use of ground/ wall SBD or sold secure anchors within the cycle storage area.
10. Lighting. Please note, whilst we are not qualified lighting engineers, any lighting plan should be approved by a professional lighting engineer (e.g. a Member of the ILP), particularly where a lighting condition is imposed, to help avoid conflict and light pollution. Bollard lighting should be avoided, SBD Homes 2019 states: “18.3 Bollard lighting is purely for wayfinding and can be easily obscured. It does not project sufficient light at the right height making it difficult to recognise facial features and as a result causes an increase in the fear of crime. It should be avoided.” Lighting of all roads including main, side roads, cul de sacs and car parking areas should be to BS5489-1:2020 in accordance with SBD and the British Parking Association (BPA) Park Mark Safer Parking Scheme specifications and standards. Any lack of lighting for unadopted roads is a concern as it will encourage home and vehicle owners to install ad-hoc lighting, likely to cause conflict and light pollution. A professional lighting engineer will be able to design a plan to aid security without risking light pollution, a dual solution is possible.
11. If approved, site security is required for the construction phase. There is a duty for the principle contractor “to take reasonable steps to prevent access by unauthorised persons to the construction site” under the Construction (Design and Management) Regulations 2007. The site security should incorporate plant,

machinery, supplies, tools and other vehicles and be site specific to geography and site requirements.

- 6.18 KCC Highways and Transportation – “It is appreciated that the application has been submitted in Outline form, with all matters reserved except for Access. As such, specific comments relating to the indicative layout will be limited but there may be some aspects of the layout that would be relevant, and I will therefore need to highlight these in my response.
- 6.19 The scale of the development is relatively small, and the number of dwellings proposed is significantly lower than would generally require a full transport assessment to be provided. A transport statement has therefore been submitted to reflect this, which does still draw upon the TRICS database to predict the vehicle movements likely to be generated by the development. I am satisfied that the appropriate selection parameters have been used in TRICS to replicate the application site’s location, so the trip rates derived from it can be agreed and these are what the Highway Authority would expect.
- 6.20 These trip rates indicate that the development would generate around 5 vehicle movements in each of the AM and PM peak hours, resulting in an average of one movement on the highway network every 10 minutes. These would be distributed either north or south of the proposed access along Lynsted Lane, meaning that approximately 1 movement routing south through Lynsted, and 4 movements routing north through Teynham. With these being split between arrivals and departures, I would expect these 4 movements along the northern section of Lynsted Lane to consist of around 1 movement southbound and 3 northbound in the AM peak hour. These flows would be reversed for the PM peak hour. Given existing traffic flows are approximately 170 movements an hour during those periods, the 4 movements generated by the development would be imperceptible and not considered to have a severe impact under the test set out in the National Planning Policy Framework.
- 6.21 Access to the development is proposed in the form of a simple priority junction onto Lynsted Lane, and the drawings indicate that the visibility sightline requirements can be accommodated within the site frontage and existing highway. I am satisfied that the geometry of the junction is appropriate as it is in accordance with the design standards for this type of junction, and swept path analysis has been undertaken for an 11.4m refuse vehicle to demonstrate that the site can be accessed by service vehicles.
- 6.22 It is noted that parking does take place in the vicinity of the proposed access, but the development proposes compensatory parking spaces within the site to absorb this and allow for the introduction of parking restrictions over a wider extent than at present. This is intended to ease the existing congestion issues through this section of Lynsted Lane and remove some of the parking that obstructs the footway for existing pedestrian use. A parking survey was undertaken to help inform the replacement parking provision, and the transport statement has suggested that 3 compensation spaces would be appropriate, given that some parking could be displaced further south. However, in order to limit the impact that displacement parking to the south could have on the forward visibility restriction around the bend in the road there, I would seek a higher provision. As the scheme is only in Outline at present, and the indicative plan would be the subject of Reserved Matters, the 3 spaces shown do not form part of the detail of the current

application, so it may be possible to secure a greater number through negotiation at the detailed stage and subsequent planning conditions.

6.23 As described in the submission, parking provision is proposed to accord with the Swale Borough Council adopted standards, including EV charging facilities for each dwelling and cycle storage. These details will need to be considered during any subsequent reserved matters application, but I would provide the following observations on the current indicative plan for information:

- The refuse vehicle will be expected to turn around within the development, so that it can enter and exit in a forward gear. The turning area will need to be provided, and reversing/walking distances kept within the thresholds described in Kent Design Guide for operatives and residents to access bin storage and collection points.
- Parking spaces for plot 6 require a buffer between them and the carriageway.

6.24 *Update comments from KCC Highways officer in response to revised plans:.*

6.25 You will be aware from my previous consultation response of 26th October 2021 that I no longer had objections to the development proposals and had advised on what planning obligations the Highway Authority would need to be secured if the LPA were to grant planning permission.

6.26 Following third party queries raised over the ability of the developer to provide its residents with the footway connection directly to London Road through the existing site access, amended drawings have now been submitted to show an alternative connection using a new footway along Lynsted Lane. This would provide a 1.5m wide footway to serve the development and benefit existing residents by completing a continuous off-carriageway route along the full length of Lynsted Lane between Batteries Close and the A2.

6.27 This footway would be achieved by formalising the current road narrowing just to the north of the application site with priority shuttle working for vehicular traffic, which is currently operated to some extent now due to vehicles parking in this location and obstructing the free flow of traffic. Formalising this with priority for southbound vehicles would in theory prevent the congestion that exists now from parked vehicles obstructing southbound traffic at this point, and occasionally queuing back to the A2.

6.28 The submitted drawings have also been subjected to an independent Road Safety Audit, and this has made two recommendations, although the designer has not responded to these yet and therefore no amendments have been made following the audit. Whilst one recommendation was to include waiting restrictions to prevent parking obstructing the footway, I would note that waiting restrictions had already been proposed in this location and compensatory parking included within the development. That recommendation by the auditor would therefore appear to have been addressed, as they may not have been aware of those proposed waiting restrictions associated with the development.

6.29 The audit only raised one other issue, which concerned the remaining carriageway width through the road narrowing, as it is considered too wide for single file traffic. Further narrowing has been recommended to reinforce the priority working and give-way

arrangement, and I would consider this appropriate too. In addition, the amended kerbline between the site access junction and the proposed road narrowing has reduced the carriageway width where traffic would be expected to pass one another. This is now too narrow and will need to be set back to accommodate two-way traffic.

- 6.30 I am satisfied that the proposed off-site highway works, when amended to address the points raised above, would provide an acceptable alternative footway link from the development to the A2 and local amenities north of the site.
- 6.31 The additional information provided regarding the rights to use the existing access to the site from the A2 is noted. This suggests that the legal rights would exist for residents of the development to utilise the direct route, so they would not be restricted to walking via Lynsted Lane to access local amenities. I would therefore adhere to my previous recommendation of 26th October 2021, but would seek to secure the additional off-site highway works if necessary, through an additional planning condition, referencing to an amended layout to satisfy the above changes that have been requested to address the Road Safety Audit comments and Highway Authority technical approval requirements.”
- 6.32 Natural England – Since this application will result in a net increase in residential accommodation, impacts to the coastal Special Protection Area(s) and Ramsar Site(s) may result from increased recreational disturbance. Your authority has measures in place to manage these potential impacts through the agreed strategic solution which we consider to be ecologically sound. 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(s).

However, our advice is that this proposed development, and the application of these measures to avoid or reduce the likely harmful effects from it, may need to be formally checked and confirmed by your Authority, as the competent authority, via an appropriate assessment in view of the European Site's conservation objectives and in accordance with the Conservation of Habitats & Species Regulations 2017.

This is because Natural England notes that the recent People Over Wind Ruling by the Court of Justice of the European Union concluded that, when interpreting article 6(3) of the Habitats Directive, it is not appropriate when determining whether or not a plan or project is likely to have a significant effect on a site and requires an appropriate assessment, to take account of measures intended to avoid or reduce the harmful effects of the plan or project on that site. The ruling also concluded that such measures can however be considered during an appropriate assessment to determine whether a plan or project will have an adverse effect on the integrity of the European site. Your Authority should have regard to this and may wish to seek its own legal advice to fully understand the implications of this ruling in this context.

Natural England advises that it is a matter for your Authority to decide whether an appropriate assessment of this proposal is necessary in light of this ruling. In accordance with the Conservation of Habitats & Species Regulations 2017, Natural England must be consulted on any appropriate assessment your Authority may decide to make.

Natural England has not assessed this application for impacts on protected species. Natural England has published Standing Advice which you can use to assess impacts on protected species or you may wish to consult your own ecology services for advice.

[Natural England and the Forestry Commission have also published standing advice on ancient woodland and veteran trees which you can use to assess any impacts on ancient woodland – delete as necessary].

We recommend referring to our SSSI Impact Risk Zones (available on Magic and as a downloadable dataset) prior to consultation with Natural England. Further guidance on when to consult Natural England on planning and development proposals is available on gov.uk at <https://www.gov.uk/guidance/local-planning-authorities-get-environmental-advice>.

6.33 NHS: As the proposal is below 20 units, the NHS do not seek developer contributions.

6.34 KCC Flood Risk Officer - Having reviewed the information submitted KCC as Lead Local Flood Authority are satisfied that the principles proposed for dealing with surface water, namely infiltration to ground, do not increase the risk of flooding and as such have no objection to the application. and recommend that appropriate conditions, with advisories, be applied to secure soakage tests that are compliant with BRE 365 and a drainage system modelled using rainfall data in any appropriate modelling or simulation software.

6.35 Southern Water - The supporting documents make reference to drainage using Sustainable Drainage Systems (SuDS). Under certain circumstances SuDS will be adopted by Southern Water should this be requested by the developer.

Where a SuDS scheme is to be implemented, the drainage details submitted to the Local Planning Authority should:

- Specify the responsibilities of each party for the implementation of the SuDS scheme.
- Specify a timetable for implementation.
- Provide a management and maintenance plan for the lifetime of the development.

We request that should this planning application receive planning approval, an appropriately worded informative is attached to the consent:

6.36 KCC Ecology – They have reviewed the ecological information submitted with this outline application and advise that sufficient ecological information has been provided.

To mitigate against potential adverse effects on bats, and in accordance with paragraph 180 of the National Planning Policy Framework 2019, we suggest that the Bat Conservation Trust's 'Guidance Note 8 Bats and Artificial Lighting' is consulted in the lighting design of the development. We advise that the incorporation of sensitive lighting design for bats is submitted to the local planning authority, as recommended in the ecology report, and secured via an attached condition with any planning permission.

Habitats are present on and around the site that provide opportunities for breeding birds. Any work to vegetation/structures that may provide suitable nesting habitats should be carried out outside of the bird breeding season (March to August) to avoid destroying or damaging bird nests in use or being built. If vegetation/structures need to be removed

during the breeding season, mitigation measures need to be implemented during construction. This includes examination by an experienced ecologist prior to starting work and if any nesting birds are found, development must cease until after the juveniles have fledged.

Under section 40 of the Natural England and the Commission for Rural Communities ERC Act (2006), and paragraph 175 of the NPPF (2019), biodiversity must be maintained and enhanced through the planning system. Additionally, in alignment with paragraph 175 of the NPPF 2019, the implementation of enhancements for biodiversity should be encouraged.

The loss of 30m of species-rich hedgerow, as well as replacement of grassland with dwellings and hard-standing, constitutes a loss in biodiversity. As such, we recommend this loss is compensated for with high-quality landscaping within the development.

Section 11 of the ecology report makes appropriate recommendations to achieve this, including native species planting (hedgerows/trees) and establishment of wildflower grassland. Ideally, all of the development's landscaping should consist of native species only and bird/bat bricks should be integrated into the new builds.

To secure the implementation of biodiversity off-setting/enhancements, we advise that a condition is attached to any granted planning permission.

The development includes proposals for new dwellings within the zone of influence (6km) of The Swale Special Protection Area (SPA) and Wetland of International Importance under the Ramsar Convention (Ramsar Site). Medway Council will need to ensure that the proposals fully adhere to the agreed approach within the North Kent Strategic Access Management and Monitoring Strategy (SAMMS) to mitigate for additional recreational impacts on the designated sites and to ensure that adequate means are in place to secure the mitigation before first occupation.

A decision from the Court of Justice of the European Union has detailed that mitigation measures cannot be taken into account when carrying out a screening assessment to decide whether a full 'appropriate assessment' is needed under the Habitats Directive. Therefore, we 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.

6.37 Waste Management: £1,059 (equating to £105.9 per dwelling) is requested to allow for the provision of the appropriate food, general refuse, and recycle bins required for a development of this scale.

6.38 KCC Minerals: The County Council Minerals and Waste officer had originally objected to the proposal. However, he has now removed the objection for the following reasons:

The applicant has forwarded me an outline Minerals Assessment (MA) that accompanies application 21/503906/EIOUT (Land to The West of Teynham London Road Teynham Kent) prepared by SLR consultants. The red line of this application is not coincident with the application Ref. 21/502609/OUT Outline application for the erection of up to 10no. residential dwellings with associated landscaping, road layout and

parking. (Access being sought). However, it does show this area as being a location where historic brickearth extraction has occurred. While there is no direct evidence for this as this MA does not concern itself with this specific area of land, it is reasonable to include it as a strong indicator that any safeguarded mineral in the site has been extracted at some point in the past. In fact, the whole surrounding area is one where intensive past brickearth extraction is evidenced by the MA (see Drawing 'Teynham West Outline Mineral Assessment' -Assessment Areas 05(R4) May 2021). Given the historic nature of 'London Stock' brick manufacture in the Sittingbourne area this is not a surprising finding of the MA for application Ref. 21/503906/EIOUT.

Looking at the land on Google Maps, there does appear to be some evidence of a lowered ground level in the site compared to the site boundaries, especially to the east.

This strongly suggests that the site no longer has any economic mineral deposits (as these have been historically extracted and are now absent). Notwithstanding this, the site is of limited overall area, some 0.5 ha, therefore, the very probable lack of an economically viable brickearth deposit and the small scale of the site in mineral extraction terms is such that the County Council no longer wishes to raise an objection to the application on mineral safeguarding grounds.

- 6.39 Agricultural Specialist: I note that whilst Grade 1 land, the site does not appear to have been in productive agricultural use for many years and extends to less than 0.5 ha.
- 6.40 It has also been identified by the Council as part of a larger site that is potentially suitable for development
- 6.41 It appears unlikely, therefore, that the loss of this small area of agricultural land could be argued to be a significant determining factor in this instance.
- 6.42 Greenspace Manager As detailed in the Swale Open Spaces and Play Area Strategy, we would seek contributions for off-site play area and fitness plus formal sports.

The contributions would be at a level identified in the Strategy:

Formal Sports - £593.00 per dwelling (or £5,930 in total)

Play and Fitness - £446.00 per dwelling (or £4,460 in total)

The play and sports contributions would be allocated to play and formal sport facilities in Lynsted, to increase the capacity and quality of facilities to meet increased demand.

- 6.43 KCC Economic Development: Request developer contributions towards primary education, secondary education, libraries community learning, youth services, social care and waste and an informative regarding broadband connection as set out in the tables overleaf:
-

	Per 'applicable' flat	Per 'applicable' House (x10)	Total	Project
Primary Education	£1160.50	£4642.00	£46,420.00	Towards Teynham Primary school expansion
Secondary Education	£1,294.00	£5,176.00	£51,760.00	Towards the new Secondary School construction upon land off Quinton Road, NW Sittingbourne policy MU1
Secondary Land	£658.93	£2,635.73	£26,357.33	Towards the new Secondary school site acquisition upon land off Quinton Road, NW Sittingbourne

'Applicable' excludes: 1 bed units of less than 56 sqm GIA and any sheltered accommodation – please advise if any such units are proposed?

	Per Dwelling (x10)	Total	Project
Community Learning	£16.42	£164.20	Contributions requested towards additional equipment and resources at Sittingbourne Adult Education Centre
Youth Service	£65.50	£655.00	Contributions requested towards additional resources for the Youth service in Sittingbourne
Library Bookstock	£55.45	£554.50	Contributions requested towards additional services, resources, and stock at Teynham Library
Social Care	£146.88	£1,468.80	Towards Specialist care accommodation in Swale District
All Homes built as Wheelchair Accessible & Adaptable Dwellings in accordance with Building Regs Part M 4 (2)			
Waste	£183.67	£1,836.70	Towards additional capacity at the HWRC & WTS in Sittingbourne
Broadband:	Condition: Before development commences details shall be submitted for the installation of fixed telecommunication infrastructure and High-Speed Fibre Optic (minimal internal speed of 1000mb) connections to multi point destinations and all buildings including residential, commercial and community. The infrastructure installed in accordance with the approved details during the construction of the development, capable of connection to commercial broadband providers and maintained in accordance with approved details. Reason: To provide high quality digital infrastructure in new developments as required by paragraph 112 NPPF.		
<i>Highways</i>		<i>Kent Highway Services will respond separately</i>	

7. BACKGROUND PAPERS AND PLANS

- 7.1 The application has been supported by a significant number of drawings, assessments, and reports. These include the following:

Application Form (02/08/21) and Notices; Existing Site and Site Location Plans (20/0922 – 01 J); Proposed Site Plan (20/0922 – 05 Rev P); Landscape and Visual Impact Assessment; Landscape and Visual Impact Appraisal Addendum (30/07/2021); Design and Access Statement; Heritage Statement; Planning Statement; Transport Statement; Road Safety Audit Stage 1 (Amended and Dated 22.11.2021); Aborigicultural Report; Landscape Strategy; Ecological Preliminary Appraisal; Sustainability Assessment; Sustainable Surface Water and Drainage Strategy; Topographical Survey; Visibility Splays Sheets 1 and 2; Parking Beat Survey; Refuse Vehicle Tracking; Deeds showing right of way (Annex 2 (official copy) conveyance); Indicative Site Plan 20/0922 – 05 Rev Q; Access Plan 1 49905_5501_001 Rev E; Access Plan 2 49905_5501_001 Rev E; Indicative Footway Improvement Plan 49905_5501_005 A.

8. APPRAISAL

Principle of Development

- 8.1 The site of the proposed residential units does not have any specific allocation in the Local Plan. It is also located outside (but adjoining) the settlement boundary of Teynham. However, the Council cannot currently demonstrate a five-year housing land supply. The current supply is 4.6 years. In this regard, Paragraph 11.d (known as the ‘tiled balance’) of the NPPF is triggered.

- 8.2 Paragraph 11.d makes it clear that relevant policies relating to the supply of housing should not be considered up to date if the Council cannot demonstrate a five-year supply of deliverable housing sites, and that there should be a presumption in favour of sustainable development, unless:

“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

“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” (paragraph 11.d.(ii)).

- 8.3 This development would bring about a number of benefits that would outweigh any harm. Although the site is outside the settlement boundary, it is very close to the centre of Teynham, which is tier 4 (Rural Local Service Centres) on the settlement hierarchy table 4.3.1 in the Local Plan Bearing Fruits. It is a village with a great deal of amenities. Therefore, the delivery of spacious accommodation in a sustainable location responds to the district’s housing needs and will contribute to the vitality of the village centre.
- 8.4 The site is in an appropriate and sustainable location with good access to local facilities, transport links and schools, where efficient and effective 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 (it stands at 4.6 years). As a result of this, it is considered that the benefits of addressing this shortfall, upon a site in

such close proximity to an existing built-up area boundary, should be given additional weight.

Visual Amenity

- 8.5 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 up to 10 dwellings can be accommodated on the site, without a harmful impact on visual amenity or the character of the wider area.
- 8.6 The site is well contained by existing development to the north of the site and mature hedging to the east and along part of the western boundary. There is also residential development on the eastern side of Lynsted Lane, facing the application site.
- 8.7 The applicants submitted a Landscape Visual Impact Assessment (LVIA) as part of the application materials which states that all the external views of the site, long and short distanced, provide only glimpses/partial views into the site. On this basis, the LVIA concludes that the impact of the development would only be moderate once the scheme is built out (and construction phases has finished), and the landscaping scheme has matured.
- 8.8 Except for the view into the site from the A2 (centre of Teynham), I agree with the conclusions of the LVIA and believe that 10 residential dwellings, if set back from the boundary edge, would only have a very modest impact on the surrounding area.
- 8.9 In short, the site area is 0.52 hectares, providing a development density of 19 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.

Impact on Listed Buildings

- 8.10 The indicative plan shows a well-thought-out alternative way of developing the site in a contextually sensitive manner.
- 8.11 Therefore, I consider the proposed design response to be justified. Moreover, it is amply supported by the submitted Heritage Statement and Landscape and Visual Impact Assessment (LVIA) document.
- 8.12 The Council's Conservation Officer has also confirmed that he agrees with the conclusions of the submitted Heritage Statement which suggest that only a low level of (less than substantial) harm would arise to the heritage assets in the locality (designated and non-designated).
- 8.13 Whilst this application is in outline form, it is a sensitive site, in both heritage and landscape terms, and it is recommended that a development brief for the site which further develops the (appropriate) details shown in the submitted indicative details is secured by condition.

Loss of Agricultural Land

- 8.14 Policy DM31 (Agricultural Land) makes it clear that development on agricultural land will only be permitted when there is an overriding need that cannot be met on land within the built-up area boundaries.
- 8.15 It adds that development on best and most versatile agricultural land (specifically Grades 1, 2 and 3a) will not be permitted unless:
- 1. The site is allocated for development by the Local Plan; or*
 - 2. There is no alternative site on land of a lower grade than 3a or that use of land of a lower grade would significantly and demonstrably work against the achievement of sustainable development; and*
 - 3. The development will not result in the remainder of the agricultural holding becoming not viable or lead to likely accumulated and significant losses of high-quality agricultural land.*
- 8.16 I note that there have been a number of objections, from neighbours as well as the Parish Councillors, to the loss of this land to housing because it comprises Grade 1 agricultural land.
- 8.17 However, during the course of the application, I sought the advice from the Council's Agricultural land consultant. He advised me that losing this piece of agricultural land is not going to materially undermine the Council's agricultural land supply because the site has not been in productive agricultural use for many years and comprises less than 0.5 ha.
- 8.18 The applicants have also confirmed that the site comprises low value grazing land and has been used as such for some considerable time.
- 8.19 Additionally, I think criterion 2 of policy DM31 is invoked as this site is in a very sustainable location given its close proximity to the village centre and all the public transport facilities, which is more sustainable than using a Grade 3b to Grade 5 Agricultural land site elsewhere in the Borough.

Amenity of future occupiers

- 8.20 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, layout and scale of the dwellings including details such as window/door placement and details of boundary treatments.
- 8.21 Whilst layout and design are among the 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 10 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 on London Road and

on the opposite side of Lynsted Lane are over 20m away which is considered to be sufficient distance to mitigate loss of light, outlook, and privacy.

- 8.22 Regarding future residential amenity, the indicative plans show that the rear garden areas range between 55sqm to 108sqm, and each of the gardens will have a minimum depth of 10m which is considered to be sufficient external amenity space to serve future occupants.
- 8.23 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.
- 8.24 The Environmental Protection Officer has requested a noise report to assess the noise levels from the adjacent joinery workshop, which was granted planning permission in 2019 under 19/502088/FULL.
- 8.25 My view is that as this proposal is an outline application, the final layout is not yet determined and a noise report will be submitted as part of a Reserved Matters application, the conclusions of which, would help determine the final layout. This will be secured through Condition 15.
- 8.26 Moreover, the joinery building sits in very close proximity to existing residential buildings, closer than the future residential buildings of this scheme, and conditions (8 and 9) were attached to permission 19/502088/FULL which controlled the levels of noise coming from the building. The Environmental Health Officer has reviewed the noise report that accompanied that permission, and the conditions attached, and she is satisfied that the residents of this development would not be impacted by FJ Williams joinery workshop.

Air Quality Management Area (AQMA)

- 8.27 This development merited an Air Quality Assessment (AQA) due to its close proximity to the Teynham AQMA, and one has been submitted with the application.
- 8.28 This assessment was reviewed by the Council's Environmental Protection Team who have concluded that the consultant has completed a site suitability assessment which is acceptable relative to the size of the development and its proximity to the AQMA boundary.
- 8.29 The assessment has evaluated both the construction and operational phase relative to the impacts on NO₂ (nitrogen dioxide) and PM₁₀ and PM_{2.5} receptors within the AQMA, all of which are, according to the Environmental Protection officer, acceptable and in line with best practice guidance. The conclusions of the AQA show that the air quality results in this area fall below the National Air Quality Objectives.
- 8.30 The Environmental Protection Officer enquired about the possibility of seeking developer contributions towards sustainable transport measures, but the KCC Highways took the view that, given the small scale of the scheme, this contribution is not required.
- 8.31 The Environmental Protection Officer enquired whether there is a maintenance plan to ensure the tree canopy is managed to ensure tree growth does not become overgrown. As this is an outline application, I think it would be premature to ask for such a plan at this

stage, but this is something that can be secured via condition at the Reserved Matters stage.

8.32 The Environmental Protection officer has also recommended that a welcome pack is provided to new residents to advise sustainable/ alternative travel options. This will be secured by condition.

8.33 In short, this aspect of the proposal complies with National and local planning policies.

Developer Contributions

8.34 The use of planning obligations to address the impact of development and ensure they are acceptable in planning terms is well established in legislation and national, regional, and local planning policy. The NPPF and Swale Borough Council's Local Plan both recognise the importance of addressing the impacts of development and having effective mitigation in place to ensure that development can be accommodated sustainably.

8.35 The Council is keen to ensure that new development (particularly much-needed housing) continues to be delivered, as detailed in its Local Plan and the emerging Local Plan Review.. The Local Plan and Local Plan Review not only sets out plans for the delivery of development but also provides the basis on which development can be delivered sustainably, and in a way that respects environmental limits and resident's quality of life.

8.36 In line with this, the adopted Local Plan (Bearing Fruits) sets out requirements to ensure that new development is delivered sustainably, and the Council's Developer Contributions SPD (2009) details requirements required from new development to mitigate impacts associated with development. The level of contribution is based on up-to-date costs provided by Kent County Council and Swale Borough Council.

8.37 The total contribution required to mitigate the impacts of this development is **£152,979.13**

8.38 The applicant has agreed to this amount and agreed the following Heads of Terms being included in a Section 106 Agreement attached to any planning permission for the proposed development:

- A contribution of £46,200 towards Teynham Primary School Expansion
- A contribution of £51,760 towards the new Secondary School construction upon land off Quinton Road, NW Sittingbourne policy MU1
- A contribution of £36,357.33 towards the new Secondary school site acquisition upon land off Quinton Road, NW Sittingbourne
- A contribution of £10,390 towards play and formal sport facilities in Lynsted
- A contribution of £1,059 towards domestic bins
- A contribution of £164,20 towards Community Learning
- A contribution of £655 towards Youth Services

- A contribution of £554.50 towards Library Bookstock
- A contribution of £1,468.80 towards Social Care
- A contribution of £1,836.70 towards Waste
- £253.36 per residential unit to mitigate impacts on the Special Protection Areas.
(Total: £2,533.6)
- Council's monitoring fees to be agreed in due course.

Highways

- 8.39 Policy DM14 of the local plan requires all development proposals 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 in accordance with the standards set out in Swale Borough Council Parking Standards SPD May 2020. The relevant requirements for this scheme can be found in Appendix A of the SPD, which requires there to be:
- 1 to 2 car parking space per 1- and 2-bedroom houses
 - 2 to 3 parking spaces per 3 bed houses
 - 3 parking spaces per 4 bed houses
- 8.40 Based on this indicative housing mix, it would equate to a minimum requirement of 20 residential parking spaces.
- 8.41 The indicative plans show 25 car parking bays: 20 for the 10 residential units (which satisfies the requirement of the Swale Borough Council Parking Standards May 2020), 2 bays for visitors and 3 bays for the existing residents of Lynsted Lane.
- 8.42 There have been a number of objections to the scheme, on three different highways grounds. One of the reasons for objecting, was the width of the proposed footpath along the western boundary of the site/eastern part of Lynsted Lane, which was considered to be too narrow, raising concerns over pedestrian safety. The KCC Highways also raised the same concerns and had, initially, objected to the proposal for this reason.
- 8.43 In response to these concerns, the applicants submitted revised plans which, not only show an increased pedestrian width (1.2m to 1.5m) along Lynsted lane, but also introduces a direct pedestrian/cycle route from the north-eastern part of the site to the A2 (London Road).
- 8.44 Whilst the applicants do not own this strip of land, they have provided me with copies of the deeds which confirm that the applicant (as landowner of this application site) has a right of access over the land between the application site and the A2 (London Road), running over part of the *F J Williams Joinery* business land. For completeness, I sought a legal opinion from the Council's legal department, who confirmed to me that the owner of the application site does have a right of way over this strip, and this right would extend to future house owners of the land, in perpetuity.

- 8.45 I note that Lynsted and Kingsdown Parish Council and the owner of the joinery business *F J Williams* joinery business have suggested that pedestrian/cycle use of this land would contravene the Highways Act 1980. However, the advice I have received from the KCC Highways and the Council's legal team is that this route is a Private Right of Way, which is different from a Public Right of Way and therefore it falls outside the Highways Act 1980.
- 8.46 I also note that the owners of *F J Williams* expressed concerns that pedestrian use of the land connecting the site with the A2 would result in vehicular/pedestrian conflict and it would impact on the ability of them to run their business, through potential theft to items stored outside.
- 8.47 In response to this, I sought the advice of the KCC Highways and the applicant, respectively. The KCC Highways advise that the level of vehicular movements related to the joinery business is relatively modest and it wouldn't represent a different scenario from people walking through the new housing estate, which he considers to be low risk from a safety perspective.
- 8.48 The applicant confirmed to me that, under the Private Right of Way agreement, the direct access point between the application site and the A2 should not be gated up, locked and closed off.
- 8.49 In short, the KCC Highways Officer is of the view that the two pedestrian accesses (a wider continuous footpath along Lynsted Lane and the direct route to the A2 from the northeastern corner of the site) would provide safe access to and from the site and, accordingly, he has removed his earlier objection. For this reason, it is recommended that a condition is imposed that ensures the direct pedestrian route from the north-east corner of the site to the A2 forms part of any reserved matters application, and Members will note condition 1 below.
- 8.50 The neighbours and the Parish Councils also objected to the proposal on two other highways grounds: one, the width of the access point to the site and, two, the possibility of increased congestion levels.
- 8.51 KCC Highways has reviewed the indicative plans and the supporting information, provided by the applicants. They are now satisfied that the geometry of the junction is appropriate because it is in accordance with the design standards for this type of junction and commented that a swept path analysis has been undertaken for an 11.4m refuse vehicle to demonstrate that the site can be accessed by service vehicles.
- 8.52 KCC Highways are also satisfied that the number of trips generated by this proposal is unlikely to put undue strain on the local road network.
- 8.53 Moreover, the prospect of providing 3 parking bays for the residents of Lynsted Lane represents a betterment of the current situation as it will help with the flow of traffic and highways safety (as noted above, this is in addition to the visitor spaces to be provided to serve the development).
- 8.54 The applicants are also proposing to narrow the width of Lynsted Lane to the north of the site, to create a "priority shuttle system for vehicular traffic". The aim of this alteration to

Lynsted Lane is to help prioritise southbound traffic amendment. Presently, cars parking along Lynsted lane reduces the ability of cars to pass one another, causing congestion and queues back to the A2 (London Road). The view of the KCC Highways is that this new alteration would be an improvement on the current situation.

8.55 KCC Highways would, however, like to see further amended plans that narrow the part of the road north of the site to ensure that the priority shuttle does work for vehicular traffic (at the time of writing this committee report, they are concerned that the road is not narrow enough to ensure only one car passes at a time). Furthermore, they have also requested that the plan is revised to show an increased width of Lynsted Lane outside the access point, to allow for two cars to pass at any one time. I will update Members at the meeting.

8.56 The cycle parking standards for new developments are set out in Appendix E of the SPD and, for residential developments, the standards are:

- “1. Cycle parking provision should normally be provided within the curtilage of the residential dwelling. Where a garage is provided it should be of a suitable size to accommodate the required cycle parking provision.*
- 2. Parking provision should be provided as a secure communal facility where a suitable alternative is not available.”*

8.57 The indicative layout shows enough space on each residential curtilage to provide secure cycle parking provision. This element of the proposal satisfies the cycle parking criteria.

8.58 In summary, subject to conditions being imposed (in the event of approval) that will also secure electric vehicle charging points and a Construction Management Plan, the proposal would result in a policy compliant development.

Ecology

8.59 The NPPF requires new development to minimise impacts on biodiversity and provide net gains, where possible. When determining planning applications, Local Planning Authorities are required to consider whether opportunities to incorporate biodiversity in and around developments have been taken.

8.60 Policy DM28 also requires that development proposals will conserve, enhance, and extend biodiversity, provide for net gains in biodiversity, where possible, minimise any adverse impacts and compensate where impacts cannot be mitigated.

8.61 The loss of 40-50m of species-rich hedgerow (which includes some Damson and Elder trees that are 50% dead/dead), as well as replacement of grassland with dwellings and hard-standing, constitutes a loss in biodiversity, which is why KCC Ecology has recommended that this loss is compensated for with high-quality landscaping within the development.

8.62 The Council's Ecologist is satisfied that Section 11 of the ecology report makes the appropriate recommendations to achieve this, including native species planting (hedgerows/trees) and establishment of wildflower grassland. It is recommended that all

of the development's landscaping should consist of native species only and bird/bat bricks should be integrated into the new builds. These requirements are secured through Condition 19.

- 8.63 KCC Ecology have also confirmed that Developer Contributions will need to be provided due to the increase in dwellings within the zone of influence of a Special Protection Area, which could, potentially, result in harmful impacts on the SPA and Ramsar sites due to increased recreational disturbance. Natural England have reached the same conclusion. The contribution required, at **£253.360** x per residential unit, amounts to **£2,536**. The applicant has agreed to pay this contribution, which will be secured via a S106 Contribution.
- 8.64 Regarding Biodiversity Net Gain, the NPPF requires new development to minimise impacts on biodiversity and provide net gains in biodiversity, where possible. Local planning authorities are required to conserve and enhance biodiversity when determining planning applications and take opportunities to incorporate biodiversity in and around developments.
- 8.65 The indicative plans and Arboricultural Impact Assessment both show significant landscape enhancement measures, and a condition will be attached to secure the maximum amount of biodiversity net gain.
- 8.66 Therefore, this aspect of the proposal accords with policy DM28 of the local plan and the NPPF.

Archaeology

- 8.67 The site lies on Brickearth which in this area has good potential for early prehistoric remains of both Palaeolithic and Mesolithic date. Investigations on nearby sites at Bapchild have highlighted this potential and found remains of both earlier and later Palaeolithic date especially in lower levels of the Brickearth. Archaeological works in connection with the recent quarrying at Claxfield Farm have recorded multi-period remains dating from the Bronze Age, Iron Age, Roman, Medieval, and post medieval periods. The complex remains included a ring ditch being the remains of Bronze Age funerary monument.
- 8.68 The reporting of these works is presently ongoing and is not fully reflected in the Historic Environment Record. The A2 to the north is the route of the main roman road between the coast and London. Elsewhere in Swale the road has been seen to run to the south of the present route and it is possible that it may fall close to the present site. The road itself was attractive for subsequent settlement and other activities such as burial.
- 8.69 I note that archaeology was not considered in the submitted heritage assessment for the site. I would recommend that in any forthcoming permission provision is made for archaeological evaluation and appropriate mitigation that may include preservation of important remains. The evaluation should take place in advance of the submission of a detailed application so that archaeology can be taken account of in final design measures. Therefore, KCC Archaeology have advised a condition is attached to the permission that requires the applicants to undertake an archaeological field evaluation prior to the commencement of development.

Open Space

8.70 Greenspaces play a vital role in calming urban environments and providing an escape from high population density. They provide opportunities for leisure and exercise with a range of associated health benefits and have an important cooling effect in urban areas. This is particularly important in densely developed urban areas where some residents, who live in flatted accommodation, have limited or no garden space and limited indoor space.

8.71 The Local Plan places great emphasis on the value of open spaces and their role in providing a good quality environment. Policies CP7 (Conserving and Enhancing the Natural Environment) requires new development to “protect the integrity of the existing green infrastructure network”.

8.72 This policy is reinforced by Local Plan Policy DM17 (Open space, sports, and recreation provision) which states that:

“proposals for residential and other developments as appropriate will:

1. Safeguard existing open space, sports pitches and facilities in accordance with national policy, having regard to the Council's open space assessment and strategy and facilities planning mode”

8.73 Policy DM17 also seeks to ensure that new residential developments provide adequate levels of open space and, where that is not feasible, contributions should be provided to improve and increase the capacity of existing spaces.

8.74 The Council's Greenspaces Manager has requested a contribution of £10,390 towards play and formal sport facilities in Lynsted, as identified in the Open Spaces and Play Strategy 2018-2022. The applicants have agreed this contribution and it will be secured by s106 Agreement. Members will also note that the development will include various outdoor areas for the benefit of residents.

Trees

8.75 Landscaping is a reserved matter. An Arboricultural Impact Assessment 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.

8.76 The Arboricultural Impact Assessment, prepared by Tree Ventures, explains that it will be necessary to remove the majority of 1No B category hedge (G17) to allow for visibility splays due to the close proximity to the highway of existing tree stems.

8.77 The assessment also concludes that it will be necessary to remove 2No. C category trees (T4 and T5) and 1No.U category group (G3) to allow the demolition of existing structures.

8.78 However, the assessment states that the following mitigation measures would be put in place:

- *“The landscaping scheme allows for extensive replacement planting including a*

hedge with specimen tree planting. Replacement planting is likely to provide a denser more bio-diverse screen than the existing hedge.

- *These trees are not significantly visible from outside of the site and their removal is unlikely to detract from the general amenity value of the area. In addition, there is scope for extensive replacement planting as part of the landscaping scheme.*
- *Also, the applicant has stressed that other trees around the outside of the site, although low category, should be retained where not at risk of causing significant harm and integrated with landscaping proposals to provide successional deadwood and decay habitat”*

8.79 The Council's Tree Consultant is comfortable that the applicants are taking an approach that would ensure the new access point causes the least harm. He is also of the opinion that the indicative layout and landscaping would provide sufficient replanting space to mitigate/replace the lost length of hedge.

8.80 For these reasons, there are no arboricultural reasons to refuse the outline consent, subject to appropriate conditions.

Minerals and Waste

8.81 The relevant policy of Kent Minerals and Waste Local Plan 3013-30 is DM7 (Safeguarding Mineral Resources) which states that Planning permission will only be granted for non-mineral development that is incompatible with minerals safeguarding, where it is demonstrated that either:

1. *the mineral is not of economic value or does not exist; or*
2. *that extraction of the mineral would not be viable or practicable; or*
3. *the mineral can be extracted satisfactorily, having regard to Policy DM9, prior to the non-minerals development taking place without adversely affecting the viability or deliverability of the non-minerals development; or*
4. *the incompatible development is of a temporary nature that can be completed, and the site returned to a condition that does not prevent mineral extraction within the timescale that the mineral is likely to be needed; or*
5. *material considerations indicate that the need for the development overrides the presumption for mineral safeguarding such that sterilisation of the mineral can be permitted following the exploration of opportunities for prior extraction; or*
6. *it constitutes development that is exempt from mineral safeguarding policy, namely householder applications, infill development of a minor nature in existing built-up areas, advertisement applications, reserved matters applications, minor extensions, and changes of use of buildings, minor works, non-material amendments to current planning permissions; or*
7. *it constitutes development on a site allocated in the adopted development plan where consideration of the above factors (1-6) concluded that mineral resources will not be needlessly sterilised.*

- 8.82 The County Council Minerals and Waste Officer has concluded that it is very likely that the site no longer has any economic mineral deposits (as these have been historically extracted and are now absent).
- 8.83 The applicants also questioned whether, if there were still safeguarded minerals on the site, it would be economically viable to extract them from such a small site, given the likely infrastructure requirements to do so.
- 8.84 Although there is no letter from a Mineral Extraction company to support this point, the County Council's Minerals and Waste officer takes the view that there would likely be a lack of an economically viable brickearth deposit to make extraction financially a viable prospect.
- 8.85 Therefore, criterion 1 and 2 of policy DM7 are invoked and the proposal is acceptable in Minerals and Waste terms.

Sustainable Drainage System

- 8.86 Policy DM21 (Water, flooding, and drainage) sets out the policy requirements including the need for site specific Drainage Strategies for major development such as this proposal. Criterion 4 of policy DM21 (Water, flooding, and drainage) sets out when considering drainage implications of development proposals will "include, where possible, sustainable drainage systems to restrict runoff to an appropriate discharge rate, maintain or improve the quality of the receiving watercourse, to enhance biodiversity [by incorporating open features such as ponds, swales and ditches] and amenity and increase the potential for grey water recycling. Drainage strategies (including surface water management schemes) for major developments should be carried out to the satisfaction of the Lead Local Flood Authority".
- 8.87 Criterion 5 sets out that proposals should "integrate drainage measures within the planning and design of the project to ensure that the most sustainable option can be delivered". Paragraph 165 of the NPPF states that "Major developments should incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate".
- 8.88 Kent County Council Drainage reviewed the submission document, and they are, subject to conditions, satisfied that the method for dealing with surface water, namely Attenuation tanks and soakaways does not increase the risk of flooding. Therefore, the proposal accords with Paragraph 165 of the NPPF and Policy DM21 of the Local Plan.

Sustainable Construction and Climate Change

- 8.89 Policy DM 19 of the Local Plan sets out a range of sustainable design and construction measures that development proposals should, where appropriate, incorporate them into their scheme. Along with the relevant parts of the NPPF, there is a clear requirement within local policy for proposals to demonstrate how this will be achieved.
- 8.90 In addition, the Council has declared a Biodiversity and Climate Change Emergency, and the Council are keen to see the use of renewables within developments

- 8.91 The Council requires a reduction of at least 50% compared to the CO2 emissions standard that would be achieved by a scheme complying with the current Building Regulations, and officers are unlikely to be able to support a scheme that falls short of this level unless a compelling justification has been provided. As this application is for Outline consent, and not full planning permission, a condition will be attached that requires any future development to deliver at least 50% carbon reductions.
- 8.92 In respect of electric vehicle charging points, the Council's Parking SPD states that for residential uses with on plot parking, each space will have an active charging point, with the remainder to be provided as passive spaces. I have included a condition to ensure that this is provided, and I am of the view that this deals acceptably with this matter.
- 8.93 On this basis, the proposal accords with the NPPF and policy DM19 of the Local Plan.

Other Matters (responses to point raised by third parties)

- 8.94 I note that in one of the objection letters it is suggested that the Council's five-year housing land supply "is more favourable than it has been". I can only make my assessment against the current published housing land supply which, at the time of writing this report, is 4.6 years, which is below the required 5 years required.
- 8.95 One of the representations received states that the proposal falls foul of emerging policy A01 (Teynham Area of Opportunity). It should be noted that this policy has not been through the rigour of an Examination in Public, much less adopted and that the Planning Policy team have raised no objections to the proposal.
- 8.96 Another response suggested that the traffic survey is inadequate. KCC Highways is satisfied that the information provided is accurate and that the proposal will not result in highways safety issues or significantly increase the congestion levels of Lynsted Lane, and by providing 3 replacement spaces on the site, will improve the current situation.
- 8.97 It is also suggested that the proposal would lead to a coalescence that the applicants own the neighbouring land which they can develop. The Council does not currently have a five-year housing land supply which means that it currently has to support some form of residential development outside settlement boundaries, and (in such circumstances) it is preferable to direct this type of development as close to a sustainable location as possible: a settlement like Teynham, which is high up on the settlement hierarchy in the local plan.
- 8.98 Additionally, it is immaterial in this context that the applicant owns other land, as each application is determined on its own merits.
- 8.99 I note that a representation was made stating that the proposal is contrary to the Lynsted Parish Design Statement. This design statement was written, and adopted, in 2002, significantly pre-dating the NPPF and the local plan, which means only very limited weight can be afforded to it.

9. CONCLUSION

- 9.1 Although the application site is located outside the built-up area of Teynham, it has good connectivity to local schools and shops, and the wider bus, road, and rail network.

- 9.2 KCC Highways have indicated that the scheme, subject to conditions, will improve the current highway network situation.
- 9.3 Whilst this is an application in outline only, an illustrative layout has been prepared to demonstrate how the site could accommodate a sympathetically designed scheme for up to 10 dwellings that would reflect the design characteristics of the local area.
- 9.4 Significant weight also needs to be given to the lack of a five-year housing land supply. For these reasons, I consider that outline planning permission should be granted, subject to the conditions set out below and the signing of a suitably worded Section 106 agreement.

10. RECOMMENDATION

GRANT planning permission subject to the signing of a suitable worded Section 106 agreement, the receipt of the revised Highways Improvements Plan, and the following conditions

- 1) Details relating to the layout, scale and appearance of the proposed buildings, and the landscaping of the site shall be submitted to and approved by the Local Planning Authority before any development is commenced. Details to include reference to the proposed footpath from the north eastern corner of the site to the A2.

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 development hereby permitted shall be carried out in accordance with the following approved drawings, documents and mitigation set out within:

Existing Site and Site Location Plans (20/0922 – 01 J); Proposed Site Plan (20/0922 – 05 Rev P); Landscape and Visual Impact Assessment; Landscape and Visual Impact Appraisal Addendum (30/07/2021); Design and Access Statement; Heritage Statement; Planning Statement; Transport Statement; Road Safety Audit Stage 1 (Amended and Dated 22.11.2021); Arboricultural Report; Landscape Strategy; Ecological Preliminary Appraisal; Sustainability Assessment; Sustainable Surface Water and Drainage Strategy; Topographical Survey; Visibility Splays Sheets 1 and 2; Parking Beat Survey; Refuse Vehicle Tracking; Deeds showing right of way (Annex 2 (official copy) conveyance); Indicative Site

Plan 20/0922 – 05 Rev Q; Access Plan 1 49905_5501_001 Rev E; Access Plan 2 49905_5501_001 Rev E; Indicative Footway

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

- 5) An accommodation schedule shall be provided with the reserved matters application. The accommodation schedule shall demonstrate a range of housing types are provided which reflects the findings of the current Strategic Housing Market Assessment or similar needs assessment (or most recent standard) as well as making provision for wheelchair adaptable dwellings and wheelchair user dwellings as part of the housing mix.

Reason: To ensure there is a mix and size of dwellings to meet the future needs of households

- 6) No development shall take place until the details required by Condition 1 (assumed to be reserved matters condition for layout) 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.

- 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 be based upon the Sustainable Surface Water Drainage Report dated April 2021 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 within the curtilage of the site without increase to flood risk on or off-site.

- 8) 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.

- 9) 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 that the drainage system constructed is consistent with that which was 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.

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

Reason: To protect vulnerable groundwater resources and ensure compliance with the National Planning Policy Framework.

- 11) No development shall take place, including any works of demolition, until a Demolition/Construction Method Statement has been submitted to, and approved in writing by, the Local Planning Authority. The Statement shall provide details of:

- a) Routing of construction and delivery vehicles to / from site
- b) Parking and turning areas for construction and delivery vehicles and site personnel and visitors
- c) Timing of deliveries
- d) loading and unloading of plant and materials
- e) storage of plant and materials used in constructing the development
- f) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
- g) Temporary traffic management / signage
- h) wheel washing facilities
- i) measures to control the emission of dust, particulates and dirt during construction
- j) a scheme for recycling/disposing of waste resulting from demolition and construction works
- k) Bonfire policy;
- l) Proposals for monitoring, reporting and mitigation of vibration levels at surrounding residential properties where they are likely to exceed 1mm/s measures peak particle velocity.
- m) Proposed contact details and method for dealing with complaints from neighbours

The details of the Demolition/Construction Method Statement shall be strictly adhered to throughout the entirety of the demolition and construction period until completion of the development.

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

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

Monday to Friday 0730 - 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 amenities.

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

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

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

- 14) The details submitted pursuant to Condition (1) shall show
- Dwellings with On-Plot Parking - 1 Active Charging Point* per dwelling
 - Dwellings with unallocated communal parking - 10% Active Charging Spaces with all other spaces to be provided as Passive Charging Spaces
 - Visitor Parking - A minimum of two visitor spaces or 10% of the total visitor provision (whichever is greatest) should be provided with passive charging provisions suitable for future conversion.
 - All Electric Vehicle chargers provided for homeowners in residential developments must be provided to Mode 3 standard (providing up to 7kw) and SMART (enabling Wifi connection). Approved models are shown on the Office for Low Emission Vehicles Homecharge Scheme approved chargepoint model list: <https://www.gov.uk/government/publications/electric-vehicle-homecharge-scheme-approvedchargepoint-model-list>
 - All gas-fired boilers to meet a minimum standard of <40mgNOx/kWh

Reason: In order to prevent pollution

- 15) The development shall not 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 consumption and sustainability.

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

A report giving :-

- (a) the results of the survey,
- (b) the predictions of noise levels,
- (c) details of the design measures that will be used to mitigate against traffic noise, and
- (d) details of the building specifications of the dwellings which will be used to achieve a maximum internal noise level within any of the dwellings of 35dB(A) (Fast) with windows closed, shall be submitted to and approved by the Local Planning Authority prior to the commencement of the development. The approved measures shall be implemented in full prior to the first occupation of any of the buildings hereby permitted

Reason: In the interests of the amenity of occupiers.

- 17) Prior to occupation, a lighting design plan for biodiversity will be submitted to, and approved in writing by, the Local Planning Authority. The plan will show the type and locations of external lighting, demonstrating that areas to be lit will not disturb bat activity. All external lighting will be installed in accordance with the specifications and locations set out in the plan and will be maintained thereafter.

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

- 18) The details submitted pursuant to condition (1) above shall demonstrate how the development will offset biodiversity loss and enhance the site's biodiversity value by a minimum of 10% when compared to the pre-development baseline. This will include, but not be limited to, the recommendations in section 11 of the Preliminary Ecological Appraisal (Native Ecology May 2021) and shall consist of native species-only landscaping. The approved details will be implemented and thereafter retained.

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

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

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

- 20) The details submitted pursuant to Condition (1) shall show a structural landscaping. The scheme shall include the long-term treatment, including landscaping, boundary treatment, management responsibilities and maintenance schedules (including tree maintenance). All of the development's landscaping

should consist of native species only and bird/bat bricks shall be integrated into the new builds.

The scheme shall be carried out in accordance with the approved details unless otherwise agreed in writing by the local planning authority.

Reason: In order to mitigate the visual impact of the proposed development on the setting and of the area to ensure biodiversity enhancement.

- 21) The details submitted pursuant to Condition (1) shall show the provision and permanent retention of secure, covered cycle parking facilities prior to the use of the site commencing, in accordance with details to be agreed by the Local Planning Authority.

Reason: In the interests of amenity and sustainable development.

- 22) The details submitted pursuant to Condition (1) shall show a travel plan which shall include clear objectives and modal split targets, together with a time-bound programme of implementation, monitoring, regular review and update; and be based on the particulars contained within the approved development, shall be submitted to and approved in writing by the local planning authority and thereafter operated in accordance with the agreed details.

Reason: In the interests of Sustainable Development

- 23) The details submitted pursuant to Condition (1) shall show the provision, completion and maintenance of the vehicular and pedestrian accesses shown on the submitted plans prior to the use of the site commencing, in accordance with details to be agreed by the Local Planning Authority.

Reason: In the interests of amenity and sustainable development.

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

Reason: In the interests of amenity and sustainable development.

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

Reason: In the interests of amenity and sustainable development.

- 26) Provision and maintenance of the visibility splays shown on the submitted plans with no obstructions over 0.9 metres above carriageway level within the splays, prior to the use of the site commencing.

Reason: In the interests of amenity and sustainable development.

- 27) Provision and maintenance of 2 metres x 2 metres pedestrian visibility splays behind the footway on both sides of the access with no obstructions over 0.6m above footway level, prior to the use of the site commencing.

Reason: In the interests of amenity and sustainable development.

- 28) The development hereby approved shall not be occupied until an application has been made for a Traffic Regulation Order to provide the waiting restrictions shown on drawings 49905_5501_005 Rev D and the scheme implemented in accordance with the outcome of that Traffic Regulation Order application.

Reason: In the interests of amenity and sustainable development.

- 29) Prior to the construction of any dwelling in any phase, details of the materials and measures to be used to increase energy efficiency and thermal performance and reduce carbon emissions and construction waste shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved materials and measures.

Reason: In the interest of promoting energy efficiency and sustainable development, to accord with the principles of policy DM19 of the Local Plan, the NPPF (paragraphs 152 and 154) and the Swale Borough Council Climate and Ecological Emergency Declaration (June 2019) .

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

Reason: In the interest of visual amenity.

- 31) Upon completion, no further development permitted by Classes A, B, C, D or E of Part 1 of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking and re-enacting that Order), shall be carried out.

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

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

Reason: In the interests of visual amenity.

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

Reason: In the interests of visual amenity

- 34) Before development commences details shall be submitted for the installation of fixed telecommunication infrastructure and High-Speed Fibre Optic (minimal internal speed of 1000mb) connections to multi point destinations and all buildings including residential, commercial and community. The infrastructure installed in accordance with the approved details during the construction of the development, capable of connection to commercial broadband providers and maintained in accordance with approved details.

Reason: To provide high quality digital infrastructure in new developments as required by paragraph 112 NPPF.

- 35) All hard and soft landscape works shall be carried out in accordance with the details that shall have been approved pursuant to condition (1) above. 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.

- 36) 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. The scheme shall achieve a biodiversity net gain of at least 10% against the existing site conditions. The approved details will be implemented and thereafter retained

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

- 37) The development hereby permitted shall incorporate security measures to minimise the risk of crime and to meet the specific security needs of the development in accordance with the principles and objectives of Secured by Design. Details of these measures shall be submitted to and approved in writing by the local planning authority prior to commencement of the relevant part of the development and shall be implemented in accordance with the approved details prior to occupation.

Prior to occupation of the relevant part of the development a satisfactory Secured by Design inspection must take place. The resulting Secured by Design certificate shall be submitted to and approved by the local planning authority prior to occupation of the relevant part of the development.

Reason: To ensure that Secured by Design principles are implemented into the development

- 38) A development brief for the site, developing the (appropriate) details shown in the submitted indicative details, shall be submitted prior to the submission of the first reserved matters application

Reason: To ensure that special regard is paid to protecting the special architectural and historic interest and integrity of the building under Section 16 of

the Planning (Listed Buildings and Conservation Areas) Act 1990.

INFORMATIVES

- 1) The applicant is reminded that, under the Wildlife and Countryside Act 1981, as amended (section 1), it is an offence to remove, damage or destroy the nest of any wild bird while that nest is in use or being built. Planning consent for a development does not provide a defense against prosecution under this Act. Breeding bird habitat is present on the application site and assumed to contain nesting birds between 1st March and 31st August, unless a recent survey has been undertaken by a competent ecologist and has shown that nesting birds are not present.
- 2) It is important to note that planning permission does not convey any approval to carry out works on or affecting the public highway.
- 3) Any changes to or affecting the public highway in Kent require the formal agreement of the Highway Authority, Kent County Council (KCC), and it should not be assumed that this will be a given because planning permission has been granted. For this reason, anyone considering works which may affect the public highway, including any highway-owned street furniture, is advised to engage with KCC Highways and Transportation at an early stage in the design process.
- 4) Works on private land may also affect the public highway. These include works to cellars, to retaining walls which support the highway or land above the highway, and to balconies, signs, or other structures which project over the highway. Such works also require the approval of the Highway Authority.
- 5) Kent County Council has now introduced a formal technical approval process for new or altered highway assets, with the aim of improving future maintainability. This process applies to all development works affecting the public highway other than applications for vehicle crossings, which are covered by a separate approval process.
- 6) Should the development be approved by the Planning Authority, it is the responsibility of the applicant to ensure, before the development is commenced, that all necessary highway approvals and consents have been obtained and that the limits of the highway boundary have been clearly established, since failure to do so may result in enforcement action being taken by the Highway Authority. The applicant must also ensure that the details shown on the approved plans agree in every aspect with those approved under the relevant 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.
- 7) Guidance for applicants, including information about how to clarify the highway boundary and links to application forms for vehicular crossings and other highway matters, may be found on Kent County Council's website: <https://www.kent.gov.uk/roads-and-travel> Alternatively, KCC Highways and Transportation may be contacted by telephone: 03000 418181.
- 8) Construction of the development shall not commence until details of the proposed means of foul sewerage and surface water disposal have been submitted to, and approved in writing by, the Local Planning Authority in consultation with Southern Water.

The Council's approach to the application

In accordance with paragraph 38 of the National Planning Policy Framework (NPPF), July 2021 the Council takes a positive and proactive approach to development proposals focused on solutions. We work with applicants/agents in a positive and creative way by offering a pre-application advice service, where possible, suggesting solutions to secure a successful outcome and as appropriate, updating applicants / agents of any issues that may arise in the processing of their application.

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

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

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

The application site is located within 6km of The Swale Special Protection Area (SPA) which is a European designated sites afforded protection under the Conservation of Habitats and Species Regulations 2017 as amended (the Habitat Regulations).

SPAs are protected sites classified in accordance with Article 4 of the EC Birds Directive. They are classified for rare and vulnerable birds and for regularly occurring migratory species. Article 4(4) of the Birds Directive (2009/147/EC) requires Member States to take appropriate steps to avoid pollution or deterioration of habitats or any disturbances affecting the birds, in so far as these would be significant having regard to the objectives of this Article.

The proposal therefore has potential to affect said site's features of interest, and an Appropriate Assessment is required to establish the likely impacts of the development.

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

The recent (April 2018) judgement (People Over Wind v Coillte Teoranta, ref. C-323/17) handed down by the Court of Justice of the European Union ruled that, when determining the impacts of a development on protected area, "it is not appropriate, at the screening stage, to take account of the measures intended to avoid or reduce the harmful effects of the plan or project on that site." The development therefore cannot be screened out of the need to provide an Appropriate Assessment solely on the basis of the mitigation measures agreed between Natural England and the North Kent Environmental Planning Group.

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

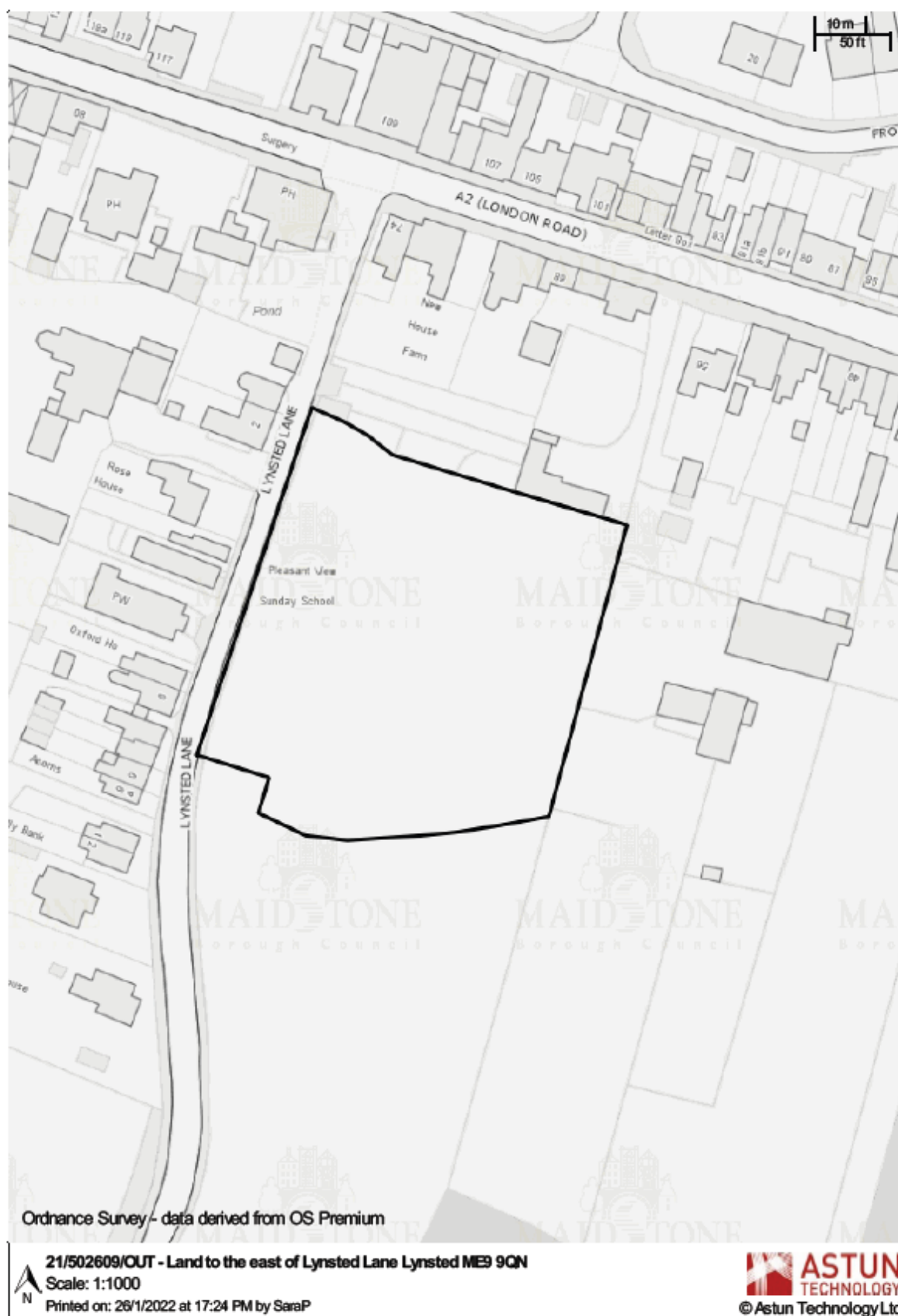
Due to the scale of development there is no scope to provide on site mitigation such as an on-site dog walking area or signage to prevent the primary causes of bird disturbance, which are recreational disturbance including walking, dog walking (particularly off the lead), and predation of birds by cats.

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

In this regard, whilst there are likely to be impacts upon the SPA arising from this development, the mitigation measures to be implemented within the SPA from collection of the

standard SAMMS tariff (to be secured prior to the determination of this application) will ensure that these impacts will not be significant or long-term. I therefore consider that, subject to mitigation, there will be no adverse effect on the integrity of the SPA.

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



PLANNING COMMITTEE – 10 FEBRUARY 2022

PART 5

Report of the Head of Planning

PART 5

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

- **Item 5.1 – 69 Borden Lane Sittingbourne**

APPEAL ALLOWED

DELEGATED REFUSAL

Observations

A disappointing decision which allowed the provision of a new access and parking area with no on-site turning onto a classified road. The Inspector gave weight to the small number of vehicle movements that would arise and the relatively low speed of traffic using the road.

- **Item 5.2 – 13 Hempstead Lane Tonge**

APPEAL ALLOWED

DELEGATED REFUSAL

Observations

A disappointing decision.

- **Item 5.3 – 22 Ospringe Street Faversham**

LISTED BUILDING ENFORCEMENT APPEAL DISMISSED

LISTED BUILDING CONSENT APPEAL PARTLY ALLOWED

DELEGATED DECISION

Observations

Full support for the Council's position which only opposed the insertion of a second rooflight.

- **Item 5.4 – Land at Pond Farm Pond Farm Road Borden**

APPEAL DISMISSED

DELEGATED REFUSAL

Observations

Full support for the Council's analysis of the issues involved here and the balanced decision taken.

- **Item 5.5 – Rear of 91 / 93 Chaffes Lane Upchurch**

APPEAL DISMISSED

DELEGATED REFUSAL

Observations

Full support for the Council's decision.

- **Item 5.6 – Jays Wood Canterbury Road Boughton Under Blean**

APPEAL DISMISSED

DELEGATED REFUSAL

The Inspector agreed with the Council, finding that “...*the adverse impacts of the proposal on the character and appearance of the area, access to services and facilities, highway safety, TPO trees and ecology would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework [NPPF] when taken as a whole.*”

Observations

- **Item 5.7 – Danedale Stables Chequers Road Minster**

APPEAL DISMISSED

COMMITTEE DECISION

Observations

This was a committee overturn. The decision is analysed in detail within the report under item 2.4

- **Item 5.8 – The Old Bindery, Throwley Forstal**

ENFORCEMENT NOTICE APPEAL DISMISSED

Observations

Full support for the Council's action.

- **Item 5.9 – Churchmans Farm Stalisfield Road Ospringe**

TWO APPEALS DISMISSED

DELEGATED DECISION

Observations

A highly technical decision based on now expired provisions of the General Permitted Development Order in which the Inspector did not rule on the lack of natural light to these proposed conversions that was the objection raised by the Council.



Appeal Decision

Site visit made on 27 November 2021

by **Cullum J A Parker BA(Hons) MA MRTPI MCMi IHBC**

an Inspector appointed by the Secretary of State

Decision date: 1st December 2021

Appeal Ref: APP/V2255/D/21/3280744

69 Borden Lane, Sittingbourne, ME10 1BU

- 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 Callum Elliot against the decision of Swale Borough Council.
 - The application Ref 21/501383/FULL, dated 1 March 2021, was refused by notice dated 20 May 2021.
 - The development proposed is described as 'dropped kerb'.
-

Decision

1. The appeal is allowed and planning permission is granted for dropped kerb at 69 Borden Lane, Sittingbourne, ME10 1BU in accordance with the terms of the application, Ref 21/501383/FULL, dated 1 March 2020, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 69 Borden Lane dropped kerb – Location Plan (Plan reference number TQRQM21071094127150); 69 Borden Lane dropped kerb; and, 69 Borden Lane dropped kerb (Plan reference number TQRQM21071093745635).

Main Issue

2. The main issue is the effect of the proposed development on highway safety.

Reasons

3. The appeal site comprises a two-storey end of terraced dwelling with a grassed frontage up to the rear of the pavement with a narrow footpath leading to the front door. It is located within the urban area of Sittingbourne, with the street scene characterised by a mixture of terraced, detached and semi-detached houses. Some of which have had provision made in front garden areas for off-street parking. Borden Lane is classified as a 'C' road, with no indication that the speed limit is anything above the maximum 30mph associated with most residential areas.
4. The local highways authority recommended refusal on the grounds that '*the proposals do not provide adequate facilities to enable vehicles to enter and exit the site in a forward gear, to the detriment of highway safety*'. The Local Planning Authority has echoed these concerns and refused permission as the

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Appeal Decision APP/V2255/D/21/3280744

proposal is considered contrary to Policies CP4 and DM14 of the *Swale Borough Local Plan Bearings Fruits 2031* (adopted 2017) (SBLP).

5. However, I have not been directed to any specific policy that sets out that a turning area has to be provided within a site to make a proposal for a dropped kerb acceptable. Indeed, I saw during my site inspection that there are other properties along Borden Lane which are not served by a turning area or obvious space for one. Furthermore, it is unclear as to how the provision of a turning area would contribute positively to highway safety. Even were such an area provided, it would continue to be up to the driver of vehicles to decide whether to use it or not.
6. This fact is further compounded when one considers that the area to the front of No 69 Borden Lane is unlikely to be suitable for more than one or two vehicles to park off the highway. As such the quantum of traffic reversing onto or off Borden Lane, which is a highway subject to relatively low speeds, is unlikely to be of any great significance.
7. As such, in light of the above considerations, I find that the proposal would not result in an adverse impact on highway safety in terms of its users. Accordingly, the proposal would accord with the Policies CP4 and DM14 of the SBLP, which, amongst other aims, seek to ensure that development proposals reflect the positive characteristics of features of the site and locality.

Conditions

8. I have considered the two suggested conditions in light of the national planning policy and practice guidance. Conditions requiring the development to commence within three years of permission and in accordance with the submitted drawings are necessary and reasonable to provide certainty.

Conclusion

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

Cullum Parker

INSPECTOR



Appeal Decision

Site visit made on 30 November 2021

by G Pannell BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21st December 2021

Appeal Ref: APP/V2255/W/21/3273734

13 Hempstead Lane, Tonge, ME9 9BH

- 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 James Mohammed against the decision of Swale Borough Council.
 - The application Ref 20/505692/FULL, dated 26 November 2020, was refused by notice dated 1 February 2021.
 - The development proposed is erection of car barn and store in front garden.
-

Decision

1. The appeal is allowed and planning permission is granted for erection of detached car barn with store and first floor at 13 Hempstead Lane, Tonge, ME9 9BH in accordance with the terms of the application, Ref 20/505692/FULL, dated 26 November 2020, and the plans submitted with it, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: P1002 Rev B Location Block Plan; P1003 Existing Block Plan; P1001 Rev B Proposed Garage Floor Plans and Elevations.

Preliminary Matters

2. Following the Council's decision, the National Planning Policy Framework (the Framework) was revised on 20 July 2021. The Council and appellant have had an opportunity to comment on the implications of these changes through their submissions.
3. As part of the appeal the appellant has submitted a revised plan which omits the rooflights within the roof of the garage. However, I have not considered this as part of this appeal as whilst I consider that this change would not materially alter the nature of the application, it would result in a discrepancy between the submitted block plan and elevations¹.

Main Issue

4. The main issue is the effect of the development on the character and appearance of the area.

¹ Annex M of the Procedural Guide Appeals – England advises that the appeal process should not be used to evolve a scheme and it is important that what is considered by the Inspector is essentially what was considered by the local planning authority, and on which interested people's views were sought.

Appeal Decision APP/V2255/W/21/3273734

Reasons

5. The appeal site comprises 13 Hempstead Lane, a two storey link-detached dwelling, which is part of a row of dwellings which front onto Hempstead Lane. The majority of the properties are set back from the road frontage to allow for parking and benefit from well proportioned plots. The linear form of development continues for the length of Hempstead Lane and contributes to its overall character.
6. No 13 is the last dwelling within the row and opposite the appeal site is a collection of large commercial/agricultural buildings with the countryside beyond. As a result the site has an established edge of settlement feel, contributing to a transition between a settlement with countryside beyond.
7. The development proposed would result in the introduction of a detached garage including a first floor and storage at the front of the site. Whilst there is a consistent pattern of dwellings set back, with open frontages devoid of structures along Hempstead Lane, the introduction of a building in the location proposed would act as a visual stop to the residential development within this part of Hempstead Lane.
8. The siting of the development, having regard to the overall size of the site and in particular its position at the end of the existing row of dwellings, would not reduce to a detrimental extent the openness experienced in the locality. Nor would the development have an adverse effect on the rural character of the wider area, taking into account its setting adjacent to existing commercial uses.
9. I have had regard to the Swale Borough Council Supplementary Planning Guide - Design and Extension Guide for Householders (SPG) which provides general advice for householders. It notes that the provision of car parking in the front garden is unlikely to be suitable as the position is likely to create a poor appearance in the street scene. However, for the reasons I have outlined above I have found that in this instance the proposal would not result in harm to the character and appearance of the area and therefore there is no conflict with the SPG.
10. I therefore conclude that the proposal would not have a harmful effect on the character and appearance of the area and would comply with policies CP4 and DM14 of the Bearing Fruits 2031: The Swale Borough Local Plan 2017 which together seek to achieve good design which is appropriate to its surroundings and well sited.

Conditions

11. As well as the standard implementation condition, I have imposed a condition to ensure that the proposal is built in accordance with the approved plans to provide certainty. I have not been provided with any suggested conditions from the Council and I am satisfied that there are sufficient details on the submitted plans that a materials condition is not necessary.

Conclusion

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

G Pannell INSPECTOR

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The Planning Inspectorate

Appeal Decision

Site visit made on 18 October 2021

by Thomas Shields DipURP MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31st December 2021

Appeal A: APP/V2255/F/21/3272985

22 Ospringe Street, Faversham, Kent, ME13 8TL

- The appeal is made under section 39 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr Kevin Granger against a listed building enforcement notice issued by the Swale Borough Council.
- The listed building enforcement notice was issued on 11 March 2021.
- The contravention of listed building control alleged in the notice is, without listed building consent, the insertion of two rooflights to the catslide roof of the property.
- The requirements of the notice are:
 - i) Remove the western-most of the two roof lights that have been inserted into the catslide roof of the property.
 - ii) Reinstate the roof tiles and associated under felting (or matching equivalents) which were in place prior to the insertion of the western-most roof light.
- The period for compliance with the requirements is 3 months.
- The appeal is made on ground (a) as set out in section 39(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended (PLBCAA).

Appeal B: APP/V2255/Y/21/3272666

22 Ospringe Street, Faversham, Kent, ME13 8TL

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent.
- The appeal is made by Kevin Granger against the decision of the Swale Borough Council.
- The application Ref 20/505409/LBC, dated 15 November 2020, was refused by notice dated 25 January 2021.
- The works proposed are insertion of replacement/new windows, move rear door, 2 no. rear roof lights to cat slide roof. Demolition and insertion of replacement staircases, demolition and erection of new internal walls, reinstate inglenook fireplace, remove rear cement render with replacement timber cladding (works completed).

Decisions

1. **Appeal A** is dismissed and the listed building enforcement notice is upheld.
2. **Appeal B** is allowed in part and listed building consent is granted for insertion of replacement/new windows, move rear door, 1 no. roof light to rear cat slide roof over first floor bathroom. Demolition and insertion of replacement staircases, demolition and erection of new internal walls, reinstate inglenook fireplace, remove rear cement render with replacement timber cladding, at 22 Ospringe Street, Faversham, Kent, ME13 8TL, in accordance with the terms of the application Ref 20/505409/LBC, dated 15 November 2020 and the plans submitted with it, but otherwise the appeal is dismissed and listed building consent is refused for retention of the western-most roof light to the rear cat slide roof over first floor bedroom as shown on the application plans.

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Appeal Decisions APP/V2255/F/21/3272985, APP/V2255/Y/21/3272666

Background and Preliminary Matters

3. Issues and considerations in the two appeals are interlinked and relate to the same property, and the main parties have submitted their evidence to jointly address both appeals. I have therefore dealt with both appeals together.
4. During my inspection I saw that a black circular vent pipe had been inserted adjacent the western-most rooflight window, projecting vertically through and above the slope of the rear catslide roof. This vent pipe is not shown on the refused application drawings. For clarity, my decision relates only to the works and drawings submitted as part of application Ref 20/505409/LBC. The vent pipe does not therefore form any part of my consideration of the appeals.

Appeal A, ground (a)

5. An appeal on ground (a) is that the building is not of special architectural or historic interest.
6. There is no dispute that the building is a Grade II listed building. Thus, for this ground of appeal to be successful, it must be shown that the building no longer merits its listed status. The relevant point in time for making such an assessment is immediately prior to when the works were carried out.
7. The appellant's supporting evidence is contained within his appeal statement, and I have also reviewed arguments and comments in his submitted copies of correspondence at various times between the Council and himself. No detailed historic building assessment has been submitted. Rather than relating to ground (a) his evidence mostly refers to matters relevant to an appeal on ground (e), that listed building consent ought to be granted for the works subject of the notice. However, the merits of the works carried out are dealt with in Appeal B.
8. The Grade II listed building dates from the C17th and comprises both 20 and 22 Ospringle Street. First listed in 1950, it is described in the listing as being constructed in 2 storeys with attics with 1 hipped dormer, tiled roof and painted brick with two string courses and with casement windows. The ground floor modern shopfront and fascia, described in the listing at No. 20, has since been removed and replaced with a more sympathetic elevation in painted brick with sash windows to match those at first floor. Along with the historic internal features and layout of the building, the tiled roofs across the whole of Nos. 20 and 22 are also substantial physical elements, intrinsically important to the overall character and value of the listed building as one of special architectural and historic interest.
9. The appellant states that the western-most roof light in the rear catslide roof, required to be removed by the notice (hereafter the "appeal window"), has been inserted into an infill constructed around the middle of the C20th. However, it is not clear to me whether that was before or after listing in 1950. Nevertheless, as is often the case with listed buildings, they can evolve over time resulting from alterations made by successive generations of owners. Such changes and alterations can also be capable of contributing to the value of a listed building by providing the evidence of its evolution. As such, in terms of the overall value of the listed building, the portion of the rear catslide roof referred to needs to be regarded in the context of the whole roofscape, and moreover to the whole of the listed building, rather than considered in isolation.

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10. Having regard to all of the evidence before me, and from my own observations, I am satisfied that the internal and external historic and architectural features of No. 22 (particularly its external domain) remains an integral part of the value of the listed building as a whole (Nos. 20 and 22) and thus it remains a building of special architectural and historic interest. As such, I do not consider that it ought to be removed from the statutory list.

11. The appeal on ground (a) therefore fails.

Appeal B

Main Issue

12. The main issue is the effect of the works on the special architectural and historic interest of the listed building 20 and 22 Ospringe Street.

Reasons

13. Section 16(2) PLBCAA requires me to have special regard to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest it possesses. Section 72(1) requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of a conservation area. Additionally, I have taken into account Policies CP8, DM14, DM32 and DM33 of the Swale Borough Local Plan (2017) insofar as they require development to sustain the historic environment and preserve the special architectural or historic interest of listed buildings. I have also taken into account the provisions of the Framework¹ which is also a material consideration.

14. The works carried out subject of this appeal are described as: *insertion of replacement/new windows, move rear door, 2 no. rear roof lights to cat slide roof. Demolition and insertion of replacement staircases, demolition and erection of new internal walls, reinstate inglenook fireplace, remove rear cement render with replacement timber cladding.* They are also shown in more detail in the drawings submitted with the application.

15. Other than the appeal window the Council do not object to the remainder of the works and, having regard to all the evidence before me and from my own observations, I have no reason to disagree. The only contentious issue therefore between the parties is the appeal window.

16. I have already described and set out the value of the listed building in Appeal A, and in particular that the tiled roofs across the whole of Nos. 20 and 22, which includes the catslide roof to the rear, are substantial physical elements of the listed building, intrinsically important to its overall significance as one of special architectural and historic interest. As such, the listed building including its catslide roof also contributes greatly to the character and appearance of the Ospringe Conservation Area (OCA).

17. Given the positive contribution of the rear catslide roof to the heritage assets I have described, I consider that any changes to the previously uninterrupted roof slope should be kept to a minimum in order that the significance of the heritage assets are preserved as far as possible.

18. In this regard I find the overtly modern form and appearance of the appeal window diminishes the aesthetic value of the vernacular design and materials of

¹ National Planning Policy Framework (2021)

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the traditional roofscape. While the matching adjacent bathroom rooflight is by itself similarly harmful, I accept that as part of the wider scheme of works the harm is outweighed by public benefits in the form of achieving a viable habitable dwellinghouse suitable for modern living standards, thereby securing the viability and longevity of the listed building. However, the appeal window in conjunction with the bathroom rooflight results in a prominent and noticeable harmful cluttering of modernising interventions into this part of the roof. This overall harm to the significance of the listed building, highly visible from Grove Place, also fails to preserve or enhance the character or appearance of the OCA.

19. The appellant refers to other rooflights in nearby buildings. However, some of those are not so sensitive to alterations as is this particular listed building. Moreover, the existence of those does make acceptable or mitigate the harm I have previously described to this listed building.
20. I also note that the parties have differing recollections and understandings of what was said about the appeal window during meetings and in correspondence. However, such misunderstanding could have been avoided if the necessary listed building consent had first been sought and granted before installing the appeal window. The appellant also argues that there are no realistic alternatives for lighting the room. However, there is no detailed evidence before me of potential alternatives/structural surveys to demonstrate that such alternatives were thoroughly assessed as being unviable or not exempt from Building Regulations requirements. Even without an alternative there is no convincing evidence before me to demonstrate that the residential use of the building would not be viable.

Conclusion

21. Overall, I find that the scheme of works as a whole (not including the appeal window) are acceptable resulting in a viable habitable dwellinghouse suitable for modern living standards, and thereby securing the viability and longevity of the listed building, that also being a substantial public benefit. I will therefore grant consent for those works.
22. However, for reasons set out previously, the appeal window results in harm to the significance of the listed building and to the character and appearance of the Ospringe Conservation Area. Although serious, in this case the harm to the heritage assets would be *less than substantial* within the meaning of the Framework. Paragraph 202 of the Framework requires the harm to be weighed against any public benefits. In this regard there is no convincing evidence before me to demonstrate the appeal window brings about any further public benefits than would already be the case from the remainder of the scheme of works. Thus the harm is not outweighed by public benefits. I accept that its retention would be more desirable and convenient to occupiers, however that would be a private benefit rather than a public one. I will therefore refuse consent for the retention of the appeal window.
23. For all these reasons the appeal succeeds, limited to the extent set out above.

Thomas Shields

INSPECTOR

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Appeal Decision

Site visit made on 20 December 2021

by Nicola Davies BA DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7 January 2022

Appeal Ref: APP/V2255/W/21/3271838

Land at Pond Farm, Pond Farm Road, Borden, Kent ME9 8LL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr S Naish of Provectus Developments Limited against the decision of Swale Borough Council.
 - The application Ref 20/505427/OUT, dated 6 November 2020, was refused by notice dated 8 February 2021.
 - The development proposed is the erection of 6no. dwellings with associated parking provision, utilising existing highway access with pedestrian access, landscaping and other ancillary works.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. A revised version of the National Planning Policy Framework ('the Framework') has been published since the planning application was determined by the Council. Both main parties have had the opportunity to comment on any relevant implications for the appeal. I have had regard to the Framework in reaching my decision.
3. The application was made in outline with approval being sought for access only. Matters relating to layout, appearance, scale and landscaping have been reserved. I have dealt with the appeal on this basis, treating the site layout and street elevations plans that have been provided as illustrative only.

Main Issues

4. The main issues in this case are: -
 - a. Whether the site is suitable for the proposed development, having regard to the spatial strategy of the development plan, the effect of the proposed development on the character and appearance of the area and access to services and facilities; and
 - b. The effect of the proposed development on the character or appearance of Borden (The Street) Conservation Area (the CA) and the setting of the nearby Listed Building, Yew Tree Cottage.

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Reasons

Location, character and appearance, and travel

5. Bearing Fruits 2031: The Swale Borough Local Plan 2017 (the Local Plan) has defined its built-up area boundary and Policy ST3 of the Local Plan seeks to provide new homes in accordance with the settlement hierarchy for the Borough. Part 5 of Policy ST3 states *"At locations in the countryside, outside the built-up area boundaries as 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 the vitality of rural communities"*.
6. Given that the site's location would be outside any established built-up area boundary the appeal site would not be an appropriate location for residential development. However, the Council cannot demonstrate a five-year supply of housing sites, and this reduces the weight that can be attributed to settlement boundaries. Nonetheless, Policy ST3 seeks to protect landscape setting, tranquillity and beauty of the countryside. This aim is consistent with the environmental objectives of the Framework to conserve and enhance the natural environment recognising the intrinsic character and beauty of the countryside.
7. Dwellings with domestic curtilages, landscaping, roadways and vehicle parking would create a development of urbanised appearance and this would substantially alter the character and appearance of this countryside location. This would harmfully diminish the landscape setting, tranquillity and beauty of the countryside.
8. The services and facilities within Borden village are limited to a public house, village hall, pre and primary schools. There is a bus stop near the church where a bus service between Borden and Sittingbourne can be accessed. The Transport Statement that supported the planning application maps the route between Borden and Sittingbourne. However, I saw from the timetable at the bus stop that the service is relatively infrequent. The train station at Sittingbourne is approximately 2.5km away. Whilst some facilities within the village would be within walking and cycling distance, the service offer is extremely limited and future occupiers would need to travel to Sittingbourne or beyond to access services, facilities, education and employment. Cycling to the train station or using the bus service would provide access to facilities further away. Nonetheless, carrying shopping or inclement weather would likely deter occupiers from using these modes of transport.
9. Consequently, given the distance to services and facilities I find that future occupiers would be highly reliant on private vehicle, the least sustainable mode of transport, to access services and facilities to cater for their day-to-day lives.
10. It is advised that other dwellings have been granted planning permission by the Council within Borden. However, I have not been provided the full details of those cases to determine what similarity, if any, those permissions would have to that of the case that is before me.

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11. For these reasons, I conclude that the site would not be suitable for the proposed development and the proposal would have a harmful effect on the character and appearance of the area and would not provide reasonable access to services and facilities for future occupiers of the development. The proposal would, therefore, conflict with Policies ST1, ST3, CP3 and DM14 of the Local Plan. These policies seek, amongst other matters, development to provide new homes in accordance with the settlement hierarchy for the Borough to protect the tranquillity and beauty of the countryside and to achieve convenient routes for pedestrians and cyclists.

CA and Listed Buildings

12. I acknowledge that the dwellings would not be situated within the CA and that there are no listed buildings within the site. However, the Framework makes it clear that setting is part of the significance of a heritage asset.
13. The designated CA comprises that part of the village that encompasses older development that includes a number of listed buildings. The access to the site would fall within the CA, however, the proposed houses would be outside of the CA. Existing properties within the CA front onto the highways and are close knit in character and appearance, with the exception of the Grade I listed church and its spacious grounds. These are distinctive characteristics of the CA. The largely undeveloped nature of the site adjacent to the CA makes a contribution as to how the CA is experienced as a rural village. Taken collectively, the area is of heritage and architectural interest, and this gives the CA its significance.
14. Modern urbanising development would be seen in the foreground of the CA on the approach to the village along Pond Lane Road. This would affect views into the CA. A modern housing estate would contrast with the historic village character and residential expansion development at the western edge would diminish the rural and village character and appearance of the settlement. Furthermore, the development would affect views from the CA, notably the view from School Lane junction looking south. The proposal would interrupt views of the adjoining countryside and diminish the sense of the settlement's location within the rural landscape. The proposed development would have a harmful urbanising effect at this sensitive edge of settlement location and would be harmful in views both to and from the CA.
15. Yew Tree Cottage is Grade II listed. The listing description indicates that it was an early 18th century farmhouse. It is set away from the village and is surrounded by predominantly open land. The surrounding rural landscape forms a significant part of how this listed property is seen and experienced as a rural dwelling. I saw that this heritage asset nestles into the higher land relating to the appeal site. The historic context of Yew Tree Cottage is one of a former farmhouse set within a rural landscape and this gives this listed property its significance. The rural setting of this heritage property is still clearly discernible, and corresponding to this, its setting is of historic significance.
16. The creation of built development on the land between Yew Tree Cottage and Borden village would be detrimental to both the character and appearance of the setting of this listed building, as well as its special heritage interest as a former rural farmhouse. Therefore, the proposed development would be harmful to its significance. Yew Tree Cottage is clearly visible in views from the

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- wider landscape and both from the public highway (Pond Lane Road) and public footpaths that traverse the wider rural landscape. The harm arising to this designated heritage asset would be evident in public views.
17. The Heritage Statement that supported the planning application highlights that along the site frontage would be an area of open space and landscaping and that the proposal can reintroduce a hedgerow along Pond Farm Lane. The Statement comments that the area of landscaped open space along Pond Farm Lane would maintain the intervisibility between the Cottage and the CA, but I find this would only be in some views. However, I do not consider areas of open space and a hedge would mitigate the harm arising from six dwellings and the urbanising impact that this would have. Furthermore, I do not agree with the appellant's Heritage Statement that the proposed development would assimilate into its context.
18. The Framework indicates that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. Any harm to the significance of a designated heritage asset from development within its setting will require clear and convincing justification. The Framework is clear that where a proposed development will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimal viable use.
19. Given the size and scale of the proposal effecting the CA as a whole, I consider there would be less than substantial harm to the character or appearance of the CA and the proposal would neither preserve or enhance it. In addition, the proposed development would be harmful to the designated asset of the listed Yew Tree Cottage close by. I consider there would be less than substantial harm to this designated heritage asset, and I give this considerable importance and weight. For those reasons set out above, I do not agree with the opinion reached within the appellant's Heritage Statement that the development would represent a very low level of less than substantial harm.
20. In accordance with paragraph 202 of the Framework I must weigh the harm against the public benefit of the proposal. The development would contribute to the borough's housing supply by creating six dwellings at the site that could potentially be built out quickly. There would be some modest employment benefit during the construction phase of the development. The proposal could support the rural economy, although it is not clear what rural enterprises the development would support. A gain in biodiversity at the site would represent an ecological benefit. The proposal would contribute toward Council tax revenue and the new homes bonus. Whilst these are attributes of the scheme, the contribution and benefit to the public, in my view, would be extremely modest, and insufficient to outweigh the harm identified.
21. For these reasons, I conclude that the proposed development would be harmful to the character or appearance of the CA and the setting of the nearby Listed building, Yew Tree Cottage. The proposal would, therefore, conflict with Policies CP8, DM32 and DM33 of the Local Plan. These policies seek, amongst other matters, development to preserve or enhance all features that contribute positively to a CA's special character or appearance and to preserve the setting

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of listed buildings and any features of special architectural or historic interest. The proposed development would also fail to accord with national policy.

Other Matters

22. The appellant contends that the extent of the Council's shortfall in housing land supply is much greater than the Council's identified 4.6 years and has provided various information to support this assertion. The Government's aim is to boost the supply of housing. Given there is not a five-year supply of deliverable sites in place, the provisions of paragraph 11d) of the Framework should be applied. Paragraph 11d)i indicates that the application of policies in the Framework that protect areas or assets of particular importance provide a clear reason for refusing the development proposed. Footnote 7 that corresponds to paragraph 11d)i lists designated heritage assets amongst those that are of particular importance. Even if the Council's housing land supply position is acute, the harm to designated heritage assets is of particular importance in this case and provides a clear reason for refusing the development proposed. As a result, the presumption in favour of sustainable development does not apply.
23. I have been referred to a recent recovered appeal decision at land southwest of Sittingbourne, said to be approximately 1km from Borden, in which a large residential development has been granted. A large development relatively close by would not overcome my above concerns in respect of this site or justify the proposed development.
24. The appellant has provided a copy of an appeal decision at Hatton Lane, Warrington but does not provide any substantive explanation as to why this appeal has been provided. In any event, that appeal relates to a development in a different part of the country where different development plan policies and considerations will apply.

Conclusion

25. The proposal would conflict with the development plan as a whole and there are no other considerations which outweigh this finding. Therefore, for the reasons given above I conclude that the appeal should be dismissed.

Nicola Davies

INSPECTOR

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Appeal Decision

Site visit made on 20 December 2021

by Nicola Davies BA DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7 January 2022

Appeal Ref: APP/V2255/W/21/3279546

Land rear of Nos 91 and 93 Chaffes Lane, Upchurch, Sittingbourne, Kent, ME9 7BQ

- 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 and Mrs David and Andrea Seal against the decision of Swale Borough Council.
 - The application Ref 20/505298/FULL, dated 9 November 2020, was refused by notice dated 6 January 2021.
 - The development proposed is demolition of existing garage and erection of a three/four-bedroom dwelling with associated access, parking and landscaping.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. A revised version of the National Planning Policy Framework ('the Framework') has been published since the planning application was determined by the Council. Both main parties have had the opportunity to comment on any relevant implications for the appeal. I have had regard to the Framework in reaching my decision.

Main Issues

3. The main issues in this case are: -
 - a. Whether the site is suitable for the proposed development, having regard to the spatial strategy of the development plan, the effect of the proposed development on the character and appearance of the countryside and access to services and facilities; and
 - b. The effect of the proposed development upon the character and appearance of Upchurch.

Reasons

Location

4. Bearing Fruits 2031: The Swale Borough Local Plan 2017 (the Local Plan) has defined its built-up area boundary and Policy ST3 of the Local Plan seeks to provide new homes in accordance with the settlement hierarchy for the Borough. Part 5 of Policy ST3 states "*At locations in the countryside, outside the built-up area boundaries as shown on the Proposals Map, development will not be permitted, unless supported by national planning policy and able to*

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demonstrate that it would contribute to protecting and, where appropriate, enhancing the intrinsic value, landscape setting, tranquillity and beauty of the countryside, its buildings and the vitality of rural communities”.

5. The site would utilise part of the rear garden of No 91 Chaffes Lane and extend beyond into open countryside land that I saw was used as a horse paddock. Despite involving part of an existing developed rear garden that is domestic in character, its location would be outside any established built-up area boundary. Therefore, the appeal site would not be an appropriate location for residential development.
6. Developing the site with a two-storey dwelling with its domestic curtilage and landscaping, including a landscape buffer, would create a development of urbanised appearance and this would substantially alter the character and appearance of this location. This would harmfully diminish the intrinsic value, landscape setting, tranquillity and beauty of the countryside. Whilst this would represent only a small incursion into the countryside, this does not justify the harm arising from the proposed development.
7. The appellant has referred me to Policy DM13 of the Local Plan that relates to extending the garden of a dwelling in the rural area. This proposal relates to an extension of built development and associated garden into the rural area and, therefore, Policy DM13 is not applicable to this proposal.
8. The appeal site is located at the edge of Upchurch. Upchurch is a Tier 5 village given it has limited services. The appellant has provided a list of local services and facilities and a map illustrating their locations. Within a range of 770m and 980m from the site there are two convenience stores (one with post office), a primary school, public house, day nursery, fish bar, church and village hall. There is a doctor's surgery, pharmacy, and children's play area/sports pitch in closer proximity to the site.
9. Manual for Streets indicates that walkable neighbourhoods are typically characterised by a range of facilities within 800m walking distance, which can be comfortably accessed on foot. Many of the facilities in the village would be within a walkable distance. It would also be possible to cycle to the village centre and to Lower Halstow approximately 1.2km and Rainham around 1.1km from the site. The nearest bus stop is located at the junction of Oak Lane and Bishops Lane, around 450m from the appeal site, with other bus stops within the village centre that would provide access to Chatham, Gillingham, Rainham and Sittingbourne. The train station at Rainham is around 2.2km away that provides services to London. It is advised that a new secondary school is being constructed around 1.7km away.
10. I acknowledge that transport solutions will vary between urban and rural areas. The future occupiers would have some travel choice that would not lead to complete dependency on private transport. Whilst some day-to-day facilities would be within walking distance, to reach a range of shopping facilities, education and employment would require travel further afield. Cycling or using buses would allow travel further away but carrying shopping or inclement weather would likely discourage the uptake of these modes of transport. Consequently, given the distance to services and facilities I find that future occupiers would be highly reliant upon private vehicle travel, the least sustainable mode of transport, to access services and facilities to cater for their day-to-day lives.

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11. For these reasons, the site's location is unsuitable for the proposed development, having regard to the spatial strategy of the development plan, and would have a harmful effect on the character and appearance of the countryside. Furthermore, future occupants would not have reasonable access to services and facilities. The proposal would, therefore, conflict with Policies ST1, ST3 and CP2 of the Local Plan that seek, amongst other matters, development to provide new homes in accordance with the settlement hierarchy for the Borough to protect the tranquillity and the beauty of the countryside and to minimise the need to travel and promote use of sustainable transport.

Character and appearance

12. The properties in the area are characterised by road frontage development. The proposal to erect a dwelling to the rear of 91 and 93 Chaffes Lane behind existing road frontage dwellings would not be in keeping with the prevailing pattern of residential development in the area. Therefore, the proposal would be visually out of keeping. This would be so despite the dwelling being designed to reflect the appearance of existing development in the area.
13. Being two-storey the dwelling would be visible in views from Chaffes Lane and the public footpath south of the appeal site, although I accept that in some wider views the dwelling would be seen against the backdrop of existing dwellings within the village. The harm arising from the development would be visible from the public highway and footpath, as well as to neighbouring occupiers close by in their outlook. Existing vegetation in the area and setting the dwelling in from the track would not sufficiently mitigate public views of the development. A landscape buffer and new planting within the site would not obviate the visual harm arising from a two-storey development.
14. I have been directed to a property at the rear of No 97 Chaffes Lane that fronts Oast Lane said to be similar to that of the proposal. However, there appear to be a complex of buildings in that locality, which is a different situation to that of the appeal site that is before me. I, therefore, do not consider the circumstances relating to that dwelling are comparable to this case.
15. For these reasons, I conclude that the proposed development would be harmful to the character and appearance of Upchurch. The proposal would, therefore, conflict with Policy DM14 of the Local Plan, which seeks, amongst other matters development to be both well sited and of a scale, design, appearance, and detail that is sympathetic and appropriate to the location.

Other Matters

16. The Council has identified that the development would result in a net increase in residential accommodation at the site that may result in increased recreational disturbance to the Swale Special Protection Area. Given that I am dismissing this appeal for other reasons it has not been necessary for me to consider this matter in any further detail.
17. I note that Mr Seal's mother suffers from several health conditions and the new dwelling would offer suitable ground floor en-suite accommodation for her. This would be a benefit of the development and would enable Mr Seal and his wife to care for her on a day-to-day basis. However, the harm that I have

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identified would be permanent and is not outweighed by the appellant's particular circumstances.

18. The parties have made reference to an appealed development at Jubilee Fields, Upchurch. In relation to that appealed decision the appellant has made reference to a 2017 planning permission granted (16/506986) for demolition of existing dwelling and construction of two dwellings at the junction of Oak Lane and Wallbridge Lane. I have not been provided with the details of either of those cases that might enable me to determine any similarity, if any, of those developments to the proposal that is before me.

Planning balance

19. The Council advises that recent monitoring figures indicate that the Council can demonstrate a five-year supply of housing sites. That said, I have been referred to a proposal for the erection of a dwelling at Bredgar that the appellant advises to have been considered by the Council at around the same time as this case. In that case the Council identified a shortfall of 4.6 years.
20. Having regard to the Council's Statement of Housing Land Supply (February 2019) the appellant contends that the Council has a supply of 4.6 years of deliverable housing sites and the shortfall could potentially be greater than this. If there is not a five-year supply of deliverable sites in place, the provisions of paragraph 11d)ii of the Framework should be applied.
21. The adverse impacts arising from the proposal relate to the unsatisfactory location of the development, that includes the need for private travel, and its harmful effect on character and appearance of the countryside and Upchurch. It would also conflict with relevant development plan policies. The proposal would dilute the overall strategy for the pattern of development which is also contrary to the expectations of the Framework.
22. On the other hand, the Government's objective is to significantly boost the supply of homes and recognises that windfall and cumulative impact of developing small sites can help meet supply. However, one dwelling would make little difference to the overall supply of housing and the support one extra household would provide to the social and local economy would also be minimal. The harm that I have identified relating to the unsatisfactory location of the development and its harmful effect on character and appearance of the area is not outweighed by the contribution to housing land supply or those limited social and economic benefits associated with the proposal.
23. Consequently, the adverse impacts of the site's location and on character and appearance would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework when taken as a whole. As a result, the presumption in favour of sustainable development does not apply.

Conclusion

24. The proposal would conflict with the development plan as a whole and there are no other considerations, including the provision of the Framework, which outweigh this finding. Therefore, for the reasons given, the appeal should be dismissed.

Nicola Davies INSPECTOR

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Appeal Decision

Site visit made on 20 December 2021

by Nicola Davies BA DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7 January 2022

Appeal Ref: APP/V2255/W/21/3270807

Jays Wood, Canterbury Road, Boughton Under Blean, Kent, ME13 9NY

- 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 Ms Karen Bridgen of Roseina Animal Centre against the decision of Swale Borough Council.
 - The application Ref 20/503031/FULL, dated 7 July 2020, was refused by notice dated 26 October 2020.
 - The development proposed is combined development comprising a single storey dwelling house with animal rescue sanctuary and associated maintenance building and teaching facility.
-

Decision

1. The appeal is dismissed.

Preliminary Matter

2. A revised version of the National Planning Policy Framework ('the Framework') has been published since the planning application was determined by the Council. Both main parties have had the opportunity to comment on any relevant implications for the appeal. Given the revised Framework represents the most relevant and up-to-date national planning policy it holds great weight. The courts have confirmed that Inspectors need to make their decisions on the basis of the development plan and national policy that is in place at the time of making their decision. I have, therefore, had regard to the updated Framework in reaching my decision.

Main Issues

3. The main issues in the case are: -
 - a. Whether the site is suitable for the proposed development, having regard to the spatial strategy of the development plan, the effect of the proposed development on the character and appearance of the area and access to services and facilities;
 - b. The effect of the proposed development on highway safety;
 - c. The effect of the proposed development on existing trees protected by a Tree Preservation Order (TPO); and
 - d. The effect of the proposed development on ecology.

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Reasons

Location, character and appearance, and travel

4. Bearing Fruits 2031: The Swale Borough Local Plan 2017 (the Local Plan) has defined its built-up area boundary and Policy ST3 of the Local Plan seeks to provide new homes in accordance with the settlement hierarchy for the Borough. Part 5 of Policy ST3 states *"At locations in the countryside, outside the built-up area boundaries as 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 the vitality of rural communities"*.
5. Given that the site's location would be outside any established built-up area boundary the appeal site would not be an appropriate location for residential development. However, the Council indicates that it cannot demonstrate a five-year supply of housing sites, and this reduces the weight that can be attributed to settlement boundaries. Nonetheless, Policy ST3 seeks to protect landscape setting, tranquillity and beauty of the countryside. This aim is consistent with the environmental objectives of the Framework to conserve and enhance the natural environment recognising the intrinsic character and beauty of the countryside. I, therefore, attribute significant weight to that part of Policy ST3 that seeks to protect the countryside.
6. A dwelling with associated animal welfare facilities, associated buildings and vehicle parking would create a development of both domestic and urbanised appearance, and this would substantially alter the character and appearance of this countryside location. This would harmfully diminish the landscape setting, tranquillity and beauty of the countryside.
7. Services and facilities, such as secondary schools and larger shops are located in Faversham or Canterbury. There are bus stops located on Canterbury Road providing routes to Canterbury and Faversham where there are railway stations. Buses run hourly during weekdays with a reduced service at weekends and bank holiday. However, I saw that walking to the bus stops would involve traversing an uneven footpath of steep gradient that runs alongside a very busy highway.
8. Whilst some facilities would be within walking and cycling distance, the facilities and services offered at Boughton and Dunkirk are limited to a village shop, post office, medical centre, farm shop, a plant nursery, veterinary services, a small range of restaurants and public houses, a primary school, village hall, amongst some others. However, these would not cater for full day-to-day requirements. Future occupiers of the multi-occupancy family accommodation would need to travel to Faversham, Canterbury or beyond to access services, facilities, education and employment. Cycling or using the bus service would provide access to facilities further away. Nonetheless, carrying shopping, the steep nature of the footpath and/or inclement weather would not be an attractive option and would likely deter occupiers from using these modes of transport.

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9. Consequently, given the distance to services and facilities I find the future occupiers would be highly reliant on private vehicle, the least sustainable mode of transport, to access services and facilities to cater for their day-to-day lives.
10. Further to the above, the animal sanctuary's aim is for visitors to travel to the site by predominately public transport or by minibuses. However, given my above findings in respect of public transport, I do not consider this would be a realistic travel option for many visitors.
11. The proposal is presented as a design of exceptional quality under paragraph 80(e) (formerly paragraph 79 (e)) of the Framework relating to the provision of isolated homes in the countryside. Paragraph 80 indicates that planning policies and decisions should avoid the development of isolated homes in the countryside unless one or more of its criteria would apply. Criterion (e) states *"The design is of exceptional quality in that it: Is truly outstanding, reflecting the highest standards in architecture, and would help to raise standards of design more generally in rural areas; and, would significantly enhance its immediate setting, and be sensitive to the defining characteristic of the local area."*
12. The site is not far from the built-up boundary of Boughton or Dunkirk. I do not consider the location of the proposed dwelling to be isolated and as such, it does not meet the objective of paragraph 80 of the Framework. I have had regard to the court judgements referred to me in coming to this view.
13. I have been referred to Policy CP4 of the Local Plan by the appellant that requires good design and the Kent Design Guide adopted as a Supplementary Planning Document by the Council, as well as the Framework. It is pointed out that none of these set out what would constitute exceptional design. It is also contended that the Council has not addressed the question as to what might constitute exceptional design.
14. Notwithstanding the development's location, the building has been designed to meet 'Passive House' standards and local resources, sustainable material and construction techniques would be utilised. Whilst this is a benefit it does not in itself make the building one of exceptional quality design, as sought by paragraph 80(e) of the Framework.
15. The development would be set into the contours of the land to reduce its visual impact. Incorporated into the design are Gabion Basket Blocks foundation, walls constructed of a combination of straw bales and cedar board cladding or glass panels, and the development would host sedum planted roofs. It would also face south to take advantage of light and incorporate roof mounted solar panels.
16. The proposal is different in terms of its design, materials and construction with planted roof, but I do not consider that it passes the high design bar test of paragraph 80(e) to be truly outstanding. I do not consider that the proposal would raise standards of design more generally in this rural area because of its unusual design. Furthermore, I do not consider the development would blend sufficiently to visually become part of the environment and its flora and fauna. Despite incorporating natural materials into the design, the proposal, being of domestic and urban appearance, would not significantly enhance the immediate

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rural setting. It would not be sensitive to the defining rural characteristics of the area which are that of a treed woodland.

17. Even if being separate or remote from services and facilities would represent an isolated location that might bring with paragraph 80 of the Framework into consideration, taking all these matters collectively, the proposed development would not pass the high design bar test of paragraph 80(e) to be truly outstanding.
18. For the above reasons, I conclude that the site would not be suitable for the proposed development as it would have a harmful effect on the character and appearance of the area and would not provide reasonable access to services and facilities for future occupiers of the development. The proposal would, therefore, conflict with Policies ST1, ST3 and DM14 of the Local Plan. These policies seek, amongst other matters, development to protect the tranquillity and beauty of the countryside and to achieve convenient routes for pedestrians and cyclists.
19. My attention has been drawn to paragraph 85 of the Framework (formerly paragraph 84) which states that "*planning policies and decisions should recognise that sites to meet local business and community needs in rural area may have to be found adjacent to or beyond existing settlements, and in locations that are not well served by public transport. In such circumstances it will be important to ensure that development is sensitive to its surroundings and does not have an unacceptable impact on local roads and exploits any opportunities to make a location more sustainable (for example by improving the scope for access on foot, by cycling or by public transport).*" For the previously stated reasons the proposed development would not meet the objectives of paragraph 85 and I do not consider that the development would significantly enhance or maintain the vitality of rural or village communities or the local economy.
20. I have been referred to a development at Flimwell Park in East Sussex relating to a community woodland visitor centre with dwellings, tourist accommodation, amongst other developments. That is a much larger development that involved land subject to a blanket TPO. Although consideration may have been given to paragraph 79 of the Framework (now paragraph 80) that proposal related to a different administrative area where different development plan policies and considerations will have applied.

Highway safety

21. Kent County Council Highways highlight that the access would be required to be widened to allow vehicles to pass each other. Dimensions of the access are sought, and it is commented that the gate would be required to be repositioned 10m from the highway. Also, given the use proposed, details of numbers of vehicle movements relating to residents, staff, visitors and number of animals are required to determine the necessary parking provision, delivery and refuse requirements of vehicles and turning space within the site.
22. The appellant's intention is to strictly control vehicle movements to and from the site to achieve a minimal carbon footprint. The site would only be open to

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the public by invitation only and this would limit numbers of vehicles. Feed and supplies would be provided by either the appellant or staff. This could control traffic movement to and from the site.

23. Nonetheless, the access would be onto a classified road at a point in the highway where the national speed limit applies and where I saw traffic travels at speed. Without the above information it is difficult to fully understand the impact of the proposed development upon highway safety. The proposal would be extremely likely to intensify the use of the access. Without knowing whether safe access and egress at the access can be achieved the proposal could significantly increase the potential for conflict between road users that could result in crashes and injuries. This would not be acceptable.
24. For these reasons, I conclude that the proposed development has not demonstrated that safe access would be achieved. As such, this brings the proposal into conflict with Policy DM14 of the Local Plan. This policy seeks, amongst other matters, development to achieve safe vehicular access together with appropriate parking and servicing. It also conflicts with the Framework that requires development to provide safe and suitable access to the site for all users. Given the above uncertainties I do not consider that it would be appropriate to rely on the imposition of planning conditions as there is no substantive clear indication that conditions could ameliorate the objections sufficiently to allow permission to be granted.

Trees

25. The proposed development would remove a number of trees that are protected by a blanket TPO that covers the woodland. Whilst this may be a relatively new woodland, the trees contribute to the sylvan character of the woodland and make a significant contribution to the verdant character and appearance of the area. A woodland management plan has recently been approved by the Forestry Commission which aims to manage the wood for its wildlife and nature conservation values.
26. The Miller Land Management tree report that supports the application is rather generic in content. Although it takes into account the trees in the location of the proposed development, it does not discuss trees that might be impacted by service routes or any upgrades required to the access, noting that Kent Highways seeks the access to be widened. Service runs could follow established pathways. However, on the available evidence I cannot be certain that this would avoid tree roots.
27. Removing even a small part of the TPO trees within the woodland would erode the woodland's sylvan character. The TPO that is in place affords the trees protection, no doubt in recognition of their amenity value collectively as a woodland. This makes it all the more important that the trees are protected from harm to ensure the trees and their longevity as a comprehensive woodland is not undermined. The loss of trees would have a negative and significant visual effect upon the woodland, even if the trees are not part of the identified area of ancient woodland. This would be an erosion of the statutory protection placed by serving the TPO on these trees. As a consequence, the proposed development should be resisted.
28. It has been suggested that some of the healthy trees to be removed could be relocated within the woodland. However, it is also commented that there can

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be no guarantee that the transplantation of the trees will be successful in all cases. This, therefore, does not overcome my concerns.

29. For these reasons, I conclude that the proposed development would have a harmful effect upon the existing trees protected by TPO. The proposal would, therefore, conflict with Policies DM14 and DM29 of the Local Plan. These policies seek, amongst other matters, development to conserve and enhance the natural environment and ensure the protection, enhancement and sustainable management of woodlands. Although it is suggested that an appropriately worded condition could secure woodland management, such a condition would not prevent the loss of TPO trees at the site. Therefore, such a condition would not ameliorate the objections sufficiently to allow permission to be granted.

Ecology

30. A number of ecological reports and surveys supported the planning application. The Council is concerned that no clear evidence has been provided that would indicate that sufficient measures would be put in place that would offset the permanent loss of priority habitat if the development were to take place. The Council highlights that the site is a suitable habitat for reptiles, invertebrates, and botany. The Council's Ecologist advises that further survey work and mitigation measures are required in order to assess the extent to which the development may affect protected species. Indeed, the appellant's report by Ambiental June 2018 advises that a reptile survey will be required.
31. The Council's Tree adviser also highlights that the development would create noise and light pollution within the woodland that could give rise to disturbance of wildlife. The appellant's Environmental Assessment by Ambiental recorded a moderate level of bat activity and comments that all species of bats are sensitive to artificial lighting, however no lighting plan is provided that might indicate the extent and impact of any new lights relating to the development on bats.
32. Given the above, a precautionary approach must be taken given the sensitivity of the site to host protected species. The extent that ecology that may be present at the site and potentially impacted by the proposal development needs to be established prior to any permission being forthcoming. Without this in place, this brings the proposal in to conflict with Policies DM14, DM29 and DM30 of the Local Plan and the Framework. These policies and the Framework seek, amongst other matters, to conserve and enhance the natural environment and resist the loss of trees that make an important contribution to the biodiversity value of a site.

Other Matters

33. It has been highlighted that the planning application was not referred to a design review panel for consideration during the course of the Council's consideration of the planning application and it is suggested that this has resulted in the Council handling the planning application in a prejudicial way. However, this is not a matter that is primarily before me in respect of this appeal but is an issue for the local planning authority in the first instance.

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Planning Balance

34. The Council indicates that it cannot demonstrate a five-year supply of housing sites. If there is not a five-year supply of deliverable sites in place, the provisions of paragraph 11d) of the Framework should be applied.
35. The adverse impacts arising from the proposal relate to the harmful effect to the character and appearance of the area and the site's location not providing reasonable access to services and facilities for future occupiers of the development. Furthermore, the proposal has not demonstrated that safe access would be achieved or that harm would not result to the existing trees protected by TPO or ecology that may be present at the site.
36. On the other hand, the Government's objective is to significantly boost the supply of homes and recognises that small sites can help meet supply. However, one dwelling would make little difference to the overall supply of housing and the support one extra household would provide to the social and local economy would also be minimal. I have considered the benefits that the proposal would sustain an existing animal rescue enterprise and the opportunity of the development to provide a woodland education facility. However, the harm that I have identified is not outweighed by the contribution to housing land supply or those other social and economic benefits.
37. Consequently, the adverse impacts of the proposal on the character and appearance of the area, access to services and facilities, highway safety, TPO trees and ecology would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework when taken as a whole. As a result, the presumption in favour of sustainable development does not apply.

Conclusion

38. The proposal would conflict with the development plan as a whole and there are no other considerations, including the provision of the Framework, which outweigh this finding. Therefore, for the reasons given, the appeal should be dismissed.

Nicola Davies

INSPECTOR

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Appeal Decision

Site visit made on 30 November 2021

by G Pannell BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19th January 2022

Appeal Ref: APP/V2255/W/21/3269600

Danedale Stables, Chequers Road, Minster on Sea, Kent ME12 3SJ

- 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 Sted-Smith against the decision of Swale Borough Council.
 - The application Ref 19/505353/FULL, dated 28 October 2019, was refused by notice dated 16 November 2020.
 - The development proposed is erection of 5 no. four bedroom detached dwellings with associated garages, parking spaces and private amenity space.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. Following the Council's decision, the National Planning Policy Framework (the Framework) was revised on 20 July 2021. The Council and appellant have had an opportunity to comment on the implications of these changes through their submissions.

Main Issues

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

Reasons

Policy Context

4. Policy ST1 of Bearing Fruits 2031: The Swale Borough Local Plan 2017 (LP) requires sustainable development to achieve good design through reflecting the best of an area's defining characteristics.
5. Policy ST3 sets out the Swale settlement strategy which requires development outside of the defined built up area boundaries to demonstrate that it would contribute to protecting and enhancing the vitality of rural communities.
6. Policy ST6 sets out the Isle of Sheppey area strategy and amongst other things requires development proposals to ensure that they are appropriate to landscape character and quality.
7. The site lies outside of the defined settlement boundary for Minister-on-Sea and therefore the proposed development is required to demonstrate that there would be no harm to the sites rural landscape setting.

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8. These policies are intended to ensure housing is located in areas which are accessible and sustainable. However, these policies do not prevent the development of land outside of settlement boundaries provided that the landscape character and appearance of the rural area is protected or enhanced.

Character and appearance

9. Chequers Road is characterised by residential development fronting the road, with in depth development accessed off this primary route. The site is currently rough scrub and grass with a large stable block located close to the access to the site and is enclosed by hedging.
10. Views of the site from the road are partially restricted by the existing hedge and established trees, nevertheless where views can be afforded, the site appears part of the open countryside which extends beyond the appeal site. The site provides a visual separation between the existing built development and contributes to the open rural nature which is experienced beyond the appeal site. Therefore, there would be a degree of urbanisation and countryside encroachment through additional housing.
11. The appellant's Landscape and Visual Impact Assessment (LVIA) accepts that the magnitude of landscape change when viewed from Chequers Road is medium, where there would be partial loss or damage to key characteristics, features or elements. The LVIA goes on to assess the Landscape Quality as low-medium quality due to the presence of the existing built form and also the visibility of the development currently under construction. However, I would put the landscape quality as medium (rather than low-medium), as it is a pleasant landscape with few detractors.
12. The LVIA notes that the sensitivity to change of the appeal site would be medium-low. It notes that the proposal would be seen against the backdrop of the adjoining development and I agree that the presence of this does enable the landscape to accommodate a degree of change. Furthermore, the development of the site would result in the infilling of the existing gap between 189 Chequers Road and the development under construction and together the proposed development would appear part of the linear development which extends along Chequers Road.
13. Notwithstanding the above, the proposal would be prominent when viewed from Chequers Road. This is because the proposed development would lead to the introduction of five two storey detached dwellings with associated garages. The proposed dwellings would be sizable in terms of their footprint and overall scale, comprising 4 bedroom dwellings. The ridge heights of the proposed dwellings would increase across the site having regard to the existing topography. The submitted street elevation demonstrates how these would exceed the heights of the adjacent buildings currently under construction.
14. As a result, the proposed dwellings would not respond positively to the character and appearance of the area and would be more visually intrusive than the existing stable block. As a result of its overall scale and massing the development would compete visually with the neighbouring dwellings under construction. For these reasons, therefore, the proposed development would introduce a discordant built form to the locality that would be harmful to the character and appearance of the surrounding area.

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15. The introduction of the proposed dwellings into the site would therefore fail to demonstrate that there would be no harm to the sites rural landscape setting. The development would be harmful to the landscape character and quality of the area and conflict with policies ST1, ST3 and ST6 of the LP as set out above. This significant, permanent environmental harm to the character and appearance of the area is a matter which weighs heavily against the proposal.
16. It would also fail to accord with CP4 and DM14 of the LP which together seek to achieve good design which is appropriate to its surroundings and well sited. It would also conflict with policy DM24 of the LP which requires non-designated landscapes to be protected and enhanced.

Other Matters

17. It would appear that the appeal site falls within a 'Zone of influence' for a designated site. As the competent decision making authority, if I had been minded to allow the appeal it would have been necessary for me to complete an Appropriate Assessment for this scheme. However, as I am dismissing the appeal for other reasons, I have not taken the matter further.
18. There is also reference to the conduct and advice of the Council and its officers during the planning application process. However, these are not matters for my deliberation in the context of a planning appeal.

Planning Balance

19. It is not disputed that the Council is currently unable to demonstrate a 5 year supply of deliverable housing sites, with evidence putting the shortfall at between 4 and 4.7 years. Therefore, paragraph 11d of the Framework is engaged, whereby 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.
20. Taking into account the current shortfall five dwellings would provide a limited contribution to housing supply in the area. There would be social benefits arising from the contribution to the Council's housing supply, noting the Framework highlights the contribution small and medium sized sites can make to meeting the housing requirement in the area.
21. The site is well located in terms of its proximity to services and is of a scale appropriate to the size of the existing settlement and as such lies within a sustainable location. The access and parking arrangements would be satisfactory and there is no evidence that highway safety would be compromised, or that local infrastructure would be unable to meet the needs of the development. The development would give rise to some economic benefits during the construction phase and provide limited support to local services.
22. Chapter 12 of the National Planning Policy Framework sets out the importance of achieving well-designed places and paragraph 130 states that planning decisions should ensure that development adds to the overall quality of the area and are sympathetic to local character. Paragraph 134 states that development that is not well designed should be refused.

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23. Therefore, the identified adverse impacts of the development in respect of character and appearance would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole, including its presumption in favour of sustainable development.

Conclusion

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

G Pannell

INSPECTOR



Appeal Decision

Hearing Held on 21 September 2021

Site visit made on 21 September 2021

by Hilary Orr MSc, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20th January 2022

Appeal Ref: APP/V2255/C/20/3263577

Land situated at The Old Bindery, Butchers Field, Throwley Forstal, Faversham, Kent ME13 0PJ

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Nelson Scamp against an enforcement notice issued by Swale Borough Council.
- The enforcement notice, numbered 21/500009/ENF, was issued on 23 October 2020.
- The breach of planning control alleged in the notice is failure to comply with conditions Nos 1, 2, 3 and 4 of a planning permission Ref APP/V2255/W/15/3131746 granted on 10 February 2016
- The development to which the permission relates is for the material change of use of land to a mixed use as a caravan site for the stationing of caravans used residentially, use for horse keeping and use of a building as stables, as originally approved by appeal decision APP/V2255/C/11/2151258. The conditions in question are Nos 1, 2, 3 and 4 which state that:
 - 1) The use hereby permitted shall be carried out only by Mr Nelson Scamp and shall be for a limited period, being the period of 2 years from the date of this Appeal Decision, or the period during which the premises are occupied by Mr Nelson Scamp, whichever is the shorter.
 - 2) When the land ceases to be occupied by Mr Nelson Scamp, or at the end of 2 years from the date of this Appeal Decision, whichever shall occur first, the use hereby permitted shall cease and all caravans, structures, materials and equipment brought onto it in connection with the use shall be removed. At that time any laurel, photinia or eucalyptus or coniferous plants on the land shall also be removed.
 - 3) Other than the bow-topped, vardo caravan that was on the land on 30 November 2011, no more than 2 caravans as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968, as amended, of which no more than one shall be a static caravan, shall be stationed on the site at any time.
 - 4) No commercial activities shall take place on the land, including the storage of vehicles, plant, products or waste. No vehicle over 3.5t shall be stationed, parked or stored on the land.
- The notice alleges that the conditions have not been complied with in that:

The mixed use approved should have ceased by 10 February 2018 but is continuing and conditions 1) and 2) above have not being (sic) complied with, which represents a further breach of planning control.

Condition 3) requires that no more than one caravan stationed on the Site shall be a static caravan and there are currently two static caravans on the site, which represents a further breach of planning control.

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- The requirements of the notice are:
 - (1)-Cease the use of the Land for a mixed use as a caravan site for the stationing of caravans used residentially, use for horse keeping and use of a building as stables.
 - (2)-Remove from the Land all caravans, structures, materials and equipment brought onto the Land in connection with the mixed use.
 - (3)-Remove all laurel, photinia or eucalyptus or coniferous plants from Land.
 - The period for compliance with the requirements is 12 months.
 - The appeal is proceeding on the grounds set out in section 174(2) (a) of the Town and Country Planning Act 1990 as amended. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
-

Decision

1. The appeal is dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Background

2. The site has been the subject of a number of planning applications and appeals since 2009. The latest appeal decision was dated 10 February 2016 (appeal ref: APP/V2255/W/15/3131746). This granted a conditional, personal permission to Mr Scamp for a temporary period, expiring on 10 February 2018.
3. In essence, since the site continued to be occupied after the above expiry date with an additional caravan introduced, the Council served the enforcement notice against the continued occupation of the site without complying with conditions 1), 2) and 3) of that permission. In contrast, it is the appellant's case that the conditions should be varied to delete reference to any temporary period.
4. The appeal was originally submitted on grounds (a), (d) and (f) and in the appellant's evidence there is reference to his caravan being a dwellinghouse. However, grounds (d) and (f) were both withdrawn in March 2021. The appellant clarified at the hearing that only the ground (a) appeal and the deemed application, for the continued siting of two mobile homes and one touring caravan, for occupation by gypsies and travellers, was being pursued. Accordingly, the deemed application essentially seeks to vary conditions 1, 2 and 3 by removal of any reference to the duration of the permission and the number of caravans. I have considered the appeal on this basis.

Main Issues

5. The main issues are whether the conditions, in so far as they limit the duration of the permission to two years and restrict the number of caravans, remain reasonable and necessary, having regard to:
 - The location of the development.
 - The suitability of the site with regard to its effect on the character and appearance of the area, the Kent Downs Area of Outstanding Natural Beauty (the AONB) and the Throwley Forstal Conservation Area (TFCA); and
 - The personal circumstances of the appellant and his extended family.

Reasons

6. Planning Policy for Traveller sites 2015 (PPTS) provides national policy guidance

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for considering matters of need and the supply of traveller sites. Accordingly, PPTS is a material consideration in the determination of this appeal. There was no dispute between the parties that the appellant and his family, who are occupying the site, meet the definition of gypsies and travellers set out in the PPTS. From the evidence, the appellant's son, who occupies the second caravan, is working more locally to assist with the medical needs of the appellant. Nonetheless, it was confirmed that he continues to breed and sell horses and attends various annual horse fairs including Appleby and the Epsom Derby, the appellant's daughter in law, remains on site to assist the appellant.

Location

7. Paragraph 25 of the PPTS makes it clear that new traveller sites in the open countryside, away from existing settlements should be very strictly limited. The parties agree that the site lies outside any settlement identified by the Council's adopted Local Plan. It lies within a remote small hamlet of cottages set around a central communal green. The site is bounded by roads, with public footpath (no. ZR432) to the south.
8. The surrounding residential properties mean that the site is not completely isolated. However, there are no day to day facilities available within Throwley Forstal, with Faversham providing medical and other day to day facilities some 7km away.
9. From my site visit it was clear that the surrounding roads, including those leading to Throwley Forstal, generally do not have pedestrian footpaths, are very narrow and are unlit. This would make walking and cycling, especially in the winter months or after dark, a less attractive alternative to the private car.
10. I acknowledge that over the years there have been changes in the way people shop, with greater emphasis on home delivery. The appellant's son is able to pick up provisions for both his own family and the appellant, when travelling to and from local work. The appellant also made reference to the use of a pony and trap to secure provisions from 'Grow at Brogdale' which is approximately 5.5km away. However, whilst this is an alternative to the use of motor vehicles, from the evidence, such trips are at best sporadic and I have little information about the range of goods that can be bought there.
11. The increased scale of the development has resulted in an increase in car movements from occupiers of the site in addition to those attending the site to give professional assistance and medical support to the appellant. Accordingly, in the context of this rural location, where I accept that accessibility is not normally as good as that of urban areas, I find that the development fails to provide a viable alternative to the use of private cars for its residents and visitors. In my judgement, the appeal site is therefore not in a suitable location for permanent occupation. The development is therefore contrary to policies ST1, ST3 and DM10, of the Bearing Fruits 2031 The Swale Borough Local Plan (2017) (LP). These policies seek to ensure that new development is provided in accordance with the settlement hierarchy.

Character and appearance

12. Turning to the effect of the development on the local area. Paragraph 176 the NPPF confirms that great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, the Broads and Areas of

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Outstanding Natural Beauty, which have the highest status of protection in relation to these issues.

13. Whilst the site is not within the TFCA, it is located immediately adjacent to it and therefore capable of affecting its setting. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that in the exercise of planning powers in conservation areas, "special attention shall be paid to the desirability of preserving or enhancing the character and appearance of that area".
14. The prevailing character of the wider area is rural, with open fields and some sporadic farms and agricultural buildings. The appeal site comprises some 2.2 hectares, with a yard and various out-buildings. The appellant's caravan is sited next to the workshop within the yard, with the remaining land subdivided into two areas by residential style close boarded fencing and bamboo screening. The central area is where his son's caravan has been sited, with the residual land laid to grass and at the time of my visit used for the grazing of horses.
15. If allowed the development before me would result in, the permanent siting of two large static caravans, additional hardstanding, a touring caravan, decking with hot tub and other associated domestic paraphernalia, into this predominantly rural location. I acknowledge that planting has been carried out to the frontage and this provides screening to the appellants caravan from the road. However, the overly ornamental nature of the planting itself, draws attention to the site's existence within the landscape.
16. From my site visit, further planting has also been carried out along the public footpath. His son's caravan, the decking and residential paraphernalia, can nevertheless, be clearly seen from the footpath, and irrespective of any new planting, from the more elevated public footpath to the east of the site. The permanent siting of the residential caravans in this formerly open land, appears as an incongruous form of development in this predominately rural area, failing to respect the designation objectives of the Area of Outstanding Natural Beauty, which are the conservation and enhancement of the area's natural beauty.
17. I note that there has been no character appraisal carried out for the TFCA. Nonetheless, as confirmed by my site visit, the significance of the conservation area is the central green, bounded by the surviving form of the generally attractive dwellings and buildings of various ages and design. These form a discrete but striking settlement set within the countryside. Views from the TFCA into the appeal site, are largely screened by buildings and boundary planting. Nonetheless, the second caravan is clearly visible from the surrounding public footpaths and roads, interrupting the long views from the countryside into the TFCA. Consequently, to my mind it fails to enhance the character and appearance of the TFCA with its incongruous appearance, causing harm to its setting.
18. Drawing all of the above points together, I find that the appeal site is not in a suitable location for permanent occupation. The siting of the caravans and the associated domestic paraphernalia is significantly at odds with existing development and the prevailing rural character of the AONB. Accordingly, it causes significant harm to the character and appearance of the AONB and fails to preserve or enhance the setting of the TFCA. Consequently, the development is contrary to policies ST1, ST3, DM10, DM14 and DM24 of the LP. These policies in summary seek to sustain, conserve and enhance, natural and valued

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landscapes and the significance of heritage assets.

Other considerations and personal circumstances

19. It is the appellant's case that he and his extended family currently meet the definition of Gypsies and Travellers, as set out in Annex 1 of the PPTS. The Council have raised no objection to this, and I have no reason to come to a different view, albeit the appellant's health temporarily prevents him from travelling.
20. The Council explained at the hearing that they have adopted a windfall approach to the provision of pitches. Policy DM10 of the LP has criteria for assessing the acceptability of new windfall gypsy and traveller sites. The Council confirmed that the supply of sites currently exceeds that anticipated. From the evidence this approach seems to be working well and there is nothing before me to suggest that this is likely to change over the next few years and this positive position was not contested by the appellant. Accordingly, I consider that policy DM10 is not inconsistent with national policy.
21. Turning to the appellant's personal circumstances. A considerable amount of evidence has been submitted regarding his ongoing and complex medical problems. I have no doubt that there is a continuing need for medical intervention and personal assistance. It is also clear that the extended family, and in the appellant's daughter in law, provides some help and support to the appellant. This is in addition to the more specialist help from various health professionals who make regular visits to the site. Whilst not essential, the second caravan provides a convenient base to facilitate the help from the family.
22. Article 3(1) of the United Nations Convention on the Rights of the Child provides that the best interests of the child shall be a primary consideration in all actions by public authorities concerning children. I am mindful that the appellant has provided evidence that his granddaughter presently attends Ospringe CE Primary School in Faversham and is currently on the waiting list for a medical assessment.
23. The appellant also confirmed at the Hearing, that they have not taken any steps to identify vacancies on existing, or alternative sites in a more appropriate location. Although not a requirement, this is despite the generally positive approach to site provision by the Council. I acknowledge that it may be desirable to keep the extended family unit together. However, I have no evidence to suggest that the assistance they give to the appellant needs to be provided at this particular site.
24. For the above reasons, the appellant's personal circumstances, those of his extended family and the advantages of keeping the extended family together, weigh moderately in favour of the development.

Other matters

25. Intentional unauthorised development has been a material consideration since 2015. The site has been subject to temporary planning permissions and thus it is the period since the site should have been vacated that is relevant in this regard. From the evidence, the additional caravan moved onto the site after the latest permission had expired. Nonetheless the appellant sought to regularise the position through a planning application 20/502873/FULL. Accordingly, I have

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given this limited weight in my considerations.

Overall balance

26. Paragraph 176 of the National Planning Policy Framework (the NPPF) makes it clear that great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to these issues. The scale and extent of development within all these designated areas should be limited, while development within their setting should be sensitively located and designed to avoid or minimise adverse impacts on the designated areas.
27. In finding harm to the location and the setting of the TFCA, due to the moderate nature of the proposal, I would quantify the extent of this harm to be less than substantial. Nonetheless, I attach considerable importance and weight to that harm, and in applying the test set out in paragraph 134 of the NPPF, I note that the public benefits in favour of the development are the provision of two additional permanent pitches for the gypsy and traveller community and achieving the sites optimum viable use.
28. I acknowledge that if the appeal does not succeed, there will be a need for the family to leave the site which provides a settled base and is their home. Whilst the Council is not able to direct me to a suitable, affordable and available site for the family now, given the positive approach of the Council to granting planning permission, it is clear that the current policy approach is addressing provision which weighs against the grant of planning permission for a site that is harmful and contrary to policy. The period for compliance is 12 months which the Council consider proportionate to enable the appellant to explore alternative locations and enter discussions with the Council.
29. I am very mindful of the appellant's personal circumstances and the effect that this decision is likely to have. I have carefully considered the Human Rights issues that may be pertinent to this appeal. Consequently, the protection of the public interest cannot be achieved by means which are less interfering of the appellant's rights.
30. As set out above, the appellant's evidence makes a reference to the appellant's medical condition and I have had due regard to the Public Sector Equality Duty (PSED), contained in section 149 of the Equality Act 2010, which sets out the need to eliminate unlawful discrimination, harassment and victimisation, and to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it. Nonetheless, for the above reasons, I consider that the decision is proportionate and necessary in the circumstances.
31. I have had regard to the previous appeal decisions where Inspectors have granted temporary planning permissions. The reasons for this seem to be in respect of the uncertainty about the provision of additional sites, and the appellant's ongoing health issues. At the time these factors weighed in favour of a temporary permission. Planning policy guidance makes clear that a temporary condition is only likely to be appropriate in certain circumstances, including where a trial run is needed to assess the effect of the development on an area, or it is expected that the planning circumstances will have changed in a

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particular way by the end of the temporary period.

32. In terms of conditions 1 and 2 I find that the uncertainty about the wider provision of sites no longer persists. I heard at the hearing, that the health concerns of the appellant remain and there seems to be little certainty whether this will change significantly in the foreseeable future.
33. As set out above, following the previous temporary permissions, the development has expanded, increasing the detrimental effect to the character and appearance of the area and this weighs against a further temporary planning permission.
34. I have also considered whether I should vary just the restriction in condition 3 relating to the number of caravans, to allow only the appellant to remain on the site. However, I recognise the appellant's ongoing need for assistance and support, and I am not persuaded that he would be able to reasonably remain on the site unaided.
35. I have already found that the development results in significant harm to the AONB, despite attempts to screen with planting. The need for a settled base is a consideration weighing in favour, but I have nothing before me to suggest that assistance has to be provided from this particular site or cannot be provided in a different way. I have therefore attributed only moderate weight in favour of the development to the personal circumstances of the appellant, the desirability of keeping the family unit together and the best interests of the child. I have afforded limited weight to the public benefits outlined above. Consequently, I find that the other considerations I have identified and those put forward by the appellant in favour of the development, are insufficient to outweigh the identified harm to the AONB, the TFCA and the conflict with LP policies.
36. I have considered the remaining conditions that were imposed and consider that, notwithstanding my findings, they remain both relevant and necessary.

Conclusion

37. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Hilary Orr

INSPECTOR

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Appearances

FOR THE APPELLANT:

Robert Tutton, BSc MRTPI 23 Romsey Ave Fareham Agent
Nelson Scamp, Butchers Field Throwley Forstal Appellant
David Smith, PHD BA 44 Cambridge Road Strood Kent
Niall Tutton, MSc BA 293 Havant Road, Farlington, Portsmouth
Stephen Scamp, Butchers Field Throwley Forstal
Nichole Thomas, Butchers Field Throwley Forstal
Maryanne Hilden, 9 Park Drive Hothfield Ashford Kent

FOR THE LOCAL PLANNING AUTHORITY:

Graham Thomas, BSc (Hons) Dip TP MRTPI Area planning officer
Heather Murton, BA(Hons) Dip TP MRTPI Snr Planning officer

INTERESTED PERSONS:

David Elvin, Valley Farm, Workhouse Road, Throwley ME13 0NR (Joined online)
Sarah Jane Tormey, Forstal Cottage, Main Road (Joined online)
Caroline Burr, Walnut Tree Cottage, Throwley Forstal
Jeff Monk, The Cabin, Throwley Forstal
Mr Garabedian 1 Tree Cottage, Throwley Forstal



Appeal Decision

Site visit made on 4 January 2022

by D Szymanski BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14th January 2022

Appeal A: Ref: APP/V2255/W/21/3272347

Churchmans Farm, Stalisfield Road, Ospringe ME13 0HA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Article 3(1) and Schedule 2, Part 3, Class PA of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended.
 - The appeal is made by Mr & Mrs A Bruce against the decision of Swale Borough Council.
 - The application Ref 20/503542/PNPA, dated 3 August 2020, was refused by notice dated 1 October 2020.
 - The development proposed is described as Change of Use of Building and Land within their curtilage from a use falling within B1 (C) (Light Industrial) of the Schedule to a Use Falling within Class C3 (as One Dwellinghouse). Renewal of Prior Approval consent 18/503568/PNPA.
-

Appeal B: Ref: APP/V2255/W/21/3272387

Churchmans Farm, Stalisfield Road, Ospringe ME13 0HA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Article 3(1) and Schedule 2, Part 3, Class PA of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended.
 - The appeal is made by Mr & Mrs A Bruce against the decision of Swale Borough Council.
 - The application Ref 20/503545/PNPA, dated 3 August 2020, was refused by notice dated 1 October 2020.
 - The development proposed is described as Change of Use of Building and Land within their curtilage from a use falling within B1 (C) (Light Industrial) of the Schedule to a Use Falling within Class C3 (as One Dwellinghouse). Renewal of Prior Approval consent 18/503568/PNPA.
-

Decisions

1. Appeal A is dismissed, and Appeal B is dismissed.

Procedural Matters & Background

2. Each of these appeals relate to separate proposals for the change of use of respective premises to residential dwellinghouses in close proximity to one and other. The Council's reasons for refusing the applications, the appellant's grounds of appeal, and the circumstances surrounding each proposal all raise the similar issues for my consideration. Therefore, while I have considered each appeal on its own merits, to avoid duplication I have dealt with the two schemes together, except where otherwise indicated.

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3. The Council's decision notice explains the applications for prior approval were refused because the buildings have no existing windows to provide adequate natural light to all habitable rooms contrary to PA.2 (v) of Class PA of Part 3 of the Town & Country (General Permitted Development) Order 2015 (as amended) (the GPDO). Furthermore, that Class PA does not allow for external works as part of the prior approval process.
4. Paragraph PA.1.c) of Class PA of the GPDO states development is not permitted by Class PA if —the prior approval date falls on or after 1st October 2020. I have given the Council and the Appellant the opportunity to comment upon the implications of this and any changes to the GPDO since the applications were refused, for their respective cases and taken these views into account in determining the appeals.

Main Issue

5. The main issue for appeal A and appeal B is whether the proposed developments are permitted development.

Reasons

6. Paragraph PA.1c) of Class PA states development is not permitted by Class PA if the prior approval date falls on or after 1st October 2020. Section 78 of the Town and Country Planning Act 1990 (as Amended) is primary legislation allowing the right to lodge an appeal within 6 months of the refusal of a prior approval. However, I have not been provided with any substantive evidence of or mechanism by which, the right under section 78 amends the date limitation under Class PA of the GPDO.
7. These applications might follow the grant of two previous prior approvals at the respective buildings in August 2018 for a change of use to dwellinghouses. However, these decisions are over three years old. There is no substantive evidence of a renewal or other mechanism, or other provisions the GPDO, that would permit me to allow these appeals under Class PA after the date limitation set out, and therefore in contravention of paragraph PA.1(c). Therefore, I have no choice but to dismiss these appeals.

Other Matters

8. I understand there is an extant planning permission for the insertion of windows into each building to allow sufficient natural light into the dwellings, as these openings cannot be permitted under Class PA. The full details and circumstances of prior approval Ref.20/01001/AS are not before me, so I cannot make a reasoned comparison between that and these appeal proposals. In relation to appeal proposals A and B, there appears to be no mechanism before me such as a planning obligation, to ensure all approved windows are constructed to ensure adequate natural light in compliance with PA.2(v) and W2.A of the GPDO, before any use permitted under Part 3 is commenced. However, as the appeals fail for other reasons, this is not a determinative issue and I have not considered the matter further.
9. Article 3(1) of the GPDO grants permission for the classes of development described as permitted development in Schedule 2 subject to Regulations 75 – 78 of the Conservation of Habitats and Species Regulations 2017 (as Amended) (the Regulations). I am informed by the Council that the appeal sites are within the 0-6km Zone of Influence of the Swale Special Protection Area and

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would have likely significant effects on it as a result of recreational disturbance. Regulation 75 of the Regulations states it is a condition of any permission granted by a general development order, that developments likely to have a significant effect on the SPA must not begin until the developer has received written notification of the approval of the Local Planning Authority under Regulation 77. As the appeals fail for other reasons, I have not investigated this matter further.

10. The appeal sites are within the setting of the 16th century Churchmans Farm, which I am informed is a Listed Building. Special regard should be given to the desirability of preserving the setting of Listed Buildings under section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990. However, as I am not allowing these appeals, I have considered the matter further.

Conclusion

11. For the reasons set out above the appeals do not succeed.

Dan Szymanski

INSPECTOR

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